

CHAPTER 522

UNIFORM TRUST RECEIPTS

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522.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** In this chapter, unless the context or subject matter otherwise requires, the following words or phrases shall have the meaning hereinafter set forth.

Subd. 2. **Buyer.** "Buyer in the ordinary course of trade" means a person to whom goods are sold and delivered for new value and who acts in good faith and without actual knowledge of any limitation on the trustee's liberty of sale, including one who takes by conditional sale or under a pre-existing mercantile contract with the trustee to buy the goods delivered, or like goods, for cash or on credit. "Buyer in the ordinary course of trade" does not include a pledgee, a mortgagee, a lienor, or a transferee in bulk.

Subd. 3. **Document.** "Document" means any document of title to goods.

Subd. 4. **Entruster.** "Entruster" means the person who has or directly or by agent takes a security interest in goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person. A person in the business of selling goods or instruments for profit, who at the outset of the transaction has, as against the buyer, general property in such goods or instruments, and who sells the same to the buyer on credit, retaining title or other security interest under a purchase money mortgage or conditional sales contract or otherwise, is excluded.

Subd. 5. **Goods.** "Goods" means any chattels personal other than: money, things in action, or things so affixed to land as to become a part thereof.

Subd. 6. **Instrument.** "Instrument" means

(a) any negotiable instrument as defined in the Uniform Negotiable Instruments Law and amendments thereto, or

(b) any certificate of stock, or bond or debenture for the payment of money issued by a public or private corporation as part of a series, or

(c) any interim, deposit, or participation certificate or receipt, or other credit or investment instrument of a sort marketed in the ordinary course of business or finance, of which the trustee, after the trust receipt transaction, appears by virtue of possession and the face of the instrument to be the owner. "Instrument" does not include any document of title to goods.

Subd. 7. **Lien creditor.** "Lien creditor" means any creditor who has acquired a specific lien on the goods, documents or instruments by attachment, levy, or by any other similar operation of law or judicial process, including a distraining landlord.

Subd. 8. **New value.** "New value" includes new advances or loans made, or new obligations incurred, or the release or surrender of a valid and existing security interest, or the release of a claim to proceeds under section 522.10; but "new value" shall not be construed to include extensions or renewals of existing obligations of the trustee, nor obligations substituted for such existing obligations.

Subd. 9. **Person.** "Person" means, as the case may be, an individual, trustee, receiver or other fiduciary, partnership, corporation, business trust, or other association, and two or more persons having a joint or common interest.

Subd. 10. Possession. "Possession," as used in this chapter with reference to possession taken or retained by the entruster, means actual possession of goods, documents or instruments, or, in the case of goods, such constructive possession as, by means of tags or signs or other outward marks placed and remaining in conspicuous places, may reasonably be expected in fact to indicate to the third party in question that the entruster has control over or interest in the goods.

Subd. 11. Purchase. "Purchase" means taking by sale, conditional sale, lease, mortgage, or pledge, legal or equitable.

Subd. 12. Purchaser. "Purchaser" means any person taking by purchase. A pledgee, mortgagee or other claimant of a security interest created by contract is, insofar as concerns his specific security, a purchaser and not a creditor.

Subd. 13. Security interest. "Security interest" means a property interest in goods, documents or instruments, limited in extent to securing performance of some obligation of the trustee or of some third person to the entruster, and includes the interest of a pledgee, and title, whether or not expressed to be absolute, whenever such title is in substance taken or retained for security only.

Subd. 14. Transferee in bulk. "Transferee in bulk" means a mortgagee or a pledgee or a buyer of the trustee's business substantially as a whole.

Subd. 15. Trustee. "Trustee" means the person having or taking possession of goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person. The use of the word "Trustee" herein shall not be interpreted or construed to imply the existence of a trust or any right or duty of a trustee in the sense of equity jurisprudence other than as provided by this act.

Subd. 16. Value. "Value" means any consideration sufficient to support a simple contract. An antecedent or pre-existing claim, whether for money or not, and whether against the transferor or against another person, constitutes value where goods, documents or instruments are taken either in satisfaction thereof or as security therefor.

[1943 c. 433 s. 1]

522.02 WHAT ARE TRUST RECEIPT TRANSACTIONS. Subdivision 1. **Parties.** A trust receipt transaction within the meaning of this chapter is any transaction to which an entruster and a trustee are parties, for one of the purposes set forth in subdivision 3, whereby.

(a) the entruster or any third person delivers to the trustee goods, documents or instruments in which the entruster (i) prior to the transaction has, or for new value (ii) by the transaction acquires or (iii) as the result thereof is to acquire promptly, a security interest; or

(b) the entruster gives new value in reliance upon the transfer by the trustee to such entruster of a security interest in instruments or documents which are actually exhibited to such entruster, or to his agent in that behalf, at a place of business of either entruster or agent, but possession of which is retained by the trustee; provided that the delivery under paragraph (a) or the giving of new value under paragraph (b) either

(i) be against the signing and delivery by the trustee of a writing designating the goods, documents or instruments concerned, and reciting that a security interest therein remains in or will remain in, or has passed to or will pass to, the entruster, or

(ii) be pursuant to a prior or concurrent written and signed agreement of the trustee to give such a writing.

The security interest of the entruster may be derived from the trustee or from any other person, and by pledge or by transfer of title or otherwise.

If the trustee's rights in the goods, documents or instrument are subject to a prior trust receipt transaction, or to a prior equitable pledge, section 522.09 and section 522.03 determine the priorities.

Subd. 2. Trust receipts. A writing such as is described in subdivision 1, paragraph (i), signed by the trustee, and given in or pursuant to such a transaction, is designated in this chapter as a "trust receipt." No further formality of execution or authentication shall be necessary to the validity of a trust receipt.

Subd. 3. Requisites for trust receipt transactions. A transaction shall not be deemed a trust receipt transaction unless the possession of the trustee thereunder is for a purpose substantially equivalent to any one of the following:

(a) in the case of goods, documents or instruments, for the purpose of selling or exchanging them, or of procuring their sale or exchange; or

(b) in the case of goods or documents, for the purpose of manufacturing or processing the goods delivered or covered by the documents, with the purpose of ultimate sale, or for the purpose of loading, unloading, storing, shipping, transshipping or otherwise dealing with them in a manner preliminary to or necessary to their sale; or

(c) in the case of instruments, for the purpose of delivering them to a principal, under whom the trustee is holding them, or for consummation of some transaction involving delivery to a depository or registrar, or for their presentation, collection, or renewal.

[1943 c. 433 s. 2]

522.03 WHEN PLEDGE OR AGREEMENT IS VALID AGAINST CREDITORS.

Subdivision 1. Requirements. An attempted pledge or agreement to pledge not accompanied by delivery of possession, which does not fulfill the requirements of a trust receipt transaction, shall be valid as against creditors of the pledgor only as follows:

(a) to the extent that new value is given by the pledgee in reliance thereon, such pledge or agreement to pledge shall be valid as against all creditors with or without notice, for ten days from the time the new value is given;

(b) to the extent that the value given by the pledgee is not new value, and in the case of new value after the lapse of ten days from the giving thereof, the pledge shall have validity as against lien creditors without notice, who become such as prescribed in section 522.08, only as of the time the pledgee takes possession, and without relation back.

Subd. 2. Purchasers without notice. Purchasers (including entrusters) for value and without notice of the pledgee's interest shall take free of any such pledge or agreement to pledge unless, prior to the purchase, it has been perfected by possession taken.

Subd. 3. Transfer to person holding beneficial interest. Where, under circumstances not constituting a trust receipt transaction, a person, for a temporary and limited purpose, delivers goods, documents, or instruments, in which he holds a pledgee's or other security interest, to the person holding the beneficial interest therein, the transaction has like effect with a purported pledge for new value under this section.

[1943 c. 433 s. 3]

522.04 CONTRACTS FOR TRUST RECEIPTS. **Subdivision 1. Equivalent to trust receipt.** A contract to give a trust receipt, if in writing and signed by the trustee, shall, with reference to goods, documents or instruments thereafter delivered by the entruster to the trustee in reliance on such contract, be equivalent in all respects to a trust receipt.

Subd. 2. Enforceable against trustee. Such a contract shall as to such goods, documents, or instruments be specifically enforceable against the trustee; but this subdivision shall not enlarge the scope of the entruster's rights against creditors of the trustee as limited by this chapter.

[1943 c. 433 s. 4]

522.05 TRUST RECEIPTS SHALL BE ENFORCEABLE. Between the entruster and the trustee the terms of the trust receipt shall, save as otherwise provided by this chapter, be valid and enforceable. No provision for forfeiture of the trustee's interest shall be valid except as provided in section 522.06, subdivision 5.

[1943 c. 433 s. 5]

522.06 ENTRUSTER ENTITLED TO POSSESSION. **Subdivision 1. As against trustee.** The entruster shall be entitled as against the trustee to possession of the goods, documents or instruments on default, and as may be otherwise specified in the trust receipt.

Subd. 2. May take possession. An entruster entitled to possession under the terms of the trust receipt or of subdivision 1 may take such possession without legal process, whenever that is possible without breach of the peace.

Subd. 3. May hold goods. (a) After possession taken, the entruster shall, subject to subdivision 3 (b) and subdivision 5 of this section, hold such goods, documents or instruments with the rights and duties of a pledgee.

(b) An entruster in possession may, on or after default, give notice to the trustee of intention to sell, and may, not less than five days after the serving or sending of such notice, sell the goods, documents or instruments for the trustee's account, at public or private sale, and may at a public sale himself become a purchaser. The proceeds of any such sale, whether public or private, shall be applied (i) to the payment of the expenses thereof, (ii) to the payment of the expenses of retaking, keeping and storing the goods, documents, or instruments, (iii) to the satisfaction of the trustee's indebtedness. The trustee shall receive any surplus and shall be liable to the entruster for any deficiency. Notice of sale shall be deemed sufficiently given if in writing, and either (i) personally served on the trustee, or (ii) sent by post-paid ordinary mail to the trustee's last known business address.

(c) A purchaser in good faith and for value from an entruster in possession takes free of the trustee's interest, even in a case in which the entruster is liable to the trustee for conversion.

Subd. 4. Surrender shall be valid. Surrender of the trustee's interest to the entruster shall be valid, on any terms upon which the trustee and the entruster may, after default, agree.

Subd. 5. Terms of trust receipts may provide for forfeiture. As to articles manufactured by style or model, the terms of the trust receipt may provide for forfeiture of the trustee's interest, at the election of the entruster, in the event of the trustee's default, against cancellation of the trustee's then remaining indebtedness; provided that in the case of the original maturity of such an indebtedness there must be cancelled not less than 80 per cent of the purchase price to the trustee, or of the original indebtedness, whichever is greater; or, in the case of a first renewal, not less than 70 per cent, or, in the case of a second or further renewal, not less than 60 per cent.

[1943 c. 433 s. 6]

522.07 FILING SHALL BE EFFECTIVE WHEN. Subdivision 1. **Limitation.**

(a) If the entruster within the period of 30 days specified in section 522.08, subdivision 1, files as in this chapter provided, such filing shall be effective to preserve his security interest in documents or goods against all persons, save as otherwise provided by sections 522.08, 522.09, 522.10, 522.11, 522.14 and 522.15.

(b) Filing after the lapse of the said period shall be valid; but in such event, save as provided in section 522.09, subdivision 2, paragraph (b), the entruster's security interest shall be deemed to be created by the trustee as of the time of such filing, without relation back, as against all persons not having notice of such interest.

Subd. 2. Possession to have effect of filing. The taking of possession by the entruster shall, so long as such possession is retained, have the effect of filing, in the case of goods or documents; and of notice of the entruster's security interest to all persons, in the case of instruments.

[1943 c. 433 s. 7]

522.08 TO BE VALID AGAINST CREDITORS OF TRUSTEE; LIMITATIONS.

Subdivision 1. Filing not required. The entruster's security interest in goods, documents or instruments under the written terms of a trust receipt transaction, shall without any filing be valid as against all creditors of the trustee, with or without notice, for 30 days after delivery of the goods, documents or instruments to the trustee, and thereafter except as otherwise provided in this chapter.

Where the trustee at the time of the trust receipt transaction has and retains instruments or documents, the 30 days shall be reckoned from the time such instruments or documents are actually shown to the entruster, or from the time that the entruster gives new value under the transaction, whichever is prior.

Subd. 2. Exceptions. Save as provided in subdivision 1, the entruster's security interest shall be void as against lien creditors who become such after such 30-day period and without notice of such interest and before filing.

Subd. 3. Lien creditors. (a) Where a creditor secures the issuance of process which within a reasonable time after such issuance results in attachment of or levy on the goods, he is deemed to have become a lien creditor as of the date of the issuance of the process.

(b) Unless prior to the acquisition of notice by all creditors filing has occurred or possession has been taken by the entruster, (i) an assignee for the benefit of creditors, from the time of assignment, or (ii) a receiver in equity from the time of

his appointment, or (iii) a trustee in bankruptcy or judicial insolvency proceedings from the time of filing of the petition in bankruptcy or judicial insolvency by or against the trustee, shall on behalf of all creditors, stand in the position of a lien creditor without notice, without reference to whether he personally has or has not, in fact, notice of the entruster's interest.

[1943 c. 433 s. 8]

522.09 PURCHASERS OF NEGOTIABLE DOCUMENTS OR INSTRUMENTS.

Subdivision 1. Rights of purchasers not limited. (a) Nothing in this chapter shall limit the rights of purchasers in good faith and for value from the trustee of negotiable instruments or negotiable documents, and purchasers taking from the trustee for value, in good faith, and by transfer in the customary manner instruments in such form as are by common practice purchased and sold as if negotiable, shall hold such instruments free of the entruster's interest; and filing under this chapter shall not be deemed to constitute notice of the entruster's interest to purchasers in good faith and for value of such documents or instruments, other than transferees in bulk.

(b) The entrusting (directly, by agent, or through the intervention of a third person) of goods, documents or instruments by an entruster to a trustee, under a trust receipt transaction or a transaction falling within section 522.03, shall be equivalent to the like entrusting of any documents or instruments which the trustee may procure in substitution, or which represent the same goods or instruments or the proceeds thereof, and which the trustee negotiates to a purchaser in good faith and for value.

Subd. 2. Rules in certain cases. Where a buyer from the trustee is not protected under subdivision 1 hereof, the following rules shall govern:

(a) (i) Where the trustee, under the trust receipt transaction, has liberty of sale and sells to a buyer in the ordinary course of trade, whether before or after the expiration of the 30-day period specified in section 522.08, subdivision 1, and whether or not filing has taken place, such buyer takes free of the entruster's security interest in the goods so sold, and no filing shall constitute notice of the entruster's security interest to such a buyer. (ii) No limitation placed by the entruster on the liberty of sale granted to the trustee shall affect a buyer in the ordinary course of trade, unless the limitation is actually known to the latter.

(b) In the absence of filing the entruster's security interest in goods shall be valid, as against purchasers, save as provided in this section; but any purchaser, not a buyer in the ordinary course of trade, who, in good faith and without notice of the entruster's security interest and before filing, either (i) gives new value before the expiration of the 30-day period specified in section 522.08, subdivision 1, or (ii) gives value after said period, and who in either event before filing also obtains delivery of goods from a trustee shall hold the subject matter of his purchase free of the entruster's security interest; but a transferee in bulk can take only under (ii) of this subdivision 2 (b).

(c) If the entruster consents to the placing of goods subject to a trust receipt transaction in the trustee's stock in trade or in his sales or exhibition rooms, or allows such goods to be so placed or kept, such consent or allowance shall have like effect as granting the trustee liberty of sale.

Subd. 3. Purchase for new value. As to all cases covered by this section the purchase of goods, documents or instruments on credit shall constitute a purchase for new value, but the entruster shall be entitled to any debt owing to the trustee and any security therefor, by reason of such purchase; except that the entruster's right shall be subject to any set-off or defense valid against the trustee and accruing before the purchaser has actual notice of the entruster's interest.

[1943 c. 433 s. 9]

522.10 RIGHTS OF TRUSTEE. Where, under the terms of the trust receipt transaction, the trustee has no liberty of sale or other disposition, or, having liberty of sale or other disposition, is to account to the entruster for the proceeds of any disposition of the goods, documents or instruments, the entruster shall be entitled, to the extent to which and as against all classes of persons as to whom his security interest was valid at the time of disposition by the trustee, as follows:

(a) to the debts described in section 522.09, subdivision 3; and also

(b) to any proceeds or the value of any proceeds (whether such proceeds are identifiable or not) of the goods, documents or instruments, if said proceeds were received by the trustee within ten days prior to either application for appointment

of a receiver of the trustee, or the filing of a petition in bankruptcy or judicial insolvency proceedings by or against the trustee, or demand made by the entruster for prompt accounting; and to a priority to the amount of such proceeds or value; and also

(c) to any other proceeds of the goods, documents or instruments which are identifiable, unless the provision for accounting has been waived by the entruster by words or conduct; and knowledge by the entruster of the existence of proceeds, without demand for accounting made within ten days from such knowledge shall be deemed such a waiver.

[1943 c. 433 s. 10]

522.11 SPECIFIC LIENS. Specific liens arising out of contractual acts of the trustee with reference to the processing, warehousing, shipping or otherwise dealing with specific goods in the usual course of the trustee's business preparatory to their sale shall attach against the interest of the entruster in said goods as well as against the interest of the trustee, whether or not filing has occurred under this chapter; but this section shall not obligate the entruster personally for any debt secured by such lien; nor shall it be construed to include the lien of a landlord.

[1943 c. 433 s. 11]

522.12 ENTRUSTERS NOT LIABLE. An entruster holding a security interest shall not, merely by virtue of such interest or of his having given the trustee liberty of sale or other disposition, be responsible as principal or as vendor under any sale or contract to sell made by the trustee.

[1943 c. 433 s. 12]

522.13 MAY FILE STATEMENT WITH SECRETARY OF STATE. Subdivision 1. **Contents.** Any entruster undertaking or contemplating trust receipts transactions with reference to documents or goods is entitled to file with the secretary of state a statement, signed by the entruster and the trustee, containing:

(a) a designation of the entruster and the trustee, and of the chief place of business of each within this state, if any; and if the entruster has no place of business within the state, a designation of his chief place of business outside the state; and

(b) a statement that the entruster is engaged, or expects to be engaged, in financing under trust receipt transactions the acquisition of goods by the trustee; and

(c) a description of the kind or kinds of goods covered or to be covered by such financing.

Subd. 2. Form of statement. The following form of statement (or any other form of statement containing substantially the same information) shall suffice for the purposes of this chapter.

"Statement of Trust Receipt Financing

"The entruster, whose chief place of business within this state is at, (or who has no place of business within this state and whose chief place of business outside of this state is at) is or expects to be engaged in financing under trust receipt transactions the acquisition by the trustee, whose chief place of business within this state is at of goods of the following description: (coffee, silk, automobiles, or the like.)

(Signed) Entruster
(Signed) Trustee."

Subd. 3. Duty of filing officer fee. It shall be the duty of the filing officer to mark each statement filed with a consecutive file number, and with the date and hour of filing, and to keep such statement in a separate file; and to note and index the filing in a suitable index, indexed according to the name of the trustee and containing a notation of the trustee's chief place of business as given in the statement. The fee for such filing shall be \$1.00.

Subd. 4. Filing. Presentation for filing of the statement described in subdivision 1, and payment of the filing fee, shall constitute filing under this chapter, in favor of the entruster, as to any documents or goods falling within the description in the statement which are within one year from the date of such filing, or have been, within 30 days previous to such filing, the subject-matter of a trust receipt transaction between the entruster and the trustee.

Subd. 5. **May file affidavit.** At any time before expiration of the validity of the filing, as specified in subdivision 4, a like statement, or an affidavit by the entruster alone, setting out the information required by subdivision 1, may be filed in like manner as the original filing. Any filing of such further statement or affidavit shall be valid in like manner and for like period as an original filing, and shall also continue the rank of the entruster's existing security interest as against all junior interests. It shall be the duty of the filing officer to mark, file and index the further statement or affidavit in like manner as the original.

[1943 c. 433 s. 13]

522.14 ENTRUSTERS SECURITY INTEREST. As against purchasers and creditors, the entruster's security interest may extend to any obligation for which the goods, documents or instruments were security before the trust receipt transaction, and to any new value given or agreed to be given as a part of such transaction; but not, otherwise, to secure past indebtedness of the trustee; nor shall the obligation secured under any trust receipt transaction extend to obligations of the trustee to be subsequently created.

[1943 c. 433 s. 14]

522.15 APPLICATION. This chapter shall not apply to single transactions of legal or equitable pledge, not constituting a course of business, whether such transactions be unaccompanied by delivery of possession, or involve constructive delivery, or delivery and redelivery, actual or constructive, so far as such transactions involve only an entruster who is an individual natural person, and a trustee entrusted as a fiduciary with handling investments or finances of the entruster; nor shall it apply to transactions of bailment or consignment in which the title of the bailor or consignor is not retained to secure an indebtedness to him of the bailee or consignee.

[1943 c. 433 s. 15]

522.16 ENTRUSTER NOT TO COME UNDER TWO ACTS. As to any transaction falling within the provisions both of this chapter and of any other act requiring filing or recording, the entruster shall not be required to comply with both, but by complying with the provisions of either at his election may have the protection given by the act complied with; except that buyers in the ordinary course of trade as described in section 522.09, subdivision 2, and lienors as described in section 522.11, shall be protected as therein provided, although the compliance of the entruster be with the filing or recording requirements of another act.

[1943 c. 433 s. 16]

522.17 RULES OF LAW AND EQUITY TO APPLY. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall continue to apply to trust receipt transactions and purported pledge transactions not accompanied by delivery of possession.

[1943 c. 433 s. 17]

522.18 [Unnecessary]