Chapter 21: Transfer of Title and Risk of Loss

TRANSFER OF TITLE
Identification designation of specific goods as goods to which the contract of sale refers

- **Security Interest** an interest in personal property or fixtures that ensures payment or performance of an obligation
- **Insurable Interest** buyer obtains an insurable interest and specific remedies in the goods by the identification of existing goods as goods to which the contract of sale refers

Passage of Title title passes when the parties intend it to pass; when the parties do not specifically agree, the Code provides rules to determine when title passes

- **Physical Movement of the Goods** when delivery is to be made by moving the goods, title passes at the time and place where the seller completes his performance with reference to delivery
- **No Movement of the Goods**

Power to Transfer Title the purchaser of goods obtains such title because his transferor either has or had the power to transfer; however, to encourage and make secure good faith acquisitions of goods, it is necessary to protect certain third parties under certain circumstances

- **Void Title** no title can be transferred
- **Voidable Title** the good faith purchaser acquires good title
- **Entrusting of Goods to a Merchant** buyers in the ordinary course of business acquire good title when buying from merchants

RISK OF LOSS
Definition allocation of loss between seller and buyer when the goods have been damaged, destroyed, or lost without the fault of either party

Risk of Loss Where There Is a Breach

- **Breach by the Seller** if the seller ships to the buyer goods that do not conform to the contract, the risk of loss remains on the seller until the buyer has accepted the goods or until the seller has remedied the defect
- **Breach by the Buyer** the seller may treat the risk of loss as resting on the buyer for a commercially reasonable time to the extent of any deficiency in the seller’s effective insurance coverage

Risk of Loss in Absence of a Breach

- **Agreement of the Parties** the parties may by agreement allocate the risk of loss
- **Trial Sales** unless otherwise agreed, if the goods are delivered primarily for the buyer’s use, the transaction is a sale on approval (risk of loss remains with the seller until “approval” or acceptance of the goods by the buyer); if they are delivered primarily for resale by the buyer, it is a sale or return (the risk of loss is on the buyer until she returns the goods)
- **Contracts Involving Carriers** in shipment contracts, the seller bears the risk of loss and expense until the goods are delivered to the carrier for shipment; in destination contracts, the seller bears the risk of loss and expense until tender of the goods at a particular destination
- **Goods in Possession of Bailee**
- **All Other Sales** for merchant seller, risk of loss passes to buyer on the buyer’s receipt of the goods; for nonmerchant seller, risk of loss passes to buyer upon tender of goods

BULK SALES
Definition a transfer, not in the ordinary course of the transferor’s business, of a major part of inventory

Requirements of Article 6 transfer is ineffective against any creditor of the transferor, unless certain requirements are met