

# UNDERSTANDING SALES AND LEASES OF GOODS



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*THIRD EDITION*

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To the three little joys of my life, Emma, Ayden, and Liam. —WHH

In honor of the memory of my good friend and colleague, Dick Speidel, who tended these  
same vineyards with such care. —WHL

In memory of CJG. —HDG



# *Preface*

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This book is designed exclusively as a student text. Although it covers both sales of goods under Article 2 of the Uniform Commercial Code and leases of goods under Article 2A, the primary focus is on Article 2. The decision to pursue this approach is based in part on the fact that many commercial law courses contain little or no coverage of Article 2A. Even in courses that devote significant time to leases, the main focus generally is on sales. Thus, concentrating primarily on sales best meets the needs of most students.

Another reason for the book's approach is that much of Article 2A is based on Article 2 as a statutory analogue, and thus the primary focus on Article 2 is often an efficient means of presenting both articles. The case law is much more developed with respect to Article 2, and a study of cases interpreting that article is generally beneficial in interpreting the comparable provisions of Article 2A, which are cross-referenced to facilitate access to them. The major discussions devoted to Article 2A focus on those provisions that deviate from the statutory analogue, and the text discusses the differences between sales and lease transactions that caused the drafters of Article 2A to adopt a different statutory approach.

The organization of the subject matter is also designed to correlate with a general course in contracts. This approach recognizes that, at many law schools, there is extensive treatment of Article 2, and sometimes Article 2A, in the first-year course on contracts.

The Table of Contents includes section numbers for relevant provisions of Articles 2 and 2A. It does not contain the number for each and every section that might be relevant, but it does guide students to the most fundamental provisions relating to each topic. This approach should aid students because they can quickly find relevant discussion either by the language in the Table of Contents describing the topic or by locating the basic Code section numbers. The Index and the Table of Statutes and Authorities will facilitate a more detailed search.

The second edition, which was published in 2009, represented more than a routine update of the original book. Articles 2 and 2A were amended in 2003 by the Code's sponsors, the Uniform Law Commission and the American Law Institute, and some coverage of the amendments was considered necessary even though the sponsors had not at that time been successful in getting the state legislatures to adopt them. In addition, a new section was added to each chapter discussing the relevant provisions of the United Nations Convention on the International Sale of Goods (CISG). Given the shrinking nature of our world and the dramatic increase in international transactions, no book on sales law is complete without a discussion of the CISG.

The 2003 amendments continued to be unsuccessful in the state legislatures, primarily as a result of the inability of the drafters to develop a statutory test that delineated the scope of Article 2 in the context of mixed transactions including goods and software, a topic discussed in Chapter 1, in a manner that satisfied the various interests with a stake in the outcome. In 2011, upon the recommendation of the PEB, the sponsors withdrew the 2003 amendments from the Official Text of the Code but did not repudiate the content of the amendments. They are still available on the website of the Uniform Law

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## *Preface*

Commission and it is hoped that they will have some relevance to the development of the law by serving as persuasive authority for courts and practitioners.

The failure of the 2003 amendments was the precipitating cause for this third edition. It deletes all references except to the extent an amendment to the text or comments might be relevant to understanding an issue arising under original Article 2, which will remain the law for the foreseeable future. It was also thought necessary to expand and improve the coverage of the CISG, and in this regard the third edition benefits from the work of a new co-author, Henry Deeb Gabriel, one of the world's foremost authorities on the CISG.

Professor Lawrence gratefully acknowledges the support provided by a summer research grant from the University of San Diego School of Law.

September 2015

William H. Henning  
William H. Lawrence  
Henry Deeb Gabriel



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