

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session
House Bill No. 3682



Introduced by REPRESENTATIVE ARTHUR C. YAP

EXPLANATORY NOTE

During the 2015 Asia-Pacific Economic Council (APEC) Meeting, the critical role of micro, small and medium enterprises (MSMEs) in reducing poverty and achieving inclusive development was highlighted. As a source of growth and innovation, the APEC Leaders' declaration underscored the importance of empowering the MSMEs for them to contribute to and benefit from future growth. Specifically, increased participation of MSMEs in the global trade can have significant impact in reducing poverty through employment creation, productivity improvements and economies of scale.

According to PSA, MSMEs or those with less than 200 employees reached 941,174 accounting for 99.6% of the total establishments in the Philippines in 2013. Micro enterprises or those with employment size of 9 and below accounted for 90% of the total establishments.

The Department of Trade and Industry (DTI) estimates that MSMEs contribute about 35.7% of the total value-added in the economy. Small enterprises (with 10-99 employees) accounted for the largest share at 20.5% followed by medium enterprises (with 100-199 employees) at 10.3%. While micro enterprises accounted for the highest share to the total number of establishments at almost 90% in 2013, the sector contributed only 4.9% to the total value-added in the economy. Large enterprises which account for only 0.4% of the total number of establishments contributed more than a third of the total value-added at 64.3%.

For the period 2009 to 2013, MSMEs accounted for an average of 63.0% of the total employment of all establishments. In 2013, a total of 4.8 million jobs were generated by MSMEs, 75% higher than the 2.7 million jobs generated by large enterprises. Micro enterprises accounted for the highest share at 31.1% of the total employment in 2013 or equivalent to 2.3 million jobs. Average employment size of a micro enterprise during the period is 2.55.

SMEs' contribution to GDP at 35.7% is relatively comparable to ASEAN-5 economies. SMEs in Indonesia has the highest contribution to GDP at 57.8% followed by Vietnam at 40% and Thailand at 38.7%.

According to the World Bank, countries where security interests are perfected and where there is a predictable priority system for creditors in cases of loan default, credit to the private sector as a percentage of gross domestic product (GDP) averages 60% compared with only 30%-32% for countries without creditor protection. Further, the World Bank noted the study of Chaves et al (2004) where borrowers with collateral in industrial countries get longer repayment periods (11 times longer), 50% lower interest rates, and nine times the level of credit given their cash flow compared to borrowers without collateral.

With a more liberalized trade and investment environment brought about by various regional cooperation initiatives, it is imperative for MSMEs to be more competitive to be able to connect to the global supply chains. Addressing the concerns of MSMEs is critical for them to have greater participation in the global market.

The financing problem of MSMEs continues to persist in the country in spite of the numerous programs that have been implemented to address the issue. Several laws were also crafted to facilitate access to finance. The Magna Carta for MSMEs (RA 6977 as amended by RA 8289 and RA 9501) requires lending institutions to set aside at least 8% for micro and small enterprises and 2% for medium enterprises of their total loan portfolio for MSME lending.

The MSME Development Plan 2011-2016 acknowledged the availability of funds for MSMEs but also raised the difficulty in accessing funds because of stringent and voluminous requirements, e.g., collateral, financial statements, business plans and slow processing time of loan applications. On the other hand, banks are concerned about the bankability of MSMEs and the risk of lending to MSMEs.

This bill aims to create a framework for secured transactions, to further improve MSMEs' access to financing by expanding the number of acceptable collaterals and improving the existing legal and regulatory framework for movable collaterals. MSMEs have moveable properties that can be used as collateral to facilitate access to credit but are currently not acceptable due to lack of legal framework that governs these assets.

The existing legal and regulatory framework for secured transactions in the Philippines is provided for under the Chattel Mortgage Law (Act 1508). However, this law was enacted way back in 1906 and clearly needs to be revisited as it lacks the requirements of an effective and efficient modern secured transactions law.

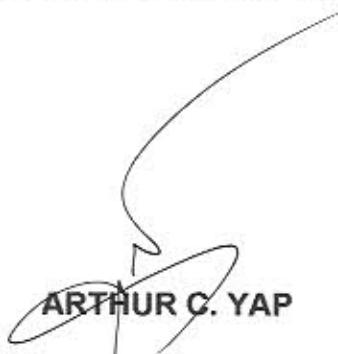
Philippines needs an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of functional equivalents to security interests in movable assets. There is a need for a unified electronic registry system that can deter the use of one particular moveable asset as collateral in several loan transactions.

This bill addresses these needs and also incorporates the efforts of the Land Registration Authority (LRA) to improve chattel mortgage registration in the country. LRA has upgraded and modernized the existing collateral registry and moving towards a web based system. One initiative is the development of an enhanced Chattel Mortgage Query System that serves as due diligence tool for financing institutions. The existing system is being enhanced to allow queries at the Registry of Deeds, Kiosks and LRA Extension Offices and, subsequently launched through the web.

The LRA is also developing a Self-Service Chattel Mortgage Registration System to allow partner institutions to register their own Chattel Mortgage transactions which will have the same legal effect of registering through the Registry of Deeds.

This bill aims enable more credit flow to MSMEs, support growth of supply chains and help this country achieve inclusive and stable growth.

For the foregoing reasons, the immediate consideration and passage of this bill is earnestly urged.



ARTHUR C. YAP

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Introduced by REPRESENTATIVE ARTHUR C. YAP

AN ACT
STRENGTHENING THE SECURED TRANSACTIONS LEGAL
FRAMEWORK IN THE PHILIPPINES, WHICH SHALL PROVIDE
FOR THE CREATION, PERFECTION, DETERMINATION OF
PRIORITY, ESTABLISHMENT OF A NOTICE REGISTRY, AND
ENFORCEMENT OF SECURITY INTERESTS IN PERSONAL
PROPERTY, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1. *Title.*** – This Act shall be known as the “Secured
2 Transactions Act”.

3 **SECTION 2. *Declaration of Policy.*** – It is the policy of the State to
4 promote economic activity by increasing access to least cost credit,
5 particularly for micro-, small, and medium enterprises (MSMEs) by
6 establishing a unified and modern legal framework for securing obligations
7 with personal property as collateral.

8 **SECTION 3. *Definition of Terms.*** - As used in this Act, the following
9 terms shall mean:

10 (a) *Accession-* goods that are physically united with other goods in a
11 manner such that the identity of the goods is not lost.

12 (b) *Account receivable-* a right to payment of monetary obligation for
13 goods sold or otherwise disposed of, or for services rendered, excluding
14 a right to payment evidenced by a negotiable instrument, a right to
15 payment of funds credited to a bank account, and a right to payment
16 under non-intermediated security.

- 1 (c) *Account debtor*- the person who is obligated on an account receivable,
2 secured sales contract or payment intangible.
- 3 (d) *Attachment*- completion of all conditions necessary to make a security
4 interest enforceable against the grantor with respect to the collateral.
- 5 (e) *Collateral* - any present or future personal property subject to a security
6 interest or lien, including accounts receivable that is the subject of an
7 outright transfer, and other kinds of intangible personal property, such
8 as intellectual property, or specific or general categories of personal
9 property.
- 10 (f) *Commingled goods* - fungible goods that are physically united with
11 other fungible goods in a way that their identity is lost in a product or
12 mass.
- 13 (g) *Consumer goods*- goods primarily used or intended to be used by the
14 grantor for personal, family, or household purposes, but not licensed
15 motor vehicles.
- 16 (h) *Debtor*- a person who owes payment or other performance of a secured
17 obligation, whether or not that person owns or has rights in the
18 collateral, or whether or not that person is the grantor of the security
19 right securing payment or other performance of that obligation.
- 20 (i) *Default*- the failure of the debtor to pay or otherwise perform the
21 secured obligation, and any other event constituting a default of the
22 debtor to perform under a security agreement.
- 23 (j) *Deposit account* - a demand, time, savings, passbook, or any similar
24 account maintained by a bank to which funds may be credited or
25 debited. The term does not include investment property or accounts
26 evidenced by an instrument.
- 27 (k) *Document*- a document of title, or a receipt such as a bill of lading, or
28 warehouse receipt, issued by a person in the business of transporting or
29 storing goods.
- 30 (l) *Equipment*- goods that are not crops, livestock, inventory, or consumer
31 goods that is primarily used or intended to be used by the grantor in the
32 operation of its business.
- 33 (m) *Fixture*- goods that are fixed or are intended to become fixed to
34 real property in a manner that causes a property right in the goods to
35 arise in favor of a person who has a right in the real property. Building
36 materials, readily removable factory machines, office machines, and
37 domestic appliances are not fixtures.

- 1 (n) *Goods*- tangible personal property, including fixtures, crops, and
2 livestock. The term does not include accounts receivable or secured
3 sales contracts, money, documents, or instruments.
- 4 (o) *Grantor*- (i) the person who grants a security interest in collateral to
5 secure its own obligation or that of another person; (ii) a buyer or other
6 transferee, lessee, or licensee of a collateral that acquires its right
7 subject to a security interest; and (iii) a transferor in an outright transfer
8 of an accounts receivable, or secured sales contracts, a lessee of goods,
9 and a secondary obligor such as a guarantor of a secured obligation.
- 10 (p) *Instrument*- a writing that evidences a right to payment of money, that
11 is not a security agreement or lease, and that in the ordinary course of
12 business may be transferred by delivery with endorsement or
13 assignment.
- 14 (q) *Inventory*- goods held for sale or lease [in the ordinary course of
15 business], or goods that are raw materials, work-in-process (semi-
16 processed), or materials used or consumed in a business.
- 17 (r) *Investment property* - a security, whether or not evidenced by
18 certificates, securities account, commodity contract, or commodity
19 account.
- 20 (s) *Lien*- a right in property which is created by operation of law, by an
21 order of a court or other legal authority, or by the authority of an
22 administrator in an insolvency proceeding; as used in this Act, lien does
23 not include a right of retention.
- 24 (t) *Notice*- a statement of information about a security interest or lien that
25 is registered in the registry. The term includes an initial notice, amended
26 notice, continuation notice, termination notice and notice of objection.
- 27
- 28 (u) *Ordinary course of business*- a transfer of personal property by a person
29 who deals in the kind of property transferred.
- 30 (v) *Payment intangible*- a right to receive payment of a monetary
31 obligation, other than an account or a secured sales contract.
- 32 (w) *Perfection or Perfected security interest*- a security interest that
33 has been created and attached, and becomes effective against third
34 parties such as buyers, other secured parties, lien holders and an
35 insolvency administrator, by control, possession, registration.
- 36 (x) *Person* – includes a natural person or a juridical person, including a
37 governmental entity.

- 1 (y) *Personal property*- personal things of any nature, intangibles of any
2 nature, and fixtures.
- 3 (z) "Proceeds" amount received upon sale, lease or other disposition of
4 collateral, or whatever is collected on or distributed with respect to
5 collateral. Proceeds include money, property exchanged for the
6 original collateral, property purchased with money proceeds, a deposit
7 account into which money proceeds are deposited, and a right to
8 insurance payment or other compensation for loss or damage of the
9 collateral.
- 10 (aa) *Purchase money security interest* - a security interest in goods
11 purchased by the grantor, taken by the seller to secure their price or by
12 a person who gives value to enable the grantor to acquire the goods.
- 13 (bb) *Registry* - the electronic general security rights registry established in
14 the Land Registratin Authority where notice of a security interest or
15 other interest in personal property is registered.
- 16 (cc) *Right of retention*- the right of a person who provides services or
17 materials to maintain or enhance the value of goods or who ships
18 goods for delivery to retain possession of the goods until paid for the
19 services or materials or the shipping fees.
- 20 (dd) *Secured Creditor*- a person in whose favor a security interest is created
21 under a security agreement. For the purposes of priority determination
22 and registration only, it includes a buyer of accounts receivable or
23 secured sales contracts and a lessor of goods for not less than two (2)
24 years.
- 25 (ee) *Secured sales contract*- a contract for the sale of goods on credit that
26 includes a security agreement creating a security interest in the sold
27 goods.
- 28 (ff) *Security agreement* - an agreement between the grantor and the
29 Secured creditor for the creation of the security interest.
- 30 (gg) *Security interest* - a property right in collateral that secures
31 performance of an obligation; for the purposes of perfection and
32 priority, it includes the interests of a buyer of accounts receivable or
33 secured sales contracts and a lessor of goods for not less than two (2)
34 years.

35 **SECTION 4. Scope of the Act. -**

- 36 (a) This Act applies to:
37 1) transactions that secure an obligation with collateral, regardless
38 of form or terminology used, and whether the collateral is owned
39 by the secured creditor or the grantor.

- 1 2) for purposes of registering a notice and determining priority,
2 a. liens in personal property; and
3 b. the sale of accounts receivable and secured sales contracts
4 and to the lease of goods for not less than two (2) years.
5 (b) This Act does not apply to a sale of accounts receivable or
6 secured sales contracts as part of the sale of a business out of which
7 they arose, assignment for collection action only, or the transfer of a
8 claim for compensation of an employee.

9 **CHAPTER 2 – CREATION OF SECURITY INTEREST**

10 **SECTION 5. *Creation of a security interest.* –**

- 11 (a) A security interest is created by a security agreement.
12 (b) A security agreement may provide for the creation of a security
13 interest in a future property, but the security interest in that property
14 is created only when the grantor acquires rights in it or the power to
15 encumber it.

16 **SECTION 6. *Security Agreement.* –** A security agreement must be in
17 writing signed by the grantor, or in an electronic form that may be printed,
18 and it may consist of one or more writings or electronic records that, taken
19 together, establish the intent of the parties, and:

- 20 (a) identifies the secured creditor and grantor, and if different, the
21 debtor;
22 (b) describes the secured obligation;
23 (c) describes the collateral, as provided in SECTION 12.

24 **SECTION 7. *Obligations that may be secured.* –** A security interest
25 may secure one or more obligations, which may be of any type, pre-existing,
26 present or future, described specifically or generally, conditional or
27 unconditional, monetary or non-monetary, fixed or fluctuating.

28 **SECTION 8. *Property that may be encumbered.* –** A security interest
29 may encumber:

- 30 (a) Any type of personal property, including future property;
31 (b) Parts of property and undivided rights in personal property;
32 (c) Generic categories of personal property; and
33 (d) All of a grantor's personal property.

34 **SECTION 9. *Description of collateral.* –**

- 35 (a) A description of collateral is sufficient, whether it is specific or
36 general, if it reasonably identifies what is described. A description
37 such as "all personal assets", "all equipment", "all inventory", or
38 "all personal assets within a generic category" of the grantor is
39 sufficient.

1 (b) Reasonable description of consumer goods requires a specific
2 description.

3 **SECTION 10. Attachment of security interest.** – A security interest
4 attaches to collateral and becomes enforceable against the grantor, if the
5 grantor has signed a security agreement, if consideration has been given by
6 the secured creditor, and if the grantor has rights in the collateral or the power
7 to transfer rights in the collateral to the secured creditor.

8 **SECTION 11. Right to proceeds and commingled funds.** –

9 (a) A security interest in personal property attaches to its identifiable
10 proceeds.

11 (b) Where proceeds in the form of funds credited to a bank account or
12 money are commingled with other funds of the same kind:

- 13 1) The security interest extends to the commingled funds,
14 notwithstanding that the proceeds have ceased to be identifiable;
- 15 2) The security interest in the commingled funds is limited to the
16 value of the proceeds immediately before they were commingled;
17 and
- 18 3) If at any time after the commingling, the value of the balance
19 credited to the bank account or of the commingled money is less
20 than the value of the proceeds immediately before they were
21 commingled, the obligation is enforceable against the commingled
22 funds only to the extent of the lowest value of the commingled
23 funds between the time when the proceeds were commingled and
24 the time the security interest in the proceeds is enforced.

25 **SECTION 12. Notice to account debtors not required.** –

26 Notwithstanding the provisions of Articles 1291 – 1304 of Republic Act No.
27 386 otherwise known as the Civil Code of the Philippines, when collateral
28 consists of present or future accounts receivable, secured sales contracts or
29 payment intangibles, notice to the account debtors is not required as a
30 condition of attachment or perfection of the security interest.

31 **SECTION 13. Tangible property covered by negotiable documents.** –

32 A security interest in a negotiable document extends to the tangible property
33 covered by the document, provided that the issuer of the document is in
34 possession of the property at the time the security interest in the document is
35 created.

36 **SECTION 14. Tangible property with respect to which intellectual**
37 **property is used.** – A security interest in a tangible property with respect to
38 which intellectual property is used does not extend to the intellectual property
39 and a security interest in the intellectual property does not extend to the
40 tangible property.

41 **SECTION 15. Continuity of security interest.** – A security interest
42 continues in collateral notwithstanding sale, lease, license, exchange, or other

1 disposition of the collateral, except as otherwise provided in this Act or agreed
2 upon by the parties.

3 **SECTION 16. *Extinguishment of a security interest.*** –
4 Extinguishment of all present and future secured obligations, including
5 conditional obligations, by payment or otherwise extinguishes a security
6 interest.

7 **CHAPTER 3 – PERFECTION OF SECURITY INTEREST**

8 **SECTION 17. *Perfection of security interest.*** – A security interest is
9 perfected and becomes enforceable against third parties, when it has attached
10 to the collateral and a means of perfection is completed in accordance to
11 SECTION 18.

12 **SECTION 18. *Means of Perfection.*** –The means of perfection are:
13 (a) registration of a notice with the Registry;
14 (b) possession of the collateral by the secured creditor;
15 (c) control of the collateral; and
16 (d) automatic perfection as provided in SECTION 19.

17 **SECTION 19. *Perfection in special cases.*** – A notice must be
18 registered in the Registry to perfect a security interest, with the following
19 exceptions:

- 20 (a) Perfection occurs automatically upon attachment of the security
21 interest in case of a purchase money security interest in consumer
22 goods of the grantor.
23 (b) A security interest in goods may be perfected by the secured creditor's
24 taking possession.
25 (c) A security interest in money may be perfected only by the secured
26 creditor's taking possession of the money, except for cash proceeds.
27 (d) A security interest in a deposit account may be perfected only by the
28 secured creditor's control of the deposit account.
29 (e) Upon disposition of collateral, a security interest attaches to proceeds
30 of the collateral without further act and is continuously perfected if
31 the security interest in the collateral was perfected, if the proceeds are
32 in the form of money, receivables, negotiable instruments or rights
33 to payment of funds credited to a bank account. However, if the
34 proceeds are in a form different from those referred to in the previous
35 sentence, the security interest in such proceeds becomes unperfected
36 fifteen (15) days after the grantor receives such proceeds, unless the
37 means of perfection applicable to relevant type of collateral is
38 completed in accordance with this section.
39 (f) A lessor, a buyer of accounts receivable or secured sales contracts, or
40 a lien holder may perfect its interest in the same manner as for a
41 security interest or by means of registration of a notice with the
42 Registry.

1 (g) A security interest in a motor vehicle may be perfected by registering
2 a notice that describes the motor vehicle generally or by serial
3 number. As against a buyer or lessee, however, priority requires
4 description by serial number.

5 **SECTION 20. *Perfection by different means.*** – A security interest is
6 perfected continuously if it is first perfected in one manner and later perfected
7 in another manner, without a period when the security interest is not perfected.

8 **SECTION 21. *Assignment of security interest.*** – If a secured creditor
9 assigns a perfected security interest, a notice need not be registered under this
10 Act to continue perfection of the security interest.

11 **SECTION 22. *Lapse of perfection.*** – When a registration period
12 lapses as a result of a failure to register a continuation notice by the lapse date,
13 perfection of the security interest also lapses, unless perfection is achieved by
14 another means prior to the lapse.

15 **CHAPTER 4 – PRIORITY OF SECURITY INTEREST**

16 **SECTION 23. *Priority rules.*** –

- 17 (a) Security interests and interests of lien holders in the same collateral
18 have priority according to time of registration of a notice, or
19 perfection by other means, except as otherwise provided in this Act.
- 20 (b) Priority is measured from the earlier to occur of registration of a
21 notice or perfection by other means, provided that there is no time
22 thereafter when a registered notice is not effective or perfection
23 does not exist.
- 24 (c) The first security interest to attach to collateral has priority among
25 security interests for which there is no effective registered notice or
26 other form of perfection.

27 **SECTION 24. *Priority of judgment lien.*** – The right of a judgment
28 creditor in the property of the judgment debtor has priority over a security
29 interest in some or all of the same property if, before the security interest is
30 perfected, (a) the court has registered notice of the execution order, or (b) the
31 judgment creditor has taken possession of the property or taken control of the
32 property by locking and posting the premises in which the property is located.

33 **SECTION 25. *Priority continues in proceeds.*** – The priority of a
34 security interest in proceeds is the same as the priority of the security interest
35 in the original collateral, subject to the provisions of SECTION 19 par (e).

36 **SECTION 26. *Purchase of secured sales contracts or instruments.*** –
37 A purchaser of secured sales contracts or instruments has priority over a
38 secured creditor's security interest in the secured sales contracts or
39 instruments if, in the ordinary course of the purchaser's business, the
40 purchaser gives new value and takes possession of the secured sales contracts
41 or instruments.

1 **SECTION 27. *Transferee exceptions.* –**

- 2 (a) A transferee takes collateral free of a security interest if the
3 transferee gives value and takes delivery of the collateral without
4 knowledge of the security interest and before a notice is registered or
5 the security interest is otherwise perfected.
6 (b) A person who buys or leases goods, including motor vehicles, in
7 the ordinary course of business of the seller or lessor takes free of a
8 security interest, even if the security interest is perfected and the
9 person knows of its existence.
10 (c) A buyer or lessee of a motor vehicle takes it free of a security
11 interest if the buyer or lessee does not know of the security interest
12 and if the serial number is not included on a registered notice of
13 security interest.
14 (d) A buyer takes free of a perfected security interest in goods if the
15 secured creditor consents to the sale by the grantor.
16 (e) A person who receives cash for value takes free of a perfected
17 security interest in the cash.
18 (f) A lien holder who takes control of collateral or causes collateral to
19 be seized before a security interest is perfected takes free of the
20 security interest.
21 (g) A court or a liquidator of an insolvent company that takes
22 physical custody or control of assets before a security interest is
23 perfected in them takes free of the security interest.

24 **SECTION 28. *Effect of the grantor's insolvency on the priority of a***
25 ***security interest.* –** A security interest that is perfected at the time of the
26 commencement of insolvency proceedings in respect of the grantor remains
27 effective against third parties and retains the priority it had before the
28 commencement of the insolvency proceedings.

29 **SECTION 29. *Purchase money security interest.* –**

- 30 (a) A perfected purchase money security interest in equipment or its
31 proceeds has priority over a conflicting security interest, if the
32 purchase money security interest is perfected when the debtor
33 receives possession of the equipment, or within ten (10) days
34 thereafter.
35 (b) A purchase money security interest in goods or their proceeds
36 that is perfected by registration of notice not later than ten (10) days
37 from the date the debtor obtains possession of the goods has priority
38 over the rights in the goods of a buyer, lessee, or lien holder which
39 arise between the time the security interest attaches and the time the
40 notice is registered.
41 (c) A perfected purchase money security interest in inventory,
42 intellectual property or livestock has priority over a conflicting
43 perfected security interest in the same inventory, intellectual property
44 or livestock if:

- 1 1) the purchase money security interest is perfected when the debtor
2 receives possession of the inventory, intellectual property or
3 livestock, and
4 2) if, not later than ten (10) days after the debtor receives possession,
5 the purchase money secured creditor gives written notice to the
6 holder of the conflicting perfected security interest in the same
7 types of inventory, intellectual property or livestock. The notice
8 sent to the holder of the conflicting security interest may cover
9 multiple transactions between the purchase money secured
10 creditor and the grantor without the need to identify each
11 transaction.

12 **SECTION 30. *Livestock*.** – A perfected security interest in livestock
13 given for value to enable the grantor to obtain food or medicine for the
14 livestock has priority over any other security interest in the livestock or their
15 proceeds granted by the grantor, except for a perfected purchase money
16 security interest in the livestock.

17 **SECTION 31. *Fixtures*.** –

- 18 (a) A security interest may continue in goods that become fixtures.
19 (b) A security interest in a fixture is subordinate to rights in the real
20 property to which it is affixed unless a notice of the security interest
21 in the fixture has been registered in the registry established by this
22 Act and, if the right in the real property arose after the fixture became
23 fixed, registration of notice of the security interest in the fixture
24 preceded registration of the rights in or seizure of the real property.

25 **SECTION 32. *Crops*.** –

- 26 (a) A perfected security interest in crops growing or to be grown has
27 priority over a conflicting interest of the owner or mortgagee of the
28 land if the grantor is in possession of the land or has an interest in the
29 land that is registered in accordance with the land law.
30 (b) A perfected security interest in crops or their proceeds, given for
31 value to enable the grantor to produce or harvest the crops and given
32 while the crops are growing crops or during the 6month period before
33 the crops were planted has priority over any other security interest in
34 the same collateral given by the same grantor.
35 (c) An unperfected security interest in crops is subordinate to the
36 rights of a judgment creditor who causes the land to be seized in order
37 to enforce a judgment.

38 **SECTION 33. *Right of retention*.** – A right of retention has priority
39 over a perfected security interest in goods if it arises in the ordinary course of
40 business of the person in possession of the goods.

41 **SECTION 34. *Accessions*.** – A security interest continues in collateral
42 that becomes an accession. If a security interest is perfected when the

1 collateral becomes an accession, the security interest remains perfected in the
2 accession.

3 **SECTION 35. *Commingled goods.* –**

4 (a) A security interest may not be created in commingled goods.

5 However, if collateral to which a security interest has attached
6 becomes commingled, the security interest attaches to the product or
7 mass.

8 (b) If a security interest is perfected before the collateral becomes
9 commingled, the security interest continues to be perfected in the
10 product or mass. The priority of the security interest in the product
11 or mass is measured from the time of perfection of the security
12 interest in the collateral that became commingled, except as limited
13 by paragraph (c)(3), below.

14 (c) If more than one security interest attaches to the product or mass,
15 the following rules determine priority:

- 16 1) A security interest that is perfected has priority over a security
17 interest that is unperfected at the time the collateral becomes
18 commingled goods;
- 19 2) The first security interest to attach to the product or mass has
20 priority among unperfected security interests; and
- 21 3) If more than one security interest is perfected, the perfected
22 security interests rank equally in proportion to the value of the
23 collateral at the time it became commingled.

24 **SECTION 36. *Subordination.* –** A secured creditor may, in a security
25 agreement or otherwise, subordinate its security interest to any other interest.
26 A subordination of security interest does not need to be registered. A
27 subordination is effective only to the extent that it does not adversely affect
28 the rights of other secured creditors.

29 **CHAPTER 5 – REGISTRATION
30 REGISTRY OPERATION**

31 **SECTION 37. *Establishment of electronic registry.* –**

- 32 (a) The registry will be established in the Land Registration
33 Authority.
- 34 (b) The registry shall provide electronic means for registration of
35 notices of security interest and liens, and for searching for notices.
36 The electronic records of the registry shall be the official records.

37 **SECTION 38. *Regulations.* –** The Land Registration Authority may
38 issue regulations consistent with this Act.

39 **SECTION 39. *Public record.* –** Information contained in a registered
40 notice is a public record. Indices and other records created by the registry
41 with respect to notices are public records. Any person may inspect notices in
42 the registry.

1 **SECTION 40. *Sufficiency of notice.* –**

- 2 (a) An initial notice of security interest is sufficient if it:
- 3 1) identifies the grantor by tax identification number if an
4 individual, or SEC registration number if a legal entity;
- 5 2) identifies the secured creditor or an agent of the secured creditor
6 by name and provides an address; and
- 7 3) describes the collateral covered by the notice. If the collateral is
8 a fixture, the notice must describe the real property to which a
9 fixture is to be affixed.
- 10 (b) Each grantor must authorize the registration of an initial notice by
11 signing a security agreement or a separate agreement. A signature
12 may be any tangible indication of the debtor's and grantor's intent
13 to enter the agreement.
- 14 (c) A notice may be registered before a security agreement is
15 concluded or before a security interest attaches to collateral. Once
16 a security agreement is concluded, the date of registration of the
17 notice shall be reckoned from the date notice was registered prior
18 to the conclusion of the security agreement.
- 19 (d) A notice of lien may be registered by a lien holder without the
20 consent of the lienee. A notice of lien on the property of an
21 insolvent company may be registered by the court or a liquidator
22 constituted by the court. A notice of lien on the property of a
23 judgment debtor may be registered by the court. A notice of lien
24 on the personal property of a delinquent taxpayer may be
25 registered by the government.
- 26 (e) Information in a notice shall be entered in English.
- 27 (f) A notice substantially complying with the requirements of this
28 Section is effective unless it is seriously misleading. A notice that
29 does not provide the numeric identifier of the grantor is seriously
30 misleading.

31 **SECTION 41. *One notice sufficient for security interests under***
32 ***multiple security agreements.* –** The registration of a single notice may relate
33 to security interests created by the grantor under one or more than one security
34 agreement between the parties identified in the registered notice.

35 **SECTION 42. *Effectiveness of notice.* –**

- 36 (a) A notice is effective at the time it is discoverable on the records of
37 the registry.
- 38 (b) A notice is effective for the duration of the term of the secured
39 obligation unless a continuation notice is registered before the
40 period lapses.
- 41 (c) Upon lapse, a notice becomes ineffective, and the security interest
42 that was perfected by the notice becomes unperfected unless it is
43 perfected by another means.

44 **SECTION 43. *Amendment of notice.* –**

- (a) An initial notice may be amended. An amended notice must:
 - 1) identify the initial notice by its registration number;
 - 2) identify each secured creditor who authorizes the amendment; and
 - 3) provide all of the information required for an initial notice.
 - (b) An amended notice that adds collateral must be authorized by the grantor by a written agreement.
 - (c) An amended notice that adds a debtor or grantor must be authorized by the added grantor by written agreement.
 - (d) An amended notice is effective only as to each secured creditor who authorizes it.
 - (e) An amended notice that adds collateral or a grantor is effective as to the added collateral or grantor from the date of registration of the amended notice.

SECTION 44. *Continuation of notice. -*

- (a) The period of effectiveness of a notice may be continued by registering a continuation notice that:
 - 1) identifies the initial notice by its registration number; and
 - 2) identifies each secured creditor who authorizes the continuation notice.
 - (b) A continuation notice may be registered only within six months before the expiration of the effective period of the notice.

SECTION 45. *Termination of notice.* —

- (a) The effectiveness of a notice may be terminated by registering a termination notice that:
 - 1) identifies the initial notice by its registration number;
 - 2) identifies each secured creditor who authorizes the termination notice; and
 - 3) indicates that the initial notice is no longer effective with respect to each secured creditor who authorized the termination notice.
 - (b) Within the prescribed number of days after a secured creditor receives a written demand by the debtor or grantor, the secured creditor shall register a termination notice if:
 - 1) there is no outstanding secured obligation and no commitment to make an advance or otherwise give value; or
 - 2) the debtor or grantor did not authorize registration of the initial notice.
 - (c) Within twenty (20) days after a lien holder receives a written demand, it shall register a termination notice if full payment of past due amounts, penalties and interest has been made.
 - (d) A termination notice terminates effectiveness of the initial notice as to each authorizing secured creditor or the lien holder.

SECTION 46. *Notice of objection.* —

- (a) A person may register a notice of objection to a notice of security interest that identifies the person as a debtor or grantor if the

1 person believes that the notice is inaccurate or was wrongfully
2 registered.

3 (b) A notice of objection must:

- 4 1) identify the notice to which it relates by its registration number;
- 5 2) name the person who registers the notice of objection; and
- 6 3) provide the basis for the person's belief that the notice of
7 security interest is inaccurate or was incorrectly or wrongfully
8 registered.

9 (c) Registration of a notice of objection does not affect the
10 effectiveness of a notice of security interest.

11 SECTION 47. *Registry refusal to register notice.* –

12 (a) The registry may refuse to register a notice because:

- 13 1) in the case of an initial notice, it does not provide the numeric
14 identifier of a grantor;
- 15 2) in the case of an amended notice, it does not provide the
16 registration number of the initial notice, it identifies an initial
17 notice for which effectiveness has lapsed, or it does not identify
18 an authorizing secured creditor;
- 19 3) in the case of a continuation notice, it does not provide the
20 registration number of the initial notice, it identifies an initial
21 notice for which effectiveness has lapsed, it was not presented
22 within the permitted six-month period, or it does not identify an
23 authorizing secured creditor;
- 24 4) in the case of a termination notice, it does not provide the
25 registration number of the initial notice, it identifies an initial
26 notice that has lapsed, or it does not identify an authorizing
27 secured creditor;
- 28 5) in the case of a notice of objection, it does not provide the
29 registration number of the initial notice, it identifies an initial
30 notice for which effectiveness has lapsed, or it does not name
31 the person who registers the notice; or
- 32 6) less than the full registration fee is tendered, or no arrangement
33 has been made for payment of fees by other means.

34 (b) If the registry refuses to register a notice, it shall promptly
35 communicate the fact of and reason for its refusal to the person
36 who presented the notice.

37 SECTION 48. *Registry duties.* –

38 (a) For each notice registered, the registry shall:

- 39 1) assign a unique registration number;
- 40 2) create a record that bears the number assigned to the initial
41 notice and the date and time of registration; and
- 42 3) maintain the record for public inspection.

43 (b) The registry shall index notices by the numeric identifier of the
44 grantor and, for notices containing a serial number of a motor
45 vehicle, by serial number.

- (c) The registry shall return a copy of the electronic record of the notice, to include the registration number and the date and time of registration.
 - (d) The registry shall maintain the capability to retrieve a record by the numeric identifier of the debtor or grantor, by the registration number assigned to the initial notice and, for notices containing the serial number of motor vehicle, by serial number.
 - (e) The registry shall maintain records of lapsed notices for a period of ten years beyond the date of lapse.
 - (f) The duties of the registry are merely administrative. By registering a notice or refusing to register a notice, the registry does not determine the sufficiency, correctness, authenticity, or validity of any information contained in the notice.

SECTION 49. *Search of registry records and certified report.* —

- (a) The registry shall communicate the following information to any person who requests it:
 - 1) whether there are in the registry any effective notices that designate a particular registration number, grantor's numeric identifier or vehicle serial number;
 - 2) the registration number, and the date and time of registration of each notice; and
 - 3) all of the information contained in each notice.
 - (b) If requested, the registry shall issue a certified report of the results of a search that is an official record of the registry and shall be admissible into evidence in the courts without extrinsic evidence of its authenticity.
 - (c) The purpose of information provided by the registry is only to give notice of the possible existence of a security interest in collateral. For more complete information, the person who requested the information may inquire of the secured creditor. The secured creditor may, in its sole discretion, disclose:
 - 1) the nature and amount of the secured obligation;
 - 2) a detailed description of the collateral;
 - 3) the remaining balance on the obligation;
 - 4) whether or not the secured creditor has an obligation to make future advances under its agreement with the debtor;
 - 5) the duration of the obligation under the security agreement; and
 - 6) the identity of all debtors, grantors and secured creditors who are parties to the security agreement.

SECTION 50. Fees set by regulation. —

- (a) The fees for registering a notice and for requesting a certified search report shall be set by regulation to recover the reasonable costs of operation.
 - (b) There shall be no fee for access to examine the records of the registry by electronic means or for other services.
 - (c) There shall be no fee for registration of a termination notice.

Chapter 6 - Enforcement of Security Interest Secured Creditor's Rights

SECTION 51. Secured creditor rights upon default by debtor. –

- (a) If the debtor defaults on its obligation to pay or otherwise perform, or upon the occurrence of another event of default, the security interest becomes enforceable.
 - (b) Upon default, the secured creditor shall have:
 - 1) the right to possession or control of the collateral, even if the security agreement is silent about possession or control;
 - 2) the right to dispose of the collateral; and
 - 3) other rights or remedies provided in the security agreement, this law or other law.

SECTION 52. Recovery without judicial process. —

- (a) Upon default, a secured creditor with a security interest in an account receivable, secured sales contract or payment intangible may instruct the account debtor to make payment to the secured creditor, and shall apply such payment to satisfaction of the obligation secured by the security interest after deducting the secured creditor's reasonable collection expenses. The secured creditor shall provide evidence of its security interest to the account debtor when it delivers the instruction to the account debtor. Payments made by an account debtor to the secured creditor pursuant to the instruction to do so serve to discharge the account debtor's obligation to the grantor.
 - (b) Upon default, a secured creditor with a security interest in a document that is perfected by possession may proceed as to the goods covered by the document.
 - (c) If so agreed, and in any event after default:
 - 1) A bank with a perfected security interest in a deposit account maintained by the bank may apply the balance of the deposit account to the obligation secured by the deposit account; and
 - 2) In other cases, a secured creditor that has a security interest in a deposit account perfected by control may instruct the bank to pay the balance of the deposit account to the secured creditor's account.
 - (d) The secured creditor may act under this Section without judicial process, notwithstanding any other provision of this law.

SECTION 53. *Expedited possession by secured creditor.* –

- (a) In cases not covered by the prior Section, the secured creditor may take possession or control of collateral without legal process if the security agreement so provides or if the grantor has agreed in writing, provided that possession or control can be taken without a breach of the peace. If the collateral is a fixture, the secured creditor may remove it from the real property to which it

1 is fixed without judicial process only if the grantor and, if the real
2 property is subject to a mortgage, the mortgagee have agreed in
3 writing after default.

- 4 (b) As used in this Section, breach of the peace includes entering the
5 premises of the grantor without permission, resorting to physical
6 violence or intimidation, or being accompanied by a law
7 enforcement officer when taking possession or confronting the
8 grantor.
- 9 (c) If, upon default, the secured creditor cannot take possession or
10 control of collateral without breach of the peace, or if the grantor
11 and any mortgagee do not agree to removal of collateral that is a
12 fixture, the secured creditor may proceed as follows:
- 13 1) The secured creditor shall be entitled to an expedited hearing
14 upon application for a pre-judgment order granting the secured
15 creditor possession of the collateral. Such application shall
16 include a statement by the secured creditor, under oath,
17 verifying the existence of the security agreement attached to the
18 application and identifying at least one event of default by the
19 debtor under the security agreement.
- 20 2) The secured creditor shall serve a copy of the application upon
21 the debtor, the grantor and, if the collateral is a fixture, any
22 mortgagee of the real property, including a copy of all
23 documents and evidence submitted to the court in support
24 thereof. The court shall schedule the hearing under
25 subparagraph 1) at the earliest available time, provided that no
26 hearing shall be conducted without service on the debtor,
27 grantor and any mortgagee of the application and reasonable
28 notice of the hearing unless (i) the court finds that the secured
29 creditor has made reasonable efforts to make service on the
30 debtor, grantor and any mortgagee, and that such efforts have
31 not been successful; or (ii) the court finds that the hearing
32 should be conducted without delay to prevent damage to the
33 collateral, substantial loss of the collateral's value or
34 impairment of the secured creditor's right to possession.
- 35 3) If the court finds, after hearing, that it is probable that a default
36 has occurred under the security agreement and that the secured
37 creditor has a right to take possession of the collateral, the court
38 shall enter an order granting the secured creditor possession of
39 the collateral pending final judgment or further order of the
40 court. The order may direct the grantor to take such action as
41 the court deems necessary and appropriate so that the secured
42 creditor may take possession.

43 **SECTION 54. Right to dispose of collateral. –**

- 44 (a) After default, a secured creditor may sell or otherwise dispose of
45 the collateral, publicly or privately.
46 (b) The secured creditor may buy at any public or private sale.

1 **SECTION 55. Commercial reasonableness required. –**

- 2 (a) In disposing of collateral, the secured creditor shall act in a
3 commercially reasonable manner.
4 (b) A disposition is not commercially unreasonable merely because
5 a better price could have been obtained by disposition at a
6 different time or by a different method from the time and method
7 adopted by the secured creditor.
8 (c) A disposition is commercially reasonable if the secured creditor
9 disposes of the collateral in conformity with commercial
10 practices among dealers in that type of property.
11 (d) If a method of disposition of collateral has been approved in any
12 legal proceeding, it is conclusively deemed to be commercially
13 reasonable, but no such approval is required by this law.

14 **SECTION 56. Notice of disposition. -**

- 15 (a) Not later than ten (10) days before disposition of the collateral,
16 the secured creditor shall give notice to:
17 1) the grantor;
18 2) any other secured creditor or lien holder who, 5 days before
19 the date notice is given, held a security interest or lien in the
20 collateral that was perfected by registration; and
21 3) any other person from whom the secured creditor received
22 notice of a claim of an interest in the collateral if the notice was
23 received before the secured creditor gives notice of the
24 proposed disposition.
25 (b) The grantor may waive the right to be notified.
26 (c) A notice of disposition is sufficient if the notice: identifies the
27 grantor and the secured creditor; describes the collateral; states
28 the method of intended disposition; and states the time and place
29 of a public sale or the time after which other disposition is to be
30 made.
31 (d) The requirement for notice described in paragraph (a) does not
32 apply if the collateral is perishable or threatens to decline
33 speedily in value or is of a type customarily sold on a recognized
34 market.

35 **SECTION 57. Repair or preparation of collateral. –** The collateral
36 may be disposed of by the secured creditor in its existing condition or after
37 repair, processing or preparation for disposition.

38 **SECTION 58. Notice and claim for distribution. –**

- 39 (a) At least 7 days before distribution of the proceeds of disposition,
40 the secured creditor shall give notice of the proposed distribution
41 to the persons required to receive notice of disposition in Section
42 56. The notice shall include the earliest date on which
43 distribution may occur, that the person may present a claim for
44 distribution, the address to which the claim must be presented
45 and the type of proof of the claim that must be provided. The

1 notice of proposed distribution may be included in the notice of
2 disposition or provided separately.

- 3 (b) If the secured creditor receives an authenticated claim from any
4 other secured creditor, lien holder or other person from whom the
5 secured creditor received notice of a claim of an interest in the
6 collateral before distribution of the proceeds is completed, the
7 claim shall be included in the distribution process. If the secured
8 creditor so requests, a claimant shall furnish proof of the interest
9 or lien before distribution is completed.

10 **SECTION 59. *Application of proceeds and clear title of buyer.* –**

- 11 (a) The proceeds of disposition shall be applied in the following
12 order.
13 1) The reasonable expenses of retaking, holding, preparing for
14 disposition, and disposing of the collateral, including
15 reasonable attorneys' fees and legal expenses incurred by the
16 secured creditor;
17 2) The satisfaction of obligations secured by a senior security
18 interest or lien;
19 3) The satisfaction of the obligation secured by the security
20 interest of the enforcing secured creditor;
21 4) The satisfaction of obligations secured by any subordinate
22 security interest or lien in the collateral if a written demand
23 and proof of the interest are received before distribution of the
24 proceeds is completed.
25 (b) The secured creditor shall account to the grantor for any surplus,
26 and, unless otherwise agreed, the debtor is liable for any
27 deficiency.
28 (c) Where collateral is sold to a purchaser who acquires the interest
29 for value and in good faith and who takes possession of it, the
30 purchaser acquires the collateral free from the interests of the
31 secured creditor, grantor and any subordinate secured creditor or
32 lien holder.

33 **SECTION 60. *Retention of collateral by secured creditor.* –**

- 34 (a) After default, the secured creditor may propose to the debtor and
35 grantor to take all or part of the collateral in satisfaction of all or
36 a part of the debtor's obligation, and shall give notice of the
37 proposal to:
38 1) the debtor and the grantor;
39 2) any other secured creditor or lien holder who, 5 days before
40 the notice is given to the debtor and grantor, has perfected its
41 security interest or lien by registration;
42 3) any other person with an interest in the collateral who has
43 given a written notice to the secured creditor before the notice
44 is given to the debtor and grantor.
45 (b) If the secured creditor receives objection in writing from a person
46 entitled to receive notice under paragraph (a) within 20 days after

the notice was given, the secured creditor must dispose of the collateral as provided in this Division.

- (c) If no objection is received within the 20-day period, the secured creditor may retain the collateral in satisfaction of the debtor's obligation in accordance with the proposal.

SECTION 61. *Redemption.* —

- (a) A person who is entitled to receive a notice of disposition may redeem the collateral provided that:
 - 1) the person has not, after the default, waived in writing the right to redeem;
 - 2) the secured creditor has not yet disposed of or contracted for disposition of the collateral; and
 - 3) the secured creditor has not irrevocably elected to retain the collateral.
 - (b) To redeem the collateral, the person must tender performance of all obligations secured by the collateral, and pay the reasonable expenses that were incurred to seize, hold, repair and prepare the collateral for disposition.

SECTION 62. Remedies for secured creditor noncompliance. –

- (a) If the secured creditor does not comply with the requirements of this Part, the court may order or restrain disposition of collateral.
 - (b) If disposition has occurred, the debtor, grantor or any person entitled to be informed or whose security interest has been made known to the secured creditor prior to the disposition has a right to recover from the secured creditor any loss caused by a failure to comply with this Part.

Chapter 7 – Conflicts of Law provisions (UNCITRAL)

SECTION 63. Law applicable to the mutual rights and obligations of the grantor and the secured creditor. – The law applicable to the mutual rights and obligations of the grantor and the secured creditor arising from their security agreement is the law chosen by them and, in the absence of a choice of law, the law governing the security agreement.

SECTION 64. *Law applicable to a security right in a tangible asset.*

- (a) The law applicable to the creation, effectiveness against third parties and priority of a security right in a tangible asset is the law of the State in which the asset is located.
 - (b) The law applicable to the priority of a security right in a tangible asset covered by a negotiable document made effective against third parties by possession of the document as against a competing security right made effective against third parties by another method is the law of the State in which the document is located.

- (c) The law applicable to the creation, third-party effectiveness and priority of a security right in a tangible asset of a type ordinarily used in more than one State is the law of the State in which the grantor is located.
 - (d) A security right in a tangible asset that is in transit at the time of its putative creation or intended to be relocated to a State other than the State in which it is located at that time may be created and made effective against third parties under:
 - 1) The law of the State of the location of the asset at the time of the putative creation of the security right; or
 - 2) The law of the State of the asset's ultimate destination, provided that the asset reaches that State within [a short period of time to be specified by the enacting State] after the time of the putative creation of the security right.

SECTION 65. Law applicable to a security right in an intangible asset. – The law applicable to the creation, effectiveness against third parties and priority of a security right in an intangible asset is the law of the State in which the grantor is located.

SECTION 66. *Law applicable to a security right in a receivable relating to immovable property.* – Notwithstanding Section 67, in the case of a security right in a receivable that arises from the sale or lease of, or is secured by, immovable property, the law applicable to the priority of the security right in the receivable as against the right of a competing claimant that is registrable in the immovable property registry in which rights in the relevant immovable may be registered is the law of the State under whose authority the immovable property registry is maintained.

SECTION 67. *Law applicable to the enforcement of a security right.*

- (a) A tangible asset is the law of the State in which enforcement takes place; and
 - (b) An intangible asset is the law applicable to the priority of the security right.

SECTION 68. *Law applicable to a security right in proceeds of an encumbered asset.* -

- (a) The law applicable to the creation of a security right in proceeds is the law applicable to the creation of the security right in the original encumbered asset from which the proceeds arose.
 - (b) The law applicable to the third-party effectiveness and priority of a security right in proceeds is the law applicable to the third-party effectiveness and priority of a security right in an original encumbered asset of the same kind as the proceeds.

1 **SECTION 69. Meaning of “location” of the grantor.** – For the
2 purposes of the provisions of this chapter, the grantor is located:

- 3 (a) In the State in which it has its place of business;
- 4 (b) If the grantor has a place of business in more than one State, in the
5 State in which the central administration of the grantor is
6 exercised; and
- 7 (c) If the grantor does not have a place of business, in the State in
8 which the grantor has his or her habitual residence.

9 **SECTION 70. Relevant time for determining location.** –

- 10 (a) Except as provided in paragraph (b), references to the location of
11 the encumbered asset or of the grantor in the provisions of this
12 chapter refer:
 - 13 1) For creation issues, to the location at the time of the putative
14 creation of the security right; and
 - 15 2) For third-party effectiveness and priority issues, to the location
16 at the time the issue arises.
- 17 (b) If the right of a secured creditor in an encumbered asset is created
18 and made effective against third parties and the rights of all
19 competing claimants are established before a change in the
20 location of the asset or the grantor, references in the provisions of
21 this chapter to the location of the asset or of the grantor refer, with
22 respect to third-party effectiveness and priority issues, to the
23 location prior to the change.

24 **SECTION 71. Exclusion of *renvoi*.** – A reference in the provisions of
25 this chapter to “the law” of a State as the law applicable to an issue refers to
26 the law in force in that State other than its rules of private international law.

27 **SECTION 72. Overriding mandatory rules and public policy (*ordre*
28 *public*)** –

- 29 (a) The provisions of this chapter do not prevent a court from
30 applying overriding mandatory provisions of the law of the
31 forum that apply irrespective of the law applicable under the
32 provisions of this chapter.
- 33 (b) The law of the forum determines when a court may or must apply
34 or take into account overriding mandatory provisions of another
35 law.
- 36 (c) A court may only exclude the application of a provision of the
37 law applicable under the provisions of this chapter if and to the
38 extent that the result of such application would be manifestly
39 incompatible with fundamental notions of public policy (*ordre*
40 *public*) of the forum.
- 41 (d) The law of the forum determines when a court may or must apply
42 or take into account the public policy (*ordre public*) of a State
43 other than the State the law of which would be applicable under
44 the provisions of this chapter.

- (e) This article does not prevent an arbitral tribunal from applying or taking into account public policy (*ordre public*), or from applying or taking into account overriding mandatory provisions of a law other than the law applicable under the provisions of this chapter, if the arbitral tribunal is required or entitled to do so.
 - (f) This article does not permit a court to displace the provisions of this chapter dealing with the law applicable to the third-party effectiveness and priority of a security right.

SECTION 73. Impact of commencement of insolvency proceedings on the law applicable to a security right. – The commencement of insolvency proceedings in respect of the grantor does not displace the law applicable to a security right under the provisions of this chapter.

Chapter 7 – Miscellaneous Provisions

SECTION 74. Interpretation. – If there is conflict between a provision of this Act and a provision of any other law, this Act shall govern unless the other law specifically cites or amends the conflicting provision of this law.

SECTION 75. *Transition provisions.* – This section applies to transactions concluded prior to the effective date of this law that would be subject to this law if it had been in effect at the time the transactions were concluded. In this section, such a transaction is referred to as a “prior transaction.”

- (a) The validity and effect of a prior transaction that was concluded before the effective date of this law shall be determined by reference to the law in effect when the agreement was concluded, except as provided otherwise in this section.
 - (b) A secured creditor in a prior transaction may register a notice of the interest in the same manner as provided for a notice of a security interest. The secured creditor shall deliver a copy of the notice to the debtor and grantor.
 - (c) If the secured creditor in a prior transaction registered a notice or otherwise perfected its interest by a means provided in this law within 60 days after the effective date of this law, its priority shall be measured from the effective date of this law. If the notice of an interest created by such a prior transaction was registered or otherwise perfected after 60 days after the effective date of this law, its priority shall be measured from the date of registration.
 - (d) Priority between a security interest perfected under this Law and an interest created by a prior transaction for which a notice has not been registered under paragraph (b) or otherwise perfected under this law shall be determined under this law. The interest created under the prior transaction shall, for that purpose, be deemed to be an unperfected security interest.

1 **SECTION 76. *Implementing Rules and Regulations.*** — Within sixty
2 (60) days from the effectivity of this Act, the Department of Finance in
3 coordination with the Land Registration Authority (LRA) and Department of
4 Justice shall promulgate the necessary rules and regulations for the effective
5 implementation of this Act.

6 **SECTION 77. *Appropriations.*** — The funds needed to implement this
7 Act shall be included in the Annual General Appropriations Act.

8 **SECTION 78. *Separability Clause.*** — Should any provision herein be
9 declared unconstitutional, the same shall not affect the validity of the other
10 provisions of this Act.

11 **SECTION 79. *Repeal and Pre-emption of conflicting laws.*** — This Act
12 repeals the following:

- 13 1) Sections 1 to 16 of Act 1508, otherwise known as the Chattel
14 Mortgage Law;
- 15 2) Articles 2085 to 2141, and 2241, 2243, 2246 to 2247 of
16 Republic Act No. 386, otherwise known as the Civil Code of
17 the Philippines; and
- 18 3) Sections 114 to 116 of Presidential Decree No. 1529,
19 otherwise known as Property Registration Decree.

20 If there is a conflict between a provision of this Act and a provision of
21 any other law, this Act shall govern unless the other law specifically amends
22 or repeals a provision of this law.

23 **SECTION 80. *Effectivity.*** — This Act shall take effect fifteen (15) days
24 after its publication in at least two (2) newspapers of general circulation.

25 *Approved,*