

payment" after the word "demand" in subs. (2) and (3). This is merely a matter of clarification. [Bill 1-S]

**405.113 History:** 1963 c. 158; Stats. 1963 s. 405.113; 1969 c. 39.

**Legislative Council Note, 1963:** The study committee deleted sub. (2) (b) of the official text on the basis of similar action taken in Massachusetts prior to adoption of the Code in that state. Subsection (2) (b) provided for an automatic 10-day statutory termination of the indemnity agreement. The position taken in Massachusetts, and adopted by the study committee, was that the automatic statutory termination would be likely to result in controversy in its interpretation and could work hardship particularly in case of overseas parties and that it would be better to leave the matter of termination to the indemnity agreement itself. [Bill 1-S]

**Legislative Council Note, 1969:** Wisconsin deleted sub. (2) (b) of the official text on the grounds that an automatic statutory 10-day termination of an indemnity agreement could create controversy and work hardship in certain instances. The use of indemnity agreements by Wisconsin banks is negligible and, in the interest of uniformity, sub. (2) (b) of the official text is made a part of the Wisconsin law. [Bill 2-A]

**405.114 History:** 1963 c. 158, 429; Stats. 1963 s. 405.114.

**Legislative Council Note, 1963:** The official draft of this section contained optional subs. (4) and (5) which the study committee deleted. The optional provisions were designed to give protection to the issuer of a letter of credit by making payment under the credit conditional in certain cases such as where currency restrictions of a foreign nation make it impossible to examine the documents before payment is required. It was the consensus of the study committee, on the basis of information supplied to it by reputable sources, that such a provision could lead to many unnecessary delays in honor of letters of credit and that the issuing bank can adequately protect itself by agreement or by refusing to issue the letter of credit. [Bill 1-S]

**405.115 History:** 1963 c. 158; Stats. 1963 s. 405.115.

**405.116 History:** 1963 c. 158; Stats. 1963 s. 405.116.

**405.117 History:** 1963 c. 158; Stats. 1963 s. 405.117.

## CHAPTER 406.

### Bulk Transfers.

**Editor's Notes:** (1) For notes of decisions construing prior statutes on the subject of bulk transfers see Wis. Annotations, 1960.

(2) For foreign decisions construing the Uniform Commercial Code: Bulk Transfers and other relevant information see Uniform Laws, Annotated.

**406.101 History:** 1963 c. 158; Stats. 1963 s. 406.101.

The impact of the uniform commercial code on Wisconsin law. Helstad, 1964 WLR 355.

**406.102 History:** 1963 c. 158; Stats. 1963 s. 406.102; 1965 c. 523.

**Legislative Council Note, 1963:** In order to make clear that "major part" refers to value rather than quantity, the study committee added the words "in value" where they appear in sub. (1). Also, the study committee deleted from the official text of sub. (1) the words "materials, supplies, merchandise or other" where they appeared before the word "inventory." Since the word "inventory" is defined in s. 409.109 so as to include materials, supplies and merchandise, these words were surplusage. Moreover, the use of the disjunctive "or" could have resulted in the interpretation that sale of a major part of the supplies (such as office supplies) of a business would be a bulk transfer. This quite clearly was not the intent of the section. [Bill 1-S]

**406.103 History:** 1963 c. 158; Stats. 1963 s. 406.103; 1965 c. 252.

**406.104 History:** 1963 c. 158, 429; Stats. 1963 s. 406.104.

**Legislative Council Note, 1963:** The last sentence of sub. (2) was added by the study committee. It is derived from Wis. Stats. s. 241.18 (2), enacted in 1959, and is designed to make clear that the municipality to which taxes may be owing is entitled to receive the notices prescribed by ss. 406.105 and 406.107 for creditors generally. [Bill 1-S]

**406.105 History:** 1963 c. 158; Stats. 1963 s. 406.105.

**Legislative Council Note, 1963:** The study committee deleted the words "for them" where they appeared after the word "pays" in the official text and substituted in lieu thereof the words "the major part of the purchase price" so as to make clear that the ordinary earnest money payment does not bring this section into operation.

The study committee omitted optional section 6-106 of the official Code draft on the ground that it would impose an entirely new burden on bulk transferees in this state. Section 6-106 of the official draft requires the bulk transferee, in addition to his notice obligations, to apply the consideration for the sale directly to the debts of the transferor rather than turning the consideration over to the transferor. [Bill 1-S]

**406.107 History:** 1963 c. 158; Stats. 1963 s. 406.107; 1969 c. 39.

**Legislative Council Note, 1963:** The phrase "or by certified mail as specified in s. 990.001 (13)" was added to sub. (3) by the study committee to make clear that the option provided by Wis. Stat. s. 990.001 (13) is applicable here. [Bill 1-S]

**Legislative Council Note, 1969:** Stylistic and technical changes in sub. (3). This amendment deletes the word "by" and the phrase "as specified in s. 990.001 (13)" which were added to the code text by Wisconsin. The cross reference is not necessary as the requirements of s. 990.001 (13) are applicable

to all sections of the statutes authorizing or requiring the use of registered or certified mail except those specifically excluded by the subsection. [Bill 2-A]

**406.108 History:** 1963 c. 158; Stats. 1963 s. 406.108.

**406.109 History:** 1963 c. 158; Stats. 1963 s. 406.109.

**406.110 History:** 1963 c. 158; Stats. 1963 s. 406.110.

**406.111 History:** 1963 c. 158; Stats. 1963 s. 406.111.

#### CHAPTER 407.

##### Warehouse Receipts, Bills of Lading and Other Documents of Title.

**Editor's Notes:** (1) For notes of decisions construing prior statutes on documents of title (warehouse receipts, bills of lading, etc.) see Wis. Annotations, 1960. See also: L. L. Richards Mach. Co. v. McNamara Motor Express, Inc. 7 W (2d) 613, 97 NW (2d) 396; and In re United Wholesalers, Inc. 274 F (2d) 316.

(2) For foreign decisions construing the Uniform Commercial Code: Warehouse Receipts, Bills of Lading and Other Documents of Title, and other relevant information, see Uniform Laws, Annotated.

**407.101 History:** 1963 c. 158; Stats. 1963 s. 407.101.

The impact of the uniform commercial code on Wisconsin law. Helstad, 1964 WLR 355.

**407.102 History:** 1963 c. 158; Stats. 1963 s. 407.102.

**407.103 History:** 1963 c. 158; Stats. 1963 s. 407.103.

**Legislative Council Note, 1963:** Subsection (2) is renumbered from section 10—104 of the official text. [Bill 1-S]

**407.104 History:** 1963 c. 158; Stats. 1963 s. 407.104.

**407.105 History:** 1963 c. 158; Stats. 1963 s. 407.105.

**407.201 History:** 1963 c. 158; Stats. 1963 s. 407.201.

Field warehousing. Skilton, 1961 WLR 221 and 403.

**407.202 History:** 1963 c. 158; Stats. 1963 s. 407.202.

**407.203 History:** 1963 c. 158; Stats. 1963 s. 407.203.

**407.204 History:** 1963 c. 158; Stats. 1963 s. 407.204.

**Legislative Council Note, 1963:** The study committee inserted the word "conspicuous" in the first line of sub. (2). A provision in a storage agreement limiting the amount of the bailee's liability in case of loss or damage was deemed sufficiently important so that steps ought to be taken to bring it to the bailor's attention. The term "conspicuous" is defined in s. 401.201.

Subsection (4) of the official text was de-

signed to make clear that this chapter does not impair or repeal any statute which may impose a higher responsibility upon warehousemen than does this chapter or which invalidates contractual limitations which would be permissible under this chapter. No such statutes were found, and the subsection was omitted. [Bill 1-S]

A furrier who stores furs for his customers for a consideration is a warehouseman and is therefore charged with the standard of care which a warehouseman owes. Ins. Co. of North America v. Kriek Furriers, 36 W (2d) 563, 153 NW (2d) 532.

**407.205 History:** 1963 c. 158; Stats. 1963 s. 407.205.

**407.206 History:** 1963 c. 158; Stats. 1963 s. 407.206; 1965 c. 252.

**407.207 History:** 1963 c. 158; Stats. 1963 s. 407.207; 1969 c. 39.

**Legislative Council Note, 1963:** The study committee inserted at the end of sub. (1) the phrase "where authorized by agreement or custom" so as to preserve the rule of the present law (Wis. Stat. s. 119.24). Without this limiting phrase, sub. (1) could be construed, when read in connection with the definition of "fungible" in s. 401.201, to permit commingling of goods which are considered fungible by nature even though commingling is not authorized by agreement or custom. It was the consensus of the committee that the greater clarity and precision of the present rule should be preserved. [Bill 1-S]

**Legislative Council Note, 1969:** The phrase "where authorized by agreement or custom" was added in sub. (1) by Wisconsin to preserve existing law and to make clear that fungible goods could be commingled only if authorized by agreement or custom. The UCC editorial board rejected the Wisconsin variation as a reversal of a policy deliberately adopted by the code draftsmen. This phrase is now deleted in the interest of preserving uniformity of law and in view of the fact that s. 407.207 (2) affords ample protection for the owners of different lots of fungible goods. [Bill 2-A]

**407.208 History:** 1963 c. 158; Stats. 1963 s. 407.208.

**407.209 History:** 1963 c. 158; Stats. 1963 s. 407.209.

**Legislative Council Note, 1963:** Solely for the purpose of clarification, the study committee substituted "the bailor" for "him" where those words appear in sub. (3) after the word "by". [Bill 1-S]

**407.210 History:** 1963 c. 158; Stats. 1963 s. 407.210; 1965 c. 252; 1969 c. 39.

**Legislative Council Note, 1963:** The reference to certified mail was added to sub. (2) (b) to make clear that the option provided by Wis. Stat. s. 990.001 (13) is applicable here. See also s. 406.107 (3). [Bill 1-S]

**Legislative Council Note, 1969:** Technical change in sub. (2) (b). The advisory committee agreed to substitute the code phrase "or certified letter" for the Wisconsin phrase