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2 INTRODUCED BY Rasmussen Taly Davin Thomas

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A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE UNIFORM COMMERCIAL CODE WITH RESPECT TO THE MANNER OF HOLDING AND TRANSFERRING INVESTMENT SECURITIES AND TO AUTHORIZE THE DEPOSIT OF INVESTMENT SECURITIES WITH CLEARING CORPORATIONS AND FEDERAL RESERVE BANKS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 87A-8-102, 87A-8-320, AND 82A-401-1, R-C-M- 1947-*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87A-8-102, R.C.M. 1947, is amended to read as follows:

#87A-8-102. Definitions and index of definitions.

- (1) In this chapter unless the context otherwise requires
 - (a) A "security" is an instrument which
 - (i) is issued in bearer or registered form; and
- 18 (ii) is of a type commonly dealt in upon securities 19 exchanges or markets or commonly recognized in any area in 20 which it is issued or dealt in as a medium for investment;
- 21 and
- 22 (iii) is either one of a class or series or by its 23 terms is divisible into a class or series of instruments;
- 24 and

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(iv) evidences a share, participation or other interest

in property or in an enterprise or evidences an obligation of the issuer.

- (b) A writing which is a security is governed by this chapter and not by Uniform Commercial Code—Commercial Paper even though it also meets the requirements of that chapter.

 This chapter does not apply to money.
- 7 (c) A security is in "registered form" when it 8 specifies a person entitled to the security or to the rights 9 it evidences and when its transfer may be registered upon 10 books maintained for that purpose by or on behalf of an 11 issuer or the security so states.
- 12 (d) A security is in "bearer form" when it runs to
 13 bearer according to its terms and not by reason of any
 14 endorsement.
- 15 (2) A "subsequent purchaser" is a person who takes

 16 other than by original issue.
 - (3) A "clearing corporation" is a corporation: all
- 18 (a) at least 10% of the capital stock of which is
 19 held by or for one or more persons, other toan individuals.
- 20 each of whom:

- 21 (i) is subject to supervision or regulation pursuant 22 to the provisions of federal or state banking laws or state
- 23 insurance laws and does not hold in excess of 20% of the
- 24 capital stock of the corporation; or
- 25 (iii) is a broker or dealer or investment company

1	registered under the Securities Exchange Act of 1934 or the
2	Investment Company Act of 1940 and does not hold in excess
3	of 20% of the capital stock of the corporation; or

(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934; and

individuals, who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who bave purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors.

- (4) A "custodian bank" is any bank or trust company which is supervised and examined by state or federal authority having supervision over banks and which is acting as custodian for a clearing corporation.
- (5) Other definitions applying to this chapter or to specified parts thereof and the sections in which they appear are:
- 20 "Adverse claim." Section 87A-8-301.
- 21 "Bona fide purchaser." Section 87A-8-302.
- 22 "Broker." Section 87A-8-303.

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- 23 "Guarantee of the signature." Section 87A-8-402.
- 24 "Intermediary bank." Section 87A-4-105.
- 25 "Issuer." Section 874-8-201.

Overissue.	Section	87A-8-104.

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- (6) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.**
- Section 2. Section 87A-8-320, R.C.M. 1947, is amended to read as follows:
- #87A-8-320. Transfer or pledge within a central
 depository system. (1) If a security
 - (a) is in the custody of a clearing corporation or of a custodian bank or a nominee of either subject to the instructions of the clearing corporation; and
 - (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian bank or a nominee of either; and
- (c) is shown on the account of a transferor or pladgor on the books of the clearing corporation; then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.
- (2) Under this section entries may be with respect to
 like securities or interests therein as a part of a fungible

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bulk and may refer merely to a quantity of a particular security without reference to the name of the ragistered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

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- (3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank (section 87A-8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (sections 87A-9-304 and 87A-9-305). A transferee or pledgee under this section is a holder.
- (4) A transfer or pledge under this section does not constitute a registration of transfer under Part 4 of this chapter.
- (5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby.
- 23 <u>(6) Under this section a clearing corporation shalls</u>
 24 <u>upon written requests furnish to any issuer within a</u>
 25 <u>reasonable time a list disclosing the names of all persons</u>

- who have securities of the issuer in their account with a
- depository and including a statement of the principal amount
- 3 or number of units of each such security of the issuer on
- 4 deposit. The clearing corporation may charge the issuer. a
- 5 fee for such written lists but the fee shall bear a
- 6 reasonable relation to the cost of furnishing such list.
- 7 Section 3. There is a new R.C.M. section numbered 8 5-1601 that reads as follows:
- 9 5-1601. Definitions. For the purposes of 5-1602 and 10 5-1603, unless the context clearly indicates otherwise. the 11 following definitions apply:
- 12 (1) "Fiduciary" means a trustee under any trust, 13 expressed, implied, resulting or constructive, executor, 14 administrator, quardian, committee, conservator, curator, 15 tutor, custodian, nominee, receiver, trustee in bankruptcy. 16 assignee for the benefit of creditors, partner, agent, 17 officer of any corporation, public or private, public 18 officer, or any other person acting in a fiduciary capacity 19 for any person, trust, or estate.
- 20 (2) "Person" means an individual, corporation,
 21 government or governmental subdivision or agency, business
 22 trust, estate, trust, partnership or association, two or
 23 more persons having a joint or common interest, or any other
 24 legal or commercial entity.
- 25 Section 4. There is a new R.C.M. section numbered

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1 5-1602 that reads as follows:

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5-1602. Deposit of securities in central depository. (1) Notwithstanding any other provision of law, any fiduciary, as defined in 5-1601, holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, and any bank or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of the securities in a clearing corporation, as defined in 87A-8-102. When the securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of the securities. and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as custodian, as managing agent, or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are deposited. Title to the securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery of certificates representing such securities. A bank or trust company so depositing

1 securities pursuant to this section is subject to rules 2 which in the case of state chartered institutions, the state banking board and, in the case of national banking 3 associations, the comptroller of the currency, may from time 5 to time adopt. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify 6 7 in writing to the fiduciary the securities so deposited by 8 the bank or trust company in the clearing corporation for 9 the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of 10 11 the fiduciary's account or on demand by the attorney for 12 such party, certify in writing to the party the sacurities 13 deposited by the fiduciary in the clearing corporation for its account as such fiduciary.

(2) This section shall apply to any fiduciary holding securities in its fiduciary capacity and to any bank or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

24 Section 5. There is a new R.C.M. section numbered 5-1603 that reads as follows:

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5-1603. Fiduciaries -- deposit of United States government and agency securities with a federal reserve bank. (1) Notwithstanding any other provision of law+ any bank or trust company when acting as fiduciary as defined in 5-1601, and any bank or trust company when holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit with the federal reserve bank in its district of any securities the principal and interest of which the United States or any department, agency, or instrumentality thereof has agreed to pay or has quaranteed payment, to be credited to one or more accounts on the books of the federal reserve bank in the name of the bank or trust company, to be designated fiduciary or safekeeping accounts, to which accounts other similar securities may be credited. A bank or trust company so denositing securities with a federal reserve bank shall be subject to such rules with respect to the maxing and maintenance of such deposit as, in the case of state chartered institutions, the state banking board and, in the case of national banking associations, the comptroller of the currency may from time to time adopt. The records of the bank or trust company shall at all times show the ownership of the securities held in such account. Ownership of and other interests in the securities credited to such account may be transferred by entries on the books of the

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federal reserve bank without physical delivery of any securities. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify in writing to the fiduciary the securities deposited by the bank or trust company with the federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by any party to its accounting or on demand by the attorney for the party, certify in writing to the party the securities deposited by the fiduciary with the federal reserve bank for its account as such fiduciary.

- (2) This section shall apply to all fiduciaries and custodians for fiduciaries acting on the effective date of this section or who thereafter may act regardless of the date of the instrument or court order by which they are appointed.
- Section 6. Section 82A-401.1, R.C.M. 1947, is amended to read as follows:
- 18 "82A-401.1. Functions of department. The department
 19 and its units are responsible for administering laws
 20 pertaining to business regulation, including, but not
 21 limited to, laws pertaining to:
- 22 (1) Banks and banking (Title 5_7 chapters 1 through $\frac{14}{23}$
- 24 (2) Building and loan associations (Title 7, chapter 25 1);

1 (3) Credit unions (Title 14: chapter 1); Z (4) Consumer protection (Title 85, chapter 4); 3 (5) Supervision of the milk industry (Title 27, chapter 4); 5 (6) Consumer loans (Title 47, chapter 2); (7) Sale and marketing of coal (Title 50, chapter 6); 7 (8) Unfair business practices (Title 51, chapter 1); 8 (9) Regulation of petroleum products (Title 60+ 9 chapter 2); 10 (10) Retail installment sales (Title 74, chapter 6); 11 (11) Standard weights and measures (Title 90, chapter 1); 12 13 (12) Proprietary post-secondary educational 14 institutions (Title 75, chapter 92)." -End-

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Approved by Committee on Judiciary

INTRODUCED BY Rasmussen Taly Davne Thomas

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE UNIFORM COMMERCIAL CODE WITH RESPECT TO THE MANNER OF HOLDING AND TRANSFERRING INVESTMENT SECURITIES AND TO AUTHORIZE THE DEPOSIT OF INVESTMENT SECURITIES WITH CLEARING CORPORATIONS AND FEDERAL RESERVE BANKS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 87A-8-102, 87A-8-320, AND 82A-401.1, R.C.M. 1947.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 87A-8-102, R.C.M. 1947, is amended 13 to read as follows:

*87A-8-102. Definitions and index of definitions.

(1) In this chapter unless the context otherwise requires

- (a) A "security" is an instrument which
- (i) is issued in bearer or registered form; and
- (ii) is of a type commonly dealt in upon securities
 exchanges or markets or commonly recognized in any area in
 which it is issued or dealt in as a medium for investment;
 and
- 22 (iii) is either one of a class or series or by its 23 terms is divisible into a class or series of instruments; 24 and
 - (iv) evidences a share, participation or other interest

in property or in an enterprise or evidences an obligation of the issuer.

- (b) A writing which is a security is governed by this chapter and not by Uniform Commercial Code—Commercial Paper even though it also meets the requirements of that chapter. This chapter does not apply to money.
- {c} A security is in "registered form" when it specifies a person entitled to the security or to the rights it evidences and when its transfer may be registered upon books maintained for that purpose by or on behalf of an issuer or the security so states.
- 12 (d) A security is in "bearer form" when it runs to 13 bearer according to its terms and not by reason of any 14 endorsement.
- (2) A "subsequent purchaser" (s a person who takesother than by original issue.
 - (3) A "clearing corporation" is a corporation: all
- 18 (a) at least 30% of the capital stock of which is
 19 held by or for one or more persons, other than individuals.
 20 each of whom:
- (i) is subject to supervision or regulation pursuant
 to the provisions of federal or state banking laws or state
 insurance laws and does not hold in excess of 20% of the
 capital stock of the corporation; or
- 25 (iii) is a broker or dealar or investment company

1	registered under the Securities Exchange Act of 1934 or the
2	Investment Company Act of 1940 and does not hold in excess
3	of 20% of the capital stock of the corporation; or

(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934; and

individuals who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who have purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors.

- (4) A "custodian bank" is any bank or trust company which is supervised and examined by state or federal authority having supervision over banks and which is acting as custodian for a clearing corporation.
- (5) Other definitions applying to this chapter or to specified parts thereof and the sections in which they appear are:
- 20 "Adverse claim." Section 87A-8-301.
- 21 "Bona fide purchaser." Section 87A-8-302.
- 22 "Broker." Section 87A-8-303.

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- 23 "Guarantee of the signature." Section 87A-8-402.
- 24 "Intermediary bank." Section 87A-4-105.
- 25 "Issuer." Section 874-8-201.

1 *Overissue.* Section 87A-8-104.

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- 2 (6) In addition Chapter 1 contains general definitions
 3 and principles of construction and interpretation applicable
 4 throughout this chapter.**
- 5 Section 2. Section 87A-8-320, R.C.M. 1947, is amended 6 to read as follows:
- 7 **87A-8-320. Transfer or pledge within a central 8 depository system. (1) If a security
- 9 (a) is in the custody of a clearing corporation or of
 10 a custodian bank or a nominee of either subject to the
 11 instructions of the clearing corporation; and
 - (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian bank or a nominee of either; and
 - (c) is shown on the account of a transferor or pladgor on the books of the clearing corporation; then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.
- 24 (2) Under this section entries may be with respect to
 25 like securities or interests therein as a part of a fungible

bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

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- effect of a delivery of a security in pearer form or only endorsed in blank (section 87A-8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (sections 87A-9-304 and 87A-9-305). A transferee or pledgee under this section is a holder.
- (4) A transfer or pledge under this section does not constitute a registration of transfer under Part 4 of this chapter.
- (5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby.
- 23 (6) Under this section a clearing corporation smalls
 24 upon written requests furnish to any issuer within a
 25 reasonable time a list disclosing the names of all persons

l who have securities of the issuer in their account with a

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depository and including a statement of the principal amount

3 or number of units of each such security of the issuer on

4 deposit. The clearing corporation may charge the issuer a

5 fee for such written list, but the fee shall bear a

6 reasonable relation to the cost of furnishing such list.

7 Section 3. There is a new R.C.M. section numbered

5-1601 that reads as follows:

9 5-1601. Definitions. For the purposes of 5-1602 and

10 5-1603, unless the context clearly indicates otherwise, the

11 following definitions apply:

12 (1) "Fiduciary" means a trustee under any trust,
13 expressed, implied, resulting or constructive, executor,
14 administrator, quardian, committee, conservator, curator,

15 tutor, custodian, nominee, receiver, trustee in bankruptcy,

16 assignee for the benefit of creditors, partner, agent,

17 officer of any corporation, public or private, public

18 officer, or any other person acting in a fiduciary capacity

19 for any person, trust, or estate.

20 (2) "Person" means an individual, corporation,

21 government or governmental subdivision or agency, business

22 trust, estate, trust, partnership or association, two or

23 more persons having a joint or common interest, or any other

24 legal or commercial entity.

25 Section 4. There is a new R.C.M. section numbered

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5-1602 that reads as follows:

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5-1602. Deposit of securities in central depository. (1) Notwithstanding any other provision of law, any fiduciary, as defined in 5-1601, holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, and any bank or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of the securities in a clearing corporation, as defined in 87A-8-102. When the securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as custodian, as managing agent, or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are deposited. Title to the securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery of certificates representing such securities. A bank or trust company so depositing

securities pursuant to this section is subject to rules which in the case of state chartered institutions, the state banking board and, in the case of national banking 3 associations, the comptroller of the currency, may from time to time adopt. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify 7 in writing to the fiduciary the securities so deposited by the bank or trust company in the clearing corporation for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of 10 the fiduciary's account or on demand by the attorney for 11 such party, certify in writing to the party the securities 12 deposited by the fiduciary in the clearing corporation for 13 14 its account as such fiduciary.

(2) This section shall apply to any fiduciary holding securities in its fiduciary capacity and to any bank or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

24 Section 5. There is a new R.C.M. section numbered 25 5-1603 that reads as follows:

5-1603. Fiduciaries -- deposit of United States 1 government and agency securities with a federal reserve 2 bank. (1) Notwithstanding any other provision of law, any 3 bank or trust company when acting as fiduciary as defined in 5-1601, and any bank or trust company when holding 5 securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit with the federal reserve 7 bank in its district of any securities the principal and interest of which the United States or any department, agency, or instrumentality thereof has agreed to pay or has 10 quaranteed payment. to be credited to one or more accounts 11 on the books of the federal reserve bank in the name of the 12 13 bank or trust company, to be designated fiduciary or 14 safekeeping accounts, to which accounts other similar 15 securities may be credited. A bank or trust company so depositing securities with a federal reserve bank shall be 16 subject to such rules with respect to the making and 17 maintenance of such deposit as, in the case of state 18 19 chartered institutions, the state banking board and, in the case of national banking associations, the comptroller of 20 the currency may from time to time adopt. The records of 21 the bank or trust company shall at all times show the 22 23 ownership of the securities held in such account. Junership 24 of and other interests in the securities credited to such account may be transferred by entries on the books of the 25

- 1 federal reserve bank without physical delivery of any 2 securities. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify in 3 writing to the fiduciary the securities deposited by the 4 5 bank or trust company with the federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by 7 any party to its accounting or on demand by the attorney for the party, certify in writing to the party the securities 9 deposited by the fiduciary with the federal reserve bank for
- 12 custodians for fiduciaries acting on the effective date of the date of the instrument or court order by which they are appointed.

its account as such fiduciary.

- Section 6. Section 82A-401.1, R.C.N. 1947, is amended to read as follows:
- 18 #82A-401.1. Functions of department. The department
 19 and its units are responsible for administering laws
 20 pertaining to business regulation, including, but not
 21 limited to, laws pertaining to:
- 22 (1) Banks and banking (Title 5, chapters 1 through ±4
 23 16);
- 24 (2) Building and loan associations (Title 7_{\uparrow} chapter 25 1);

1 (3) Credit unions (Title 14: chapter 1); 2 (4) Consumer protection (Title 85, chapter 4); 3 (5) Supervision of the milk industry (Title 27, chapter 4); 5 (6) Consumer loans (Title 47, chapter 2); 6 (7) Sale and marketing of coal (Title 50, chapter 6); 7 (8) Unfair business practices (Title 51, chapter 1); 8 (9) Regulation of petroleum products (Title 60, 9 chapter 2); 10 (10) Retail installment sales (Title 74, chapter 6); 11 (11) Standard weights and measures (Title 90, chapter 12 1); 13 (12) Proprietary post-secondary educational 14 institutions (Title 75, chapter 92).* -End-

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1	INTRODUCED BY Rasmusen Talt Davin Thomas
2	INTRODUCED BY Rasmussen Half Course I Romas

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE UNIFORM COMMERCIAL CODE WITH RESPECT TO THE MANNER OF HOLDING AND TRANSFERRING INVESTMENT SECURITIES AND TO AUTHORIZE THE DEPOSIT OF INVESTMENT SECURITIES WITH CLEARING CORPORATIONS AND FEDERAL RESERVE BANKS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 87A-8-102, 87A-8-320, AND 82A-401.1, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11

Section 1. Section 87A-8-102, R.C.M. 1947, is amended 12 to read as follows: 13

*87A-8-102. Definitions and index of definitions. 14 15

- (1) In this chapter unless the context otherwise requires
- (a) A "security" is an instrument which
 - (i) is issued in bearer or registered form; and
- 18 (ii) is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in 19
- 20 which it is issued or dealt in as a medium for investment;
- 21 and

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- (iii) is either one of a class or series or by its 22
- 23 terms is divisible into a class or series of instruments;
- 24 and

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(iv) evidences a share, participation or other interest

in property or in a	enterprise or	ev i dences	an	obligation
of the issuer.				

- (b) A writing which is a security is governed by this chapter and not by Uniform Commercial Code--Commercial Paper even though it also meets the requirements of that chapter. This chapter does not apply to money.
- 7 (c) A security is in "registered form" when it specifies a person entitled to the security or to the rights it evidences and when its transfer may be registered upon books maintained for that purpose by or on behalf of an 10 11 issuer or the security so states.
- (d) A security is in "bearer form" when it runs to 12 13 bearer according to its terms and not by reason of any 14 endorsement.
- 15 (2) A "subsequent purchaser" is a person who takes 16 other than by original issue.
 - (3) A "clearing corporation" is a corporation: all
- 18 (a) at least 90% of the capital stock of which is 19 held by or for one or more persons, other than individuals. 20 each of whom:
- 21 (i) is subject to supervision or regulation pursuant 22 to the provisions of federal or state banking laws or state 23 insurance laws and does not hold in excess of 20% of the capital stock of the corporation; or 24
- 25 (ii) is a broker or dealar or investment company

"Overissue." Section 87A-8-104.

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1	registered under the Securities Exchange Act of 1934 or the
2	Investment Company Act of 1940 and does not hold in excess
3	of 20% of the capital stock of the corporation; or

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(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934; and

10 the time of their taking office, as: directors of such capital stock as much of such of such of such of such of such capital stock as much of such capital stock as may be necessary to permit them to qualify as such directors.

- (4) A "custodian bank" is any bank or trust company which is supervised and examined by state or federal authority having supervision over banks and which is acting as custodian for a clearing corporation.
- 17 (5) Other definitions applying to this chapter or to 18 specified parts thereof and the sections in which they 19 appear are:
- 20 "Adverse claim." Section 87A-8-301.
- 21 *Bona fide purchaser.* Section 87A-8-302.
- 22 "Broker." Section 87A-8-303.

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- 23 "Guarantee of the signature." Section 87A-8-402.
- 24 "Intermediary bank." Section 87A-4-105.
- 25 "Issuer." Section 87A-8-201.

2	(6) In addition Chapter 1 contains general definitions
3	and principles of construction and interpretation applicable
4	throughout this chapter.

- Section 2. Section 87A-8-320, R.C.M. 1947, is amended to read as follows:
 - #87A-8-320. Transfer or pledge within a central
 depository system. (1) If a security
- 9 (a) is in the custody of a clearing corporation or of
 10 a custodian bank or a nominee of either subject to the
 11 instructions of the clearing corporation; and
 - (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian bank or a nominee of either; and
- (c) is shown on the account of a transferor or pledgor 15 16 on the books of the clearing corporation; then, in addition to other methods, a transfer or pledge of the security or 17 any interest therein may be effected by the making of 18 appropriate entries on the books of the clearing corporation 19 reducing the account of the transferor or pledgor and 20 increasing the account of the transferee or pledgee by the 21 22 amount of the obligation or the number of shares or rights 23 transferred or pledged.
- (2) Under this section entries may be with respect to
 like securities or interests therein as a part of a fungible

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bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

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- (3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank (section 87A-8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (sections 87A-9-304 and 87A-9-305). A transferee or pledgee under this section is a holder.
- (4) A transfer or pledge under this section does not constitute a registration of transfer under Part 4 of this chapter.
- (5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby.
- 23 (6) Under this section a clearing corporation shalls
 24 upon written request. furnish to any issuer within a
 25 reasonable time a list disclosing the names of all persons

- who have securities of the issuer in their account with a
- depository and including a statement of the principal amount
- 3 or number of units of each such security of the issuer on
- 4 deposit. The clearing corporation may charge the issuer a
 - fee for such written list, but the fee shall bear a
- 6 reasonable relation to the cost of furnishing such list."
- 7 Section 3. There is a new R.C.M. section numbered 8 5-1601 that reads as follows:
- 9 5-1601. Definitions. For the purposes of 5-1602 and 10 5-1603, unless the context clearly indicates otherwise. the following definitions apply:
- 12 (1) "Fiduciary" means a trustee under any trust,
 13 expressed, implied, resulting or constructive, executor,
 14 administrator, guardian, committee, conservator, curator,
 15 tutor, custodian, nominee, receiver, trustee in bankruptcy,
 16 assignee for the benefit of creditors, partner, agent,
 17 officer of any corporation, public or private, public
 18 officer, or any other person acting in a fiduciary capacity
 19 for any person, trust, or estate.
- 20 (2) "Person" means an individual, corporation,
 21 government or governmental subdivision or agency, business
 22 trust, estate, trust, partnership or association, two or
 23 more persons having a joint or common interest, or any other
 24 legal or commercial entity.
- 25 Section 4. There is a new R.C.M. section numbered

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5-1602 that reads as follows:

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2 5-1602. Deposit of securities in central depository. (1) Notwithstanding any other provision of law, any 3 4 fiduciary, as defined in 5-1601, holding securities in its 5 fiduciary capacity, any bank or trust company holding 6 securities as a custodian or managing agent, and any bank or 7 trust company holding securities as custodian for a 8 fiduciary is authorized to deposit or arrange for the 9 deposit of the securities in a clearing corporation, as 10 defined in 87A-8-102. When the securities are so deposited, certificates representing securities of the same class of 11 ł2 the same issuer may be merged and held in bulk in the name 13 of the nominee of such clearing corporation with any other 14 such securities deposited in such clearing corporation by 15 any person regardless of the ownership of the securities. 16 and certificates of small denomination may be merged into 17 one or more certificates of larger denomination. The 18 records of such fiduciary and the records of such bank or 19 trust company acting as custodian, as managing agent, or as 20 custodian for a fiduciary shall at all times show the name 21 of the party for whose account the securities are deposited. 22 Title to the securities may be transferred by bookkeeping 23 entry on the books of the clearing corporation without 24 physical delivery of certificates representing such 25 securities. A bank or trust company so depositing

1 securities pursuant to this section is subject to rules which in the case of state chartered institutions, the state 2 banking board and, in the case of national banking 3 associations, the comptroller of the currency, may from time 4 to time adopt. A bank or trust company acting as custodian 5 for a fiduciary shall, on demand of the fiduciary, certify in writing to the fiduciary the securities so deposited by 7 the bank or trust company in the clearing corporation for the account of such fiduciary. A fiduciary shall, on demand 9 by any party to a judicial proceeding for the settlement of 10 the fiduciary's account or on demand by the attorney for 11 such party, certify in writing to the party the securities 12 deposited by the fiduciary in the clearing corporation for 13 14 its account as such fiduciary.

(2) This section shall apply to any fiduciary holding securities in its fiduciary capacity and to any bank or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

Section 5. There is a new ReCome section numbered

5-1603 that reads as follows:

5-1603. Fiduciaries -- deposit of United States 1 2 government and agency securities with a federal reserve bank. (1) Notwithstanding any other provision of law, any 3 bank or trust company when acting as fiduciary as defined in 5-1601, and any bank or trust company when holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit with the federal reserve 7 bank in its district of any securities the principal and 9 interest of which the United States or any department, agency, or instrumentality thereof has agreed to pay or has 10 quaranteed payment, to be credited to one or more accounts 11 on the books of the federal reserve bank in the name of the 12 bank or trust company, to be designated fiduciary or 13 safekeeping accounts, to which accounts other similar 14 securities may be credited. A bank or trust company so 15 depositing securities with a federal reserve bank shall be 16 subject to such rules with respect to the making and 17 maintenance of such deposit as, in the case of state 18 chartered institutions, the state banking board and, in the 19 case of national banking associations, the comptroller of 20 the currency may from time to time adopt. The records of 21 the bank or trust company shall at all times show the 22 23 ownership of the securities held in such account. Ownership of and other interests in the securities credited to such 24 account may be transferred by entries on the books of the 25

1 federal reserve bank without physical delivery of any securities. A pank or trust company acting as custodian for 2 a fiduciary shall, on demand of the fiduciary, certify in writing to the fiduciary the securities deposited by the 5 bank or trust company with the federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by 7 any party to its accounting or on demand by the attorney for 8 the party, certify in writing to the party the securities deposited by the fiduciary with the federal reserve bank for 10 its account as such fiduciary.

- 11 (2) This section shall apply to all fiduciaries and 12 custodians for fiduciaries acting on the effective date of 13 this section or who thereafter may act regardless of the 14 date of the instrument or court order by which they are 15 appointed.
- Section 6. Section 82A-401.1, R.C.M. 1947, is amended to read as follows:
- 18 **82A-401.1. Functions of department. The department
 19 and its units are responsible for administering laws
 20 pertaining to business regulation, including, but not
 21 limited to, laws pertaining to:
- 22 (1) Banks and banking (Title 5, chapters 1 through 14
 23 16);
- 24 (2) Building and loan associations (Title 7, chapter
 25 1);

1 (3) Credit unions (Title 14, chapter 1); 2 (4) Consumer protection (Title 85, chapter 4); 3 (5) Supervision of the milk industry (Title 27, chapter 4); 5 (6) Consumer loans (Title 47, chapter 2); (7) Sale and marketing of coal (Title 50: chapter 6); 6 7 (8) Unfair business practices (Title 51, chapter 1); 8 (9) Regulation of petroleum products (Title 60, 9 chapter 2); 10 (10) Retail installment sales (Title 74, chapter 6); 11 (11) Standard weights and measures (Title 90, chapter 12 1); 13 (12) Proprietary post-secondary educational 14 institutions (Title:75+ chapter 92).** -End-

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1	SENATS BILL NO. 301
2	INTRODUCED BY RASMUSSEN, GALT, DEVINE, THOMAS, WARDEN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE UNIFORM
ő	COMMERCIAL CODE WITH RESPECT TO THE MANNER OF HOLDING AND
6	TRANSFERRING INVESTMENT SECURITIES AND TO AUTHORIZE THE
7	DEPOSIT OF INVESTMENT SECURITIES WITH CLEARING CORPORATIONS
ь	AND FEDERAL RESERVE BANKS UNDER CERTAIN CONDITIONS; AMENDING
y	SECTIONS 874-8-102, 874-8-320, AND 824-401-1, R.C.M. 1947-
o.	
1	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
.2	Section 1. Section 87A-8-102, R.C.M. 1947, is amended
13	to read as follows:
۱4	₩87A-8-102. Definitions and index of definitions.
15	(1) In this chapter unless the context otherwise requires
16	(a) A "security" is an instrument which
l 7	(i) is issued in bearer or registered form; and
18	(ii) is of a type commonly dealt in upon securities
i 9	exchanges or markets or commonly recognized in any area in
20	which it is issued or dealt in as a medium for investment:
21	and
22	(iii) is either one of a class or series or by its
23	terms is divisible into a class or series of instruments
24	and

(iv) evidences a share, participation or other interest

in property or in an enterprise or evidences an obligation
of the issuer.
(b) A writing which is a security is governed by thi
chapter and not by Uniform Commercial CodeCommercial Pape
even though it also meets the requirements of that chapter
This cnapter does not apply to money.
(c) A security is in "registered form" when i
specifies a person entitled to the security or to the right
it evidences and when its transfer may be registered upo
books maintained for that purpose by or on behalf of a
issuer or the security so states.
(d) A security is in "bearer form" when it runs t
bearer according to its terms and not by reason of an
endor sement.
(2) A "subsequent purchaser" is a person who take
other than by original issue.
(3) A "clearing corporation" is a corporation: all
(a) at least 90% of the capital stock of which is
nald by or for one or more persons, other than individuals
each of whom:
(i) is subject to supervision or regulation pursuan
to the provisions of federal or state banking laws or state
insurance laws and goes not hold in excess of 20% of th
comital stock of the associations of

(ii) is a broker or dealer or investment company

	redistered number the Securities exchange act of 1914 or the
2	Investment Company Act of 1940 and does not hold in excess
3	of 20s of the capital stock of the corporation; or
ŀ	Liii) is a national securities exchange or association
•	registered under a statute of the United States such as the
5	Securities Exchange Act of 1934 <u>: and</u>
7	(b) any remaining capital stock of which is held by
•	individuals who have purchased such capital stock at or
9	prior to the time of their taking office as directors of
)	such corporation and who have purchased only so much of such
L	capital_stock as may be necessary to permit them to qualify
2	as such directors.
3	(4) A "custodian bank" is any bank or trust company
4	which is supervised and examined by state or federal
>	authority having supervision over banks and which is acting
6	as custodian for a clearing corporation.
7	(5) Other definitions applying to this chapter or to
5	specified parts thereof and the sections in which they
9	appear are:
0	"Adverse claim." Section 87A-6-301.
ı	"Bona fide purchaser." Section 87A-8-302.
ć	"Broker." Section 87A-8-303.
3	"Guarantee of the signature." Section 87A-8-402.
4	"Intermediary bank." Section d7A-4-105.
5	"Issuer." Section 87A-8-201.

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2	(b) In addition Chapter 1 contains general definition
3	and principles of construction and interpretation applicable
4	throughout this chapter."
ذ	Section 2. Section 97A-8-320, R.C.N. 1947, is amende
6	to read as follows:
7	#87A-6-320. Transfer or pledge within a centra
Ē	depository system• (1) If a security
9	(a) is in the custody of a clearing corporation or o
10	a custodian bank or a nominee of either subject to the
11	instructions of the clearing corporation; and
15	(b) is in bearer form or endorsed in blank by a
13	appropriate person or registered in the name of the clearing
14	corporation or custodian bank or a nominee of either; and
15	(c) is shown on the account of a transferor or pledgo
16	on the books of the clearing corporation; then, in addition
17	to other methods, a transfer or pledge of the security of
ខេ	any interest therein may be effected by the making o
l۶	appropriate entries on the books of the clearing corporation
0 0	reducing the account of the transferor or pledgor and
21	increasing the account of the transferee or oledgee by the
22	amount of the obligation or the number of shares or right
23	transferred or pledged.
24	(2) Under this section entries may be with respect to
25	like securities or interests therein as a part of a fungible

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bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

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- (3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank (section 87A-8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (sections 87A-9-304 and 87A-9-305). A transferee or pledgee under this section is a holder.
- (4) A transfer or pledge under this section does not constitute a registration of transfer under Part 4 of this chapter.
- (a) Inat entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby.
- 23 (6) Under this section a clearing corporation shall:
 24 upon written request: furnish to any issuer within a
 25 reasonable time a list disclosing the names of all persons

- 1 who have securities of the issuer in their account with a
- 2 depository and including a statement of the principal amount
- 3 or number of units of each such security of the issuer on
- 4 deposit. The clearing corporation may charge the issuer a
- > free for such written lists but the fee shall bear a
- 6 reasonable relation to the cost of furnishing such list."
- 7 Section 3. There is a new R.C.M. section numbered
- 8 5-1601 that reads as follows:
- 9 5-1601. Definitions. For the purposes of 5-1602 and 10 5-1603, unless the context clearly indicates otherwise, the 11 following definitions apply:
- 12 (1) "Fiduciary" means a trustee under any truste
 13 expressed, implied, resulting or constructive, executor,
 14 administrator, guardian, committee, conservator, curator,
 15 tutor, custodian, nominee, receiver, trustee in tankruptcy,
 16 assignee for the benefit of creditors, partner, agent,
 17 officer of any corporation, public or private, public
 18 officer, or any other person acting in a fiduciary capacity
- 18 officer, or any other person acting in a fiduciary capacity
- iy for any person, trust, or estate.
- 20 (2) "Person" means an individual, corporation,
- 21 government or covernmental subdivision or agency, business
- 22 trust, estate, trust, partnership or association, two or
- 23 more persons having a joint or common interest, or any other
- 24 legal or commercial entity.
- 25 Section 4. There is a new R.C.N. section numbered

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5-1002 that reads as follows:

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o-1602. Deposit of securities in central depository. (1) Notwithstanding any other provision of law, any fiduciary, as defined in 5-1601, holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, and any bank or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of the securities in a clearing corporation, as defined in 87A-8-102. When the securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of the securities. and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as custodian, as managing agent, or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are deposited. Title to the securities may be transferred by bookkeeping entry on the books of the clearing corporation without delivery of certificates representing such securities. A bank or trust company so depositing

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securities pursuant to this section is subject to rules which in the case of state chartered institutions, the state banking board and, in the case of national banking associations, the comptroller of the currency, may from time to time adopt. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify 7 in writing to the fiduciary the securities so deposited by the bank or trust company in the clearing corporation for the account of such fiduciary. A fiduciary shall, on demand 10 by any party to a judicial proceeding for the settlement of 11 the figuriary's account or on demand by the attorney for 12 such party, certify in writing to the party the securities 13 deposited by the fiduciary in the clearing corporation for 14 its account as such fiduciary.

- (2) This section shall apply to any fiduciary holding securities in its fiduciary capacity and to any bank or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.
- 24 Section 5. There is a new R.C.M. section numbered 25 5-1603 that reads as follows:

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5-1603. Fiduciaries -- deposit of United States government and agency securities with a federal reserve bank. (1) Notwithstanding any other provision of law- any bank or trust company when acting as fiduciary as defined in 5-1501, and any bank or trust company when holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit with the federal reserve bank in its district of any securities the principal and interest of which the United States or any department, agency. or instrumentality thereof has agreed to pay or has quaranteed payment, to be credited to one or more accounts on the books of the federal reserve bank in the name of the bank or trust company, to be designated fiduciary or safekeeping accounts, to which accounts other similar securities may be credited. A bank or trust company so depositing securities with a federal reserve bank shall be subject to such rules with respect to the making and maintenance of such deposit as, in the case of state chartered institutions, the state banking board and, in the case of national banking associations, the comptroller of the currency may from time to time adopt. The records of the bank or trust company shall at all times show the ownership of the securities held in such account. Ownership of and other interests in the securities credited to such account may be transferred by entries on the books of the

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- federal reserve bank without physical delivery of any 1 2 securities. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify in 3 writing to the fiduciary the securities deposited by the 5 bank or trust company with the federal reserve bank for the 6 account of such fiduciary. A fiduciary shall, on demand by 7 any party to its accounting or on demand by the attorney for 8 the party, certify in writing to the party the securities ¥ deposited by the fiduciary with the federal reserve bank for
 - (2) This section shall apply to all fiduciaries and custodians for fiduciaries acting on the effective date of this section or who thereafter may act regardless of the date of the instrument or court order by which they are appointed.

its account as such fiduciary.

- 15 Section 6. Section 82A-401.1, R.C.M. 1947, is amended 17 to read as follows:
- 18 **82A-401*1* Functions of department. The department
 19 and its units are responsible for administering laws
 20 pertaining to business regulation, including, but not
 21 limited to, laws pertaining to:
- 22 (i) banks and banking (Title 5, chaoters 1 through ±4 23 16);
- 29 (2) Building and loan associations (Title 7, chapter 25 1);

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          (3) Credit unions (Title 14, chapter 1);
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          (4) Consumer protection (Title 85, chapter 4);
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          (5) Supervision of the milk industry (Title 27,
     chapter 4);
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          (6) Consumer loans (Title 41, chapter 2);
          (7) Sale and marketing of coal (Title 50, chapter 6);
          (8) Unfair business practices (Title 51, chapter 1);
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          (9) Regulation of petroleum products (Title 60.
 9
     chapter 2);
          (10) Retail installment sales (Title 74, chapter 6);
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           (11) Standard weights and measures (Title 90, chapter
11
     1);
12
          (12) Proprietary
                                 post-secondary
                                                     educational
13
      institutions (Title 75, chapter 92)."
14
                                -End-
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