6-20/520.40 Negotiable Document of Title

"Document of title" means any written instrument, such as a bill of sale, title deed, bill of lading, a bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, compress receipt, and also any other document which in the regular course of business or financing is treated as adequately evidencing that proves ownership or control and possession. A person in possession of a document of title can receive, hold, sell or otherwise dispose of the document and the goods it covers. . (CCP 481.090, 680.180; COMM 1201(b)(16), 7201, 9102(a)(30),)

To be a document of title, a document must purport to be issued by a bailee (COMM 7102(a)(1)) and purport to cover goods in the bailee's possession which are either identified or is a fungible portion of an identifiable mass. Where goods including distilled spirits and agricultural commodities are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts, a receipt issued for the goods is a "document of title" and has like effect as a warehouse receipt even though issued by a person who is the owner of the goods and is not a warehouseman.

A document of title is "negotiable" if by its terms the goods are to be delivered to bearer or to the order of a named person, or if it runs to a named person or assigns where recognized in overseas trade. Any other document is nonnegotiable. (COMM 7104) A bill of lading in which it is stated that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written order signed by the same or another named person. A nonnegotiable warehouse receipt and a nonnegotiable bill of lading must be conspicuously marked "nonnegotiable." In case of the bailee's failure to do so, a holder of the document who purchased it for value supposing it to be negotiable may, at his option, treat such document as imposing upon the bailee the same liabilities he would have incurred had the document been negotiable.

To levy upon a negotiable document of title, the levying officer shall take the negotiable document of title into custody if it is in the possession of the judgment debtor or, if it is in the possession of a third person, personally serve a copy of the writ and a notice of levy on the third person. (CCP 700.120)