



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0028/1

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2001 SENATE BILL 9

January 12, 2001 - Introduced by Senators HUELSMAN and GEORGE, cosponsored by Representatives CULLEN and GUNDRUM, by request of Wisconsin Commission on Uniform State Laws.. Referred to Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform.

1 **AN ACT to repeal** 402.326 (3), 411.303 (3), 411.307 (2) (b) and (c) and 411.307 (4);
2 **to renumber** 402.210 (3), 402.210 (4), 402.210 (5), 402.502 (2) and 411.303 (6),
3 (7) and (8); **to renumber and amend** 402.502 (1), 408.110 (5) (b), 408.110 (5)
4 (c), 408.110 (5) (d), 408.301 (1) (c), 408.510 (3), 411.303 (4) and 411.303 (5); **to**
5 **consolidate, renumber and amend** 411.307 (2) (intro.) and (a); **to amend**
6 30.57 (3), 30.57 (5), 30.57 (6), 30.57 (7), 30.57 (8), 30.573 (1), 30.573 (2), 30.576
7 (1), 50.05 (15) (f), 51.42 (3) (d) 12. f., 59.43 (1) (L), 59.43 (1) (m), 59.43 (1) (n),
8 59.43 (1) (o), 59.43 (2) (ag) 2., 59.43 (2) (d), 100.201 (2) (d), 100.201 (2) (e) 1.,
9 101.9213 (2), 101.9213 (4), 101.9213 (5), 101.9213 (6), 101.9213 (7), 101.9215
10 (1), 101.9215 (2), 101.9218 (1), 101.9222 (5) (b), 109.09 (2) (b) 2., 138.09 (7) (i)
11 2., 340.01 (56m), 340.01 (56n), 342.19 (2), 342.19 (3), 342.19 (4), 342.19 (5),
12 342.19 (6), 342.21 (1), 342.21 (2), 342.24, 344.185 (3) (intro.), 401.201 (9),
13 401.201 (32), 401.201 (37) (a), 402.103 (3) (d), 402.326 (title), 402.326 (2),
14 402.502 (title), 402.716 (3), 406.102 (1), 406.102 (2), 407.503 (1) (a), 408.103 (6),

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1 408.106 (4) (a) and (b), 408.106 (6), 408.110 (5) (a), 408.302 (1), 408.510 (1),
2 411.103 (3) (a), 411.103 (3) (d), 411.103 (3) (e), 411.103 (3) (f), 411.103 (3) (h),
3 411.103 (3) (j), 411.103 (3) (L), 411.103 (3) (m), 411.303 (1) and (2), 411.309 (1)
4 (c), 421.301 (21), 422.413 (2r) (intro.), 422.413 (2r) (f), 425.105 (4), 425.203 (3)
5 (intro.), 425.204 (2), 425.207 (2), 425.208 (6), 779.48 (2), 779.89, 779.91 (2),
6 779.97 (4) (a) 1., 779.97 (4) (b) 1., 779.97 (4) (b) 2., 779.97 (4) (b) 3., 779.97 (4)
7 (b) 4., 779.97 (4) (d), 779.97 (4) (e), 815.18 (2) (i), 815.18 (2) (j), 818.02 (4), 893.36
8 (3) (b), 893.36 (3) (c), 893.36 (3) (e) and 893.36 (3) (f); **to repeal and recreate**
9 401.105 (2) (e), chapter 409 and 411.307 (3); and **to create** 402.210 (3), 402.502
10 (1) (a), 402.502 (2), 405.118, 408.106 (4) (c), 408.110 (5) (b), 408.301 (1) (c) 1. and
11 2. and 408.510 (3) (a) to (c) of the statutes; **relating to:** revising the Uniform
12 Commercial Code — Secured Transactions and related statutes and granting
13 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill adopts the Revised Uniform Commercial Code (UCC) Article 9—Secured Transactions, which was approved by the National Conference of Commissioners on Uniform State Laws and by the American Law Institute in 1998 and by the American Bar Association, with the amendments approved by the national conference in 1999 and 2000.

UCC Article 9—Secured Transactions governs transactions that involve the granting of credit secured by personal property of a debtor, allowing the creditor to take the property if the debtor defaults on the debt. The changes that Revised UCC Article 9—Secured Transactions makes include the following, which are discussed in more detail below: 1) the scope of Article 9 is expanded to include kinds of property such as deposit accounts, health care receivables, and commercial tort claims, that were excluded in original Article 9; 2) perfection of a security interest by control is available not only for investment property, but also for deposit accounts and letter-of-credit rights; 3) the location of the debtor rather than the location of the collateral determines where a security interest perfects; 4) a simplified and unified system of filing financing statements in one place in each state to perfect security interests replaces the original filing system that allowed certain local filing; 5) consumers obtain certain rights that were not available in original Article 9, such as specific disclosure of any deficiency rights that the creditor may have; and 6) new

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rules for enforcement, such as a requirement that a creditor notify a secondary obligor when repossessing goods that are subject to a security interest.

The UCC has 11 substantive articles. Article 9 provides the rules governing any transaction (other than a finance lease) that couples a debt with a creditor's interest in a debtor's personal property. If the debtor defaults, the creditor may repossess and sell the property (generally called collateral) to satisfy the debt. The creditor's interest is called a "security interest." Article 9 also covers certain kinds of sales that look like a grant of a security interest.

There are two key concepts in the operation of Article 9: "attachment" and "perfection." These terms describe the two key events in the creation of a "security interest." Attachment generally occurs when the security interest is effective between the creditor and the debtor, and that usually happens when their agreement provides that it take place. Perfection occurs when the creditor establishes his or her "priority" in relation to other creditors of the debtor in the same collateral. The creditor with "priority" may use the collateral to satisfy the debtor's obligation when the debtor defaults before other creditors subsequent in priority may do so. Perfection occurs usually when a "financing statement" is filed in the appropriate public record. Generally, the first to file has the first priority, and so on.

Article 9 relies on the public record because it provides the means for creditors to determine whether there is any security interest that precedes theirs — a notice function. The idea is that a subsequent secured creditor cannot complain that his or her grant of credit was made in ignorance of the prior security interests easily found in the public record, and cannot complain of the priority of the prior interests as a result. Every secured creditor has a priority over any unsecured creditor.

Article 9 is more complex than the description in the two prior paragraphs implies. There are substantial exceptions to the above-stated perfection rule, for example. Filing is not the only method for perfection, depending upon the kind of property that is collateral. Possession of collateral by the secured party is an alternative method of perfection for many kinds of collateral. For some kinds of property, control (a defined term) either perfects the interest or provides a better priority than filing does. There are kinds of transactions for which attachment is perfection. Priority is, also, not always a matter of perfecting a security interest first in time.

The following numbered topics highlight Article 9 as revised in 1998:

1. *Scope*

The 1998 revision expands the "scope" of Article 9. What this means is that the kinds of property in which a security interest can be taken by a creditor under Article 9 increase over those available in Article 9 before revision. Also, certain kinds of transactions that did not come under Article 9 before now come under Article 9. These are some of the kinds of collateral that are included in Revised Article 9 that were not in original Article 9: sales of payment intangibles and promissory notes; security interests created by governmental debtors; health insurance receivables; consignments; and commercial tort claims. Nonpossessory, statutory agricultural liens come under Article 9 for determination of perfection and priority, generally the same as security interests come under Article 9 for those purposes.

SENATE BILL 9**2. *Perfection***

Filing a financing statement remains the dominant way to perfect a security interest in most kinds of property. It is clearer in Revised Article 9 that filing a financing statement will perfect a security interest, even if there is another method of perfection. "Control" is the method of perfection for letter-of-credit rights and deposit accounts, as well as for investment property. Control was available only to perfect security interests in investment property under prior Article 9. A creditor has control when the debtor cannot transfer the property without the creditor's consent. Possession, as an alternative method to filing a financing statement to perfect a security interest, is the only method for perfecting a security interest in money that is not proceeds of sale from property that is subject to a security interest. Automatic perfection for a purchase money security interest is increased from 10 days in prior Article 9 to 20 days in Revised Article 9. Attachment of a purchase money security interest is perfection, at least for the 20-day period. Then another method of perfection is necessary to continue the perfected security interest. However, a purchase money security interest in consumer goods remains perfected automatically for the duration of the security interest.

3. *Choice of Law*

In interstate secured transactions, it is necessary to determine which state's laws apply to perfection, the effect of perfection, and the priority of security interests. The 1998 revisions to Article 9 make two fundamental changes from prior Article 9. In prior Article 9, the basic rule chooses the law of the state in which the collateral is found as the law that governs perfection, effect of perfection, and a creditor's priority. In Revised Article 9, the new rule chooses the state that is the location of the debtor. Further, if the debtor is an entity created by registration in a state, the location of the debtor is the location in which the entity is created by registration. If an entity is a corporation, for example, the location of the debtor is the state in which the corporate charter is filed or registered. In prior Article 9, the entity that is a debtor is located in the state in which it has its chief executive office.

4. *Filing System*

Changes in the filing system in the 1998 revisions to Article 9 include a full commitment to centralized filing — one place in every state in which financing statements are filed. Under Revised Article 9, the only local filing of financing statements occurs in the real estate records for fixtures. "Fixtures" are items of personal property that become physically part of the real estate, and are treated as part of the real estate until severed from it. The bill anticipates that electronic filing of financing statements will replace the filing of paper. Paper filing of financing statements was already disappearing in a number of states in 1998, as Revised Article 9 became available to them. Revised Article 9 definitions and provisions allow the transition from paper to electronic filing without further revision of the law. Revised Article 9 makes filing-office operations more ministerial than old Article 9 did. The office in which the financing statements are filed has no responsibility for the accuracy of information on the statements and is fully absolved from any liability for the content of any statements received and filed. There is no signature requirement for a financing statement.

SENATE BILL 9**5. Consumer Transactions**

Revised Article 9 makes a clearer distinction between transactions in which the debtor is a consumer than prior Article 9 did. Enforcement of a security interest that is included in a consumer transaction is handled differently in certain respects in the 1998 revisions to Article 9 than it was before 1998. Examples of consumer provisions are: a consumer cannot waive redemption rights in a financing agreement; a consumer buyer of goods who prepays, in whole or in part, has an enforceable interest in the purchased goods and may obtain the goods as a remedy; a consumer is entitled to disclosure of the amount of any deficiency assessed against him or her, and the method for calculating the deficiency; and, a secured creditor may not accept collateral as partial satisfaction of a consumer obligation, so that choosing strict foreclosure as a remedy means that no deficiency may be assessed against the debtor.

6. Default and Enforcement

Article 9 provisions on default and enforcement deal generally with the procedures for obtaining property in which a creditor has a security interest and selling it to satisfy the debt, when the debtor is in default. Normally, the creditor has the right to repossess the property. Revised Article 9 includes new rules dealing with “secondary” obligors (guarantors), new special rules for some of the new kinds of property that is subject to security interests, new rules for the interests of subordinate creditors with security interests in the same property, and new rules for aspects of enforcement when the debtor is a consumer debtor. These are some of the specific new rules: a secured party (creditor with security interest) is obliged to notify a secondary obligor when there is a default, and a secondary obligor generally cannot waive rights by becoming a secondary obligor; a secured party who repossesses goods and sells them is subject to the usual warranties that are part of any sale; junior secured creditors (subsequent in priority), and lienholders who have filed financing statements, must be notified when a secured party repossesses collateral; and, if a secured party sells collateral at a low price to an insider buyer, the price that should have been obtained for the goods in a commercially reasonable sale, rather than the actual price, is the price that will be used in calculating the deficiency.

For additional information, see the website of the National Conference of Commissioners on Uniform State Laws at http://www.nccusl.org/uniformact_factsheets/uniformacts-fs-ucca9.htm; and http://www.nccusl.org/uniformact_summaries/uniformacts-s-uccra9st1999.htm. For the NCCUSL drafting file for the uniform act, see <http://www.law.upenn.edu/bll/ulc/ulc.htm#ucc9>. For more information, see the Legislative Reference Bureau’s drafting file for this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 30.57 (3) of the statutes is amended to read:

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1 30.57 (3) Except as provided in sub. (4), a security interest is perfected by the
2 delivery to the department of the existing certificate of title, if any, an application for
3 a certificate of title containing the name and address of the secured party, and the
4 required fee. The security interest is perfected as of the later of the time of its
5 ~~creation if delivery to the department is completed within 10 days after its creation~~
6 ~~and without regard to the limitations expressed in s. 409.301 (2); otherwise, as of the~~
7 ~~time of delivery or the time of the attachment of the security interest.~~

8 **SECTION 2.** 30.57 (5) of the statutes is amended to read:

9 30.57 (5) An unperfected security interest is subordinate to the rights of
10 persons described in s. ~~409.301~~ 409.317.

11 **SECTION 3.** 30.57 (6) of the statutes is amended to read:

12 30.57 (6) The rules of priority stated in s. ~~409.312~~, and 409.322, the other
13 sections referred to in that section, and subch. III of ch. 409 shall, to the extent
14 appropriate, apply to conflicting security interests in a boat of a type for which a
15 certificate of title is required.

16 **SECTION 4.** 30.57 (7) of the statutes is amended to read:

17 30.57 (7) The rules stated in ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409
18 governing the rights and duties of secured parties and debtors and the requirements
19 for, and effect of, disposition of a boat by a secured party, upon default shall, to the
20 extent appropriate, govern the rights of secured parties and owners with respect to
21 security interests in boats perfected under this section and ss. ~~30.572~~ and ~~30.573~~.

22 **SECTION 5.** 30.57 (8) of the statutes is amended to read:

23 30.57 (8) If a boat is subject to a security interest when brought into this state,
24 s. ~~409.103 (1), (2) and (3)~~ state 409.316 states the rules which determine the validity
25 and perfection of the security interest in this state.

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1 **SECTION 6.** 30.573 (1) of the statutes is amended to read:

2 30.573 (1) ~~A~~ Except as otherwise provided in s. 409.308 (5), a secured party
3 may assign, absolutely or otherwise, the secured party's security interest in a boat
4 to a person other than the owner without affecting the interest of the owner or the
5 validity of the security interest, but any person without notice of the assignment is
6 protected in dealing with the secured party as the holder of the security interest and
7 the secured party remains liable for any obligations as a secured party until the
8 assignee is named as secured party on the certificate of title.

9 **SECTION 7.** 30.573 (2) of the statutes is amended to read:

10 30.573 (2) ~~To~~ Subject to s. 409.308 (5), to perfect an assignment, the assignee
11 may deliver to the department the certificate of title, the fee required under s. 30.537
12 (4) (f) and an assignment by the secured party named in the certificate in the form
13 the department prescribes. Upon receipt, the department shall name the assignee
14 as a secured party on the certificate and issue a new certificate.

15 **SECTION 8.** 30.576 (1) of the statutes is amended to read:

16 30.576 (1) Except as provided in sub. (2) and subject to s. 409.311 (4), the
17 method provided in ss. 30.57 to 30.575 of perfecting and giving notice of security
18 interests subject to those sections is exclusive. Security interests subject to ss. 30.57
19 to 30.575 are exempt from the provisions of law that otherwise require or relate to
20 the filing of instruments creating or evidencing security interests.

21 **SECTION 9.** 50.05 (15) (f) of the statutes is amended to read:

22 50.05 (15) (f) The receiver shall, within 60 days after termination of the
23 receivership, file a notice of any lien created under this subsection. No action on a
24 lien created under this subsection may be brought more than 2 years after the date
25 of filing. If the lien is on real property, the notice shall be filed with the clerk of circuit

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1 court of the county in which the facility is located and entered on the judgment and
2 lien docket kept under s. 779.07. If the lien is on personal property, notice of the lien
3 shall be filed with the department of financial institutions in the same manner, form,
4 and place as financing statements are filed under subch. V of ch. 409 regarding
5 debtors who are located in this state. The department of financial institutions shall
6 place file the notice of the lien on personal property in the same file as financing
7 statements are filed under ss. 409.401 and 409.402 subch. V of ch. 409. The notice
8 shall specify the name of the person against whom the lien is claimed, the name of
9 the receiver, the dates of the petition for receivership and the termination of
10 receivership, a description of the property involved and the amount claimed. No lien
11 shall exist under this section against any person, on any property, or for any amount
12 not specified in the notice filed under this paragraph. To the extent applicable, ch.
13 846 controls the foreclosure of liens under this subsection that attach to real
14 property.

15 **SECTION 10.** 51.42 (3) (d) 12. f. of the statutes is amended to read:

16 51.42 (3) (d) 12. f. The receiver shall, within 60 days after termination of the
17 receivership, file a notice of any lien created under this subdivision. No action on a
18 lien created under this subdivision may be brought more than 2 years after the date
19 of filing. If the lien is on real property, the notice shall be filed with the clerk of circuit
20 court for the county in which the county department of community programs or
21 related program is located and entered on the judgment and lien docket kept under
22 s. 779.07. If the lien is on personal property, notice of the lien shall be filed with the
23 department of financial institutions in the same manner, form, and place as
24 financing statements are filed under subch. V of ch. 409 regarding debtors who are
25 located in this state. The department of financial institutions shall place file the

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1 notice of the lien on personal property in the same file as financing statements are
2 filed under ~~ss. 409.401 and 409.402~~ subch. V of ch. 409. The notice shall specify the
3 name of the county department of community programs or related program against
4 which the lien is claimed, the name of the receiver, the dates of the petition for
5 receivership and the termination of receivership, a description of the property
6 involved and the amount claimed. No lien may exist under this subdivision against
7 any person, on any property or for any amount not specified in the notice filed under
8 this subd. 12. f. To the extent applicable, ch. 846 controls the foreclosure of liens
9 under this subdivision that attach to real property.

10 **SECTION 11.** 59.43 (1) (L) of the statutes is amended to read:

11 59.43 (1) (L) File all documents pertaining to security interests ~~in personal~~
12 ~~property, crops or fixtures, as defined in s. 401.201 (37) (a),~~ that are required or
13 authorized by law to be filed with the register. Except as otherwise prescribed by the
14 department of financial institutions under ~~ss. 409.403 to 409.406~~ subch. V of ch. 409,
15 these documents shall be executed on white or light colored sheets of paper, 8 or 8.5
16 inches wide and 5, 7, 10.5, or 14 inches long. Whenever there is offered for filing any
17 document that varies more than one-eighth of an inch from the approved size, or that
18 is not on a standard form prescribed by ch. 409 or by the department of financial
19 institutions, then in addition to the regular filing fee an additional filing fee shall be
20 charged by the register of deeds, as prescribed by sub. (2). No assignment, release,
21 or other instrument shall be offered for filing that is executed or endorsed on any
22 other document, but each shall be a separate and distinct document, except those
23 assignments or notices that are printed or written on and immediately following the
24 original agreement or financing statement, offered for filing at the same time, shall
25 be considered as one document. All of these documents shall be legibly written, and

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1 shall have the names of the debtor and secured party plainly printed or typed on the
2 document and shall provide a space for filing data of the register of deeds on the
3 outside of the document.

4 **SECTION 12.** 59.43 (1) (m) of the statutes is amended to read:

5 59.43 (1) (m) ~~Keep~~ Except as otherwise provided in subchs. V and VII of ch. 409,
6 keep these chattel documents in consecutive numerical arrangement, for the
7 inspection of all persons, endorsing on each document the document number and the
8 date and time of reception.

9 **SECTION 13.** 59.43 (1) (n) of the statutes is amended to read:

10 59.43 (1) (n) Upon the filing of a financing statement or other document
11 evidencing the creation of a security interest ~~in personal property or fixtures or in~~
12 ~~crops growing or to be grown, as defined in s. 401.201 (37) (a), required to be filed or~~
13 recorded with the register under s. 409.501 (1) (a), enter the name of each debtor
14 alphabetically in indices, of which each page shall be divided into columns which
15 shall contain the following information: number of the document, date and time of
16 filing, name and address of debtor, name and address of secured party, name of the
17 document, the amount if any, shown in the document, brief description of property,
18 and the last column set aside for the entry of assignments, continuation statements,
19 termination statements, foreclosure affidavits, extensions and releases pertaining
20 to such financing statements or chattel security documents. If the financing
21 statement evidences the creation of a security interest in fixtures, it also shall be
22 entered in the tract index if one is kept in the county.

23 **SECTION 14.** 59.43 (1) (o) of the statutes is amended to read:

24 59.43 (1) (o) ~~Upon~~ Except as otherwise provided in subch. V of ch. 409, upon
25 the filing of an assignment, continuation statement, termination statement,

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1 foreclosure affidavit, extension or release pertaining to a filed financing statement
2 or other chattel security document, enter the document number and the date and
3 time of filing in the appropriate column of the indices referred to in par. (n) and on
4 the same line as that on which the entry of the filed financing statement or other
5 chattel security document appears.

6 **SECTION 15.** 59.43 (2) (ag) 2. of the statutes is amended to read:

7 59.43 (2) (ag) 2. In the event of conflict in the statutes regarding recording fees,
8 subd. 1. shall control, except that subch. V of ch. 409 and s. 409.710 shall control this
9 section.

10 **SECTION 16.** 59.43 (2) (d) of the statutes is amended to read:

11 59.43 (2) (d) For performing functions under s. ~~409.407 (1) and (2) (a) and (b)~~
12 409.523, the register shall charge the fees stated provided in s. ~~409.407 (2) (a) or (b)~~
13 409.525, retain the portion of the fees prescribed under s. 409.525, and submit the
14 portion of the fees not retained to the state. A financing statement and an
15 assignment or notice of assignment of the security interest, offered for filing at the
16 same time, shall be considered as only one document for the purpose of this
17 paragraph. Whenever there is offered for filing any document that is not on a
18 standard form prescribed by ch. 409 or by the department of financial institutions
19 or that varies more than 0.125 inch from the approved size as prescribed by sub. (1),
20 the appropriate fee ~~specified in ss. 409.403 to 409.406~~ provided in s. 409.525 or an
21 additional filing fee of one-half the regular fee, whichever is applicable, shall be
22 charged by the register.

23 **SECTION 17.** 100.201 (2) (d) of the statutes is amended to read:

24 100.201 (2) (d) Make or underwrite loans to a retailer or become bound in any
25 manner for the financial obligation of any retailer except that a wholesaler may lend

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1 money to a retailer for the purchase of equipment for the storage, transportation, and
2 display of selected dairy products, provided the loan is for not more than 90% of the
3 purchase price, bears at least a 5% annual interest rate, is payable in equal monthly
4 instalments installments over a period of not more than 48 months, and is secured
5 by a security interest created by a security agreement specifying all payments by the
6 retailer and duly filed by the wholesaler within 10 days after the making or
7 underwriting of said loan, as provided in ~~ss. 409.401 and 409.402~~ subch. V of ch. 409
8 regarding debtors who are located in this state.

9 **SECTION 18.** 100.201 (2) (e) 1. of the statutes is amended to read:

10 100.201 (2) (e) 1. The wholesaler, under a bill of sale or security agreement
11 describing the property sold and specifying the price and terms of sale duly filed by
12 the wholesaler under ~~ss. 409.401 and 409.402~~ subch. V of ch. 409 within 10 days after
13 delivery of the equipment described therein, may sell equipment for the storage,
14 transportation, and display of selected dairy products to the retailer but the selling
15 price shall be not less than the cost to the wholesaler, less 10% per year depreciation,
16 plus transportation and installation costs, plus at least 6%, but in no event shall it
17 be less than \$100 per unit. In filing bills of sale under this section, the filing officer
18 shall follow the procedure under ~~s. 409.403~~ subch. V of ch. 409 regarding debtors who
19 are located in this state insofar as applicable. If the wholesaler makes the sale under
20 a security agreement, the terms of sale shall be no more favorable to the retailer than
21 those under sub. (2) (d). Failure by any wholesaler to enforce the wholesaler's
22 security interest under this paragraph or sub. (2) (d) if a retailer is in default for more
23 than 90 days shall constitute prima facie evidence of a violation of this section. No
24 wholesaler shall renegotiate a security agreement which is in default.

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1 **SECTION 19.** 101.9213 (2) of the statutes is amended to read:

2 101.9213 (2) Except as provided in sub. (3), a security interest is perfected by
3 the delivery to the department of the existing certificate of title, if any, an application
4 for a certificate of title containing the name and address of the secured party, and the
5 required fee. The security interest is perfected as of the later of the time of its
6 creation ~~if such delivery is completed within 10 days after the time that the security~~
7 ~~interest is created, and without regard to the limitations expressed in s. 409.301 (2).~~
8 ~~If the delivery is not completed within 10 days after the time that the security~~
9 ~~interest is created, the security interest is perfected as of the time of such delivery~~
10 or the time of the attachment of the security interest.

11 **SECTION 20.** 101.9213 (4) of the statutes is amended to read:

12 101.9213 (4) An unperfected security interest is subordinate to the rights of
13 persons described in s. ~~409.301~~ 409.317.

14 **SECTION 21.** 101.9213 (5) of the statutes is amended to read:

15 101.9213 (5) The rules of priority stated in s. ~~409.312~~, and 409.322, the other
16 sections therein referred to, and subch. III of ch. 409 shall, to the extent appropriate,
17 apply to conflicting security interests in a manufactured home of a type for which a
18 certificate of title is required, or in a previously certificated manufactured home, as
19 defined in s. 101.9222 (1). A security interest perfected under this section or under
20 s. 101.9222 (4) or (5) is a security interest perfected otherwise than by filing for
21 purposes of s. ~~409.312~~ 409.322.

22 **SECTION 22.** 101.9213 (6) of the statutes is amended to read:

23 101.9213 (6) The rules stated in ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409
24 governing the rights and duties of secured parties and debtors and the requirements
25 for, and effect of, disposition of a manufactured home by a secured party, upon default

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1 shall, to the extent appropriate, govern the rights of secured parties and owners with
2 respect to security interests in manufactured homes perfected under ss. 101.9202 to
3 101.9218.

4 **SECTION 23.** 101.9213 (7) of the statutes is amended to read:

5 101.9213 (7) If a manufactured home is subject to a security interest when
6 brought into this state, s. ~~409.103 (1), (2) and (3)~~ 409.316 states the rules that apply
7 to determine the validity and perfection of the security interest in this state.

8 **SECTION 24.** 101.9215 (1) of the statutes is amended to read:

9 101.9215 (1) ~~A. Except as otherwise provided in s. 409.308 (5),~~ a secured party
10 may assign, absolutely or otherwise, the party's security interest in the
11 manufactured home to a person other than the owner without affecting the interest
12 of the owner or the validity of the security interest, but any person without notice of
13 the assignment is protected in dealing with the secured party as the holder of the
14 security interest and the secured party remains liable for any obligations as a
15 secured party until the assignee is named as secured party on the certificate.

16 **SECTION 25.** 101.9215 (2) of the statutes is amended to read:

17 101.9215 (2) ~~The~~ Subject to s. 409.308 (5), the assignee may but need not, to
18 perfect the assignment, have the certificate of title endorsed or issued with the
19 assignee named as secured party, upon delivering to the department the certificate
20 and an assignment by the secured party named in the certificate in the form that the
21 department prescribes.

22 **SECTION 26.** 101.9218 (1) of the statutes is amended to read:

23 101.9218 (1) METHOD OF PERFECTING EXCLUSIVE. ~~Except~~ Subject to s. 409.311 (4)
24 and except as provided in sub. (2), the method provided in ss. 101.921 to 101.9217
25 of perfecting and giving notice of security interests subject to ss. 101.921 to 101.9217

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1 is exclusive. Security interests subject to ss. 101.921 to 101.9217 are exempt from
2 the provisions of law that otherwise require or relate to the filing of instruments
3 creating or evidencing security interests.

4 **SECTION 27.** 101.9222 (5) (b) of the statutes is amended to read:

5 101.9222 (5) (b) If a security interest in a previously certificated manufactured
6 home was created, but was unperfected, under any other applicable law of this state
7 on July 1, 2000, it may be perfected under par. (a), ~~but such perfection dates only from~~
8 ~~the date of the department's receipt of the certificate.~~

9 **SECTION 28.** 109.09 (2) (b) 2. of the statutes is amended to read:

10 109.09 (2) (b) 2. A lien under par. (a) upon personal property takes effect when
11 the department of workforce development or employee files a notice of the lien with
12 ~~the department of financial institutions~~ in the same manner, form, and place as
13 financing statements are filed under subch. V of ch. 409 regarding debtors who are
14 located in this state, pays the same fee specified provided in s. 409.403 (5) (b) to the
15 department of financial institutions 409.525 for filing financing statements, and
16 serves a copy of the notice on the employer by personal service in the same manner
17 as a summons is served under s. 801.11 or by certified mail with a return receipt
18 requested. The department of financial institutions shall place the notice of the lien
19 in the same file as financing statements are filed under ~~ss. 409.401 and 409.402~~
20 subch. V of ch. 409.

21 **SECTION 29.** 138.09 (7) (i) 2. of the statutes is amended to read:

22 138.09 (7) (i) 2. An amount sufficient to cover the fee for filing the termination
23 statement required by s. 409.404 409.513 on loans secured by merchandise other
24 than a motor vehicle, a manufactured home, or a boat; and

25 **SECTION 30.** 340.01 (56m) of the statutes is amended to read:

SENATE BILL 9**SECTION 30**

1 340.01 **(56m)** “Secured party” means ~~a secured party as defined~~ has the
2 meaning given in s. 409.105 (1) (L) ~~409.102 (1) (rs)~~.

3 **SECTION 31.** 340.01 (56n) of the statutes is amended to read:

4 340.01 **(56n)** “Security agreement” means ~~a security agreement as defined~~ has
5 the meaning given in s. 409.105 (1) (m) ~~409.102 (1) (s)~~.

6 **SECTION 32.** 342.19 (2) of the statutes is amended to read:

7 342.19 **(2)** Except as provided in sub. (2m), a security interest is perfected by
8 the delivery to the department of the existing certificate of title, if any, an application
9 for a certificate of title containing the name and address of the secured party, and the
10 required fee. It is perfected as of the later of the time of its creation ~~if such delivery~~
11 ~~is completed within 10 days thereafter, and without regard to the limitations~~
12 ~~expressed in s. 409.301 (2); otherwise, as of the time of such delivery~~ or the time of
13 the attachment of the security interest.

14 **SECTION 33.** 342.19 (3) of the statutes is amended to read:

15 342.19 **(3)** An unperfected security interest is subordinate to the rights of
16 persons described in s. ~~409.301~~ ss. 409.317 and 409.323.

17 **SECTION 34.** 342.19 (4) of the statutes is amended to read:

18 342.19 **(4)** The rules of priority stated in s. 409.312, ~~and 409.322~~, the other
19 sections therein referred to, and subch. III of ch. 409 shall, to the extent appropriate,
20 apply to conflicting security interests in a vehicle of a type for which a certificate of
21 title is required. A security interest perfected under this section is a security interest
22 perfected otherwise than by filing for purposes of s. ~~409.312~~ subch. III of ch. 409.

23 **SECTION 35.** 342.19 (5) of the statutes is amended to read:

24 342.19 **(5)** The rules stated in ss. ~~409.501 to 409.507~~ subch. VI of ch. 409
25 governing the rights and duties of secured parties and debtors and the requirements

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1 for, and effect of, disposition of a vehicle by a secured party, upon default shall, to the
2 extent appropriate, govern the rights of secured parties and owners with respect to
3 security interests in vehicles perfected under this chapter.

4 **SECTION 36.** 342.19 (6) of the statutes is amended to read:

5 342.19 (6) If a vehicle is subject to a security interest when brought into this
6 state, s. ~~409.103 (1), (2) and (3)~~ state 409.316 states the rules which apply to
7 determine the validity and perfection of the security interest in this state.

8 **SECTION 37.** 342.21 (1) of the statutes is amended to read:

9 342.21 (1) ~~A~~ Except as otherwise provided in s. 409.308 (5), a secured party
10 may assign, absolutely or otherwise, the party's security interest in the vehicle to a
11 person other than the owner without affecting the interest of the owner or the
12 validity of the security interest, but any person without notice of the assignment is
13 protected in dealing with the secured party as the holder of the security interest and
14 the secured party remains liable for any obligations as a secured party until the
15 assignee is named as secured party on the certificate.

16 **SECTION 38.** 342.21 (2) of the statutes is amended to read:

17 342.21 (2) The Subject to s. 409.308 (5), the assignee may but need not, to
18 perfect the assignment, have the certificate of title endorsed or issued with the
19 assignee named as secured party, upon delivering to the department the certificate
20 and an assignment by the secured party named in the certificate in the form the
21 department prescribes.

22 **SECTION 39.** 342.24 of the statutes is amended to read:

23 **342.24 Method of perfecting exclusive.** The Subject to s. 409.311 (4), the
24 method provided in this chapter of perfecting and giving notice of security interests
25 subject to this chapter is exclusive. Security interests subject to this chapter are

SENATE BILL 9**SECTION 39**

1 hereby exempted from the provisions of law which otherwise require or relate to the
2 filing of instruments creating or evidencing security interests.

3 **SECTION 40.** 344.185 (3) (intro.) of the statutes is amended to read:

4 344.185 (3) (intro.) Notwithstanding ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409
5 and ch. 425:

6 **SECTION 41.** 401.105 (2) (e) of the statutes is repealed and recreated to read:

7 401.105 (2) (e) Sections 409.301 to 409.307 on law governing perfection, the
8 effect of perfection or nonperfection, and the priority of security interests and
9 agricultural liens.

10 **SECTION 42.** 401.201 (9) of the statutes is amended to read:

11 401.201 (9) "Buyer in ordinary course of business" means a person ~~who~~ that
12 buys goods in good faith and, without knowledge that the sale to the person is in
13 violation of violates the ownership rights or security interest of a 3rd party of another
14 person in the goods buys, and in the ordinary course from a person, other than a
15 pawnbroker, in the business of selling goods of that kind ~~but does not include a~~
16 ~~pawnbroker. All persons who sell minerals or the like (including oil and gas) at~~
17 ~~wellhead or minehead shall be deemed to be persons. A person buys goods in the~~
18 ordinary course if the sale to the person comports with the usual or customary
19 practices in the kind of business in which the seller is engaged or with the seller's own
20 usual or customary practices. A person that sells oil, gas, or other minerals at the
21 wellhead or minehead is a person in the business of selling goods of that kind.
22 "Buying" A buyer in ordinary course of business may be buy for cash ~~or,~~ by exchange
23 of other property, or on secured or unsecured credit, and ~~includes receiving~~ may
24 acquire goods or documents of title under a preexisting contract for sale ~~but does not~~
25 ~~include a transfer in bulk or as security for or in total or partial satisfaction of a~~

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1 money debt. Only a buyer that takes possession of the goods or has a right to recover
2 the goods from the seller under ch. 402 may be a buyer in ordinary course of business.
3 A person that acquires goods in a transfer in bulk or as security for or in total or
4 partial satisfaction of a money debt is not a buyer in ordinary course of business.

5 **SECTION 43.** 401.201 (32) of the statutes is amended to read:

6 401.201 (32) "Purchase" includes taking by sale, discount, negotiation,
7 mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary
8 transaction creating an interest in property.

9 **SECTION 44.** 401.201 (37) (a) of the statutes is amended to read:

10 401.201 (37) (a) "Security interest" means an interest in personal property or
11 fixtures that which secures payment or performance of an obligation. ~~The retention~~
12 ~~or reservation of title by a seller of goods notwithstanding shipment or delivery to the~~
13 ~~buyer is limited in effect to a reservation of a "security interest".~~ The term also
14 includes any interest of a consignor and a buyer of accounts or, chattel paper, a
15 payment intangible, or a promissory note in a transaction that is subject to ch. 409.
16 The special property interest of a buyer of goods on identification of such those goods
17 to a contract for sale under s. 402.401 is not a "security interest", but a buyer may
18 also acquire a "security interest" by complying with ch. 409. ~~Unless a lease or~~
19 ~~consignment is intended as security, reservation of title thereunder is not a "security~~
20 ~~interest" but a consignment is in any event subject to s. 402.326~~ Except as otherwise
21 provided in s. 402.505, the right of a seller or lessor of goods under ch. 402 or 411 to
22 retain or acquire possession of the goods is not a security interest, but a seller or
23 lessor may also acquire a security interest by complying with ch. 409. The retention
24 or reservation of title by a seller of goods notwithstanding shipment or delivery to the
25 buyer under s. 402.401 is limited in effect to a reservation of a security interest.

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1 **SECTION 45.** 402.103 (3) (d) of the statutes is amended to read:

2 402.103 (3) (d) “Consumer goods” — s. 409.109 409.102.

3 **SECTION 46.** 402.210 (3) of the statutes is renumbered 402.210 (4).

4 **SECTION 47.** 402.210 (3) of the statutes is created to read:

5 402.210 (3) The creation, attachment, perfection, or enforcement of a security
6 interest in the seller’s interest under a contract is not a transfer that materially
7 changes the duty of or increases materially the burden or risk imposed on the buyer
8 or impairs materially the buyer’s chance of obtaining return performance within the
9 purview of sub. (2) unless, and then only to the extent that, enforcement actually
10 results in a delegation of material performance of the seller. Even in that event, the
11 creation, attachment, perfection, and enforcement of the security interest remain
12 effective, but:

13 (a) The seller is liable to the buyer for damages caused by the delegation to the
14 extent that the damages could not reasonably be prevented by the buyer; and

15 (b) A court having jurisdiction may grant other appropriate relief, including
16 cancellation of the contract for sale or an injunction against enforcement of the
17 security interest or consummation of the enforcement.

18 **SECTION 48.** 402.210 (4) of the statutes is renumbered 402.210 (5).

19 **SECTION 49.** 402.210 (5) of the statutes is renumbered 402.210 (6).

20 **SECTION 50.** 402.326 (title) of the statutes is amended to read:

21 **402.326 (title) Sale on approval and sale or return; ~~consignment sales~~**
22 **and rights of creditors.**

23 **SECTION 51.** 402.326 (2) of the statutes is amended to read:

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1 402.326 (2) ~~Except as provided in sub. (3),~~ goods Goods held on approval are
2 not subject to the claims of the buyer's creditors until acceptance; goods held on sale
3 or return are subject to such claims while in the buyer's possession.

4 **SECTION 52.** 402.326 (3) of the statutes is repealed.

5 **SECTION 53.** 402.502 (title) of the statutes is amended to read:

6 **402.502** (title) **Buyer's right to goods on seller's repudiation, failure to**
7 **deliver, or insolvency.**

8 **SECTION 54.** 402.502 (1) of the statutes is renumbered 402.502 (1) (intro.) and
9 amended to read:

10 402.502 (1) (intro.) Subject to ~~sub. subs.~~ (2) and (3) and even though the goods
11 have not been shipped a buyer who has paid a part or all of the price of goods in which
12 the buyer has a special property under s. 402.501 may on making and keeping good
13 a tender of any unpaid portion of their price recover them from the seller if:

14 (b) In all cases, the seller becomes insolvent within 10 days after receipt of the
15 first instalment installment on their price.

16 **SECTION 55.** 402.502 (1) (a) of the statutes is created to read:

17 402.502 (1) (a) In the case of goods bought for personal, family, or household
18 purposes, the seller repudiates or fails to deliver as required by the contract; or

19 **SECTION 56.** 402.502 (2) of the statutes is renumbered 402.502 (3).

20 **SECTION 57.** 402.502 (2) of the statutes is created to read:

21 402.502 (2) The buyer's right to recover the goods under sub. (1) (a) vests upon
22 acquisition of a special property, even if the seller had not then repudiated or failed
23 to deliver.

24 **SECTION 58.** 402.716 (3) of the statutes is amended to read:

SENATE BILL 9**SECTION 58**

1 402.716 (3) The buyer has a right of replevin for goods identified to the contract
2 if after reasonable effort the buyer is unable to effect cover for such goods or the
3 circumstances reasonably indicate that such effort will be unavailing or if the goods
4 have been shipped under reservation and satisfaction of the security interest in them
5 has been made or tendered. In the case of goods bought for personal, family, or
6 household purposes, the buyer's right of replevin vests upon acquisition of a special
7 property, even if the seller had not then repudiated or failed to deliver.

8 **SECTION 59.** 405.118 of the statutes is created to read:

9 **405.118 Security interest of issuer or nominated person.** (1) An issuer
10 or nominated person has a security interest in a document presented under a letter
11 of credit to the extent that the issuer or nominated person honors or gives value for
12 the presentation.

13 (2) So long as and to the extent that an issuer or nominated person has not been
14 reimbursed or has not otherwise recovered the value given with respect to a security
15 interest in a document under sub. (1), the security interest continues and is subject
16 to ch. 409, but:

17 (a) A security agreement is not necessary to make the security interest
18 enforceable under s. 409.203 (2) (c);

19 (b) If the document is presented in a medium other than a written or other
20 tangible medium, the security interest is perfected; and

21 (c) If the document is presented in a written or other tangible medium and is
22 not a certificated security, chattel paper, a document of title, an instrument, or a
23 letter of credit, the security interest is perfected and has priority over a conflicting
24 security interest in the document so long as the debtor does not have possession of
25 the document.

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1 **SECTION 60.** 406.102 (1) of the statutes is amended to read:

2 406.102 (1) A “bulk transfer” is any transfer in bulk and not in the ordinary
3 course of the transferor’s business of a major part in value of the inventory (~~s.~~
4 ~~409.109~~), as defined in s. 409.102 (1) (Ls), of an enterprise subject to this chapter.

5 **SECTION 61.** 406.102 (2) of the statutes is amended to read:

6 406.102 (2) A transfer of a substantial part of the equipment (~~s. 409.109~~), as
7 defined in s. 409.102 (1) (i), of such an enterprise is a bulk transfer if it is made in
8 connection with a bulk transfer of inventory, but not otherwise.

9 **SECTION 62.** 407.503 (1) (a) of the statutes is amended to read:

10 407.503 (1) (a) Delivered or entrusted them or any document of title covering
11 them to the bailor or the bailor’s nominee with actual or apparent authority to ship,
12 store, or sell or with power to obtain delivery under s. 407.403 or with power of
13 disposition under ~~ss. s. 402.403 or 409.307~~ 409.320 or other statute or rule of law; nor

14 **SECTION 63.** 408.103 (6) of the statutes is amended to read:

15 408.103 (6) A commodity contract, as defined in s. 409.115 ~~(1) (b)~~ 409.102 (1)
16 (dm), is not a security or a financial asset.

17 **SECTION 64.** 408.106 (4) (a) and (b) of the statutes are amended to read:

18 408.106 (4) (a) The purchaser becomes the entitlement holder; ~~or~~

19 (b) The securities intermediary has agreed that it will comply with entitlement
20 orders originated by the purchaser without further consent by the entitlement
21 holder.; or

22 **SECTION 65.** 408.106 (4) (c) of the statutes is created to read:

23 408.106 (4) (c) Another person has control of the security entitlement on behalf
24 of the purchaser or, having previously acquired control of the security entitlement,
25 acknowledges that it has control on behalf of the purchaser.

SENATE BILL 9**SECTION 66**

1 **SECTION 66.** 408.106 (6) of the statutes is amended to read:

2 408.106 **(6)** A purchaser who has satisfied the requirements of sub. (3) ~~(b)~~ or
3 (4) ~~(b)~~ has control even if the registered owner in the case of sub. (3) ~~(b)~~ or the
4 entitlement holder in the case of sub. (4) ~~(b)~~ retains the right to make substitutions
5 for the uncertificated security or security entitlement, to originate instructions or
6 entitlement orders to the issuer or securities intermediary, or otherwise to deal with
7 the uncertificated security or security entitlement.

8 **SECTION 67.** 408.110 (5) (a) of the statutes is amended to read:

9 408.110 **(5)** (a) If an agreement between the securities intermediary and its
10 entitlement holder ~~specifies that it is governed by the law of a particular jurisdiction~~
11 governing the securities account expressly provides that a particular jurisdiction is
12 the securities intermediary's jurisdiction for purposes of this subchapter, this
13 chapter, or chs. 401 to 411, that jurisdiction is the securities intermediary's
14 jurisdiction.

15 **SECTION 68.** 408.110 (5) (b) of the statutes is renumbered 408.110 (5) (c) and
16 amended to read:

17 408.110 **(5)** (c) If neither par. (a) nor par. (b) applies and an agreement between
18 the securities intermediary and its entitlement holder ~~does not specify the governing~~
19 ~~law as provided in par. (a), but~~ governing the securities account expressly specifies
20 provides that the securities account is maintained at an office in a particular
21 jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

22 **SECTION 69.** 408.110 (5) (b) of the statutes is created to read:

23 408.110 **(5)** (b) If par. (a) does not apply and an agreement between the
24 securities intermediary and its entitlement holder governing the securities account

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1 expressly provides that the agreement is governed by the law of a particular
2 jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

3 **SECTION 70.** 408.110 (5) (c) of the statutes is renumbered 408.110 (5) (d) and
4 amended to read:

5 408.110 (5) (d) ~~If an agreement between the securities intermediary and its~~
6 ~~entitlement holder does not specify a jurisdiction as provided in par. (a) or (b) none~~
7 ~~of pars. (a) to (c) applies,~~ the securities intermediary's jurisdiction is the jurisdiction
8 in which is located the office, identified in an account statement as the office serving
9 the entitlement holder's account, is located.

10 **SECTION 71.** 408.110 (5) (d) of the statutes is renumbered 408.110 (5) (e) and
11 amended to read:

12 408.110 (5) (e) ~~If an agreement between the securities intermediary and its~~
13 ~~entitlement holder does not specify a jurisdiction as provided in par. (a) or (b) and an~~
14 ~~account statement does not identify an office serving the entitlement holder's~~
15 ~~account as provided in par. (e) none of pars. (a) to (d) applies,~~ the securities
16 intermediary's jurisdiction is the jurisdiction in which is located the chief executive
17 office of the securities intermediary is located.

18 **SECTION 72.** 408.301 (1) (c) of the statutes is renumbered 408.301 (1) (c) (intro.)
19 and amended to read:

20 408.301 (1) (c) (intro.) A securities intermediary acting on behalf of the
21 purchaser acquires possession of the security certificate, only if the certificate is in
22 registered form and ~~has been specially~~ is:

23 3. Specially endorsed to the purchaser by an effective endorsement and has not
24 been endorsed to the securities intermediary or in blank.

25 **SECTION 73.** 408.301 (1) (c) 1. and 2. of the statutes are created to read:

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1 408.301 (1) (c) 1. Registered in the name of the purchaser;

2 2. Payable to the order of the purchaser; or

3 **SECTION 74.** 408.302 (1) of the statutes is amended to read:

4 408.302 (1) Except as otherwise provided in subs. (2) and (3), upon delivery a
5 purchaser of a certificated or uncertificated security to a purchaser, the purchaser
6 acquires all rights in the security that the transferor had or had power to transfer.

7 **SECTION 75.** 408.510 (1) of the statutes is amended to read:

8 408.510 (1) ~~An~~ In a case not covered by the priority rules in ch. 409 or the rules
9 stated in sub. (3), an action based on an adverse claim to a financial asset or security
10 entitlement, whether framed in conversion, replevin, constructive trust, equitable
11 lien, or other theory, may not be asserted against a person who purchases a security
12 entitlement, or an interest therein, from an entitlement holder if the purchaser gives
13 value, does not have notice of the adverse claim, and obtains control.

14 **SECTION 76.** 408.510 (3) of the statutes is renumbered 408.510 (3) (intro.) and
15 amended to read:

16 408.510 (3) (intro.) In a case not covered by the priority rules in ch. 409, a
17 purchaser for value of a security entitlement, or an interest therein, who obtains
18 control has priority over a purchaser of a security entitlement, or an interest therein,
19 who does not obtain control. ~~Purchasers~~ Except as otherwise provided in sub. (4),
20 purchasers who have control rank equally, ~~except that a~~ according to priority in time
21 of:

22 (4) A securities intermediary as purchaser has priority over a conflicting
23 purchaser who has control unless otherwise agreed by the securities intermediary.

24 **SECTION 77.** 408.510 (3) (a) to (c) of the statutes are created to read:

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1 rendered or to be rendered; for a policy of insurance issued or to be issued; for a
2 secondary obligation incurred or to be incurred; for energy provided or to be provided;
3 for the use or hire of a vessel under a charter or other contract; arising out of the use
4 of a credit or charge card or information contained on or for use with the card; or as
5 winnings in a lottery or other game of chance operated or sponsored by a state,
6 governmental unit of a state, or person licensed or authorized to operate the game
7 by a state or governmental unit of a state. The term includes health-care-insurance
8 receivables. The term does not include rights to payment evidenced by chattel paper
9 or an instrument; commercial tort claims; deposit accounts; investment property;
10 letter-of-credit rights or letters of credit; or rights to payment for money or funds
11 advanced or sold, other than rights arising out of the use of a credit or charge card
12 or information contained on or for use with the card.

13 (am) "Account debtor" means a person obligated on an account, chattel paper,
14 or general intangible. The term does not include persons obligated to pay a
15 negotiable instrument, even if the instrument constitutes part of chattel paper.

16 (as) "Accounting", except as used in "accounting for", means a record:

- 17 1. Authenticated by a secured party;
- 18 2. Indicating the aggregate unpaid secured obligations as of a date not more
19 than 35 days earlier or 35 days later than the date of the record; and
- 20 3. Identifying the components of the obligations in reasonable detail.

21 (b) "Agricultural lien" means an interest, other than a security interest, in farm
22 products:

23 1. Which secures payment or performance of an obligation for:

- 24 a. Goods or services furnished in connection with a debtor's farming operation;

25 or

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1 b. Rent on real property leased by a debtor in connection with its farming
2 operation;

3 2. Which is created by statute in favor of a person that:

4 a. In the ordinary course of its business furnished goods or services to a debtor
5 in connection with a debtor's farming operation; or

6 b. Leased real property to a debtor in connection with the debtor's farming
7 operation; and

8 3. Whose effectiveness does not depend on the person's possession of the
9 personal property.

10 (bcm) "Applicant" means a person at whose request or for whose account a
11 letter of credit is issued. The term includes a person who requests an issuer to issue
12 a letter of credit on behalf of another if the person making the request undertakes
13 an obligation to reimburse the issuer.

14 (bg) "As-extracted collateral" means:

15 1. Oil, gas, or other minerals that are subject to a security interest that is
16 created by a debtor having an interest in the minerals before extraction and which
17 attaches to the minerals as extracted; or

18 2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or
19 other minerals in which the debtor had an interest before extraction.

20 (bm) "Authenticate" means:

21 1. To sign; or

22 2. To execute or otherwise adopt a symbol, or encrypt or similarly process a
23 record in whole or in part, with the present intent of the authenticating person to
24 identify the person and adopt or accept a record.

SENATE BILL 9**SECTION 78**

1 (bs) “Bank” means an organization that is engaged in the business of banking.
2 The term includes savings banks, savings and loan associations, credit unions, and
3 trust companies.

4 (btm) “Beneficiary” means a person who under the terms of a letter of credit is
5 entitled to have its complying presentation honored. The term includes a person to
6 whom drawing rights have been transferred under a transferable letter of credit.

7 (c) “Cash proceeds” means proceeds that are money, checks, deposit accounts,
8 or the like.

9 (cg) “Certificate of title” means a certificate of title with respect to which a
10 statute provides for the security interest in question to be indicated on the certificate
11 as a condition or result of the security interest’s obtaining priority over the rights of
12 a lien creditor with respect to the collateral.

13 (cm) “Chattel paper” means a record or records that evidence both a monetary
14 obligation and a security interest in specific goods, a security interest in specific
15 goods and software used in the goods, a security interest in specific goods and license
16 of software used in the goods, a lease of specific goods, or a lease of specific goods and
17 license of software used in the goods. The term does not include charters or other
18 contracts involving the use or hire of a vessel. The term does not include records that
19 evidence a right to payment arising out of the use of a credit or charge card or
20 information contained on or for use with the card. If a transaction is evidenced by
21 records that include an instrument or series of instruments, the group of records
22 taken together constitutes chattel paper. In this paragraph, “monetary obligation”
23 means a monetary obligation secured by the goods or owned under a lease of the
24 goods and includes a monetary obligation with respect to software used in the goods.

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1 (cs) "Collateral" means the property subject to a security interest or
2 agricultural lien. The term includes:

- 3 1. Proceeds to which a security interest attaches;
- 4 2. Accounts, chattel paper, payment intangibles, and promissory notes that
5 have been sold; and
- 6 3. Goods that are the subject of a consignment.

7 (d) "Commercial tort claim" means a claim arising in tort with respect to which:

- 8 1. The claimant is an organization; or
- 9 2. The claimant is an individual and the claim:
 - 10 a. Arose in the course of the claimant's business or profession; and
 - 11 b. Does not include damages arising out of personal injury to or the death of
12 an individual.

13 (dg) "Commodity account" means an account maintained by a commodity
14 intermediary in which a commodity contract is carried for a commodity customer.

15 (dm) "Commodity contract" means a commodity futures contract, an option on
16 a commodity futures contract, a commodity option, or another contract if the contract
17 or option is:

- 18 1. Traded on or subject to the rules of a board of trade that has been designated
19 as a contract market for such a contract pursuant to federal commodities laws; or
- 20 2. Traded on a foreign commodity board of trade, exchange, or market, and is
21 carried on the books of a commodity intermediary for a commodity customer.

22 (ds) "Commodity customer" means a person for which a commodity
23 intermediary carries a commodity contract on its books.

24 (e) "Commodity intermediary" means a person that:

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1 1. Is registered as a futures commission merchant under federal commodities
2 law; or

3 2. In the ordinary course of its business provides clearance or settlement
4 services for a board of trade that has been designated as a contract market pursuant
5 to federal commodities law.

6 (eg) "Communicate" means:

7 1. To send a written or other tangible record;

8 2. To transmit a record by any means agreed upon by the persons sending and
9 receiving the record; or

10 3. In the case of transmission of a record to or by a filing office, to transmit a
11 record by any means prescribed by filing-office rule.

12 (em) "Consignee" means a merchant to which goods are delivered in a
13 consignment.

14 (es) "Consignment" means a transaction, regardless of its form, in which a
15 person delivers goods to a merchant for the purpose of sale and:

16 1. The merchant:

17 a. Deals in goods of that kind under a name other than the name of the person
18 making delivery;

19 b. Is not an auctioneer; and

20 c. Is not generally known by its creditors to be substantially engaged in selling
21 the goods of others;

22 2. With respect to each delivery, the aggregate value of the goods is \$1,000 or
23 more at the time of delivery;

24 3. The goods are not consumer goods immediately before delivery; and

25 4. The transaction does not create a security interest that secures an obligation.

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1 (f) "Consignor" means a person that delivers goods to a consignee in a
2 consignment.

3 (fg) "Consumer debtor" means a debtor in a consumer transaction.

4 (fm) "Consumer goods" means goods that are used or bought for use primarily
5 for personal, family, or household purposes.

6 (fs) "Consumer-goods transaction" means a consumer transaction in which:

7 1. An individual incurs an obligation primarily for personal, family, or
8 household purposes; and

9 2. A security interest in consumer goods secures the obligation.

10 (g) "Consumer obligor" means an obligor who is an individual and who incurred
11 the obligation as part of a transaction entered into primarily for personal, family, or
12 household purposes.

13 (gg) "Consumer transaction" means a transaction in which an individual incurs
14 an obligation primarily for personal, family, or household purposes; a security
15 interest secures the obligation; and the collateral is held or acquired primarily for
16 personal, family, or household purposes. The term includes consumer-goods
17 transactions.

18 (gm) "Continuation statement" means an amendment of a financing statement
19 which:

20 1. Identifies, by its file number, the initial financing statement to which it
21 relates; and

22 2. Indicates that it is a continuation statement for, or that it is filed to continue
23 the effectiveness of, the identified financing statement.

24 (gs) "Debtor" means:

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1 1. A person having an interest, other than a security interest or other lien, in
2 the collateral, whether or not the person is an obligor;

3 2. A seller of accounts, chattel paper, payment intangibles, or promissory notes;
4 or

5 3. A consignee.

6 (h) "Deposit account" means a demand, time, savings, passbook, or similar
7 account maintained with a bank. The term does not include investment property or
8 accounts evidenced by an instrument.

9 (hg) "Document" means a document of title or a receipt of the type described
10 in s. 407.201 (2).

11 (hm) "Electronic chattel paper" means chattel paper evidenced by a record or
12 records consisting of information stored in an electronic medium.

13 (hs) "Encumbrance" means a right, other than an ownership interest, in real
14 property. The term includes mortgages and other liens on real property.

15 (i) "Equipment" means goods other than inventory, farm products, or consumer
16 goods.

17 (ig) "Farm products" means goods, other than standing timber, with respect to
18 which the debtor is engaged in a farming operation and which are:

19 1. Crops grown, growing, or to be grown, including:

20 a. Crops produced on trees, vines, and bushes; and

21 b. Aquatic goods produced in aquacultural operations;

22 2. Livestock, born or unborn, including aquatic goods produced in aquacultural
23 operations;

24 3. Supplies used or produced in a farming operation; or

25 4. Products of crops or livestock in their unmanufactured states.

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1 (im) "Farming operation" means raising, cultivating, propagating, fattening,
2 grazing, or any other farming, livestock, or aquacultural operation.

3 (is) "File number" means the number assigned to an initial financing statement
4 pursuant to s. 409.519 (1).

5 (j) "Filing office" means an office designated in s. 409.501 as the place to file a
6 financing statement.

7 (jg) "Filing-office rule" means a rule promulgated pursuant to s. 409.526.

8 (jm) "Financing statement" means a record or records composed of an initial
9 financing statement and any filed record relating to the initial financing statement.

10 (js) "Fixture filing" means the filing of a financing statement covering goods
11 that are or are to become fixtures and satisfying s. 409.502 (1) and (2). The term
12 includes the filing of a financing statement covering goods of a transmitting utility
13 which are or are to become fixtures.

14 (k) "Fixtures" means goods that have become so related to particular real
15 property that an interest in them arises under real property law.

16 (kg) "General intangible" means any personal property, including things in
17 action, other than accounts, chattel paper, commercial tort claims, deposit accounts,
18 documents, goods, instruments, investment property, letter-of-credit rights, letters
19 of credit, money, and oil, gas, or other minerals before extraction. The term includes
20 payment intangibles and software.

21 (km) "Good faith" means honesty in fact and the observance of reasonable
22 commercial standards of fair dealing.

23 (ks) "Goods" means all things that are movable when a security interest
24 attaches. The term includes fixtures; standing timber that is to be cut and removed
25 under a conveyance or contract for sale; the unborn young of animals; crops grown,

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1 growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and
2 manufactured homes. The term also includes a computer program embedded in
3 goods and any supporting information provided in connection with a transaction
4 relating to the program if the program is associated with the goods in such a manner
5 that it customarily is considered part of the goods, or by becoming the owner of the
6 goods, a person acquires a right to use the program in connection with the goods. The
7 term does not include a computer program embedded in goods that consist solely of
8 the medium in which the program is embedded. The term also does not include
9 accounts, chattel paper, commercial tort claims, deposit accounts, documents,
10 general intangibles, instruments, investment property, letter-of-credit rights,
11 letters of credit, money, or oil, gas, or other minerals before extraction.

12 (L) "Governmental unit" means a subdivision, agency, department, county,
13 parish, municipality, or other unit of the government of the United States, a state,
14 or a foreign country. The term includes an organization having a separate corporate
15 existence if the organization is eligible to issue debt on which interest is exempt from
16 income taxation under the laws of the United States.

17 (Lg) "Health-care-insurance receivable" means an interest in or claim under
18 a policy of insurance which is a right to payment of a monetary obligation for
19 health-care goods or services provided.

20 (Lm) "Instrument" means a negotiable instrument or any other writing that
21 evidences a right to the payment of a monetary obligation, is not itself a security
22 agreement or lease, and is of a type that in ordinary course of business is transferred
23 by delivery with any necessary endorsement or assignment. The term does not
24 include investment property; letters of credit; or writings that evidence a right to

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1 payment arising out of the use of a credit or charge card or information contained on
2 or for use with the card.

3 (Ls) "Inventory" means goods, other than farm products, which:

4 1. Are leased by a person as lessor;

5 2. Are held by a person for sale or lease or to be furnished under a contract of
6 service;

7 3. Are furnished by a person under a contract of service; or

8 4. Consist of raw materials, work in process, or materials used or consumed in
9 a business.

10 (m) "Investment property" means a security, whether certificated or
11 uncertificated, security entitlement, securities account, commodity contract, or
12 commodity account.

13 (mcm) "Issuer" means a bank or other person that issues a letter of credit, but
14 does not include an individual who makes an engagement for personal, family, or
15 household purposes.

16 (mg) "Jurisdiction of organization", with respect to a registered organization,
17 means the jurisdiction under whose law the organization is organized.

18 (mkm) "Letter of credit" means a definite undertaking that satisfies the
19 requirements of s. 405.104 by an issuer to a beneficiary at the request or for the
20 account of an applicant or, in the case of a financial institution, to itself or for its own
21 account, to honor a documentary presentation by payment or delivery of an item of
22 value.

23 (mm) "Letter-of-credit right" means a right to payment or performance under
24 a letter of credit, whether or not the beneficiary has demanded or is at the time

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1 entitled to demand payment or performance. The term does not include the right of
2 a beneficiary to demand payment or performance under a letter of credit.

3 (ms) "Lien creditor" means:

- 4 1. A creditor that has acquired a lien on the property involved by attachment,
5 levy, or the like;
- 6 2. An assignee for benefit of creditors from the time of assignment;
- 7 3. A trustee in bankruptcy from the date of the filing of the petition; or
- 8 4. A receiver in equity from the time of appointment.

9 (n) "Manufactured home" means a structure, transportable in one or more
10 sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet
11 or more in length, or, when erected on site, is 320 or more square feet, and which is
12 built on a permanent chassis and designed to be used as a dwelling with or without
13 a permanent foundation when connected to the required utilities, and includes the
14 plumbing, heating, air-conditioning, and electrical systems contained therein. The
15 term includes any structure that meets all of the requirements of this paragraph
16 except the size requirements and with respect to which the manufacturer voluntarily
17 files a certification required by the U.S. secretary of housing and urban development
18 and complies with the standards established under title 42 of the U.S. code.

19 (ng) "Manufactured-home transaction" means a secured transaction:

- 20 1. That creates a purchase-money security interest in a manufactured home,
21 other than a manufactured home held as inventory; or
- 22 2. In which a manufactured home, other than a manufactured home held as
23 inventory, is the primary collateral.

24 (nm) "Mortgage" means a consensual interest in real property, including
25 fixtures, which secures payment or performance of an obligation.

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1 (ns) "New debtor" means a person that becomes bound as debtor under s.
2 409.203 (4) by a security agreement previously entered into by another person.

3 (o) "New value" means money; money's worth in property, services, or new
4 credit; or release by a transferee of an interest in property previously transferred to
5 the transferee. The term does not include an obligation substituted for another
6 obligation.

7 (odm) "Nominated person" means a person whom the issuer:

- 8 1. Designates or authorizes to pay, accept, negotiate, or otherwise give value
9 under a letter of credit; and
10 2. Undertakes by agreement or custom and practice to reimburse.

11 (og) "Noncash proceeds" means proceeds other than cash proceeds.

12 (om) "Obligor" means a person that, with respect to an obligation secured by
13 a security interest in or an agricultural lien on the collateral, owes payment or other
14 performance of the obligation; has provided property other than the collateral to
15 secure payment or other performance of the obligation; or is otherwise accountable
16 in whole or in part for payment or other performance of the obligation. The term does
17 not include issuers or nominated persons under a letter of credit.

18 (os) "Original debtor", except as used in s. 409.310 (3), means a person that, as
19 debtor, entered into a security agreement to which a new debtor has become bound
20 under s. 409.203 (4).

21 (p) "Payment intangible" means a general intangible under which the account
22 debtor's principal obligation is a monetary obligation.

23 (pg) "Person related to", with respect to an individual, means:

- 24 1. The spouse of the individual;
25 2. A brother, brother-in-law, sister, or sister-in-law of the individual;

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1 3. An ancestor or lineal descendant of the individual or the individual's spouse;

2 or

3 4. Any other relative, by blood or marriage, of the individual or the individual's
4 spouse who shares the same home with the individual.

5 (pm) "Person related to", with respect to an organization, means:

6 1. A person directly or indirectly controlling, controlled by, or under common
7 control with the organization;

8 2. An officer or director of, or a person performing similar functions with respect
9 to, the organization;

10 3. An officer or director of, or a person performing similar functions with respect
11 to, a person described in subd. 1.;

12 4. The spouse of an individual described in subd. 1., 2., or 3.; or

13 5. An individual who is related by blood or marriage to an individual described
14 in subd. 1., 2., 3., or 4. and shares the same home with the individual.

15 (ps) "Proceeds", except as used in s. 409.609 (2), means the following property:

16 1. Whatever is acquired upon the sale, lease, license, exchange, or other
17 disposition of collateral;

18 2. Whatever is collected on, or distributed on account of, collateral;

19 3. Rights arising out of collateral;

20 4. To the extent of the value of collateral, claims arising out of the loss,
21 nonconformity, or interference with the use of, defects or infringement of rights in,
22 or damage to, the collateral; or

23 5. To the extent of the value of collateral and to the extent payable to the debtor
24 or the secured party, insurance payable by reason of the loss or nonconformity of,
25 defects or infringement of rights in, or damage to, the collateral.

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1 (ptm) "Proceeds of a letter of credit" means the cash, check, accepted draft, or
2 other item of value paid or delivered upon honor or giving of value by the issuer or
3 any nominated person under the letter of credit. The term does not include a
4 beneficiary's drawing rights or documents presented by the beneficiary.

5 (q) "Promissory note" means an instrument that evidences a promise to pay a
6 monetary obligation, does not evidence an order to pay, and does not contain an
7 acknowledgment by a bank that the bank has received for deposit a sum of money
8 or funds.

9 (qg) "Proposal" means a record authenticated by a secured party which
10 includes the terms on which the secured party is willing to accept collateral in full
11 or partial satisfaction of the obligation it secures pursuant to ss. 409.620, 409.621,
12 and 409.622.

13 (qm) "Public-finance transaction" means a secured transaction in connection
14 with which:

- 15 1. Debt securities are issued;
- 16 2. All or a portion of the securities issued have an initial stated maturity of at
17 least 20 years; and
- 18 3. The debtor, obligor, secured party, account debtor or other person obligated
19 on collateral, assignor or assignee of a secured obligation, or assignor or assignee of
20 a security interest is a state or a governmental unit of a state.

21 (qs) "Pursuant to commitment", with respect to an advance made or other value
22 given by a secured party, means pursuant to the secured party's obligation, whether
23 or not a subsequent event of default or other event not within the secured party's
24 control has relieved or may relieve the secured party from its obligation.

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1 (r) "Record", except as used in "for record", "of record", "record or legal title", and
2 "record owner", means information that is inscribed on a tangible medium or which
3 is stored in an electronic or other medium and is retrievable in perceivable form.

4 (rg) "Registered organization" means an organization organized solely under
5 the law of a single state or the United States and as to which the state or the United
6 States must maintain a public record showing the organization to have been
7 organized.

8 (rm) "Secondary obligor" means an obligor to the extent that:

- 9 1. The obligor's obligation is secondary; or
10 2. The obligor has a right of recourse with respect to an obligation secured by
11 collateral against the debtor, another obligor, or property of either.

12 (rs) "Secured party" means:

- 13 1. A person in whose favor a security interest is created or provided for under
14 a security agreement, whether or not any obligation to be secured is outstanding;
15 2. A person that holds an agricultural lien;
16 3. A consignor;
17 4. A person to which accounts, chattel paper, payment intangibles, or
18 promissory notes have been sold;
19 5. A trustee, indenture trustee, agent, collateral agent, or other representative
20 in whose favor a security interest or agricultural lien is created or provided for; or
21 6. A person that holds a security interest arising under s. 402.401, 402.505,
22 402.711 (3), 404.210, 405.118, or 411.508 (5).

23 (s) "Security agreement" means an agreement that creates or provides for a
24 security interest.

25 (sg) "Send", in connection with a record or notification, means:

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1 1. To deposit in the mail, deliver for transmission, or transmit by any other
2 usual means of communication, with postage or cost of transmission provided for,
3 addressed to any address reasonable under the circumstances; or

4 2. To cause the record or notification to be received within the time that it would
5 have been received if properly sent under subd. 1.

6 (sm) "Software" means a computer program and any supporting information
7 provided in connection with a transaction relating to the program. The term does not
8 include a computer program that is included in the definition of goods.

9 (ss) "State" means a state of the United States, the District of Columbia, Puerto
10 Rico, the United States Virgin Islands, or any territory or insular possession subject
11 to the jurisdiction of the United States.

12 (t) "Supporting obligation" means a letter-of-credit right or secondary
13 obligation that supports the payment or performance of an account, chattel paper,
14 a document, a general intangible, an instrument, or investment property.

15 (tg) "Tangible chattel paper" means chattel paper evidenced by a record or
16 records consisting of information that is inscribed on a tangible medium.

17 (tm) "Termination statement" means an amendment of a financing statement
18 which:

19 1. Identifies, by its file number, the initial financing statement to which it
20 relates; and

21 2. Indicates either that it is a termination statement or that the identified
22 financing statement is no longer effective.

23 (ts) "Transmitting utility" means a person primarily engaged in the business
24 of:

25 1. Operating a railroad, subway, street railway, or trolley bus;

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1 2. Transmitting communications electrically, electromagnetically, or by light;

2 3. Transmitting goods by pipeline or sewer; or

3 4. Transmitting or producing and transmitting electricity, steam, gas, or water.

4 **(2) DEFINITIONS IN OTHER CHAPTERS.** The following definitions in other chapters
5 apply to this chapter:

6 (b) “Broker” — s. 408.102.

7 (bm) “Certificated security” — s. 408.102.

8 (c) “Check” — s. 403.104.

9 (cm) “Clearing corporation” — s. 408.102.

10 (d) “Contract for sale” — s. 402.106.

11 (dm) “Customer” — s. 404.104.

12 (e) “Entitlement holder” — s. 408.102.

13 (em) “Financial asset” — s. 408.102.

14 (f) “Holder in due course” — s. 403.302.

15 (g) “Issuer” (with respect to a security) — s. 408.201.

16 (gm) “Lease” — s. 411.103.

17 (h) “Lease agreement” — s. 411.103.

18 (hm) “Lease contract” — s. 411.103.

19 (i) “Leasehold interest” — s. 411.103.

20 (im) “Lessee” — s. 411.103.

21 (j) “Lessee in ordinary course of business” — s. 411.103.

22 (jm) “Lessor” — s. 411.103.

23 (k) “Lessor’s residual interest” — s. 411.103.

24 (L) “Merchant” — s. 402.104.

25 (Lm) “Negotiable instrument” — s. 403.104.

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- 1 (mm) "Note" — s. 403.104.
2 (nm) "Prove" — s. 403.103.
3 (o) "Sale" — s. 402.106.
4 (om) "Securities account" — s. 408.501.
5 (p) "Securities intermediary" — s. 408.102.
6 (pm) "Security" — s. 408.102.
7 (q) "Security certificate" — s. 408.102.
8 (qm) "Security entitlement" — s. 408.102.
9 (r) "Uncertificated security" — s. 408.102.

10 **(3)** CHAPTER 401 DEFINITIONS AND PRINCIPLES. Chapter 401 contains general
11 definitions and principles of construction and interpretation applicable throughout
12 this chapter.

13 **409.103 Purchase-money security interest; application of payments;**
14 **burden of establishing. (1) DEFINITIONS.** In this section:

15 (a) "Purchase-money collateral" means goods or software that secures a
16 purchase-money obligation incurred with respect to that collateral.

17 (b) "Purchase-money obligation" means an obligation of an obligor incurred as
18 all or part of the price of the collateral or for value given to enable the debtor to
19 acquire rights in or the use of the collateral if the value is in fact so used.

20 **(2) PURCHASE-MONEY SECURITY INTEREST IN GOODS.** A security interest in goods
21 is a purchase-money security interest:

22 (a) To the extent that the goods are purchase-money collateral with respect to
23 that security interest;

24 (b) If the security interest is in inventory that is or was purchase-money
25 collateral, also to the extent that the security interest secures a purchase-money

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1 obligation incurred with respect to other inventory in which the secured party holds
2 or held a purchase-money security interest; and

3 (c) Also to the extent that the security interest secures a purchase-money
4 obligation incurred with respect to software in which the secured party holds or held
5 a purchase-money security interest.

6 **(3) PURCHASE-MONEY SECURITY INTEREST IN SOFTWARE.** A security interest in
7 software is a purchase-money security interest to the extent that the security
8 interest also secures a purchase-money obligation incurred with respect to goods in
9 which the secured party holds or held a purchase-money security interest if:

10 (a) The debtor acquired its interest in the software in an integrated transaction
11 in which it acquired an interest in the goods; and

12 (b) The debtor acquired its interest in the software for the principal purpose
13 of using the software in the goods.

14 **(4) CONSIGNOR'S INVENTORY PURCHASE-MONEY SECURITY INTEREST.** The security
15 interest of a consignor in goods that are the subject of a consignment is a
16 purchase-money security interest in inventory.

17 **(5) APPLICATION OF PAYMENT IN NONCONSUMER-GOODS TRANSACTION.** In a
18 transaction other than a consumer-goods transaction, if the extent to which a
19 security interest is a purchase-money security interest depends on the application
20 of a payment to a particular obligation, the payment must be applied:

21 (a) In accordance with any reasonable method of application to which the
22 parties agree;

23 (b) In the absence of the parties' agreement to a reasonable method, in
24 accordance with any intention of the obligor manifested at or before the time of
25 payment; or

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1 (c) In the absence of an agreement to a reasonable method and a timely
2 manifestation of the obligor's intention, in the following order:

3 1. To obligations that are not secured; and

4 2. If more than one obligation is secured, to obligations secured by
5 purchase-money security interests in the order in which those obligations were
6 incurred.

7 **(6) NO LOSS OF STATUS OF PURCHASE-MONEY SECURITY INTEREST IN**
8 **NONCONSUMER-GOODS TRANSACTION.** In a transaction other than a consumer-goods
9 transaction, a purchase-money security interest does not lose its status as such, even
10 if:

11 (a) The purchase-money collateral also secures an obligation that is not a
12 purchase-money obligation;

13 (b) Collateral that is not purchase-money collateral also secures the
14 purchase-money obligation; or

15 (c) The purchase-money obligation has been renewed, refinanced,
16 consolidated, or restructured.

17 **(7) BURDEN OF PROOF IN NONCONSUMER-GOODS TRANSACTION.** In a transaction
18 other than a consumer-goods transaction, a secured party claiming a
19 purchase-money security interest has the burden of establishing the extent to which
20 the security interest is a purchase-money security interest.

21 **(8) NONCONSUMER-GOODS TRANSACTIONS; NO INFERENCE.** The limitation of the
22 rules in subs. (5) to (7) to transactions other than consumer-goods transactions is
23 intended to leave to the court the determination of the proper rules in
24 consumer-goods transactions. The court may not infer from that limitation the

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1 nature of the proper rule in consumer-goods transactions and may continue to apply
2 established approaches.

3 **409.104 Control of deposit account. (1) REQUIREMENTS FOR CONTROL.** A
4 secured party has control of a deposit account if:

5 (a) The secured party is the bank with which the deposit account is maintained;

6 (b) The debtor, secured party, and bank have agreed in an authenticated record
7 that the bank will comply with instructions originated by the secured party directing
8 disposition of the funds in the deposit account without further consent by the debtor;
9 or

10 (c) The secured party becomes the bank's customer with respect to the deposit
11 account.

12 **(2) DEBTOR'S RIGHT TO DIRECT DISPOSITION.** A secured party that has satisfied
13 sub. (1) has control, even if the debtor retains the right to direct the disposition of
14 funds from the deposit account.

15 **409.105 Control of electronic chattel paper.** A secured party has control
16 of electronic chattel paper if the record or records comprising the chattel paper are
17 created, stored, and assigned in such a manner that:

18 **(1)** A single authoritative copy of the record or records exists which is unique,
19 identifiable and, except as otherwise provided in subs. (4) to (6), unalterable;

20 **(2)** The authoritative copy identifies the secured party as the assignee of the
21 record or records;

22 **(3)** The authoritative copy is communicated to and maintained by the secured
23 party or its designated custodian;

24 **(4)** Copies or revisions that add or change an identified assignee of the
25 authoritative copy can be made only with the participation of the secured party;

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1 (5) Each copy of the authoritative copy and any copy of a copy is readily
2 identifiable as a copy that is not the authoritative copy; and

3 (6) Any revision of the authoritative copy is readily identifiable as an
4 authorized or unauthorized revision.

5 **409.106 Control of investment property.** (1) CONTROL UNDER S. 408.106. A
6 person has control of a certificated security, uncertificated security, or security
7 entitlement as provided in s. 408.106.

8 (2) CONTROL OF COMMODITY CONTRACT. A secured party has control of a
9 commodity contract if:

10 (a) The secured party is the commodity intermediary with which the
11 commodity contract is carried; or

12 (b) The commodity customer, secured party, and commodity intermediary have
13 agreed that the commodity intermediary will apply any value distributed on account
14 of the commodity contract as directed by the secured party without further consent
15 by the commodity customer.

16 (3) EFFECT OF CONTROL OF SECURITIES ACCOUNT OR COMMODITY ACCOUNT. A secured
17 party having control of all security entitlements or commodity contracts carried in
18 a securities account or commodity account has control over the securities account or
19 commodity account.

20 **409.107 Control of letter-of-credit right.** A secured party has control of
21 a letter-of-credit right to the extent of any right to payment or performance by the
22 issuer or any nominated person if the issuer or nominated person has consented to
23 an assignment of proceeds of the letter of credit under ch. 405 or otherwise applicable
24 law or practice.

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1 **409.108 Sufficiency of description. (1) SUFFICIENCY OF DESCRIPTION.** Except
2 as otherwise provided in subs. (3) to (5), a description of personal or real property is
3 sufficient, whether or not it is specific, if it reasonably identifies what is described.

4 **(2) EXAMPLES OF REASONABLE IDENTIFICATION.** Except as otherwise provided in
5 sub. (4), a description of collateral reasonably identifies the collateral if it identifies
6 the collateral by:

7 (a) Specific listing;

8 (b) Category;

9 (c) Except as otherwise provided in sub. (5), a type of collateral defined in chs.
10 401 to 411;

11 (d) Quantity;

12 (e) Computational or allocational formula or procedure; or

13 (f) Except as otherwise provided in sub. (3), any other method, if the identity
14 of the collateral is objectively determinable.

15 **(3) SUPERGENERIC DESCRIPTION NOT SUFFICIENT.** A description of collateral as “all
16 the debtor’s assets” or “all the debtor’s personal property” or using words of similar
17 import does not reasonably identify the collateral.

18 **(4) INVESTMENT PROPERTY.** Except as otherwise provided in sub. (5), a
19 description of a security entitlement, securities account, or commodity account is
20 sufficient if it describes:

21 (a) The collateral by those terms or as investment property; or

22 (b) The underlying financial asset or commodity contract.

23 **(5) WHEN DESCRIPTION BY TYPE INSUFFICIENT.** A description only by type of
24 collateral defined in chs. 401 to 411 is an insufficient description of:

25 (a) A commercial tort claim; or

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1 (b) In a consumer transaction, consumer goods, a security entitlement, a
2 securities account, or a commodity account.

3 **409.109 Scope. (1) GENERAL SCOPE OF CHAPTER.** Except as otherwise provided
4 in subs. (3) and (4), this chapter applies to:

5 (a) A transaction, regardless of its form, that creates a security interest in
6 personal property or fixtures by contract;

7 (b) An agricultural lien;

8 (c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

9 (d) A consignment;

10 (e) A security interest arising under s. 402.401, 402.505, 402.711 (3), or 411.508
11 (5), as provided in s. 409.110; and

12 (f) A security interest arising under s. 404.210 or 405.118.

13 **(2) SECURITY INTEREST IN SECURED OBLIGATION.** The application of this chapter
14 to a security interest in a secured obligation is not affected by the fact that the
15 obligation is itself secured by a transaction or interest to which this chapter does not
16 apply.

17 **(3) EXTENT TO WHICH CHAPTER DOES NOT APPLY.** This chapter does not apply to
18 the extent that:

19 (a) A statute, regulation, or treaty of the United States preempts this chapter;

20 (b) Another statute of this state expressly governs the creation, perfection,
21 priority, or enforcement of a security interest created by this state or a governmental
22 unit of this state;

23 (c) A statute of another state, a foreign country, or a governmental unit of
24 another state or a foreign country, other than a statute generally applicable to

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1 security interests, expressly governs creation, perfection, priority, or enforcement of
2 a security interest created by the state, country, or governmental unit; or

3 (d) The rights of a transferee beneficiary or nominated person under a letter
4 of credit are independent and superior under ch.405.

5 **(4) INAPPLICABILITY OF CHAPTER.** This chapter does not apply to:

6 (a) A landlord's lien, other than an agricultural lien;

7 (b) A lien, other than an agricultural lien, given by statute or other rule of law
8 for services or materials, but s. 409.333 applies with respect to priority of the lien;

9 (c) An assignment of a claim for wages, salary, or other compensation of an
10 employee;

11 (d) A sale of accounts, chattel paper, payment intangibles, or promissory notes
12 as part of a sale of the business out of which they arose;

13 (e) An assignment of accounts, chattel paper, payment intangibles, or
14 promissory notes which is for the purpose of collection only;

15 (f) An assignment of a right to payment under a contract to an assignee that
16 is also obligated to perform under the contract;

17 (g) An assignment of a single account, payment intangible, or promissory note
18 to an assignee in full or partial satisfaction of a preexisting indebtedness;

19 (h) A transfer of an interest in or an assignment of a claim under a policy of
20 insurance, other than an assignment by or to a health-care provider of a
21 health-care-insurance receivable and any subsequent assignment of the right to
22 payment, but ss. 409.315 and 409.322 apply with respect to proceeds and priorities
23 in proceeds;

24 (i) An assignment of a right represented by a judgment, other than a judgment
25 taken on a right to payment that was collateral;

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1 (j) A right of recoupment or setoff, but:

2 1. Section 409.340 applies with respect to the effectiveness of rights of
3 recoupment or setoff against deposit accounts; and

4 2. Section 409.404 applies with respect to defenses or claims of an account
5 debtor;

6 (k) The creation or transfer of an interest in or lien on real property, including
7 a lease or rents thereunder, except to the extent that provision is made for:

8 1. Liens on real property in ss. 409.203 and 409.308;

9 2. Fixtures in s. 409.334;

10 3. Fixture filings in ss. 409.501, 409.502, 409.512, 409.516, and 409.519; and

11 4. Security agreements covering personal and real property in s. 409.604;

12 (L) An assignment of a claim arising in tort, other than a commercial tort claim,
13 but ss. 409.315 and 409.322 apply with respect to proceeds and priorities in proceeds;
14 or

15 (m) An assignment of a deposit account in a consumer transaction, but ss.
16 409.315 and 409.322 apply with respect to proceeds and priorities in proceeds.

17 **409.110 Security interests arising under ch. 402 or 411.** A security
18 interest arising under s. 402.401, 402.505, 402.711 (3), or 411.508 (5) is subject to this
19 chapter. However, until the debtor obtains possession of the goods:

20 (1) The security interest is enforceable, even if s. 409.203 (2) (c) has not been
21 satisfied;

22 (2) Filing is not required to perfect the security interest;

23 (3) The rights of the secured party after default by the debtor are governed by
24 ch. 402 or 411; and

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1 (4) The security interest has priority over a conflicting security interest created
2 by the debtor.

SUBCHAPTER II

EFFECTIVENESS OF SECURITY

AGREEMENT; ATTACHMENT OF

SECURITY INTEREST; RIGHTS OF

PARTIES TO SECURITY AGREEMENT

8 **409.201 General effectiveness of security agreement.** (1) GENERAL
9 EFFECTIVENESS. Except as otherwise provided in chs. 401 to 411, a security agreement
10 is effective according to its terms between the parties, against purchasers of the
11 collateral, and against creditors.

12 (2) APPLICABLE CONSUMER LAWS AND OTHER LAW. A transaction subject to this
13 chapter is subject to any applicable rule of law which establishes a different rule for
14 consumers and to chs. 138, 421 to 427, and 429 and s. 182.025.

15 (3) OTHER APPLICABLE LAW CONTROLS. In case of conflict between this chapter
16 and a rule of law, statute, or rule described in sub. (2), the rule of law, statute, or rule
17 controls. Failure to comply with a statute or rule described in sub. (2) has only the
18 effect the statute or rule specifies.

19 (4) FURTHER DEFERENCE TO OTHER APPLICABLE LAW. This chapter does not:

20 (a) Validate any rate, charge, agreement, or practice that violates a rule of law,
21 statute, or rule described in sub. (2); or

22 (b) Extend the application of the rule of law, statute, or rule to a transaction
23 not otherwise subject to the rule of law, statute, or rule.

24 **409.202 Title to collateral immaterial.** Except as otherwise provided with
25 respect to consignments or sales of accounts, chattel paper, payment intangibles, or

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1 promissory notes, the provisions of this chapter with regard to rights and obligations
2 apply whether title to collateral is in the secured party or the debtor.

3 **409.203 Attachment and enforceability of security interest; proceeds;**
4 **supporting obligations; formal requisites. (1) ATTACHMENT.** A security interest
5 attaches to collateral when it becomes enforceable against the debtor with respect
6 to the collateral, unless an agreement expressly postpones the time of attachment.

7 **(2) ENFORCEABILITY.** Except as otherwise provided in subs. (3) to (9), a security
8 interest is enforceable against the debtor and 3rd parties with respect to the
9 collateral only if:

10 (a) Value has been given;

11 (b) The debtor has rights in the collateral or the power to transfer rights in the
12 collateral to a secured party; and

13 (c) One of the following conditions is met:

14 1. The debtor has authenticated a security agreement that provides a
15 description of the collateral and, if the security interest covers timber to be cut, a
16 description of the land concerned;

17 2. The collateral is not a certificated security and is in the possession of the
18 secured party under s. 409.313 pursuant to the debtor's security agreement;

19 3. The collateral is a certificated security in registered form and the security
20 certificate has been delivered to the secured party under s. 408.301 pursuant to the
21 debtor's security agreement; or

22 4. The collateral is deposit accounts, electronic chattel paper, investment
23 property, or letter-of-credit rights, and the secured party has control under s.
24 409.104, 409.105, 409.106, or 409.107 pursuant to the debtor's security agreement.

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1 **(3) OTHER UNIFORM COMMERCIAL CODE PROVISIONS.** Subsection (2) is subject to s.
2 404.210 on the security interest of a collecting bank, s. 405.118 on the security
3 interest of a letter-of-credit issuer or nominated person, s. 409.110 on a security
4 interest arising under ch. 402 or 411, and s. 409.206 on security interests in
5 investment property.

6 **(4) WHEN PERSON BECOMES BOUND BY ANOTHER PERSON'S SECURITY AGREEMENT.** (a)
7 A person becomes bound as debtor by a security agreement entered into by another
8 person if, by operation of law other than this chapter or by contract:

9 1. The security agreement becomes effective to create a security interest in the
10 person's property; or

11 2. The person becomes generally obligated for the obligations of the other
12 person, including the obligation secured under the security agreement, and acquires
13 or succeeds to all or substantially all of the assets of the other person.

14 (b) A security agreement authenticated by one spouse is authenticated by the
15 debtor under this section if that spouse acting alone has the right under s. 766.51 to
16 manage and control the collateral, unless a marital property agreement or court
17 decree that is binding on the secured party under s. 766.55 (4m) or 766.56 (2) (c)
18 provides otherwise.

19 **(5) EFFECT OF NEW DEBTOR BECOMING BOUND.** If a new debtor becomes bound as
20 debtor by a security agreement entered into by another person:

21 (a) The agreement satisfies sub. (2) (c) with respect to existing or
22 after-acquired property of the new debtor to the extent that the property is described
23 in the agreement; and

24 (b) Another agreement is not necessary to make a security interest in the
25 property enforceable.

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1 **(6) PROCEEDS AND SUPPORTING OBLIGATIONS.** The attachment of a security
2 interest in collateral gives the secured party the rights to proceeds provided by s.
3 409.315 and is also attachment of a security interest in a supporting obligation for
4 the collateral.

5 **(7) LIEN SECURING RIGHT TO PAYMENT.** The attachment of a security interest in
6 a right to payment or performance secured by a security interest or other lien on
7 personal or real property is also attachment of a security interest in the security
8 interest, mortgage, or other lien.

9 **(8) SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT.** The attachment of
10 a security interest in a securities account is also attachment of a security interest in
11 the security entitlements carried in the securities account.

12 **(9) COMMODITY CONTRACTS CARRIED IN COMMODITY ACCOUNT.** The attachment of
13 a security interest in a commodity account is also attachment of a security interest
14 in the commodity contracts carried in the commodity account.

15 **409.204 After-acquired property; future advances. (1) AFTER-ACQUIRED**
16 **COLLATERAL.** Except as otherwise provided in sub. (2), a security agreement may
17 create or provide for a security interest in after-acquired collateral.

18 **(2) WHEN AFTER-ACQUIRED PROPERTY CLAUSE NOT EFFECTIVE.** A security interest
19 does not attach under a term constituting an after-acquired property clause to:

20 (a) Consumer goods, other than an accession when given as additional security,
21 unless the debtor acquires rights in them within 10 days after the secured party gives
22 value; or

23 (b) A commercial tort claim.

24 **(3) FUTURE ADVANCES AND OTHER VALUE.** A security agreement may provide that
25 collateral secures, or that accounts, chattel paper, payment intangibles, or

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1 promissory notes are sold in connection with, future advances or other value,
2 whether or not the advances or value are given pursuant to commitment.

3 **409.205 Use or disposition of collateral permissible. (1) WHEN SECURITY**
4 **INTEREST NOT INVALID OR FRAUDULENT.** A security interest is not invalid or fraudulent
5 against creditors solely because:

6 (a) The debtor has the right or ability to:

7 1. Use, commingle, or dispose of all or part of the collateral, including returned
8 or repossessed goods;

9 2. Collect, compromise, enforce, or otherwise deal with collateral;

10 3. Accept the return of collateral or make repossessions; or

11 4. Use, commingle, or dispose of proceeds; or

12 (b) The secured party fails to require the debtor to account for proceeds or
13 replace collateral.

14 **(2) REQUIREMENTS OF POSSESSION NOT RELAXED.** This section does not relax the
15 requirements of possession if attachment, perfection, or enforcement of a security
16 interest depends upon possession of the collateral by the secured party.

17 **409.206 Security interest arising in purchase or delivery of financial**
18 **asset. (1) SECURITY INTEREST WHEN PERSON BUYS THROUGH SECURITIES INTERMEDIARY.**
19 A security interest in favor of a securities intermediary attaches to a person's
20 security entitlement if:

21 (a) The person buys a financial asset through the securities intermediary in a
22 transaction in which the person is obligated to pay the purchase price to the
23 securities intermediary at the time of the purchase; and

24 (b) The securities intermediary credits the financial asset to the buyer's
25 securities account before the buyer pays the securities intermediary.

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1 **(2) SECURITY INTEREST SECURES OBLIGATION TO PAY FOR FINANCIAL ASSET.** The
2 security interest described in sub. (1) secures the person's obligation to pay for the
3 financial asset.

4 **(3) SECURITY INTEREST IN PAYMENT AGAINST DELIVERY TRANSACTION.** A security
5 interest in favor of a person that delivers a certificated security or other financial
6 asset represented by a writing attaches to the security or other financial asset if:

7 (a) The security or other financial asset:

8 1. In the ordinary course of business is transferred by delivery with any
9 necessary endorsement or assignment; and

10 2. Is delivered under an agreement between persons in the business of dealing
11 with such securities or financial assets; and

12 (b) The agreement calls for delivery against payment.

13 **(4) SECURITY INTEREST SECURES OBLIGATION TO PAY FOR DELIVERY.** The security
14 interest described in sub. (3) secures the obligation to make payment for the delivery.

15 **409.207 Rights and duties of secured party having possession or**
16 **control of collateral. (1) DUTY OF CARE WHEN SECURED PARTY IN POSSESSION.** Except
17 as otherwise provided in sub. (4), a secured party shall use reasonable care in the
18 custody and preservation of collateral in the secured party's possession. In the case
19 of chattel paper or an instrument, reasonable care includes taking necessary steps
20 to preserve rights against prior parties unless otherwise agreed.

21 **(2) EXPENSES, RISKS, DUTIES, AND RIGHTS WHEN SECURED PARTY IN POSSESSION.**
22 Except as otherwise provided in sub. (4), if a secured party has possession of
23 collateral:

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1 (a) Reasonable expenses, including the cost of insurance and payment of taxes
2 or other charges, incurred in the custody, preservation, use, or operation of the
3 collateral are chargeable to the debtor and are secured by the collateral;

4 (b) The risk of accidental loss or damage is on the debtor to the extent of a
5 deficiency in any effective insurance coverage;

6 (c) The secured party shall keep the collateral identifiable, but fungible
7 collateral may be commingled; and

8 (d) The secured party may use or operate the collateral:

9 1. For the purpose of preserving the collateral or its value;

10 2. As permitted by an order of a court having competent jurisdiction; or

11 3. Except in the case of consumer goods, in the manner and to the extent agreed
12 by the debtor.

13 **(3) DUTIES AND RIGHTS WHEN SECURED PARTY IN POSSESSION OR CONTROL.** Except
14 as otherwise provided in sub. (4), a secured party having possession of collateral or
15 control of collateral under s. 409.104, 409.105, 409.106, or 409.107:

16 (a) May hold as additional security any proceeds, except money or funds,
17 received from the collateral;

18 (b) Shall apply money or funds received from the collateral to reduce the
19 secured obligation, unless remitted to the debtor; and

20 (c) May create a security interest in the collateral.

21 **(4) BUYER OF CERTAIN RIGHTS TO PAYMENT.** If the secured party is a buyer of
22 accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

23 (a) Subsection (1) does not apply unless the secured party is entitled under an
24 agreement:

25 1. To charge back uncollected collateral; or

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1 2. Otherwise to full or limited recourse against the debtor or a secondary obligor
2 based on the nonpayment or other default of an account debtor or other obligor on
3 the collateral; and

4 (b) Subsections (1) and (2) do not apply.

5 **409.208 Additional duties of secured party having control of collateral.**

6 **(1) APPLICABILITY OF SECTION.** This section applies to cases in which there is no
7 outstanding secured obligation and the secured party is not committed to make
8 advances, incur obligations, or otherwise give value.

9 **(2) DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR.** Within 10
10 days after receiving an authenticated demand by the debtor:

11 (a) A secured party having control of a deposit account under s. 409.104 (1) (b)
12 shall send to the bank with which the deposit account is maintained an
13 authenticated statement that releases the bank from any further obligation to
14 comply with instructions originated by the secured party;

15 (b) A secured party having control of a deposit account under s. 409.104 (1) (c)
16 shall:

- 17 1. Pay the debtor the balance on deposit in the deposit account; or
18 2. Transfer the balance on deposit into a deposit account in the debtor's name;

19 (c) A secured party, other than a buyer, having control of electronic chattel
20 paper under s. 409.105 shall:

21 1. Communicate the authoritative copy of the electronic chattel paper to the
22 debtor or its designated custodian;

23 2. If the debtor designates a custodian that is the designated custodian with
24 which the authoritative copy of the electronic chattel paper is maintained for the
25 secured party, communicate to the custodian an authenticated record releasing the

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1 designated custodian from any further obligation to comply with instructions
2 originated by the secured party and instructing the custodian to comply with
3 instructions originated by the debtor; and

4 3. Take appropriate action to enable the debtor or its designated custodian to
5 make copies of or revisions to the authoritative copy which add or change an
6 identified assignee of the authoritative copy without the consent of the secured party;

7 (d) A secured party having control of investment property under s. 408.106 (4)
8 (b) or 409.106 (2) shall send to the securities intermediary or commodity
9 intermediary with which the security entitlement or commodity contract is
10 maintained an authenticated record that releases the securities intermediary or
11 commodity intermediary from any further obligation to comply with entitlement
12 orders or directions originated by the secured party; and

13 (e) A secured party having control of a letter-of-credit right under s. 409.107
14 shall send to each person having an unfulfilled obligation to pay or deliver proceeds
15 of the letter of credit to the secured party an authenticated release from any further
16 obligation to pay or deliver proceeds of the letter of credit to the secured party.

17 **409.209 Duties of secured party if account debtor has been notified of**
18 **assignment. (1) APPLICABILITY OF SECTION.** Except as otherwise provided in sub. (3),
19 this section applies if:

20 (a) There is no outstanding secured obligation; and

21 (b) The secured party is not committed to make advances, incur obligations, or
22 otherwise give value.

23 **(2) DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR.** Within 10
24 days after receiving an authenticated demand by the debtor, a secured party shall
25 send to an account debtor that has received notification of an assignment to the

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1 secured party as assignee under s. 409.406 (1) an authenticated record that releases
2 the account debtor from any further obligation to the secured party.

3 **(3) INAPPLICABILITY TO SALES.** This section does not apply to an assignment
4 constituting the sale of an account, chattel paper, or payment intangible.

5 **409.210 Request for accounting; request regarding list of collateral or**
6 **statement of account. (1) DEFINITIONS.** In this section:

7 (a) "Request" means a record of a type described in par. (b), (c), or (d).

8 (b) "Request for an accounting" means a record authenticated by a debtor
9 requesting that the recipient provide an accounting of the unpaid obligations secured
10 by collateral and reasonably identifying the transaction or relationship that is the
11 subject of the request.

12 (c) "Request regarding a list of collateral" means a record authenticated by a
13 debtor requesting that the recipient approve or correct a list of what the debtor
14 believes to be the collateral securing an obligation and reasonably identifying the
15 transaction or relationship that is the subject of the request.

16 (d) "Request regarding a statement of account" means a record authenticated
17 by a debtor requesting that the recipient approve or correct a statement indicating
18 what the debtor believes to be the aggregate amount of unpaid obligations secured
19 by collateral as of a specified date and reasonably identifying the transaction or
20 relationship that is the subject of the request.

21 **(2) DUTY TO RESPOND TO REQUESTS.** Subject to subs. (3) to (6), a secured party,
22 other than a buyer of accounts, chattel paper, payment intangibles, or promissory
23 notes or a consignor, shall comply with a request within 14 days after receipt:

24 (a) In the case of a request for an accounting, by authenticating and sending
25 to the debtor an accounting; and

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1 (b) In the case of a request regarding a list of collateral or a request regarding
2 a statement of account, by authenticating and sending to the debtor an approval or
3 correction.

4 **(3) REQUEST REGARDING LIST OF COLLATERAL; STATEMENT CONCERNING TYPE OF**
5 **COLLATERAL.** A secured party that claims a security interest in all of a particular type
6 of collateral owned by the debtor may comply with a request regarding a list of
7 collateral by sending to the debtor an authenticated record including a statement to
8 that effect within 14 days after receipt.

9 **(4) REQUEST REGARDING LIST OF COLLATERAL; NO INTEREST CLAIMED.** A person that
10 receives a request regarding a list of collateral, claims no interest in the collateral
11 when it receives the request, and claimed an interest in the collateral at an earlier
12 time shall comply with the request within 14 days after receipt by sending to the
13 debtor an authenticated record:

14 (a) Disclaiming any interest in the collateral; and

15 (b) If known to the recipient, providing the name and mailing address of any
16 assignee of or successor to the recipient's interest in the collateral.

17 **(5) REQUEST FOR ACCOUNTING OR REGARDING STATEMENT OF ACCOUNT; NO INTEREST**
18 **IN OBLIGATION CLAIMED.** A person that receives a request for an accounting or a request
19 regarding a statement of account, claims no interest in the obligations when it
20 receives the request, and claimed an interest in the obligations at an earlier time
21 shall comply with the request within 14 days after receipt by sending to the debtor
22 an authenticated record:

23 (a) Disclaiming any interest in the obligations; and

24 (b) If known to the recipient, providing the name and mailing address of any
25 assignee of or successor to the recipient's interest in the obligations.

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1 **(6) CHARGES FOR RESPONSES.** A debtor is entitled without charge to one response
2 to a request under this section during any 6-month period. The secured party may
3 require payment of a charge not exceeding \$25 for each additional response.

SUBCHAPTER III**PERFECTION AND PRIORITY****409.301 Law governing perfection and priority of security interests.**

7 Except as otherwise provided in ss. 409.303 to 409.306, the following rules determine
8 the law governing perfection, the effect of perfection or nonperfection, and the
9 priority of a security interest in collateral:

10 **(1) LOCATION OF DEBTOR.** Except as otherwise provided in this section, while a
11 debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection,
12 the effect of perfection or nonperfection, and the priority of a security interest in
13 collateral.

14 **(2) LOCATION OF COLLATERAL.** While collateral is located in a jurisdiction, the
15 local law of that jurisdiction governs perfection, the effect of perfection or
16 nonperfection, and the priority of a possessory security interest in that collateral.

17 **(3) LOCATION OF PROPERTY.** Except as otherwise provided in sub. (4), while
18 negotiable documents, goods, instruments, money, or tangible chattel paper is
19 located in a jurisdiction, the local law of that jurisdiction governs:

20 (a) Perfection of a security interest in the goods by filing a fixture filing;

21 (b) Perfection of a security interest in timber to be cut; and

22 (c) The effect of perfection or nonperfection and the priority of a nonpossessory
23 security interest in the collateral.

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1 **(4) LOCATION OF WELLHEAD OR MINEHEAD.** The local law of the jurisdiction in
2 which the wellhead or minehead is located governs perfection, the effect of perfection
3 or nonperfection, and the priority of a security interest in as-extracted collateral.

4 **409.302 Law governing perfection and priority of agricultural liens.**

5 While farm products are located in a jurisdiction, the local law of that jurisdiction
6 governs perfection, the effect of perfection or nonperfection, and the priority of an
7 agricultural lien on the farm products.

8 **409.303 Law governing perfection and priority of security interests in**
9 **goods covered by a certificate of title. (1) APPLICABILITY OF SECTION.** This section
10 applies to goods covered by a certificate of title, even if there is no other relationship
11 between the jurisdiction under whose certificate of title the goods are covered and the
12 goods or the debtor.

13 **(2) WHEN GOODS COVERED BY CERTIFICATE OF TITLE.** Goods become covered by a
14 certificate of title when a valid application for the certificate of title and the
15 applicable fee are delivered to the appropriate authority. Goods cease to be covered
16 by a certificate of title at the earlier of the time the certificate of title ceases to be
17 effective under the law of the issuing jurisdiction or the time the goods become
18 covered subsequently by a certificate of title issued by another jurisdiction.

19 **(3) APPLICABLE LAW.** The local law of the jurisdiction under whose certificate of
20 title the goods are covered governs perfection, the effect of perfection or
21 nonperfection, and the priority of a security interest in goods covered by a certificate
22 of title from the time the goods become covered by the certificate of title until the
23 goods cease to be covered by the certificate of title.

24 **409.304 Law governing perfection and priority of security interests in**
25 **deposit accounts. (1) LAW OF BANK'S JURISDICTION GOVERNS.** The local law of a bank's

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1 jurisdiction governs perfection, the effect of perfection or nonperfection, and the
2 priority of a security interest in a deposit account maintained with that bank.

3 (2) **BANK'S JURISDICTION.** The following rules determine a bank's jurisdiction for
4 purposes of this subchapter:

5 (a) If an agreement between the bank and the debtor governing the deposit
6 account expressly provides that a particular jurisdiction is the bank's jurisdiction for
7 purposes of this subchapter, this chapter, or chs. 401 to 411, that jurisdiction is the
8 bank's jurisdiction.

9 (b) If par. (a) does not apply and an agreement between the bank and its
10 customer governing the deposit account expressly provides that the agreement is
11 governed by the law of a particular jurisdiction, that jurisdiction is the bank's
12 jurisdiction.

13 (c) If neither par. (a) nor par. (b) applies and an agreement between the bank
14 and its customer governing the deposit account expressly provides that the deposit
15 account is maintained at an office in a particular jurisdiction, that jurisdiction is the
16 bank's jurisdiction.

17 (d) If none of pars. (a) to (c) applies, the bank's jurisdiction is the jurisdiction
18 in which the office identified in an account statement as the office serving the
19 customer's account is located.

20 (e) If none of pars. (a) to (d) applies, the bank's jurisdiction is the jurisdiction
21 in which the chief executive office of the bank is located.

22 **409.305 Law governing perfection and priority of security interests in**
23 **investment property.** (1) **GOVERNING LAW: GENERAL RULES.** Except as otherwise
24 provided in sub. (3), the following rules apply:

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1 (a) While a security certificate is located in a jurisdiction, the local law of that
2 jurisdiction governs perfection, the effect of perfection or nonperfection, and the
3 priority of a security interest in the certificated security represented thereby.

4 (b) The local law of the issuer's jurisdiction as specified in s. 408.110 (4) governs
5 perfection, the effect of perfection or nonperfection, and the priority of a security
6 interest in an uncertificated security.

7 (c) The local law of the securities intermediary's jurisdiction as specified in s.
8 408.110 (5) governs perfection, the effect of perfection or nonperfection, and the
9 priority of a security interest in a security entitlement or securities account.

10 (d) The local law of the commodity intermediary's jurisdiction governs
11 perfection, the effect of perfection or nonperfection, and the priority of a security
12 interest in a commodity contract or commodity account.

13 **(2) COMMODITY INTERMEDIARY'S JURISDICTION.** The following rules determine a
14 commodity intermediary's jurisdiction for purposes of this subchapter:

15 (a) If an agreement between the commodity intermediary and commodity
16 customer governing the commodity account expressly provides that a particular
17 jurisdiction is the commodity intermediary's jurisdiction for purposes of this
18 subchapter, this chapter, or chs. 401 to 411, that jurisdiction is the commodity
19 intermediary's jurisdiction.

20 (b) If par. (a) does not apply and an agreement between the commodity
21 intermediary and commodity customer governing the commodity account expressly
22 provides that the agreement is governed by the law of a particular jurisdiction, that
23 jurisdiction is the commodity intermediary's jurisdiction.

24 (c) If neither par. (a) nor par. (b) applies and an agreement between the
25 commodity intermediary and commodity customer governing the commodity

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1 account expressly provides that the commodity account is maintained at an office in
2 a particular jurisdiction, that jurisdiction is the commodity intermediary's
3 jurisdiction.

4 (d) If none of pars. (a) to (c) applies, the commodity intermediary's jurisdiction
5 is the jurisdiction in which the office identified in an account statement as the office
6 serving the commodity customer's account is located.

7 (e) If none of pars. (a) to (d) applies, the commodity intermediary's jurisdiction
8 is the jurisdiction in which the chief executive office of the commodity intermediary
9 is located.

10 **(3) WHEN PERFECTION GOVERNED BY LAW OF JURISDICTION WHERE DEBTOR LOCATED.**

11 The local law of the jurisdiction in which the debtor is located governs:

12 (a) Perfection of a security interest in investment property by filing;

13 (b) Automatic perfection of a security interest in investment property created
14 by a broker or securities intermediary; and

15 (c) Automatic perfection of a security interest in a commodity contract or
16 commodity account created by a commodity intermediary.

17 **409.306 Law governing perfection and priority of security interests in**

18 **letter-of-credit rights. (1) GOVERNING LAW: ISSUER'S OR NOMINATED PERSON'S**
19 **JURISDICTION.** Subject to sub. (3), the local law of the issuer's jurisdiction or a
20 nominated person's jurisdiction governs perfection, the effect of perfection or
21 nonperfection, and the priority of a security interest in a letter-of-credit right if the
22 issuer's jurisdiction or nominated person's jurisdiction is a state.

23 **(2) ISSUER'S OR NOMINATED PERSON'S JURISDICTION.** For purposes of this
24 subchapter, an issuer's jurisdiction or nominated person's jurisdiction is the

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1 jurisdiction whose law governs the liability of the issuer or nominated person with
2 respect to the letter-of-credit right as provided in ch. 405.

3 **(3) WHEN SECTION NOT APPLICABLE.** This section does not apply to a security
4 interest that is perfected only under s. 409.308 (4).

5 **409.307 Location of debtor. (1) PLACE OF BUSINESS.** In this section, “place
6 of business” means a place where a debtor conducts its affairs.

7 **(2) DEBTOR'S LOCATION: GENERAL RULES.** Except as otherwise provided in this
8 section, the following rules determine a debtor's location:

9 (a) A debtor who is an individual is located at the individual's principal
10 residence.

11 (b) A debtor that is an organization and has only one place of business is located
12 at its place of business.

13 (c) A debtor that is an organization and has more than one place of business
14 is located at its chief executive office.

15 **(3) LIMITATION OF APPLICABILITY OF SUB. (2).** Subsection (2) applies only if a
16 debtor's residence, place of business, or chief executive office, as applicable, is located
17 in a jurisdiction whose law generally requires information concerning the existence
18 of a nonpossessory security interest to be made generally available in a filing,
19 recording, or registration system as a condition or result of the security interest's
20 obtaining priority over the rights of a lien creditor with respect to the collateral. If
21 sub. (2) does not apply, the debtor is located in the District of Columbia.

22 **(4) CONTINUATION OF LOCATION: CESSATION OF EXISTENCE.** A person that ceases
23 to exist, have a residence, or have a place of business continues to be located in the
24 jurisdiction specified by subs. (2) and (3).

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1 **(5)** LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER STATE LAW. A
2 registered organization that is organized under the law of a state is located in that
3 state.

4 **(6)** LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER FEDERAL LAW; BANK
5 BRANCHES AND AGENCIES. Except as otherwise provided in sub. (9), a registered
6 organization that is organized under the law of the United States and a branch or
7 agency of a bank that is not organized under the law of the United States or a state
8 are located:

9 (a) In the state that the law of the United States designates, if the law
10 designates a state of location;

11 (b) In the state that the registered organization, branch, or agency designates,
12 if the law of the United States authorizes the registered organization, branch, or
13 agency to designate its state of location; or

14 (c) In the District of Columbia, if neither par. (a) nor par. (b) applies.

15 **(7)** CONTINUATION OF LOCATION: CHANGE IN STATUS OF REGISTERED ORGANIZATION.
16 A registered organization continues to be located in the jurisdiction specified by sub.
17 (5) or (6) notwithstanding:

18 (a) The suspension, revocation, forfeiture, or lapse of the registered
19 organization's status as such in its jurisdiction of organization; or

20 (b) The dissolution, winding up, or cancellation of the existence of the
21 registered organization.

22 **(8)** LOCATION OF UNITED STATES. The United States is located in the District of
23 Columbia.

24 **(9)** LOCATION OF FOREIGN BANK BRANCH OR AGENCY IF LICENSED IN ONLY ONE STATE.
25 A branch or agency of a bank that is not organized under the law of the United States

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1 or a state is located in the state in which the branch or agency is licensed, if all
2 branches and agencies of the bank are licensed in only one state.

3 (10) LOCATION OF FOREIGN AIR CARRIER. A foreign air carrier under the Federal
4 Aviation Act of 1958, as amended, is located at the designated office of the agent upon
5 which service of process may be made on behalf of the carrier.

6 (11) SECTION APPLIES ONLY TO THIS SUBCHAPTER. This section applies only for
7 purposes of this subchapter.

8 **409.308 When security interest or agricultural lien is perfected;**
9 **continuity of perfection.** (1) PERFECTION OF SECURITY INTEREST. Except as
10 otherwise provided in this section and s. 409.309, a security interest is perfected if
11 it has attached and all of the applicable requirements for perfection in ss. 409.310
12 to 409.316 have been satisfied. A security interest is perfected when it attaches if
13 the applicable requirements are satisfied before the security interest attaches.

14 (2) PERFECTION OF AGRICULTURAL LIEN. An agricultural lien is perfected if it has
15 become effective and all of the applicable requirements for perfection in s. 409.310
16 have been satisfied. An agricultural lien is perfected when it becomes effective if the
17 applicable requirements are satisfied before the agricultural lien becomes effective.

18 (3) CONTINUOUS PERFECTION; PERFECTION BY DIFFERENT METHODS. A security
19 interest or agricultural lien is perfected continuously if it is originally perfected by
20 one method under this chapter and is later perfected by another method under this
21 chapter, without an intermediate period when it was unperfected.

22 (4) SUPPORTING OBLIGATION. Perfection of a security interest in collateral also
23 perfects a security interest in a supporting obligation for the collateral.

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1 **(5) LIEN SECURING RIGHT TO PAYMENT.** Perfection of a security interest in a right
2 to payment or performance also perfects a security interest in a security interest,
3 mortgage, or other lien on personal or real property securing the right.

4 **(6) SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT.** Perfection of a
5 security interest in a securities account also perfects a security interest in the
6 security entitlements carried in the securities account.

7 **(7) COMMODITY CONTRACT CARRIED IN COMMODITY ACCOUNT.** Perfection of a
8 security interest in a commodity account also perfects a security interest in the
9 commodity contracts carried in the commodity account.

10 **409.309 Security interest perfected upon attachment.** The following
11 security interests are perfected when they attach:

12 **(1)** A purchase-money security interest in consumer goods, except as otherwise
13 provided in s. 409.311 (2) with respect to consumer goods that are subject to a statute
14 or treaty described in s. 409.311 (1);

15 **(2)** An assignment of accounts or payment intangibles which does not by itself
16 or in conjunction with other assignments to the same assignee transfer a significant
17 part of the assignor's outstanding accounts or payment intangibles;

18 **(3)** A sale of a payment intangible;

19 **(4)** A sale of a promissory note;

20 **(5)** A security interest created by the assignment of a health-care-insurance
21 receivable to the provider of the health-care goods or services;

22 **(6)** A security interest arising under s. 402.401, 402.505, 402.711 (3), or 411.508
23 (5), until the debtor obtains possession of the collateral;

24 **(7)** A security interest of a collecting bank arising under s. 404.210;

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1 (8) A security interest of an issuer or nominated person arising under s.
2 405.118;

3 (9) A security interest arising in the delivery of a financial asset under s.
4 409.206 (3);

5 (10) A security interest in investment property created by a broker or securities
6 intermediary;

7 (11) A security interest in a commodity contract or a commodity account
8 created by a commodity intermediary;

9 (12) An assignment for the benefit of all creditors of the transferor and
10 subsequent transfers by the assignee thereunder; and

11 (13) A security interest created by an assignment of a beneficial interest in a
12 decedent's estate.

13 **409.310 When filing required to perfect security interest or**
14 **agricultural lien; security interests and agricultural liens to which filing**
15 **provisions do not apply. (1) GENERAL RULE: PERFECTION BY FILING.** Except as
16 otherwise provided in sub. (2) and s. 409.312 (2), a financing statement must be filed
17 to perfect all security interests and agricultural liens.

18 (2) EXCEPTIONS: FILING NOT NECESSARY. The filing of a financing statement is
19 not necessary to perfect a security interest:

20 (a) That is perfected under s. 409.308 (4), (5), (6), or (7);

21 (b) That is perfected under s. 409.309 when it attaches;

22 (c) In property subject to a statute, regulation, or treaty described in s. 409.311
23 (1);

24 (d) In goods in possession of a bailee which is perfected under s. 409.312 (4) (a)
25 or (b);

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1 (e) In certificated securities, documents, goods, or instruments which is
2 perfected without filing or possession under s. 409.312 (5), (6), or (7);

3 (f) In collateral in the secured party's possession under s. 409.313;

4 (g) In a certificated security which is perfected by delivery of the security
5 certificate to the secured party under s. 409.313;

6 (h) In deposit accounts, electronic chattel paper, investment property, or
7 letter-of-credit rights which is perfected by control under s. 409.314;

8 (i) In proceeds which is perfected under s. 409.315; or

9 (j) That is perfected under s. 409.316.

10 **(3) ASSIGNMENT OF PERFECTED SECURITY INTEREST.** If a secured party assigns a
11 perfected security interest or agricultural lien, a filing under this chapter is not
12 required to continue the perfected status of the security interest against creditors of
13 and transferees from the original debtor.

14 **409.311 Perfection of security interests in property subject to certain**
15 **statutes, regulations, and treaties. (1) SECURITY INTEREST SUBJECT TO OTHER LAW.**
16 Except as otherwise provided in sub. (4), the filing of a financing statement is not
17 necessary or effective to perfect a security interest in property subject to:

18 (a) A statute, regulation, or treaty of the United States whose requirements for
19 a security interest's obtaining priority over the rights of a lien creditor with respect
20 to the property preempt s. 409.310 (1).

21 (b) The following vehicle title statutes: ss. 342.19 and 342.20.

22 (bm) The following boat title statutes: ss. 30.57, 30.572, and 30.573.

23 (c) A certificate-of-title statute of another jurisdiction which provides for a
24 security interest to be indicated on the certificate as a condition or result of the

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1 security interest's obtaining priority over the rights of a lien creditor with respect to
2 the property.

3 (d) Sections 182.025 and 190.11 and other statutes providing for central filing.

4 (e) A master lease entered into by the state under s. 16.76 (4).

5 (f) The manufactured home security interest provisions under subch. V of ch.
6 101.

7 **(2) COMPLIANCE WITH OTHER LAW.** Compliance with the requirements of a
8 statute, regulation, or treaty described in sub. (1) for obtaining priority over the
9 rights of a lien creditor is equivalent to the filing of a financing statement under this
10 chapter. Except as otherwise provided in sub. (4) and ss. 409.313 and 409.316 (4) and
11 (5) for goods covered by a certificate of title, a security interest in property subject
12 to a statute, regulation, or treaty described in sub. (1) may be perfected only by
13 compliance with those requirements, and a security interest so perfected remains
14 perfected notwithstanding a change in the use or transfer of possession of the
15 collateral.

16 **(3) DURATION AND RENEWAL OF PERFECTION.** Except as otherwise provided in sub.
17 (4) and s. 409.316 (4) and (5), duration and renewal of perfection of a security interest
18 perfected by compliance with the requirements prescribed by a statute, regulation,
19 or treaty described in sub. (1) are governed by the statute, regulation, or treaty. In
20 other respects, the security interest is subject to this chapter.

21 **(4) INAPPLICABILITY TO CERTAIN INVENTORY.** During any period in which collateral
22 subject to a statute specified in sub. (1) (b), (bm), or (f) is inventory held for sale or
23 lease by a person or leased by that person as lessor and that person is in the business
24 of selling goods of that kind, this section does not apply to a security interest in that
25 collateral created by that person.

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1 **409.312 Perfection of security interests in chattel paper, deposit**
2 **accounts, documents, goods covered by documents, instruments,**
3 **investment property, letter-of-credit rights, and money; perfection by**
4 **permissive filing; temporary perfection without filing or transfer of**
5 **possession. (1) PERFECTION BY FILING PERMITTED.** A security interest in chattel
6 paper, negotiable documents, instruments, or investment property may be perfected
7 by filing.

8 **(2) CONTROL OR POSSESSION OF CERTAIN COLLATERAL.** Except as otherwise
9 provided in s. 409.315 (3) and (4) for proceeds:

10 (a) A security interest in a deposit account may be perfected only by control
11 under s. 409.314;

12 (b) And except as otherwise provided in s. 409.308 (4), a security interest in a
13 letter-of-credit right may be perfected only by control under s. 409.314; and

14 (c) A security interest in money may be perfected only by the secured party's
15 taking possession under s. 409.313.

16 **(3) GOODS COVERED BY NEGOTIABLE DOCUMENT.** While goods are in the possession
17 of a bailee that has issued a negotiable document covering the goods:

18 (a) A security interest in the goods may be perfected by perfecting a security
19 interest in the document; and

20 (b) A security interest perfected in the document has priority over any security
21 interest that becomes perfected in the goods by another method during that time.

22 **(4) GOODS COVERED BY NONNEGOTIABLE DOCUMENT.** While goods are in the
23 possession of a bailee that has issued a nonnegotiable document covering the goods,
24 a security interest in the goods may be perfected by:

25 (a) Issuance of a document in the name of the secured party;

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1 (b) The bailee's receipt of notification of the secured party's interest; or

2 (c) Filing as to the goods.

3 **(5) TEMPORARY PERFECTION: NEW VALUE.** A security interest in certificated
4 securities, negotiable documents, or instruments is perfected without filing or the
5 taking of possession for a period of 20 days from the time it attaches to the extent that
6 it arises for new value given under an authenticated security agreement.

7 **(6) TEMPORARY PERFECTION: GOODS OR DOCUMENTS MADE AVAILABLE TO DEBTOR.** A
8 perfected security interest in a negotiable document or goods in possession of a
9 bailee, other than one that has issued a negotiable document for the goods, remains
10 perfected for 20 days without filing if the secured party makes available to the debtor
11 the goods or documents representing the goods for the purpose of:

12 (a) Ultimate sale or exchange; or

13 (b) Loading, unloading, storing, shipping, transshipping, manufacturing,
14 processing, or otherwise dealing with them in a manner preliminary to their sale or
15 exchange.

16 **(7) TEMPORARY PERFECTION: DELIVERY OF SECURITY CERTIFICATE OR INSTRUMENT TO**
17 **DEBTOR.** A perfected security interest in a certificated security or instrument remains
18 perfected for 20 days without filing if the secured party delivers the security
19 certificate or instrument to the debtor for the purpose of:

20 (a) Ultimate sale or exchange; or

21 (b) Presentation, collection, enforcement, renewal, or registration of transfer.

22 **(8) EXPIRATION OF TEMPORARY PERFECTION.** After the 20-day period specified in
23 sub. (5), (6), or (7) expires, perfection depends upon compliance with this chapter.

24 **409.313 When possession by or delivery to secured party perfects**
25 **security interest without filing. (1) PERFECTION BY POSSESSION OR DELIVERY.**

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1 Except as otherwise provided in sub. (2), a secured party may perfect a security
2 interest in negotiable documents, goods, instruments, money, or tangible chattel
3 paper by taking possession of the collateral. A secured party may perfect a security
4 interest in certificated securities by taking delivery of the certificated securities
5 under s. 408.301.

6 **(2) GOODS COVERED BY CERTIFICATE OF TITLE.** With respect to goods covered by
7 a certificate of title issued by this state, a secured party may perfect a security
8 interest in the goods by taking possession of the goods only in the circumstances
9 described in s. 409.316 (4).

10 **(3) COLLATERAL IN POSSESSION OF PERSON OTHER THAN DEBTOR.** With respect to
11 collateral other than certificated securities and goods covered by a document, a
12 secured party takes possession of collateral in the possession of a person other than
13 the debtor, the secured party, or a lessee of the collateral from the debtor in the
14 ordinary course of the debtor's business, when:

15 (a) The person in possession authenticates a record acknowledging that the
16 person holds possession of the collateral for the secured party's benefit; or

17 (b) The person takes possession of the collateral after having authenticated a
18 record acknowledging that the person will hold possession of collateral for the
19 secured party's benefit.

20 **(4) TIME OF PERFECTION BY POSSESSION; CONTINUATION OF PERFECTION.** If
21 perfection of a security interest depends upon possession of the collateral by a
22 secured party, perfection occurs no earlier than the time the secured party takes
23 possession and continues only while the secured party retains possession.

24 **(5) TIME OF PERFECTION BY DELIVERY; CONTINUATION OF PERFECTION.** A security
25 interest in a certificated security in registered form is perfected by delivery when

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1 delivery of the certificated security occurs under s. 408.301 and remains perfected
2 by delivery until the debtor obtains possession of the security certificate.

3 (6) ACKNOWLEDGMENT NOT REQUIRED. A person in possession of collateral is not
4 required to acknowledge that it holds possession for a secured party's benefit.

5 (7) EFFECTIVENESS OF ACKNOWLEDGMENT; NO DUTIES OR CONFIRMATION. If a person
6 acknowledges that it holds possession for the secured party's benefit:

7 (a) The acknowledgment is effective under sub. (3) or s. 408.301 (1), even if the
8 acknowledgment violates the rights of a debtor; and

9 (b) Unless the person otherwise agrees or law other than this chapter otherwise
10 provides, the person does not owe any duty to the secured party and is not required
11 to confirm the acknowledgment to another person.

12 (8) SECURED PARTY'S DELIVERY TO PERSON OTHER THAN DEBTOR. A secured party
13 having possession of collateral does not relinquish possession by delivering the
14 collateral to a person other than the debtor or a lessee of the collateral from the debtor
15 in the ordinary course of the debtor's business if the person was instructed before the
16 delivery or is instructed contemporaneously with the delivery:

17 (a) To hold possession of the collateral for the secured party's benefit; or

18 (b) To redeliver the collateral to the secured party.

19 (9) EFFECT OF DELIVERY UNDER SUB. (8); NO DUTIES OR CONFIRMATION. A secured
20 party does not relinquish possession, even if a delivery under sub. (8) violates the
21 rights of a debtor. A person to which collateral is delivered under sub. (8) does not
22 owe any duty to the secured party and is not required to confirm the delivery to
23 another person unless the person otherwise agrees or law other than this chapter
24 otherwise provides.

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1 **409.314 Perfection by control.** (1) PERFECTION BY CONTROL. A security
2 interest in investment property, deposit accounts, letter-of-credit rights, or
3 electronic chattel paper may be perfected by control of the collateral under s. 409.104,
4 409.105, 409.106, or 409.107.

5 (2) SPECIFIED COLLATERAL: TIME OF PERFECTION BY CONTROL; CONTINUATION OF
6 PERFECTION. A security interest in deposit accounts, electronic chattel paper, or
7 letter-of-credit rights is perfected by control under s. 409.104, 409.105, or 409.107
8 when the secured party obtains control and remains perfected by control only while
9 the secured party retains control.

10 (3) INVESTMENT PROPERTY: TIME OF PERFECTION BY CONTROL; CONTINUATION OF
11 PERFECTION. A security interest in investment property is perfected by control under
12 s. 409.106 from the time the secured party obtains control and remains perfected by
13 control until:

14 (a) The secured party does not have control; and

15 (b) One of the following occurs:

16 1. If the collateral is a certificated security, the debtor has or acquires
17 possession of the security certificate;

18 2. If the collateral is an uncertificated security, the issuer has registered or
19 registers the debtor as the registered owner; or

20 3. If the collateral is a security entitlement, the debtor is or becomes the
21 entitlement holder.

22 **409.315 Secured party's rights on disposition of collateral and in**
23 **proceeds.** (1) DISPOSITION OF COLLATERAL: CONTINUATION OF SECURITY INTEREST OR
24 AGRICULTURAL LIEN; PROCEEDS. Except as otherwise provided in this chapter and in s.
25 402.403 (2):

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1 (a) A security interest or agricultural lien continues in collateral
2 notwithstanding sale, lease, license, exchange, or other disposition thereof unless
3 the secured party authorized the disposition free of the security interest or
4 agricultural lien; and

5 (b) A security interest attaches to any identifiable proceeds of collateral.

6 **(2) WHEN COMMINGLED PROCEEDS IDENTIFIABLE.** Proceeds that are commingled
7 with other property are identifiable proceeds:

8 (a) If the proceeds are goods, to the extent provided by s. 409.336; and

9 (b) If the proceeds are not goods, to the extent that the secured party identifies
10 the proceeds by a method of tracing, including application of equitable principles,
11 that is permitted under law other than this chapter with respect to commingled
12 property of the type involved.

13 **(3) PERFECTION OF SECURITY INTEREST IN PROCEEDS.** A security interest in
14 proceeds is a perfected security interest if the security interest in the original
15 collateral was perfected.

16 **(4) CONTINUATION OF PERFECTION.** A perfected security interest in proceeds
17 becomes unperfected on the 21st day after the security interest attaches to the
18 proceeds unless:

19 (a) The following conditions are satisfied:

20 1. A filed financing statement covers the original collateral;

21 2. The proceeds are collateral in which a security interest may be perfected by
22 filing in the office in which the financing statement has been filed; and

23 3. The proceeds are not acquired with cash proceeds;

24 (b) The proceeds are identifiable cash proceeds; or

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1 (c) The security interest in the proceeds is perfected other than under sub. (3)
2 when the security interest attaches to the proceeds or within 20 days thereafter.

3 **(5) WHEN PERFECTED SECURITY INTEREST IN PROCEEDS BECOMES UNPERFECTED.** If
4 a filed financing statement covers the original collateral, a security interest in
5 proceeds which remains perfected under sub. (4) (a) becomes unperfected at the later
6 of:

7 (a) When the effectiveness of the filed financing statement lapses under s.
8 409.515 or is terminated under s. 409.513; or

9 (b) The 21st day after the security interest attaches to the proceeds.

10 **409.316 Continued perfection of security interest following change in**
11 **governing law. (1) GENERAL RULE: EFFECT ON PERFECTION OF CHANGE IN GOVERNING**
12 **LAW.** A security interest perfected pursuant to the law of the jurisdiction designated
13 in s. 409.301 (1) or 409.305 (3) remains perfected until the earliest of:

14 (a) The time perfection would have ceased under the law of that jurisdiction;

15 (b) The expiration of 4 months after a change of the debtor's location to another
16 jurisdiction; or

17 (c) The expiration of one year after a transfer of collateral to a person that
18 thereby becomes a debtor and is located in another jurisdiction.

19 **(2) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW**
20 **JURISDICTION.** If a security interest described in sub. (1) becomes perfected under the
21 law of the other jurisdiction before the earliest time or event described in that
22 subsection, it remains perfected thereafter. If the security interest does not become
23 perfected under the law of the other jurisdiction before the earliest time or event, it
24 becomes unperfected and is deemed never to have been perfected as against a
25 purchaser of the collateral for value.

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1 **(3) POSSESSORY SECURITY INTEREST IN COLLATERAL MOVED TO NEW JURISDICTION.**

2 A possessory security interest in collateral, other than goods covered by a certificate
3 of title and as-extracted collateral consisting of goods, remains continuously
4 perfected if:

5 (a) The collateral is located in one jurisdiction and subject to a security interest
6 perfected under the law of that jurisdiction;

7 (b) Thereafter the collateral is brought into another jurisdiction; and

8 (c) Upon entry into the other jurisdiction, the security interest is perfected
9 under the law of the other jurisdiction.

10 **(4) GOODS COVERED BY CERTIFICATE OF TITLE FROM THIS STATE.** Except as otherwise
11 provided in sub. (5), a security interest in goods covered by a certificate of title which
12 is perfected by any method under the law of another jurisdiction when the goods
13 become covered by a certificate of title from this state remains perfected until the
14 security interest would have become unperfected under the law of the other
15 jurisdiction had the goods not become so covered.

16 **(5) WHEN SUB. (4) SECURITY INTEREST BECOMES UNPERFECTED AGAINST PURCHASERS.**

17 A security interest described in sub. (4) becomes unperfected as against a purchaser
18 of the goods for value and is deemed never to have been perfected as against a
19 purchaser of the goods for value if the applicable requirements for perfection under
20 s. 409.311 (2) or 409.313 are not satisfied before the earlier of:

21 (a) The time the security interest would have become unperfected under the law
22 of the other jurisdiction had the goods not become covered by a certificate of title from
23 this state; or

24 (b) The expiration of 4 months after the goods had become so covered.

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1 **(6)** CHANGE IN JURISDICTION OF BANK, ISSUER, NOMINATED PERSON, SECURITIES
2 INTERMEDIARY, OR COMMODITY INTERMEDIARY. A security interest in deposit accounts,
3 letter-of-credit rights, or investment property which is perfected under the law of
4 the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction,
5 the securities intermediary's jurisdiction, or the commodity intermediary's
6 jurisdiction, as applicable, remains perfected until the earlier of:

7 (a) The time the security interest would have become unperfected under the
8 law of that jurisdiction; or

9 (b) The expiration of 4 months after a change of the applicable jurisdiction to
10 another jurisdiction.

11 **(7)** SUB. (6) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW
12 JURISDICTION. If a security interest described in sub. (6) becomes perfected under the
13 law of the other jurisdiction before the earlier of the time or the end of the period
14 described in that subsection, it remains perfected thereafter. If the security interest
15 does not become perfected under the law of the other jurisdiction before the earlier
16 of that time or the end of that period, it becomes unperfected and is deemed never
17 to have been perfected as against a purchaser of the collateral for value.

18 **409.317 Interests that take priority over or take free of security**
19 **interest or agricultural lien. (1)** CONFLICTING SECURITY INTERESTS AND RIGHTS OF
20 LIEN CREDITORS. A security interest or agricultural lien is subordinate to the rights
21 of:

22 (a) A person entitled to priority under s. 409.322; and

23 (b) Except as otherwise provided in sub. (5), a person that becomes a lien
24 creditor before the earlier of the time:

25 1. The security interest or agricultural lien is perfected; or

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1 2. One of the conditions specified in s. 409.203 (2) (c) is met and a financing
2 statement covering the collateral is filed.

3 **(2) BUYERS THAT RECEIVE DELIVERY.** Except as otherwise provided in sub. (5), a
4 buyer, other than a secured party, of tangible chattel paper, documents, goods,
5 instruments, or a security certificate takes free of a security interest or agricultural
6 lien if the buyer gives value and receives delivery of the collateral without knowledge
7 of the security interest or agricultural lien and before it is perfected.

8 **(3) LESSEES THAT RECEIVE DELIVERY.** Except as otherwise provided in sub. (5),
9 a lessee of goods takes free of a security interest or agricultural lien if the lessee gives
10 value and receives delivery of the collateral without knowledge of the security
11 interest or agricultural lien and before it is perfected.

12 **(4) LICENSEES AND BUYERS OF CERTAIN COLLATERAL.** A licensee of a general
13 intangible or a buyer, other than a secured party, of accounts, electronic chattel
14 paper, general intangibles, or investment property other than a certificated security
15 takes free of a security interest if the licensee or buyer gives value without knowledge
16 of the security interest and before it is perfected.

17 **(5) PURCHASE-MONEY SECURITY INTEREST.** Except as otherwise provided in ss.
18 409.320 and 409.321, if a person files a financing statement with respect to a
19 purchase-money security interest before or within 20 days after the debtor receives
20 delivery of the collateral, the security interest takes priority over the rights of a
21 buyer, lessee, or lien creditor which arise between the time the security interest
22 attaches and the time of filing.

23 **409.318 No interest retained in right to payment that is sold; rights and**
24 **title of seller of account or chattel paper with respect to creditors and**
25 **purchasers. (1) SELLER RETAINS NO INTEREST.** A debtor that has sold an account,

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1 chattel paper, payment intangible, or promissory note does not retain a legal or
2 equitable interest in the collateral sold.

3 (2) DEEMED RIGHTS OF DEBTOR IF BUYER'S SECURITY INTEREST UNPERFECTED. For
4 purposes of determining the rights of creditors of, and purchasers for value of an
5 account or chattel paper from, a debtor that has sold an account or chattel paper,
6 while the buyer's security interest is unperfected, the debtor is deemed to have rights
7 and title to the account or chattel paper identical to those the debtor sold.

8 **409.319 Rights and title of consignee with respect to creditors and**
9 **purchasers.** (1) CONSIGNEE HAS CONSIGNOR'S RIGHTS. Except as otherwise provided
10 in sub. (2), for purposes of determining the rights of creditors of, and purchasers for
11 value of goods from, a consignee, while the goods are in the possession of the
12 consignee, the consignee is deemed to have rights and title to the goods identical to
13 those the consignor had or had power to transfer.

14 (2) APPLICABILITY OF OTHER LAW. For purposes of determining the rights of a
15 creditor of a consignee, law other than this chapter determines the rights and title
16 of a consignee while goods are in the consignee's possession if, under this subchapter,
17 a perfected security interest held by the consignor would have priority over the rights
18 of the creditor.

19 **409.320 Buyer of goods.** (1) BUYER IN ORDINARY COURSE OF BUSINESS. Except
20 as otherwise provided in sub. (5), a buyer in ordinary course of business, other than
21 a person buying farm products from a person engaged in farming operations, takes
22 free of a security interest created by the buyer's seller, even if the security interest
23 is perfected and the buyer knows of its existence.

24 (2) BUYER OF CONSUMER GOODS. Except as otherwise provided in sub. (5), a buyer
25 of goods from a person who used or bought the goods for use primarily for personal,

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1 family, or household purposes takes free of a security interest, even if perfected, if the
2 buyer buys:

- 3 (a) Without knowledge of the security interest;
- 4 (b) For value;
- 5 (c) Primarily for the buyer's personal, family, or household purposes; and
- 6 (d) Before the filing of a financing statement covering the goods.

7 **(3) EFFECTIVENESS OF FILING FOR SUB. (2).** To the extent that it affects the priority
8 of a security interest over a buyer of goods under sub. (2), the period of effectiveness
9 of a filing made in the jurisdiction in which the seller is located is governed by s.
10 409.316 (1) and (2).

11 **(4) BUYER IN ORDINARY COURSE OF BUSINESS AT WELLHEAD OR MINEHEAD.** A buyer
12 in ordinary course of business buying oil, gas, or other minerals at the wellhead or
13 minehead or after extraction takes free of an interest arising out of an encumbrance.

14 **(5) POSSESSORY SECURITY INTEREST NOT AFFECTED.** Subsections (1) and (2) do not
15 affect a security interest in goods in the possession of the secured party under s.
16 409.313.

17 **409.321 Licensee of general intangible and lessee of goods in ordinary**
18 **course of business. (1) LICENSEE IN ORDINARY COURSE OF BUSINESS.** In this section,
19 "licensee in ordinary course of business" means a person that becomes a licensee of
20 a general intangible in good faith, without knowledge that the license violates the
21 rights of another person in the general intangible, and in the ordinary course from
22 a person in the business of licensing general intangibles of that kind. A person
23 becomes a licensee in the ordinary course if the license to the person comports with
24 the usual or customary practices in the kind of business in which the licensor is
25 engaged or with the licensor's own usual or customary practices.

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1 **(2) RIGHTS OF LICENSEE IN ORDINARY COURSE OF BUSINESS.** A licensee in ordinary
2 course of business takes its rights under a nonexclusive license free of a security
3 interest in the general intangible created by the licensor, even if the security interest
4 is perfected and the licensee knows of its existence.

5 **(3) RIGHTS OF LESSEE IN ORDINARY COURSE OF BUSINESS.** A lessee in ordinary
6 course of business takes its leasehold interest free of a security interest in the goods
7 created by the lessor, even if the security interest is perfected and the lessee knows
8 of its existence.

9 **409.322 Priorities among conflicting security interests in and**
10 **agricultural liens on same collateral. (1) GENERAL PRIORITY RULES.** Except as
11 otherwise provided in this section, priority among conflicting security interests and
12 agricultural liens in the same collateral is determined according to the following
13 rules:

14 (a) Conflicting perfected security interests and agricultural liens rank
15 according to priority in time of filing or perfection. Priority dates from the earlier of
16 the time a filing covering the collateral is first made or the security interest or
17 agricultural lien is first perfected, if there is no period thereafter when there is
18 neither filing nor perfection.

19 (b) A perfected security interest or agricultural lien has priority over a
20 conflicting unperfected security interest or agricultural lien.

21 (c) The first security interest or agricultural lien to attach or become effective
22 has priority if conflicting security interests and agricultural liens are unperfected.

23 **(2) TIME OF PERFECTION: PROCEEDS AND SUPPORTING OBLIGATIONS.** For the
24 purposes of sub. (1) (a):

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1 (a) The time of filing or perfection as to a security interest in collateral is also
2 the time of filing or perfection as to a security interest in proceeds; and

3 (b) The time of filing or perfection as to a security interest in collateral
4 supported by a supporting obligation is also the time of filing or perfection as to a
5 security interest in the supporting obligation.

6 **(3) SPECIAL PRIORITY RULES: PROCEEDS AND SUPPORTING OBLIGATIONS.** Except as
7 otherwise provided in sub. (6), a security interest in collateral which qualifies for
8 priority over a conflicting security interest under s. 409.327, 409.328, 409.329,
9 409.330, or 409.331 also has priority over a conflicting security interest in:

10 (a) Any supporting obligation for the collateral; and

11 (b) Proceeds of the collateral if:

12 1. The security interest in proceeds is perfected;

13 2. The proceeds are cash proceeds or of the same type as the collateral; and

14 3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds
15 are cash proceeds, proceeds of the same type as the collateral, or an account relating
16 to the collateral.

17 **(4) FIRST-TO-FILE PRIORITY RULE FOR CERTAIN COLLATERAL.** Subject to sub. (5) and
18 except as otherwise provided in sub. (6), if a security interest in chattel paper, deposit
19 accounts, negotiable documents, instruments, investment property, or
20 letter-of-credit rights is perfected by a method other than filing, conflicting
21 perfected security interests in proceeds of the collateral rank according to priority in
22 time of filing.

23 **(5) APPLICABILITY OF SUB. (4).** Subsection (4) applies only if the proceeds of the
24 collateral are not cash proceeds, chattel paper, negotiable documents, instruments,
25 investment property, or letter-of-credit rights.

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1 **(6) LIMITATIONS ON SUBS. (1) TO (5).** Subsections (1) to (5) are subject to:

2 (a) Subsection (7) and the other provisions of this subchapter;

3 (b) Section 404.210 with respect to a security interest of a collecting bank;

4 (c) Section 405.118 with respect to a security interest of an issuer or nominated
5 person; and

6 (d) Section 409.110 with respect to a security interest arising under ch. 402 or
7 411.

8 **(7) PRIORITY UNDER AGRICULTURAL LIEN STATUTE.** A perfected agricultural lien on
9 collateral has priority over a conflicting security interest in or agricultural lien on
10 the same collateral if the statute creating the agricultural lien so provides.

11 **409.323 Future advances. (1) WHEN PRIORITY BASED ON TIME OF ADVANCE.**
12 Except as otherwise provided in sub. (3), for purposes of determining the priority of
13 a perfected security interest under s. 409.322 (1) (a), perfection of the security
14 interest dates from the time an advance is made to the extent that the security
15 interest secures an advance that:

16 (a) Is made while the security interest is perfected only:

17 1. Under s. 409.309 when it attaches; or

18 2. Temporarily under s. 409.312 (5), (6), or (7); and

19 (b) Is not made pursuant to a commitment entered into before or while the
20 security interest is perfected by a method other than under s. 409.309 or 409.312 (5),
21 (6), or (7).

22 **(2) LIEN CREDITOR.** Except as otherwise provided in sub. (3), a security interest
23 is subordinate to the rights of a person that becomes a lien creditor to the extent that
24 the security interest secures an advance made more than 45 days after the person
25 becomes a lien creditor unless the advance is made:

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1 (a) Without knowledge of the lien; or

2 (b) Pursuant to a commitment entered into without knowledge of the lien.

3 **(3) BUYER OF RECEIVABLES.** Subsections (1) and (2) do not apply to a security
4 interest held by a secured party that is a buyer of accounts, chattel paper, payment
5 intangibles, or promissory notes or a consignor.

6 **(4) BUYER OF GOODS.** Except as otherwise provided in sub. (5), a buyer of goods
7 other than a buyer in ordinary course of business takes free of a security interest to
8 the extent that it secures advances made after the earlier of:

9 (a) The time the secured party acquires knowledge of the buyer's purchase; or

10 (b) Forty-five days after the purchase.

11 **(5) ADVANCES MADE PURSUANT TO COMMITMENT: PRIORITY OF BUYER OF GOODS.**
12 Subsection (4) does not apply if the advance is made pursuant to a commitment
13 entered into without knowledge of the buyer's purchase and before the expiration of
14 the 45-day period.

15 **(6) LESSEE OF GOODS.** Except as otherwise provided in sub. (7), a lessee of goods,
16 other than a lessee in ordinary course of business, takes the leasehold interest free
17 of a security interest to the extent that it secures advances made after the earlier of:

18 (a) The time the secured party acquires knowledge of the lease; or

19 (b) Forty-five days after the lease contract becomes enforceable.

20 **(7) ADVANCES MADE PURSUANT TO COMMITMENT: PRIORITY OF LESSEE OF GOODS.**
21 Subsection (6) does not apply if the advance is made pursuant to a commitment
22 entered into without knowledge of the lease and before the expiration of the 45-day
23 period.

24 **409.324 Priority of purchase-money security interests. (1) GENERAL**
25 **RULE: PURCHASE-MONEY PRIORITY.** Except as otherwise provided in sub. (7), a perfected

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1 purchase-money security interest in goods other than inventory or livestock has
2 priority over a conflicting security interest in the same goods, and, except as
3 otherwise provided in s. 409.327, a perfected security interest in its identifiable
4 proceeds also has priority, if the purchase-money security interest is perfected when
5 the debtor receives possession of the collateral or within 20 days thereafter.

6 (2) INVENTORY PURCHASE-MONEY PRIORITY. Subject to sub. (3) and except as
7 otherwise provided in sub. (7), a perfected purchase-money security interest in
8 inventory has priority over a conflicting security interest in the same inventory, has
9 priority over a conflicting security interest in chattel paper or an instrument
10 constituting proceeds of the inventory and in proceeds of the chattel paper, if so
11 provided in s. 409.330, and, except as otherwise provided in s. 409.327, also has
12 priority in identifiable cash proceeds of the inventory to the extent that the
13 identifiable cash proceeds are received on or before the delivery of the inventory to
14 a buyer, if:

15 (a) The purchase-money security interest is perfected when the debtor receives
16 possession of the inventory;

17 (b) The purchase-money secured party sends an authenticated notification to
18 the holder of the conflicting security interest;

19 (c) The holder of the conflicting security interest receives the notification
20 within 5 years before the debtor receives possession of the inventory; and

21 (d) The notification states that the person sending the notification has or
22 expects to acquire a purchase-money security interest in inventory of the debtor and
23 describes the inventory.

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1 **(3) HOLDERS OF CONFLICTING INVENTORY SECURITY INTERESTS TO BE NOTIFIED.**

2 Subsection (2) (b) to (d) applies only if the holder of the conflicting security interest
3 had filed a financing statement covering the same types of inventory:

4 (a) If the purchase-money security interest is perfected by filing, before the
5 date of the filing; or

6 (b) If the purchase-money security interest is temporarily perfected without
7 filing or possession under s. 409.312 (6), before the beginning of the 20-day period
8 thereunder.

9 **(4) LIVESTOCK PURCHASE-MONEY PRIORITY.** Subject to sub. (5) and except as
10 otherwise provided in sub. (7), a perfected purchase-money security interest in
11 livestock that are farm products has priority over a conflicting security interest in
12 the same livestock, and, except as otherwise provided in s. 409.327, a perfected
13 security interest in their identifiable proceeds and identifiable products in their
14 unmanufactured states also has priority, if:

15 (a) The purchase-money security interest is perfected when the debtor receives
16 possession of the livestock;

17 (b) The purchase-money secured party sends an authenticated notification to
18 the holder of the conflicting security interest;

19 (c) The holder of the conflicting security interest receives the notification
20 within 6 months before the debtor receives possession of the livestock; and

21 (d) The notification states that the person sending the notification has or
22 expects to acquire a purchase-money security interest in livestock of the debtor and
23 describes the livestock.

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1 **(5) HOLDERS OF CONFLICTING LIVESTOCK SECURITY INTERESTS TO BE NOTIFIED.**

2 Subsection (4) (b) to (d) applies only if the holder of the conflicting security interest
3 had filed a financing statement covering the same types of livestock:

4 (a) If the purchase-money security interest is perfected by filing, before the
5 date of the filing; or

6 (b) If the purchase-money security interest is temporarily perfected without
7 filing or possession under s. 409.312 (6), before the beginning of the 20-day period
8 thereunder.

9 **(6) SOFTWARE PURCHASE-MONEY PRIORITY.** Except as otherwise provided in sub.
10 (7), a perfected purchase-money security interest in software has priority over a
11 conflicting security interest in the same collateral, and, except as otherwise provided
12 in s. 409.327, a perfected security interest in its identifiable proceeds also has
13 priority, to the extent that the purchase-money security interest in the goods in
14 which the software was acquired for use has priority in the goods and proceeds of the
15 goods under this section.

16 **(7) CONFLICTING PURCHASE-MONEY SECURITY INTERESTS.** If more than one security
17 interest qualifies for priority in the same collateral under sub. (1), (2), (4), or (6):

18 (a) A security interest securing an obligation incurred as all or part of the price
19 of the collateral has priority over a security interest securing an obligation incurred
20 for value given to enable the debtor to acquire rights in or the use of collateral; and

21 (b) In all other cases, s. 409.322 (1) applies to the qualifying security interests.

22 **409.325 Priority of security interests in transferred collateral. (1)**

23 SUBORDINATION OF SECURITY INTEREST IN TRANSFERRED COLLATERAL. Except as
24 otherwise provided in sub. (2), a security interest created by a debtor is subordinate
25 to a security interest in the same collateral created by another person if:

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1 (a) The debtor acquired the collateral subject to the security interest created
2 by the other person;

3 (b) The security interest created by the other person was perfected when the
4 debtor acquired the collateral; and

5 (c) There is no period thereafter when the security interest is unperfected.

6 **(2) LIMITATION OF SUB. (1) SUBORDINATION.** Subsection (1) subordinates a security
7 interest only if the security interest:

8 (a) Otherwise would have priority solely under s. 409.322 (1) or 409.324; or

9 (b) Arose solely under s. 402.711 (3) or 411.508 (5).

10 **409.326 Priority of security interests created by new debtor. (1)**

11 SUBORDINATION OF SECURITY INTEREST CREATED BY NEW DEBTOR. Subject to sub. (2), a
12 security interest created by a new debtor which is perfected by a filed financing
13 statement that is effective solely under s. 409.508 in collateral in which a new debtor
14 has or acquires rights is subordinate to a security interest in the same collateral
15 which is perfected other than by a filed financing statement that is effective solely
16 under s. 409.508.

17 **(2) PRIORITY UNDER OTHER PROVISIONS; MULTIPLE ORIGINAL DEBTORS.** The other
18 provisions of this subchapter determine the priority among conflicting security
19 interests in the same collateral perfected by filed financing statements that are
20 effective solely under s. 409.508. However, if the security agreements to which a new
21 debtor became bound as debtor were not entered into by the same original debtor, the
22 conflicting security interests rank according to priority in time of the new debtor's
23 having become bound.

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1 **409.327 Priority of security interests in deposit account.** The following
2 rules govern priority among conflicting security interests in the same deposit
3 account:

4 **(1) CONTROL BY SECURED PARTY.** A security interest held by a secured party
5 having control of the deposit account under s. 409.104 has priority over a conflicting
6 security interest held by a secured party that does not have control.

7 **(2) PRIORITY IN TIME OF CONTROL.** Except as otherwise provided in subs. (3) and
8 (4), security interests perfected by control under s. 409.314 rank according to priority
9 in time of obtaining control.

10 **(3) PRIORITY OF BANK REGARDING DEPOSIT ACCOUNT.** Except as otherwise provided
11 in sub. (4), a security interest held by the bank with which the deposit account is
12 maintained has priority over a conflicting security interest held by another secured
13 party.

14 **(4) PRIORITY OVER BANK REGARDING DEPOSIT ACCOUNT.** A security interest
15 perfected by control under s. 409.104 (1) (c) has priority over a security interest held
16 by the bank with which the deposit account is maintained.

17 **409.328 Priority of security interests in investment property.** The
18 following rules govern priority among conflicting security interests in the same
19 investment property:

20 **(1) CONTROL BY SECURED PARTY.** A security interest held by a secured party
21 having control of investment property under s. 409.106 has priority over a security
22 interest held by a secured party that does not have control of the investment
23 property.

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1 **(2) PRIORITY IN TIME OF CONTROL.** Except as otherwise provided in subs. (3) and
2 (4), conflicting security interests held by secured parties each of which has control
3 under s. 409.106 rank according to priority in time of:

4 (a) If the collateral is a security, obtaining control;

5 (b) If the collateral is a security entitlement carried in a securities account and:

6 1. If the secured party obtained control under s. 408.106 (4) (a), the secured
7 party's becoming the person for which the securities account is maintained;

8 2. If the secured party obtained control under s. 408.106 (4) (b), the securities
9 intermediary's agreement to comply with the secured party's entitlement orders with
10 respect to security entitlements carried or to be carried in the securities account; or

11 3. If the secured party obtained control through another person under s.
12 408.106 (4) (c), the time on which priority would be based under this subsection if the
13 other person were the secured party; or

14 (c) If the collateral is a commodity contract carried with a commodity
15 intermediary, the satisfaction of the requirement for control specified in s. 409.106
16 (2) (b) with respect to commodity contracts carried or to be carried with the
17 commodity intermediary.

18 **(3) PRIORITY OF SECURITIES INTERMEDIARY REGARDING ENTITLEMENT OR ACCOUNT.**
19 A security interest held by a securities intermediary in a security entitlement or a
20 securities account maintained with the securities intermediary has priority over a
21 conflicting security interest held by another secured party.

22 **(4) PRIORITY OF SECURITIES INTERMEDIARY REGARDING CONTRACT OR ACCOUNT.** A
23 security interest held by a commodity intermediary in a commodity contract or a
24 commodity account maintained with the commodity intermediary has priority over
25 a conflicting security interest held by another secured party.

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1 **(5) PRIORITY IN CERTIFICATED SECURITIES.** A security interest in a certificated
2 security in registered form which is perfected by taking delivery under s. 409.313 (1)
3 and not by control under s. 409.314 has priority over a conflicting security interest
4 perfected by a method other than control.

5 **(6) PRIORITY OF CONFLICTING SECURITY INTERESTS; INTERMEDIARIES.** Conflicting
6 security interests created by a broker, securities intermediary, or commodity
7 intermediary which are perfected without control under s. 409.106 rank equally.

8 **(7) PRIORITY OF CONFLICTING SECURITY INTERESTS; OTHERS.** In all other cases,
9 priority among conflicting security interests in investment property is governed by
10 ss. 409.322 and 409.323.

11 **409.329 Priority of security interests in letter-of-credit right.** The
12 following rules govern priority among conflicting security interests in the same
13 letter-of-credit right:

14 **(1) CONTROL BY SECURED PARTY.** A security interest held by a secured party
15 having control of the letter-of-credit right under s. 409.107 has priority to the extent
16 of its control over a conflicting security interest held by a secured party that does not
17 have control.

18 **(2) PRIORITY IN TIME OF CONTROL.** Security interests perfected by control under
19 s. 409.314 rank according to priority in time of obtaining control.

20 **409.330 Priority of purchaser of chattel paper or instrument. (1)**
21 **PURCHASER'S PRIORITY: SECURITY INTEREST CLAIMED MERELY AS PROCEEDS.** A purchaser
22 of chattel paper has priority over a security interest in the chattel paper which is
23 claimed merely as proceeds of inventory subject to a security interest if:

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1 (a) In good faith and in the ordinary course of the purchaser's business, the
2 purchaser gives new value and takes possession of the chattel paper or obtains
3 control of the chattel paper under s. 409.105; and

4 (b) The chattel paper does not indicate that it has been assigned to an identified
5 assignee other than the purchaser.

6 **(2) PURCHASER'S PRIORITY: OTHER SECURITY INTERESTS.** A purchaser of chattel
7 paper has priority over a security interest in the chattel paper which is claimed other
8 than merely as proceeds of inventory subject to a security interest if the purchaser
9 gives new value and takes possession of the chattel paper or obtains control of the
10 chattel paper under s. 409.105 in good faith, in the ordinary course of the purchaser's
11 business, and without knowledge that the purchase violates the rights of the secured
12 party.

13 **(3) CHATTEL PAPER PURCHASER'S PRIORITY IN PROCEEDS.** Except as otherwise
14 provided in s. 409.327, a purchaser having priority in chattel paper under sub. (1)
15 or (2) also has priority in proceeds of the chattel paper to the extent that:

16 (a) Section 409.322 provides for priority in the proceeds; or

17 (b) The proceeds consist of the specific goods covered by the chattel paper or
18 cash proceeds of the specific goods, even if the purchaser's security interest in the
19 proceeds is unperfected.

20 **(4) INSTRUMENT PURCHASER'S PRIORITY.** Except as otherwise provided in s.
21 409.331 (1), a purchaser of an instrument has priority over a security interest in the
22 instrument perfected by a method other than possession if the purchaser gives value
23 and takes possession of the instrument in good faith and without knowledge that the
24 purchase violates the rights of the secured party.

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1 **(5) HOLDER OF PURCHASE-MONEY SECURITY INTEREST GIVES NEW VALUE.** For
2 purposes of subs. (1) and (2), the holder of a purchase-money security interest in
3 inventory gives new value for chattel paper constituting proceeds of the inventory.

4 **(6) INDICATION OF ASSIGNMENT GIVES KNOWLEDGE.** For purposes of subs. (2) and
5 (4), if chattel paper or an instrument indicates that it has been assigned to an
6 identified secured party other than the purchaser, a purchaser of the chattel paper
7 or instrument has knowledge that the purchase violates the rights of the secured
8 party.

9 **409.331 Priority of rights of purchasers of instruments, documents,**
10 **and securities under other chapters; priority of interests in financial assets**
11 **and security entitlements under ch. 408. (1) RIGHTS UNDER CHS. 403, 407, AND 408**
12 **NOT LIMITED.** This chapter does not limit the rights of a holder in due course of a
13 negotiable instrument, a holder to which a negotiable document of title has been duly
14 negotiated, or a protected purchaser of a security. These holders or purchasers take
15 priority over an earlier security interest, even if perfected, to the extent provided in
16 chs. 403, 407, and 408.

17 **(2) PROTECTION UNDER CH. 408.** This chapter does not limit the rights of or impose
18 liability on a person to the extent that the person is protected against the assertion
19 of an adverse claim under ch. 408.

20 **(3) FILING NOT NOTICE.** Filing under this chapter does not constitute notice of
21 a claim or defense to the holders, or purchasers, or persons described in subs. (1) and
22 (2).

23 **409.332 Transfer of money; transfer of funds from deposit account. (1)**
24 **TRANSFeree OF MONEY.** A transferee of money takes the money free of a security

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1 interest unless the transferee acts in collusion with the debtor in violating the rights
2 of the secured party.

3 (2) TRANSFEREE OF FUNDS FROM DEPOSIT ACCOUNT. A transferee of funds from a
4 deposit account takes the funds free of a security interest in the deposit account
5 unless the transferee acts in collusion with the debtor in violating the rights of the
6 secured party.

7 **409.333 Priority of certain liens arising by operation of law. (1)**
8 POSSESSORY LIEN. In this section, "possessory lien" means an interest, other than a
9 security interest or an agricultural lien:

10 (a) Which secures payment or performance of an obligation for services or
11 materials furnished with respect to goods by a person in the ordinary course of the
12 person's business;

13 (b) Which is created by statute or rule of law in favor of the person; and

14 (c) Whose effectiveness depends on the person's possession of the goods.

15 (2) PRIORITY OF POSSESSORY LIEN. A possessory lien on goods has priority over
16 a security interest in the goods unless the lien is created by a statute that expressly
17 provides otherwise.

18 **409.334 Priority of security interests in fixtures and crops. (1) SECURITY**
19 INTEREST IN FIXTURES UNDER THIS CHAPTER. A security interest under this chapter may
20 be created in goods that are fixtures or may continue in goods that become fixtures.
21 A security interest does not exist under this chapter in ordinary building materials
22 incorporated into an improvement on land.

23 (2) SECURITY INTEREST IN FIXTURES UNDER REAL PROPERTY LAW. This chapter does
24 not prevent creation of an encumbrance upon fixtures under real property law.

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1 **(3) GENERAL RULE: SUBORDINATION OF SECURITY INTEREST IN FIXTURES.** In cases
2 not governed by subs. (4) to (8), a security interest in fixtures is subordinate to a
3 conflicting interest of an encumbrancer or owner of the related real property other
4 than the debtor.

5 **(4) FIXTURES PURCHASE-MONEY PRIORITY.** Except as otherwise provided in sub.
6 (8), a perfected security interest in fixtures has priority over a conflicting interest of
7 an encumbrancer or owner of the real property if the debtor has an interest of record
8 in or is in possession of the real property and:

9 (a) The security interest is a purchase-money security interest;

10 (b) The interest of the encumbrancer or owner arises before the goods become
11 fixtures; and

12 (c) The security interest is perfected by a fixture filing before the goods become
13 fixtures or within 20 days thereafter.

14 **(5) PRIORITY OF SECURITY INTEREST IN FIXTURES OVER INTERESTS IN REAL PROPERTY.**
15 A perfected security interest in fixtures has priority over a conflicting interest of an
16 encumbrancer or owner of the real property if:

17 (a) The debtor has an interest of record in the real property or is in possession
18 of the real property and the security interest:

19 1. Is perfected by a fixture filing before the interest of the encumbrancer or
20 owner is of record; and

21 2. Has priority over any conflicting interest of a predecessor in title of the
22 encumbrancer or owner;

23 (b) Before the goods become fixtures, the security interest is perfected by any
24 method permitted by this chapter and the fixtures are readily removable:

25 1. Factory or office machines;

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1 2. Equipment that is not primarily used or leased for use in the operation of the
2 real property; or

3 3. Replacements of domestic appliances that are consumer goods;

4 (c) The conflicting interest is a lien on the real property obtained by legal or
5 equitable proceedings after the security interest was perfected by any method
6 permitted by this chapter; or

7 (d) The security interest is:

8 1. Created in a manufactured home in a manufactured-home transaction; and

9 2. Perfected pursuant to a statute described in s. 409.311 (1) (b) or (f).

10 **(6) PRIORITY BASED ON CONSENT, DISCLAIMER, OR RIGHT TO REMOVE.** A security
11 interest in fixtures, whether or not perfected, has priority over a conflicting interest
12 of an encumbrancer or owner of the real property if:

13 (a) The encumbrancer or owner has, in an authenticated record, consented to
14 the security interest or disclaimed an interest in the goods as fixtures; or

15 (b) The debtor has a right to remove the goods as against the encumbrancer or
16 owner.

17 **(7) CONTINUATION OF SUB. (6) PRIORITY.** The priority of the security interest under
18 sub. (6) (b) continues for a reasonable time if the debtor's right to remove the goods
19 as against the encumbrancer or owner terminates.

20 **(8) PRIORITY OF CONSTRUCTION MORTGAGE.** A mortgage is a construction
21 mortgage to the extent that it secures an obligation incurred for the construction of
22 an improvement on land, including the acquisition cost of the land, if a recorded
23 record of the mortgage so indicates. Except as otherwise provided in subs. (5) and
24 (6), a security interest in fixtures is subordinate to a construction mortgage if a record
25 of the mortgage is recorded before the goods become fixtures and the goods become

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1 fixtures before the completion of the construction. A mortgage has this priority to
2 the same extent as a construction mortgage to the extent that it is given to refinance
3 a construction mortgage.

4 **(9) PRIORITY OF SECURITY INTEREST IN CROPS.** A perfected security interest in
5 crops growing on real property has priority over a conflicting interest of an
6 encumbrancer or owner of the real property if the debtor has an interest of record in
7 or is in possession of the real property.

8 **409.335 Accessions. (1) CREATION OF SECURITY INTEREST IN ACCESSION.** A
9 security interest may be created in an accession and continues in collateral that
10 becomes an accession.

11 **(2) PERFECTION OF SECURITY INTEREST.** If a security interest is perfected when
12 the collateral becomes an accession, the security interest remains perfected in the
13 collateral.

14 **(3) PRIORITY OF SECURITY INTEREST.** Except as otherwise provided in sub. (4), the
15 other provisions of this subchapter determine the priority of a security interest in an
16 accession.

17 **(4) COMPLIANCE WITH CERTIFICATE-OF-TITLE STATUTE.** A security interest in an
18 accession is subordinate to a security interest in the whole which is perfected by
19 compliance with the requirements of a certificate-of-title statute under s. 409.311
20 (2).

21 **(5) REMOVAL OF ACCESSION AFTER DEFAULT.** After default, subject to subch. VI,
22 a secured party may remove an accession from other goods if the security interest in
23 the accession has priority over the claims of every person having an interest in the
24 whole.

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1 **(6) REIMBURSEMENT FOLLOWING REMOVAL.** A secured party that removes an
2 accession from other goods under sub. (5) shall promptly reimburse any holder of a
3 security interest or other lien on, or owner of, the whole or of the other goods, other
4 than the debtor, for the cost of repair of any physical injury to the whole or the other
5 goods. The secured party need not reimburse the holder or owner for any diminution
6 in value of the whole or the other goods caused by the absence of the accession
7 removed or by any necessity for replacing it. A person entitled to reimbursement
8 may refuse permission to remove an accession until the secured party gives adequate
9 assurance for the performance of the obligation to reimburse.

10 **409.336 Commingled goods. (1) COMMINGLED GOODS.** In this section,
11 “commingled goods” means goods that are physically united with other goods in such
12 a manner that their identity is lost in a product or mass.

13 **(2) NO SECURITY INTEREST IN COMMINGLED GOODS AS SUCH.** A security interest
14 does not exist in commingled goods as such. However, a security interest may attach
15 to a product or mass that results when goods become commingled goods.

16 **(3) ATTACHMENT OF SECURITY INTEREST TO PRODUCT OR MASS.** If collateral becomes
17 commingled goods, a security interest attaches to the product or mass.

18 **(4) PERFECTION OF SECURITY INTEREST.** If a security interest in collateral is
19 perfected before the collateral becomes commingled goods, the security interest that
20 attaches to the product or mass under sub. (3) is perfected.

21 **(5) PRIORITY OF SECURITY INTEREST.** Except as otherwise provided in sub. (6), the
22 other provisions of this subchapter determine the priority of a security interest that
23 attaches to the product or mass under sub. (3).

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1 **(6) CONFLICTING SECURITY INTERESTS IN PRODUCT OR MASS.** If more than one
2 security interest attaches to the product or mass under sub. (3), the following rules
3 determine priority:

4 (a) A security interest that is perfected under sub. (4) has priority over a
5 security interest that is unperfected at the time the collateral becomes commingled
6 goods.

7 (b) If more than one security interest is perfected under sub. (4), the security
8 interests rank equally in proportion to the value of the collateral at the time it
9 became commingled goods.

10 **409.337 Priority of security interests in goods covered by certificate**
11 **of title.** If, while a security interest in goods is perfected by any method under the
12 law of another jurisdiction, this state issues a certificate of title that does not show
13 that the goods are subject to the security interest or contain a statement that they
14 may be subject to security interests not shown on the certificate:

15 **(1)** A buyer of the goods, other than a person in the business of selling goods
16 of that kind, takes free of the security interest if the buyer gives value and receives
17 delivery of the goods after issuance of the certificate and without knowledge of the
18 security interest; and

19 **(2)** The security interest is subordinate to a conflicting security interest in the
20 goods that attaches, and is perfected under s. 409.311 (2), after issuance of the
21 certificate and without the conflicting secured party's knowledge of the security
22 interest.

23 **409.338 Priority of security interest or agricultural lien perfected by**
24 **filed financing statement providing certain incorrect information.** If a
25 security interest or agricultural lien is perfected by a filed financing statement

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1 providing information described in s. 409.516 (2) (e) which is incorrect at the time the
2 financing statement is filed:

3 (1) The security interest or agricultural lien is subordinate to a conflicting
4 perfected security interest in the collateral to the extent that the holder of the
5 conflicting security interest gives value in reasonable reliance upon the incorrect
6 information; and

7 (2) A purchaser, other than a secured party, of the collateral takes free of the
8 security interest or agricultural lien to the extent that, in reasonable reliance upon
9 the incorrect information, the purchaser gives value and, in the case of chattel paper,
10 documents, goods, instruments, or a security certificate, receives delivery of the
11 collateral.

12 **409.339 Priority subject to subordination.** This chapter does not preclude
13 subordination by agreement by a person entitled to priority.

14 **409.340 Effectiveness of right of recoupment or setoff against deposit**
15 **account.** (1) EXERCISE OF RECOUPMENT OR SETOFF. Except as otherwise provided in
16 sub. (3), a bank with which a deposit account is maintained may exercise any right
17 of recoupment or setoff against a secured party that holds a security interest in the
18 deposit account.

19 (2) RECOUPMENT OR SETOFF NOT AFFECTED BY SECURITY INTEREST. Except as
20 otherwise provided in sub. (3), the application of this chapter to a security interest
21 in a deposit account does not affect a right of recoupment or setoff of the secured party
22 as to a deposit account maintained with the secured party.

23 (3) WHEN SETOFF INEFFECTIVE. The exercise by a bank of a setoff against a
24 deposit account is ineffective against a secured party that holds a security interest

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1 in the deposit account which is perfected by control under s. 409.104 (1) (c), if the
2 setoff is based on a claim against the debtor.

3 **409.341 Bank's rights and duties with respect to deposit account.**

4 Except as otherwise provided in s. 409.340 (3), and unless the bank otherwise agrees
5 in an authenticated record, a bank's rights and duties with respect to a deposit
6 account maintained with the bank are not terminated, suspended, or modified by:

7 (1) The creation, attachment, or perfection of a security interest in the deposit
8 account;

9 (2) The bank's knowledge of the security interest; or

10 (3) The bank's receipt of instructions from the secured party.

11 **409.342 Bank's right to refuse to enter into or disclose existence of**
12 **control agreement.** This chapter does not require a bank to enter into an
13 agreement of the kind described in s. 409.104 (1) (b), even if its customer so requests
14 or directs. A bank that has entered into such an agreement is not required to confirm
15 the existence of the agreement to another person unless requested to do so by its
16 customer.

17 SUBCHAPTER IV

18 RIGHTS OF 3RD PARTIES

19 **409.401 Alienability of debtor's rights.** (1) OTHER LAW GOVERNS
20 ALIENABILITY; EXCEPTIONS. Except as otherwise provided in sub. (2) and ss. 409.406,
21 409.407, 409.408, and 409.409, whether a debtor's rights in collateral may be
22 voluntarily or involuntarily transferred is governed by law other than this chapter.

23 (2) AGREEMENT DOES NOT PREVENT TRANSFER. An agreement between the debtor
24 and secured party which prohibits a transfer of the debtor's rights in collateral or
25 makes the transfer a default does not prevent the transfer from taking effect.

SENATE BILL 9**SECTION 78****1 409.402 Secured party not obligated on contract of debtor or in tort.**

2 The existence of a security interest, agricultural lien, or authority given to a debtor
3 to dispose of or use collateral, without more, does not subject a secured party to
4 liability in contract or tort for the debtor's acts or omissions.

5 409.403 Agreement not to assert defenses against assignee. (1) VALUE.

6 In this section, "value" has the meaning provided in s. 403.303 (1).

7 **(2) AGREEMENT NOT TO ASSERT CLAIM OR DEFENSE.** Except as otherwise provided
8 in this section, an agreement between an account debtor and an assignor not to assert
9 against an assignee any claim or defense that the account debtor may have against
10 the assignor is enforceable by an assignee that takes an assignment:

11 (a) For value;

12 (b) In good faith;

13 (c) Without notice of a claim of a property or possessory right to the property
14 assigned; and

15 (d) Without notice of a defense or claim in recoupment of the type that may be
16 asserted against a person entitled to enforce a negotiable instrument under s.
17 403.305 (1).

18 **(3) WHEN SUB. (2) NOT APPLICABLE.** Subsection (2) does not apply to defenses of
19 a type that may be asserted against a holder in due course of a negotiable instrument
20 under s. 403.305 (2).

21 **(4) OMISSION OF REQUIRED STATEMENT IN CONSUMER TRANSACTION.** In a consumer
22 transaction, if a record evidences the account debtor's obligation, law other than this
23 chapter requires that the record include a statement to the effect that the rights of
24 an assignee are subject to claims or defenses that the account debtor could assert
25 against the original obligee, and the record does not include such a statement:

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1 (a) The record has the same effect as if the record had included such a
2 statement; and

3 (b) The account debtor may assert against an assignee those claims and
4 defenses that would have been available if the record had included such a statement.

5 **(5) RULE FOR INDIVIDUAL UNDER OTHER LAW.** This section is subject to law other
6 than this chapter which establishes a different rule for an account debtor who is an
7 individual and who incurred the obligation primarily for personal, family, or
8 household purposes.

9 **(6) OTHER LAW NOT DISPLACED.** Except as otherwise provided in sub. (4), this
10 section does not displace law other than this chapter which gives effect to an
11 agreement by an account debtor not to assert a claim or defense against an assignee.

12 **409.404 Rights acquired by assignee; claims and defenses against**
13 **assignee. (1) ASSIGNEE'S RIGHTS SUBJECT TO TERMS, CLAIMS, AND DEFENSES; EXCEPTIONS.**
14 Unless an account debtor has made an enforceable agreement not to assert defenses
15 or claims, and subject to subs. (2) to (5), the rights of an assignee are subject to:

16 (a) All terms of the agreement between the account debtor and assignor and
17 any defense or claim in recoupment arising from the transaction that gave rise to the
18 contract; and

19 (b) Any other defense or claim of the account debtor against the assignor which
20 accrues before the account debtor receives a notification of the assignment
21 authenticated by the assignor or the assignee.

22 **(2) ACCOUNT DEBTOR'S CLAIM REDUCES AMOUNT OWED TO ASSIGNEE.** Subject to sub.
23 (3) and except as otherwise provided in sub. (4), the claim of an account debtor
24 against an assignor may be asserted against an assignee under sub. (1) only to reduce
25 the amount the account debtor owes.

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1 **(3) RULE FOR INDIVIDUAL UNDER OTHER LAW.** This section is subject to law other
2 than this chapter which establishes a different rule for an account debtor who is an
3 individual and who incurred the obligation primarily for personal, family, or
4 household purposes.

5 **(4) OMISSION OF REQUIRED STATEMENT IN CONSUMER TRANSACTION.** In a consumer
6 transaction, if a record evidences the account debtor's obligation, law other than this
7 chapter requires that the record include a statement to the effect that the account
8 debtor's recovery against an assignee with respect to claims and defenses against the
9 assignor may not exceed amounts paid by the account debtor under the record, and
10 the record does not include such a statement, the extent to which a claim of an
11 account debtor against the assignor may be asserted against an assignee is
12 determined as if the record had included such a statement.

13 **(5) INAPPLICABILITY TO HEALTH CARE INSURANCE RECEIVABLE.** This section does not
14 apply to an assignment of a health care insurance receivable.

15 **409.405 Modification of assigned contract. (1) EFFECT OF MODIFICATION ON**
16 **ASSIGNEE.** A modification of or substitution for an assigned contract is effective
17 against an assignee if made in good faith. The assignee acquires corresponding
18 rights under the modified or substituted contract. The assignment may provide that
19 the modification or substitution is a breach of contract by the assignor. This
20 subsection is subject to subs. (2) to (4).

21 **(2) APPLICABILITY OF SUB. (1).** Subsection (1) applies to the extent that:

22 (a) The right to payment or a part thereof under an assigned contract has not
23 been fully earned by performance; or

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1 (b) The right to payment or a part thereof has been fully earned by performance
2 and the account debtor has not received notification of the assignment under s.
3 409.406 (1).

4 **(3) RULE FOR INDIVIDUAL UNDER OTHER LAW.** This section is subject to law other
5 than this chapter which establishes a different rule for an account debtor who is an
6 individual and who incurred the obligation primarily for personal, family, or
7 household purposes.

8 **(4) INAPPLICABILITY TO HEALTH CARE INSURANCE RECEIVABLE.** This section does not
9 apply to an assignment of a health care insurance receivable.

10 **409.406 Discharge of account debtor; notification of assignment;**
11 **identification and proof of assignment; restrictions on assignment of**
12 **accounts, chattel paper, payment intangibles, and promissory notes**
13 **ineffective. (1) DISCHARGE OF ACCOUNT DEBTOR; EFFECT OF NOTIFICATION.** Subject to
14 subs. (2) to (9), an account debtor on an account, chattel paper, or a payment
15 intangible may discharge its obligation by paying the assignor until, but not after,
16 the account debtor receives a notification, authenticated by the assignor or the
17 assignee, that the amount due or to become due has been assigned and that payment
18 is to be made to the assignee. After receipt of the notification, the account debtor may
19 discharge its obligation by paying the assignee and may not discharge the obligation
20 by paying the assignor.

21 **(2) WHEN NOTIFICATION INEFFECTIVE.** Subject to sub. (8), notification is
22 ineffective under sub. (1):

23 (a) If it does not reasonably identify the rights assigned;

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1 (b) To the extent that an agreement between an account debtor and a seller of
2 a payment intangible limits the account debtor's duty to pay a person other than the
3 seller and the limitation is effective under law other than this chapter; or

4 (c) At the option of an account debtor, if the notification notifies the account
5 debtor to make less than the full amount of any installment or other periodic
6 payment to the assignee, even if:

7 1. Only a portion of the account, chattel paper, or payment intangible has been
8 assigned to that assignee;

9 2. A portion has been assigned to another assignee; or

10 3. The account debtor knows that the assignment to that assignee is limited.

11 **(3) PROOF OF ASSIGNMENT.** Subject to sub. (8), if requested by the account debtor,
12 an assignee shall seasonably furnish reasonable proof that the assignment has been
13 made. Unless the assignee complies, the account debtor may discharge its obligation
14 by paying the assignor, even if the account debtor has received a notification under
15 sub. (1).

16 **(4) TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE.** Except as otherwise
17 provided in sub. (5) and ss. 409.407 and 411.303, and subject to sub. (8), a term in an
18 agreement between an account debtor and an assignor or in a promissory note is
19 ineffective to the extent that it:

20 (a) Prohibits, restricts, or requires the consent of the account debtor or person
21 obligated on the promissory note to the assignment or transfer of, or the creation,
22 attachment, perfection, or enforcement of a security interest in, the account, chattel
23 paper, payment intangible, or promissory note; or

24 (b) Provides that the assignment or transfer or the creation, attachment,
25 perfection, or enforcement of the security interest may give rise to a default, breach,

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1 right of recoupment, claim, defense, termination, right of termination, or remedy
2 under the account, chattel paper, payment intangible, or promissory note.

3 (5) INAPPLICABILITY OF SUB. (4) TO CERTAIN SALES. Subsection (4) does not apply
4 to the sale of a payment intangible or promissory note.

5 (6) LEGAL RESTRICTIONS ON ASSIGNMENT GENERALLY INEFFECTIVE. Except as
6 otherwise provided in ss. 108.13, 409.407, 411.303, and 565.30 and subject to subs.
7 (8) and (9), a rule of law, statute, or rule that prohibits, restricts, or requires the
8 consent of a government, governmental body or official, or account debtor to the
9 assignment or transfer of, or creation of a security interest in, an account or chattel
10 paper is ineffective to the extent that the rule of law, statute, or rule:

11 (a) Prohibits, restricts, or requires the consent of the government,
12 governmental body or official, or account debtor to the assignment or transfer of, or
13 the creation, attachment, perfection, or enforcement of a security interest in, the
14 account or chattel paper; or

15 (b) Provides that the assignment or transfer or the creation, attachment,
16 perfection, or enforcement of the security interest may give rise to a default, breach,
17 right of recoupment, claim, defense, termination, right of termination, or remedy
18 under the account or chattel paper.

19 (7) SUBSECTION (2) (C) NOT WAIVABLE. Subject to sub. (8), an account debtor may
20 not waive or vary its option under sub. (2) (c).

21 (8) RULE FOR INDIVIDUAL UNDER OTHER LAW. This section is subject to law other
22 than this chapter which establishes a different rule for an account debtor who is an
23 individual and who incurred the obligation primarily for personal, family, or
24 household purposes.

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1 **(9) INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE.** This section does
2 not apply to an assignment of a health-care-insurance receivable.

3 **409.407 Restrictions on creation or enforcement of security interest in**
4 **leasehold interest or in lessor's residual interest. (1) TERM RESTRICTING**
5 **ASSIGNMENT GENERALLY INEFFECTIVE.** Except as otherwise provided in sub. (2), a term
6 in a lease agreement is ineffective to the extent that it:

7 (a) Prohibits, restricts, or requires the consent of a party to the lease to the
8 assignment or transfer of, or the creation, attachment, perfection, or enforcement of
9 a security interest in, an interest of a party under the lease contract or in the lessor's
10 residual interest in the goods; or

11 (b) Provides that the assignment or transfer or the creation, attachment,
12 perfection, or enforcement of the security interest may give rise to a default, breach,
13 right of recoupment, claim, defense, termination, right of termination, or remedy
14 under the lease.

15 **(2) EFFECTIVENESS OF CERTAIN TERMS.** Except as otherwise provided in s. 411.303
16 (7), a term described in sub. (1) (b) is effective to the extent that there is:

17 (a) A transfer by the lessee of the lessee's right of possession or use of the goods
18 in violation of the term; or

19 (b) A delegation of a material performance of either party to the lease contract
20 in violation of the term.

21 **(3) SECURITY INTEREST NOT MATERIAL IMPAIRMENT.** The creation, attachment,
22 perfection, or enforcement of a security interest in the lessor's interest under the
23 lease contract or the lessor's residual interest in the goods is not a transfer that
24 materially impairs the lessee's prospect of obtaining return performance or
25 materially changes the duty of or materially increases the burden or risk imposed

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1 on the lessee within the purview of s. 411.303 (4) unless, and then only to the extent
2 that, enforcement actually results in a delegation of material performance of the
3 lessor.

4 **409.408 Restrictions on assignment of promissory notes,**
5 **health-care-insurance receivables, and certain general intangibles**
6 **ineffective. (1) TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE.** Except as
7 otherwise provided in sub. (2), a term in a promissory note or in an agreement
8 between an account debtor and a debtor which relates to a health-care-insurance
9 receivable or a general intangible, including a contract, permit, license, or franchise,
10 and which term prohibits, restricts, or requires the consent of the person obligated
11 on the promissory note or the account debtor to, the assignment or transfer of, or
12 creation, attachment, or perfection of a security interest in, the promissory note,
13 health-care-insurance receivable, or general intangible, is ineffective to the extent
14 that the term:

15 (a) Would impair the creation, attachment, or perfection of a security interest;

16 or

17 (b) Provides that the assignment or transfer or the creation, attachment, or
18 perfection of the security interest may give rise to a default, breach, right of
19 recoupment, claim, defense, termination, right of termination, or remedy under the
20 promissory note, health-care-insurance receivable, or general intangible.

21 **(2) APPLICABILITY OF SUB. (1) TO SALES OF CERTAIN RIGHTS TO PAYMENT.** Subsection
22 (1) applies to a security interest in a payment intangible or promissory note only if
23 the security interest arises out of a sale of the payment intangible or promissory note.

24 **(3) LEGAL RESTRICTIONS ON ASSIGNMENT GENERALLY INEFFECTIVE.** A rule of law,
25 statute, or rule that prohibits, restricts, or requires the consent of a government,

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1 governmental body or official, person obligated on a promissory note or account
2 debtor to the assignment or transfer of, or creation of a security interest in, a
3 promissory note, health-care-insurance receivable, or general intangible, including
4 a contract, permit, license, or franchise between an account debtor and a debtor, is
5 ineffective to the extent that the rule of law, statute, or rule:

6 (a) Would impair the creation, attachment, or perfection of a security interest;

7 or

8 (b) Provides that the assignment or transfer or the creation, attachment, or
9 perfection of the security interest may give rise to a default, breach, right of
10 recoupment, claim, defense, termination, right of termination, or remedy under the
11 promissory note, health-care-insurance receivable, or general intangible.

12 **(4) LIMITATION ON INEFFECTIVENESS UNDER SUBS. (1) AND (3).** To the extent that a
13 term in a promissory note or in an agreement between an account debtor and a debtor
14 which relates to a health-care-insurance receivable, or general intangible or a rule
15 of law, statute, or rule described in sub. (3) would be effective under law other than
16 this chapter but is ineffective under sub. (1) or (3), the creation, attachment, or
17 perfection of a security interest in the promissory note, health-care-insurance
18 receivable, or general intangible:

19 (a) Is not enforceable against the person obligated on the promissory note or
20 the account debtor;

21 (b) Does not impose a duty or obligation on the person obligated on the
22 promissory note or the account debtor;

23 (c) Does not require the person obligated on the promissory note or the account
24 debtor to recognize the security interest, pay or render performance to the secured
25 party, or accept payment or performance from the secured party;

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1 (d) Does not entitle the secured party to use or assign the debtor's rights under
2 the promissory note, health-care-insurance receivable, or general intangible,
3 including any related information or materials furnished to the debtor in the
4 transaction giving rise to the promissory note, health-care-insurance receivable, or
5 general intangible;

6 (e) Does not entitle the secured party to use, assign, possess, or have access to
7 any trade secrets or confidential information of the person obligated on the
8 promissory note or the account debtor; and

9 (f) Does not entitle the secured party to enforce the security interest in the
10 promissory note, health-care-insurance receivable, or general intangible.

11 **409.409 Restrictions on assignment of letter-of-credit rights**
12 **ineffective. (1)** TERM OR LAW RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE. A
13 term in a letter of credit or a rule of law, statute, rule, custom, or practice applicable
14 to the letter of credit which prohibits, restricts, or requires the consent of an
15 applicant, issuer, or nominated person to a beneficiary's assignment of or creation of
16 a security interest in a letter-of-credit right is ineffective to the extent that the term
17 or rule of law, statute, rule, custom, or practice:

18 (a) Would impair the creation, attachment, or perfection of a security interest
19 in the letter-of-credit right; or

20 (b) Provides that the assignment or the creation, attachment, or perfection of
21 the security interest may give rise to a default, breach, right of recoupment, claim,
22 defense, termination, right of termination, or remedy under the letter-of-credit
23 right.

24 **(2)** LIMITATION ON INEFFECTIVENESS UNDER SUB. (1). To the extent that a term in
25 a letter of credit is ineffective under sub. (1) but would be effective under law other

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1 than this chapter or a custom or practice applicable to the letter of credit, to the
2 transfer of a right to draw or otherwise demand performance under the letter of
3 credit, or to the assignment of a right to proceeds of the letter of credit, the creation,
4 attachment, or perfection of a security interest in the letter-of-credit right:

5 (a) Is not enforceable against the applicant, issuer, nominated person, or
6 transferee beneficiary;

7 (b) Imposes no duties or obligations on the applicant, issuer, nominated person,
8 or transferee beneficiary; and

9 (c) Does not require the applicant, issuer, nominated person, or transferee
10 beneficiary to recognize the security interest, pay or render performance to the
11 secured party, or accept payment or other performance from the secured party.

SUBCHAPTER V**FILING**

12
13
14 **409.501 Filing office. (1) FILING OFFICES.** Except as otherwise provided in
15 sub. (2), if the local law of this state governs perfection of a security interest or
16 agricultural lien, the office in which to file a financing statement to perfect the
17 security interest or agricultural lien is:

18 (a) The office designated for the filing or recording of a record of a mortgage on
19 the related real property, if:

20 1. The collateral is as-extracted collateral or timber to be cut; or

21 2. The financing statement is filed as a fixture filing and the collateral is goods
22 that are or are to become fixtures; or

23 (b) The office of the department of financial institutions or any office duly
24 authorized by the department, in all other cases, including a case in which the

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1 collateral is goods that are or are to become fixtures and the financing statement is
2 not filed as a fixture filing.

3 (2) FILING OFFICE FOR TRANSMITTING UTILITIES. The office in which to file a
4 financing statement to perfect a security interest in collateral, including fixtures, of
5 a transmitting utility is the office of the department of financial institutions. The
6 financing statement also constitutes a fixture filing as to the collateral indicated in
7 the financing statement which is or is to become fixtures.

8 **409.502 Contents of financing statement; record of mortgage as**
9 **financing statement; time of filing financing statement.** (1) SUFFICIENCY OF
10 FINANCING STATEMENT. Subject to sub. (2), a financing statement is sufficient only if
11 it:

12 (a) Provides the name of the debtor;

13 (b) Provides the name of the secured party or a representative of the secured
14 party; and

15 (c) Indicates the collateral covered by the financing statement.

16 (2) REAL-PROPERTY-RELATED FINANCING STATEMENTS. Except as otherwise
17 provided in s. 409.501 (2), to be sufficient, a financing statement that covers
18 as-extracted collateral or timber to be cut, or which is filed as a fixture filing and
19 covers goods that are or are to become fixtures, must satisfy sub. (1) and also:

20 (a) Indicate that it covers this type of collateral;

21 (b) Indicate that it is to be filed for record in the real property records;

22 (c) Provide a description of the real property to which the collateral is related
23 sufficient to give constructive notice of a mortgage under the law of this state if the
24 description were contained in a record of the mortgage of the real property; and

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1 (d) If the debtor does not have an interest of record in the real property, provide
2 the name of a record owner.

3 **(3) RECORD OF MORTGAGE AS FINANCING STATEMENT.** A record of a mortgage is
4 effective, from the date of recording, as a financing statement filed as a fixture filing
5 or as a financing statement covering as-extracted collateral or timber to be cut only
6 if:

7 (a) The record indicates the goods or accounts that it covers;

8 (b) The goods are or are to become fixtures related to the real property described
9 in the record or the collateral is related to the real property described in the record
10 and is as-extracted collateral or timber to be cut;

11 (c) The record satisfies the requirements for a financing statement in this
12 section other than an indication that it is to be filed in the real property records; and

13 (d) The record is duly recorded.

14 **(4) FILING BEFORE SECURITY AGREEMENT OR ATTACHMENT.** A financing statement
15 may be filed before a security agreement is made or a security interest otherwise
16 attaches.

17 **409.503 Name of debtor and secured party. (1) SUFFICIENCY OF DEBTOR'S**
18 **NAME.** A financing statement sufficiently provides the name of the debtor:

19 (a) If the debtor is a registered organization, only if the financing statement
20 provides the name of the debtor indicated on the public record of the debtor's
21 jurisdiction of organization which shows the debtor to have been organized;

22 (b) If the debtor is a decedent's estate, only if the financing statement provides
23 the name of the decedent and indicates that the debtor is an estate;

24 (c) If the debtor is a trust or a trustee acting with respect to property held in
25 trust, only if the financing statement:

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1 1. Provides the name specified for the trust in its organic documents or, if no
2 name is specified, provides the name of the settlor and additional information
3 sufficient to distinguish the debtor from other trusts having one or more of the same
4 settlors; and

5 2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is
6 a trustee acting with respect to property held in trust; and

7 (d) In other cases:

8 1. If the debtor has a name, only if it provides the individual or organizational
9 name of the debtor; and

10 2. If the debtor does not have a name, only if it provides the names of the
11 partners, members, associates, or other persons comprising the debtor.

12 **(2) ADDITIONAL DEBTOR-RELATED INFORMATION.** A financing statement that
13 provides the name of the debtor in accordance with sub. (1) is not rendered ineffective
14 by the absence of:

15 (a) A trade name or other name of the debtor; or

16 (b) Unless required under sub. (1) (d) 2., names of partners, members,
17 associates, or other persons comprising the debtor.

18 **(3) DEBTOR'S TRADE NAME INSUFFICIENT.** A financing statement that provides
19 only the debtor's trade name does not sufficiently provide the name of the debtor.

20 **(4) REPRESENTATIVE CAPACITY.** Failure to indicate the representative capacity
21 of a secured party or representative of a secured party does not affect the sufficiency
22 of a financing statement.

23 **(5) MULTIPLE DEBTORS AND SECURED PARTIES.** A financing statement may provide
24 the name of more than one debtor and the name of more than one secured party.

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1 **409.504 Indication of collateral.** A financing statement sufficiently
2 indicates the collateral that it covers if the financing statement provides:

3 **(1)** A description of the collateral pursuant to s. 409.108; or

4 **(2)** An indication that the financing statement covers all assets or all personal
5 property.

6 **409.505 Filing and compliance with other statutes and treaties for**
7 **consignments, leases, other bailments, and other transactions. (1)** USE OF
8 TERMS OTHER THAN DEBTOR AND SECURED PARTY. A consignor, lessor, or other bailor of
9 goods, a licensor, or a buyer of a payment intangible or promissory note may file a
10 financing statement, or may comply with a statute or treaty described in s. 409.311
11 (1), using the terms “consignor”, “consignee”, “lessor”, “lessee”, “bailor”, “bailee”,
12 “licensor”, “licensee”, “owner”, “registered owner”, “buyer”, “seller”, or words of
13 similar import, instead of the terms “secured party” and “debtor”.

14 **(2)** EFFECT OF FINANCING STATEMENT UNDER SUB. (1). This subchapter applies to
15 the filing of a financing statement under sub. (1) and, as appropriate, to compliance
16 that is equivalent to filing a financing statement under s. 409.311 (2), but the filing
17 or compliance is not of itself a factor in determining whether the collateral secures
18 an obligation. If it is determined for another reason that the collateral secures an
19 obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or
20 buyer which attaches to the collateral is perfected by the filing or compliance

21 **409.506 Effect of errors or omissions. (1)** MINOR ERRORS AND OMISSIONS.
22 A financing statement substantially satisfying the requirements of this subchapter
23 is effective, even if it has minor errors or omissions, unless the errors or omissions
24 make the financing statement seriously misleading.

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1 **(2) FINANCING STATEMENT SERIOUSLY MISLEADING.** Except as otherwise provided
2 in sub. (3), a financing statement that fails sufficiently to provide the name of the
3 debtor in accordance with s. 409.503 (1) is seriously misleading.

4 **(3) FINANCING STATEMENT NOT SERIOUSLY MISLEADING.** If a search of the records
5 of the filing office under the debtor's correct name, using the filing office's standard
6 search logic, if any, would disclose a financing statement that fails sufficiently to
7 provide the name of the debtor in accordance with s. 409.503 (1), the name provided
8 does not make the financing statement seriously misleading.

9 **(4) DEBTOR'S CORRECT NAME.** For purposes of s. 409.508 (2), the "debtor's correct
10 name" in sub. (3) means the correct name of the new debtor.

11 **409.507 Effect of certain events on effectiveness of financing**
12 **statement. (1) DISPOSITION.** A filed financing statement remains effective with
13 respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed
14 of and in which a security interest or agricultural lien continues, even if the secured
15 party knows of or consents to the disposition.

16 **(2) INFORMATION BECOMING SERIOUSLY MISLEADING.** Except as otherwise provided
17 in sub. (3) and s. 409.508, a financing statement is not rendered ineffective if, after
18 the financing statement is filed, the information provided in the financing statement
19 becomes seriously misleading under s. 409.506.

20 **(3) CHANGE IN DEBTOR'S NAME.** If a debtor so changes its name that a filed
21 financing statement becomes seriously misleading under s. 409.506:

22 (a) The financing statement is effective to perfect a security interest in
23 collateral acquired by the debtor before, or within 4 months after, the change; and

24 (b) The financing statement is not effective to perfect a security interest in
25 collateral acquired by the debtor more than 4 months after the change, unless an

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1 amendment to the financing statement which renders the financing statement not
2 seriously misleading is filed within 4 months after the change.

3 **409.508 Effectiveness of financing statement if new debtor becomes**
4 **bound by security agreement. (1) FINANCING STATEMENT NAMING ORIGINAL DEBTOR.**
5 Except as otherwise provided in this section, a filed financing statement naming an
6 original debtor is effective to perfect a security interest in collateral in which a new
7 debtor has or acquires rights to the extent that the financing statement would have
8 been effective had the original debtor acquired rights in the collateral.

9 **(2) FINANCING STATEMENT BECOMING SERIOUSLY MISLEADING.** If the difference
10 between the name of the original debtor and that of the new debtor causes a filed
11 financing statement that is effective under sub. (1) to be seriously misleading under
12 s. 409.506:

13 (a) The financing statement is effective to perfect a security interest in
14 collateral acquired by the new debtor before, and within 4 months after, the new
15 debtor becomes bound under s. 409.203 (4); and

16 (b) The financing statement is not effective to perfect a security interest in
17 collateral acquired by the new debtor more than 4 months after the new debtor
18 becomes bound under s. 409.203 (4) unless an initial financing statement providing
19 the name of the new debtor is filed before the expiration of that time.

20 **(3) WHEN SECTION NOT APPLICABLE.** This section does not apply to collateral as
21 to which a filed financing statement remains effective against the new debtor under
22 s. 409.507 (1).

23 **409.509 Persons entitled to file a record. (1) PERSON ENTITLED TO FILE**
24 **RECORD.** A person may file an initial financing statement, amendment that adds

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1 collateral covered by a financing statement, or amendment that adds a debtor to a
2 financing statement only if:

3 (a) The debtor authorizes the filing in an authenticated record or pursuant to
4 sub. (2) or (3); or

5 (b) The person holds an agricultural lien that has become effective at the time
6 of filing and the financing statement covers only collateral in which the person holds
7 an agricultural lien.

8 **(2) SECURITY AGREEMENT AS AUTHORIZATION.** By authenticating or becoming
9 bound as debtor by a security agreement, a debtor or new debtor authorizes the filing
10 of an initial financing statement, and an amendment, covering:

11 (a) The collateral described in the security agreement; and

12 (b) Property that becomes collateral under s. 409.315 (1) (b), whether or not the
13 security agreement expressly covers proceeds.

14 **(3) ACQUISITION OF COLLATERAL AS AUTHORIZATION.** By acquiring collateral in
15 which a security interest or agricultural lien continues under s. 409.315 (1) (a), a
16 debtor authorizes the filing of an initial financing statement, and an amendment,
17 covering the collateral and property that becomes collateral under s. 409.315 (1) (b).

18 **(4) PERSON ENTITLED TO FILE CERTAIN AMENDMENTS.** A person may file an
19 amendment other than an amendment that adds collateral covered by a financing
20 statement or an amendment that adds a debtor to a financing statement only if:

21 (a) The secured party of record authorizes the filing; or

22 (b) The amendment is a termination statement for a financing statement as to
23 which the secured party of record has failed to file or send a termination statement
24 as required by s. 409.513 (1) or (3), the debtor authorizes the filing, and the
25 termination statement indicates that the debtor authorized it to be filed.

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1 **(5) MULTIPLE SECURED PARTIES OF RECORD.** If there is more than one secured
2 party of record for a financing statement, each secured party of record may authorize
3 the filing of an amendment under sub. (4).

4 **409.510 Effectiveness of filed record. (1) FILED RECORD EFFECTIVE IF**
5 **AUTHORIZED.** A filed record is effective only to the extent that it was filed by a person
6 that may file it under s. 409.509.

7 **(2) AUTHORIZATION BY ONE SECURED PARTY OF RECORD.** A record authorized by one
8 secured party of record does not affect the financing statement with respect to
9 another secured party of record.

10 **(3) CONTINUATION STATEMENT NOT TIMELY FILED.** A continuation statement that
11 is not filed within the 6-month period prescribed by s. 409.515 (4) is ineffective.

12 **409.511 Secured party of record. (1) SECURED PARTY OF RECORD.** A secured
13 party of record with respect to a financing statement is a person whose name is
14 provided as the name of the secured party or a representative of the secured party
15 in an initial financing statement that has been filed. If an initial financing statement
16 is filed under s. 409.514 (1), the assignee named in the initial financing statement
17 is the secured party of record with respect to the financing statement.

18 **(2) AMENDMENT NAMING SECURED PARTY OF RECORD.** If an amendment of a
19 financing statement which provides the name of a person as a secured party or a
20 representative of a secured party is filed, the person named in the amendment is a
21 secured party of record. If an amendment is filed under s. 409.514 (2), the assignee
22 named in the amendment is a secured party of record.

23 **(3) AMENDMENT DELETING SECURED PARTY OF RECORD.** A person remains a secured
24 party of record until the filing of an amendment of the financing statement which
25 deletes the person.

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1 **409.512 Amendment of financing statement.** (1) AMENDMENT OF
2 INFORMATION IN FINANCING STATEMENT. Subject to s. 409.509, a person may add or
3 delete collateral covered by, continue or terminate the effectiveness of, or, subject to
4 sub. (5), otherwise amend the information provided in, a financing statement by
5 filing an amendment that:

6 (a) Identifies, by its file number, the initial financing statement to which the
7 amendment relates; and

8 (b) If the amendment relates to an initial financing statement filed or recorded
9 in a filing office described in s. 409.501 (1) (a), provides the date on which the initial
10 financing statement was filed or recorded and the information specified in s. 409.502
11 (2).

12 (2) PERIOD OF EFFECTIVENESS NOT AFFECTED. Except as otherwise provided in s.
13 409.515, the filing of an amendment does not extend the period of effectiveness of the
14 financing statement.

15 (3) EFFECTIVENESS OF AMENDMENT ADDING COLLATERAL. A financing statement
16 that is amended by an amendment that adds collateral is effective as to the added
17 collateral only from the date of the filing of the amendment.

18 (4) EFFECTIVENESS OF AMENDMENT ADDING DEBTOR. A financing statement that
19 is amended by an amendment that adds a debtor is effective as to the added debtor
20 only from the date of the filing of the amendment.

21 (5) CERTAIN AMENDMENTS INEFFECTIVE. An amendment is ineffective to the
22 extent that it:

23 (a) Purports to delete all debtors and fails to provide the name of a debtor to
24 be covered by the financing statement; or

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1 (b) Purports to delete all secured parties of record and fails to provide the name
2 of a new secured party of record.

3 **409.513 Termination statement. (1) CONSUMER GOODS.** A secured party
4 shall cause the secured party of record for a financing statement to file a termination
5 statement for the financing statement if the financing statement covers consumer
6 goods and:

7 (a) There is no obligation secured by the collateral covered by the financing
8 statement and no commitment to make an advance, incur an obligation, or otherwise
9 give value; or

10 (b) The debtor did not authorize the filing of the initial financing statement.

11 **(2) TIME FOR COMPLIANCE WITH SUB. (1).** To comply with sub. (1), a secured party
12 shall cause the secured party of record to file the termination statement:

13 (a) Within one month after there is no obligation secured by the collateral
14 covered by the financing statement and no commitment to make an advance, incur
15 an obligation, or otherwise give value; or

16 (b) If earlier, within 20 days after the secured party receives an authenticated
17 demand from a debtor.

18 **(3) OTHER COLLATERAL.** In cases not governed by sub. (1), within 20 days after
19 a secured party receives an authenticated demand from a debtor, the secured party
20 shall cause the secured party of record for a financing statement to send to the debtor
21 a termination statement for the financing statement or file the termination
22 statement in the filing office if:

23 (a) Except in the case of a financing statement covering accounts or chattel
24 paper that has been sold or goods that are the subject of a consignment, there is no

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1 obligation secured by the collateral covered by the financing statement and no
2 commitment to make an advance, incur an obligation, or otherwise give value;

3 (b) The financing statement covers accounts or chattel paper that has been sold
4 but as to which the account debtor or other person obligated has discharged its
5 obligation;

6 (c) The financing statement covers goods that were the subject of a consignment
7 to the debtor but are not in the debtor's possession; or

8 (d) The debtor did not authorize the filing of the initial financing statement.

9 **(4) EFFECT OF FILING TERMINATION STATEMENT.** Except as otherwise provided in
10 s. 409.510, upon the filing of a termination statement with the filing office, the
11 financing statement to which the termination statement relates ceases to be
12 effective. Except as otherwise provided in s. 409.510, for the purposes of ss. 409.519
13 (7), 409.522 (1), and 409.523 (3), the filing with the filing office of a termination
14 statement relating to a financing statement that indicates that the debtor is a
15 transmitting utility also causes the effectiveness of the financing statement to lapse.

16 **409.514 Assignment of powers of secured party of record. (1)**

17 ASSIGNMENT REFLECTED ON INITIAL FINANCING STATEMENT. Except as otherwise
18 provided in sub. (3), an initial financing statement may reflect an assignment of all
19 of the secured party's power to authorize an amendment to the financing statement
20 by providing the name and mailing address of the assignee as the name and address
21 of the secured party.

22 **(2) ASSIGNMENT OF FILED FINANCING STATEMENT.** Except as otherwise provided
23 in sub. (3), a secured party of record may assign of record all or part of its power to
24 authorize an amendment to a financing statement by filing in the filing office an
25 amendment of the financing statement which:

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1 (a) Identifies, by its file number, the initial financing statement to which it
2 relates;

3 (b) Provides the name of the assignor; and

4 (c) Provides the name and mailing address of the assignee.

5 **(3) ASSIGNMENT OF RECORD OF MORTGAGE.** An assignment of record of a security
6 interest in a fixture covered by a record of a mortgage which is effective as a financing
7 statement filed as a fixture filing under s. 409.502 (3) may be made only by an
8 assignment of record of the mortgage in the manner provided by law of this state
9 other than chs. 401 to 411.

10 **409.515 Duration and effectiveness of financing statement; effect of**
11 **lapsed financing statement. (1) FIVE-YEAR EFFECTIVENESS.** Except as otherwise
12 provided in subs. (2), (5), (6), and (7), a filed financing statement is effective for a
13 period of 5 years after the date of filing.

14 **(2) PUBLIC-FINANCE OR MANUFACTURED-HOME TRANSACTION.** Except as otherwise
15 provided in subs. (5), (6), and (7), an initial financing statement filed in connection
16 with a public-finance transaction or manufactured-home transaction is effective for
17 a period of 30 years after the date of filing if it indicates that it is filed in connection
18 with a public-finance transaction or manufactured-home transaction.

19 **(3) LAPSE AND CONTINUATION OF FINANCING STATEMENT.** The effectiveness of a filed
20 financing statement lapses on the expiration of the period of its effectiveness unless
21 before the lapse a continuation statement is filed pursuant to sub. (4). Upon lapse,
22 a financing statement ceases to be effective and any security interest or agricultural
23 lien that was perfected by the financing statement becomes unperfected, unless the
24 security interest is perfected otherwise. If the security interest or agricultural lien

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1 becomes unperfected upon lapse, it is deemed never to have been perfected as against
2 a purchaser of the collateral for value.

3 (4) WHEN CONTINUATION STATEMENT MAY BE FILED. A continuation statement may
4 be filed only within 6 months before the expiration of the 5-year period specified in
5 sub. (1) or the 30-year period specified in sub. (2), whichever is applicable.

6 (5) EFFECT OF FILING CONTINUATION STATEMENT. Except as otherwise provided in
7 s. 409.510, upon timely filing of a continuation statement, the effectiveness of the
8 initial financing statement continues for a period of 5 years commencing on the day
9 on which the financing statement would have become ineffective in the absence of
10 the filing. Upon the expiration of the 5-year period, the financing statement lapses
11 in the same manner as provided in sub. (3), unless, before the lapse, another
12 continuation statement is filed pursuant to sub. (4). Succeeding continuation
13 statements may be filed in the same manner to continue the effectiveness of the
14 initial financing statement.

15 (6) TRANSMITTING UTILITY FINANCING STATEMENT. If a debtor is a transmitting
16 utility and a filed financing statement so indicates, the financing statement is
17 effective until a termination statement is filed.

18 (7) RECORD OF MORTGAGE AS FINANCING STATEMENT. A record of a mortgage that
19 is effective as a financing statement filed as a fixture filing under s. 409.502 (3)
20 remains effective as a financing statement filed as a fixture filing until the mortgage
21 is released or satisfied of record or its effectiveness otherwise terminates as to the
22 real property.

23 **409.516 What constitutes filing; effectiveness of filing.** (1) WHAT
24 CONSTITUTES FILING. Except as otherwise provided in sub. (2), communication of a

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1 record to a filing office and tender of the filing fee or acceptance of the record by the
2 filing office constitutes filing.

3 **(2) REFUSAL TO ACCEPT RECORD; FILING DOES NOT OCCUR.** Filing does not occur
4 with respect to a record that a filing office refuses to accept because:

5 (a) The record is not communicated by a method or medium of communication
6 authorized by the filing office;

7 (b) An amount equal to or greater than the applicable filing fee is not tendered;

8 (c) The filing office is unable to index the record because:

9 1. In the case of an initial financing statement, the record does not provide a
10 name for the debtor;

11 2. In the case of an amendment or correction statement, the record:

12 a. Does not identify the initial financing statement as required by s. 409.512
13 or 409.518, as applicable; or

14 b. Identifies an initial financing statement whose effectiveness has lapsed
15 under s. 409.515;

16 3. In the case of an initial financing statement that provides the name of a
17 debtor identified as an individual or an amendment that provides a name of a debtor
18 identified as an individual which was not previously provided in the financing
19 statement to which the record relates, the record does not identify the debtor's last
20 name; or

21 4. In the case of a record filed or recorded in the filing office described in s.
22 409.501 (1) (a), the record does not provide a sufficient description of the real
23 property to which it relates;

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1 (d) In the case of an initial financing statement or an amendment that adds a
2 secured party of record, the record does not provide a name and mailing address for
3 the secured party of record;

4 (e) In the case of an initial financing statement or an amendment that provides
5 a name of a debtor which was not previously provided in the financing statement to
6 which the amendment relates, the record does not:

7 1. Provide a mailing address for the debtor;
8 2. Indicate whether the debtor is an individual or an organization; or
9 3. If the financing statement indicates that the debtor is an organization,
10 provide:

11 a. A type of organization for the debtor;
12 b. A jurisdiction of organization for the debtor; or
13 c. An organizational identification number for the debtor or indicate that the
14 debtor has none;

15 (f) In the case of an assignment reflected in an initial financing statement
16 under s. 409.514 (1) or an amendment filed under s. 409.514 (2), the record does not
17 provide a name and mailing address for the assignee; or

18 (g) In the case of a continuation statement, the record is not filed within the
19 6-month period prescribed by s. 409.515 (4).

20 **(3) RULES APPLICABLE TO SUB. (2).** For purposes of sub. (2):

21 (a) A record does not provide information if the filing office is unable to read
22 or decipher the information; and

23 (b) A record that does not indicate that it is an amendment or identify an initial
24 financing statement to which it relates, as required by s. 409.512, 409.514, or
25 409.518, is an initial financing statement.

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1 **(4) REFUSAL TO ACCEPT RECORD; RECORD EFFECTIVE AS FILED RECORD.** A record that
2 is communicated to the filing office with tender of the filing fee, but which the filing
3 office refuses to accept for a reason other than one set forth in sub. (2), is effective as
4 a filed record except as against a purchaser of the collateral which gives value in
5 reasonable reliance upon the absence of the record from the files.

6 **409.517 Effect of indexing errors.** The failure of the filing office to index a
7 record correctly does not affect the effectiveness of the filed record.

8 **409.518 Claim concerning inaccurate or wrongfully filed record. (1)**
9 CORRECTION STATEMENT. A person may file in the filing office a correction statement
10 with respect to a record indexed there under the person's name if the person believes
11 that the record is inaccurate or was wrongfully filed.

12 **(2) SUFFICIENCY OF CORRECTION STATEMENT.** A correction statement must:

13 (a) Identify the record to which it relates by:

14 1. The file number assigned to the initial financing statement to which the
15 record relates; and

16 2. If the correction statement relates to a record filed or recorded in a filing
17 office described in s. 409.501 (1) (a), the date on which the initial financing statement
18 was filed or recorded and the information specified in s. 409.502 (2);

19 (b) Indicate that it is a correction statement; and

20 (c) Provide the basis for the person's belief that the record is inaccurate and
21 indicate the manner in which the person believes the record should be amended to
22 cure any inaccuracy or provide the basis for the person's belief that the record was
23 wrongfully filed.

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1 **(3) RECORD NOT AFFECTED BY CORRECTION STATEMENT.** The filing of a correction
2 statement does not affect the effectiveness of an initial financing statement or other
3 filed record.

4 **409.519 Numbering, maintaining, and indexing records;**
5 **communicating information provided in records. (1) FILING-OFFICE DUTIES.**
6 For each record filed in a filing office, the filing office shall:

7 (a) Assign a unique number to the filed record;

8 (b) Create a record that bears the number assigned to the filed record and the
9 date and time of filing;

10 (c) Maintain the filed record for public inspection; and

11 (d) Index the filed record in accordance with subs. (3), (4), and (5).

12 **(2) FILE NUMBER.** A file number assigned after January 1, 2002, must include
13 a digit that:

14 (a) Is mathematically derived from or related to the other digits of the file
15 number; and

16 (b) Aids the filing office in determining whether a number communicated as
17 the file number includes a single-digit or transpositional error.

18 **(3) INDEXING: GENERAL.** Except as otherwise provided in subs. (4) and (5), the
19 filing office shall:

20 (a) Index an initial financing statement according to the name of the debtor and
21 index all filed records relating to the initial financing statement in a manner that
22 associates with one another an initial financing statement and all filed records
23 relating to the initial financing statement; and

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1 (b) Index a record that provides a name of a debtor which was not previously
2 provided in the financing statement to which the record relates also according to the
3 name that was not previously provided.

4 (4) INDEXING: REAL-PROPERTY-RELATED FINANCING STATEMENT. If a financing
5 statement is filed as a fixture filing or covers as-extracted collateral or timber to be
6 cut, it must be filed for record and the filing office shall index it:

7 (a) Under the names of the debtor and of each owner of record shown on the
8 financing statement as if they were the mortgagors under a mortgage of the real
9 property described; and

10 (b) To the extent that the law of this state provides for indexing of records of
11 mortgages under the name of the mortgagee, under the name of the secured party
12 as if the secured party were the mortgagee thereunder, or, if indexing is by
13 description, as if the financing statement were a record of a mortgage of the real
14 property described.

15 (5) INDEXING: REAL-PROPERTY-RELATED ASSIGNMENT. If a financing statement is
16 filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing
17 office shall index an assignment filed under s. 409.514 (1) or an amendment filed
18 under s. 409.514 (2):

19 (a) Under the name of the assignor as grantor; and

20 (b) To the extent that the law of this state provides for indexing a record of the
21 assignment of a mortgage under the name of the assignee, under the name of the
22 assignee.

23 (6) RETRIEVAL AND ASSOCIATION CAPABILITY. The filing office shall maintain a
24 capability:

25 (a) To retrieve a record by the name of the debtor and:

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1 1. If the filing office is described in s. 409.501 (1) (a), by the file number assigned
2 to the initial financing statement to which the record relates and the date on which
3 the record was filed or recorded; or

4 2. If the filing office is described in s. 409.501 (1) (b), by the file number assigned
5 to the initial financing statement to which the record relates; and

6 (b) To associate and retrieve with one another an initial financing statement
7 and each filed record relating to the initial financing statement.

8 **(7) REMOVAL OF DEBTOR'S NAME.** The filing office may not remove a debtor's name
9 from the index until one year after the effectiveness of a financing statement naming
10 the debtor lapses under s. 409.515 with respect to all secured parties of record.

11 **(8) TIMELINESS OF FILING-OFFICE PERFORMANCE.** The filing office shall perform
12 the acts required by subs. (1) to (5) at the time and in the manner prescribed by
13 filing-office rule, but not later than:

14 (a) Five business days after the filing office receives the record in question for
15 acts performed before July 1, 2003; and

16 (b) Two business days after the filing office receives the record in question for
17 acts performed on or after July 1, 2003.

18 **409.520 Acceptance and refusal to accept record. (1) MANDATORY REFUSAL**
19 **TO ACCEPT RECORD.** A filing office shall refuse to accept a record for filing for a reason
20 set forth in s. 409.516 (2) and may refuse to accept a record for filing only for a reason
21 set forth in s. 409.516 (2).

22 **(2) COMMUNICATION CONCERNING REFUSAL.** If a filing office refuses to accept a
23 record for filing, the filing office shall communicate to the person that presented the
24 record the fact of and reason for the refusal and the date and time the record would
25 have been filed had the filing office accepted the record. The communication must

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1 be made at the time and in the manner prescribed by filing-office rule but, in no event
2 more than:

3 (a) Five business days after the filing office receives the record for records
4 received before July 1, 2003; and

5 (b) Two business days after the filing office receives the record for records
6 received on or after July 1, 2003.

7 **(3) WHEN FILED FINANCING STATEMENT EFFECTIVE.** A filed financing statement
8 satisfying s. 409.502 (1) and (2) is effective, even if the filing office is required to
9 refuse to accept it for filing under sub. (1). However, s. 409.338 applies to a filed
10 financing statement providing information described in s. 409.516 (2) (e) which is
11 incorrect at the time the financing statement is filed.

12 **(4) SEPARATE APPLICATION TO MULTIPLE DEBTORS.** If a record communicated to a
13 filing office provides information that relates to more than one debtor, this
14 subchapter applies as to each debtor separately.

15 **409.521 Uniform form of written financing statement and amendment.**

16 **(1) INITIAL FINANCING STATEMENT FORM.** A filing office that accepts written records
17 may not refuse to accept a written initial financing statement in the following form
18 and format except for a reason set forth in s. 409.516 (2):

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UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]			
B. SEND ACKNOWLEDGMENT TO: (Name and Address)			

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME			
OR	1b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY
1d. TAX ID #, SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION
			1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME			
OR	2b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY
2d. TAX ID #, SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION
			2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME			
OR	3b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]: LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER A.G. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [optional] All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

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UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT		
9a. ORGANIZATION'S NAME		
OR	9b. INDIVIDUAL'S LAST NAME	FIRST NAME
		MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME <input checked="" type="checkbox"/> insert only <u>one</u> name (11a or 11b) <input checked="" type="checkbox"/> do not abbreviate or combine names					
11a. ORGANIZATION'S NAME					
OR	11b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
11c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
11d. TAX ID #, SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

12. <input type="checkbox"/> ADDITIONAL SECURED PARTY'S or <input type="checkbox"/> ASSIGNOR S/P'S NAME <input checked="" type="checkbox"/> insert only <u>one</u> name (12a or 12b)					
12a. ORGANIZATION'S NAME					
OR	12b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers timber to be cut or as-extracted collateral, or is filed as a fixture filing.

14. Description of real estate:

16. Additional collateral description:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

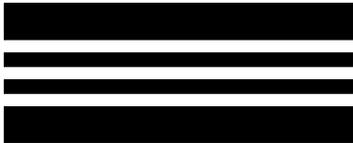
17. Check only if applicable and check only one box.
 Debtor is a Trust or Trustee acting with respect to property held in trust or Decedent's Estate

18. Check only if applicable and check only one box.
 Debtor is a TRANSMITTING UTILITY
 Filed in connection with a Manufactured Home Transaction effective 30 years
 Filed in connection with a Public Finance Transaction effective 30 years

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1 **(2) AMENDMENT FORM.** A filing office that accepts written records may not refuse
2 to accept a written record in the following form and format except for a reason set
3 forth in s. 409.516 (2):

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UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #	1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.
--	--

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects Debtor or Secured Party of record. Check only one of these two boxes.
 Also check one of the following three boxes and provide appropriate information in item 6 and/or 7.
 CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c. DELETE name: Give record name to be deleted in item 6a or 6b. ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. TAX ID #: SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.
 Describe collateral deleted or added, or give entire restated collateral description, or describe collateral assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a termination authorized by a Debtor, check here and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA

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UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

11. INITIAL FINANCING STATEMENT FILE # (same as item 1a on Amendment form)

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

13. Use this space for additional information

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

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1 **409.522 Maintenance and destruction of records. (1)** POSTLAPSE
2 MAINTENANCE AND RETRIEVAL OF INFORMATION. The filing office shall maintain a record
3 of the information provided in a filed financing statement for at least one year after
4 the effectiveness of the financing statement has lapsed under s. 409.515 with respect
5 to all secured parties of record. The record must be retrievable by using the name
6 of the debtor and:

7 (a) If the record was filed or recorded in the filing office described in s. 409.501
8 (1) (a), by using the file number assigned to the initial financing statement to which
9 the record relates and the date on which the record was filed or recorded; or

10 (b) If the record was filed in the filing office described in s. 409.501 (1) (b), by
11 using the file number assigned to the initial financing statement to which the record
12 relates.

13 **(2) DESTRUCTION OF WRITTEN RECORDS.** Except to the extent that a statute
14 governing disposition of public records provides otherwise, the filing office may
15 destroy immediately any written record evidencing a financing statement. However,
16 if the filing office destroys a written record, it shall maintain another record of the
17 financing statement which complies with sub. (1).

18 **409.523 Information from filing office; sale or license of records. (1)**
19 ACKNOWLEDGMENT OF FILING WRITTEN RECORD. If a person that files a written record
20 requests an acknowledgment of the filing, the filing office shall send to the person
21 an image of the record showing the number assigned to the record pursuant to s.
22 409.519 (1) (a) and the date and time of the filing of the record. However, if the person
23 furnishes a copy of the record to the filing office, the filing office may instead:

24 (a) Note upon the copy the number assigned to the record pursuant to s. 409.519
25 (1) (a) and the date and time of the filing of the record; and

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1 (b) Send the copy to the person.

2 **(2) ACKNOWLEDGMENT OF FILING OTHER RECORD.** If a person files a record other
3 than a written record, the filing office shall communicate to the person an
4 acknowledgment that provides:

5 (a) The information in the record;

6 (b) The number assigned to the record pursuant to s. 409.519 (1) (a); and

7 (c) The date and time of the filing of the record.

8 **(3) COMMUNICATION OF REQUESTED INFORMATION.** The filing office shall
9 communicate or otherwise make available in a record the following information to
10 any person that requests it:

11 (a) Whether there is on file on a date and time specified by the filing office, but
12 not a date earlier than 3 business days before the filing office receives the request,
13 any financing statement that:

14 1. Designates a particular debtor or, if the request so states, designates a
15 particular debtor at the address specified in the request;

16 2. Has not lapsed under s. 409.515 with respect to all secured parties of record;
17 or

18 3. If the request so states, has lapsed under s. 409.515 and a record of which
19 is maintained by the filing office under s. 409.522 (1);

20 (b) The date and time of filing of each financing statement; and

21 (c) The information provided in each financing statement.

22 **(4) MEDIUM FOR COMMUNICATING INFORMATION.** In complying with its duty under
23 sub. (3), the filing office may communicate information in any medium. However, if
24 requested, the filing office shall communicate information by issuing a record that

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1 can be admitted into evidence in the courts of this state without extrinsic evidence
2 of its authenticity.

3 **(5) TIMELINESS OF FILING-OFFICE PERFORMANCE.** The filing office shall perform
4 the acts required by subs. (1) to (4) at the time and in the manner prescribed by
5 filing-office rule, but not later than:

6 (a) Five business days after the filing office receives the request for requests
7 received before July 1, 2003; and

8 (b) Two business days after the filing office receives the request for requests
9 received on or after July 1, 2003.

10 **(6) PUBLIC AVAILABILITY OF RECORDS.** At least weekly, the department of financial
11 institutions shall offer to sell or license to the public on a nonexclusive basis, in bulk,
12 copies of all records filed in it under this subchapter, in every medium from time to
13 time available to the department of financial institutions.

14 **(7) LIABILITY OF FILING OFFICER.** No filing officer nor any of the filing officer's
15 employees or agents shall be subject to personal liability by reason of any error or
16 omission in the performance of any duty under this chapter except in case of
17 misconduct as defined in s. 946.12.

18 **409.524 Delay by filing office.** Delay by the filing office beyond a time limit
19 prescribed by this subchapter is excused if:

20 (1) The delay is caused by interruption of communication or computer
21 facilities, war, emergency conditions, failure of equipment, or other circumstances
22 beyond the control of the filing office; and

23 (2) The filing office exercises reasonable diligence under the circumstances.

24 **409.525 Fees. (1) INITIAL FINANCING STATEMENT OR OTHER RECORD.** Except as
25 otherwise provided in this section, the fee for filing and indexing a record under this

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1 subchapter and the portion of the fee that an office duly authorized by the
2 department under s. 409.501 (1) (b) may retain shall be prescribed by filing-office
3 rule.

4 **(2) BASIS FOR RULE.** The rule under sub. (1) must set the fees for filing and
5 indexing a record under this subchapter on the following basis:

6 (a) If the record presented for filing is communicated to the filing office in
7 writing and consists of more than 2 pages, the fee for filing and indexing the record
8 must be at least twice the amount of the fee for a record communicated in writing that
9 consists of 1 or 2 pages; and

10 (b) If the record is communicated by another medium authorized by
11 filing-office rule, the fee for filing and indexing the record must be no more than 50%
12 of the amount of the fee for a record communicated in writing that consists of 1 or 2
13 pages.

14 **(3) NUMBER OF NAMES.** The number of names required to be indexed does not
15 affect the amount of the fee under this section.

16 **(4) RESPONSE TO INFORMATION REQUEST.** Except as otherwise provided in this
17 section, the fee for responding to a request for information from the filing office,
18 including for communicating whether there is on file any financing statement
19 naming a particular debtor, and the portion of the fee that an office duly authorized
20 by the department under s. 409.501 (1) (b) may retain shall be prescribed by
21 filing-office rule. The fee for responding to a request communicated in writing must
22 be not less than twice the amount of the fee for responding to a request communicated
23 by another medium authorized by filing-office rule. This subsection does not require
24 that a fee be charged for remote access searching of the filing-office data base. The

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1 rule promulgated pursuant to this subsection need not specify a fee for remote access
2 searching of the filing-office data base.

3 (5) RECORD OF MORTGAGE. This section does not require a fee with respect to a
4 record of a mortgage which is effective as a financing statement filed as a fixture
5 filing or as a financing statement covering as-extracted collateral or timber to be cut
6 under s. 409.502 (3). However, the recording and satisfaction fees that otherwise
7 would be applicable to the record of the mortgage apply.

8 **409.526 Filing-office rules.** (1) PROMULGATION OF FILING-OFFICE RULES. The
9 secretary of financial institutions shall promulgate filing-office rules to implement
10 this chapter. The filing-office rules must be:

- 11 (a) Consistent with this chapter; and
12 (b) Promulgated in accordance with ch. 227.

13 (2) HARMONIZATION OF RULES. To keep the filing-office rules and practices of the
14 filing office in harmony with the rules and practices of filing offices in other
15 jurisdictions that enact substantially this subchapter, and to keep the technology
16 used by the filing office compatible with the technology used by filing offices in other
17 jurisdictions that enact substantially this subchapter, the secretary of financial
18 institutions, so far as is consistent with the purposes, policies, and provisions of this
19 chapter, in promulgating filing-office rules, shall:

- 20 (a) Consult with filing offices in other jurisdictions that enact substantially this
21 subchapter;
22 (b) Consult the most recent version of the Model Rules promulgated by the
23 International Association of Corporate Administrators or any successor
24 organization; and

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1 (c) Take into consideration the rules and practices of, and the technology used
2 by, filing offices in other jurisdictions that enact substantially this subchapter.

3 **409.527 Duty to report.** The department of financial institutions shall
4 include in its report under s. 15.04 (1) (d) a report on the operation of the filing office.
5 The report must contain a statement of the extent to which:

6 (1) HARMONIZATION OF RULES: FILING OFFICES IN OTHER JURISDICTIONS. The
7 filing-office rules are not in harmony with the rules of filing offices in other
8 jurisdictions that enact substantially this subchapter and the reasons for these
9 variations; and

10 (2) HARMONIZATION OF RULES: MODEL RULES. The filing-office rules are not in
11 harmony with the most recent version of the Model Rules promulgated by the
12 International Association of Corporate Administrators, or any successor
13 organization, and the reasons for these variations.

14 **409.528 Statewide lien system.** (1) ESTABLISHMENT AND MAINTENANCE. The
15 department shall establish and maintain and the office of each register of deeds in
16 this state shall establish services necessary to support a statewide lien system under
17 this subchapter.

18 (2) USE. Except as otherwise provided in this chapter, each filing officer shall
19 enter all information filed under this subchapter into the statewide lien system
20 under sub. (1).

21 SUBCHAPTER VI

22 DEFAULT

23 **409.601 Rights after default; judicial enforcement; consignor or buyer**
24 **of accounts, chattel paper, payment intangibles, or promissory notes.** (1)
25 RIGHTS OF SECURED PARTY AFTER DEFAULT. After default, a secured party has the rights

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1 provided in this subchapter and, except as otherwise provided in s. 409.602, those
2 provided by agreement of the parties. A secured party:

3 (a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim,
4 security interest, or agricultural lien by any available judicial procedure; and

5 (b) If the collateral is documents, may proceed either as to the documents or as
6 to the goods they cover.

7 **(2) RIGHTS AND DUTIES OF SECURED PARTY IN POSSESSION OR CONTROL.** A secured
8 party in possession of collateral or control of collateral under s. 409.104, 409.105,
9 409.106, or 409.107 has the rights and duties provided in s. 409.207.

10 **(3) RIGHTS CUMULATIVE; SIMULTANEOUS EXERCISE.** The rights under subs. (1) and
11 (2) are cumulative and may be exercised simultaneously.

12 **(4) RIGHTS OF DEBTOR AND OBLIGOR.** Except as otherwise provided in sub. (7) and
13 s. 409.605, after default, a debtor and an obligor have the rights provided in this
14 subchapter and by agreement of the parties.

15 **(5) LIEN OF LEVY AFTER JUDGMENT.** If a secured party has reduced its claim to
16 judgment, the lien of any levy that may be made upon the collateral by virtue of an
17 execution based upon the judgment relates back to the earliest of:

18 (a) The date of perfection of the security interest or agricultural lien in the
19 collateral;

20 (b) The date of filing a financing statement covering the collateral; or

21 (c) Any date specified in a statute under which the agricultural lien was
22 created.

23 **(6) EXECUTION SALE.** A sale pursuant to an execution is a foreclosure of the
24 security interest or agricultural lien by judicial procedure within the meaning of this

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1 section. A secured party may purchase at the sale and thereafter hold the collateral
2 free of any other requirements of this chapter.

3 (7) CONSIGNOR OR BUYER OF CERTAIN RIGHTS TO PAYMENT. Except as otherwise
4 provided in s. 409.607 (3), this subchapter imposes no duties upon a secured party
5 that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or
6 promissory notes.

7 **409.602 Waiver and variance of rights and duties.** Except as otherwise
8 provided in s. 409.624, to the extent that they give rights to a debtor or obligor and
9 impose duties on a secured party, the debtor or obligor may not waive or vary the
10 rules stated in the following listed sections:

11 (1) Section 409.207 (2) (d) 3., which deals with use and operation of the
12 collateral by the secured party;

13 (2) Section 409.210, which deals with requests for an accounting and requests
14 concerning a list of collateral and statement of account;

15 (3) Section 409.607 (3), which deals with collection and enforcement of
16 collateral;

17 (4) Sections 409.608 (1) and 409.615 (3) to the extent that they deal with
18 application or payment of noncash proceeds of collection, enforcement, or
19 disposition;

20 (5) Sections 409.608 (1) and 409.615 (4) to the extent that they require
21 accounting for or payment of surplus proceeds of collateral;

22 (6) Section 409.609 to the extent that it imposes upon a secured party that
23 takes possession of collateral without judicial process the duty to do so without
24 breach of the peace;

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1 (7) Sections 409.610 (2), 409.611, 409.613, and 409.614, which deal with
2 disposition of collateral;

3 (8) Section 409.615 (6), which deals with calculation of a deficiency or surplus
4 when a disposition is made to the secured party, a person related to the secured party,
5 or a secondary obligor;

6 (9) Section 409.616, which deals with explanation of the calculation of a
7 surplus or deficiency;

8 (10) Sections 409.620, 409.621, and 409.622, which deal with acceptance of
9 collateral in satisfaction of obligation;

10 (11) Section 409.623, which deals with redemption of collateral;

11 (12) Section 409.624, which deals with permissible waivers; and

12 (13) Sections 409.625 and 409.626, which deal with the secured party's liability
13 for failure to comply with this chapter.

14 **409.603 Agreement on standards concerning rights and duties. (1)**
15 **AGREED STANDARDS.** The parties may determine by agreement the standards
16 measuring the fulfillment of the rights of a debtor or obligor and the duties of a
17 secured party under a rule stated in s. 409.602 if the standards are not manifestly
18 unreasonable.

19 (2) **AGREED STANDARDS INAPPLICABLE TO BREACH OF PEACE.** Subsection (1) does not
20 apply to the duty under s. 409.609 to refrain from breaching the peace.

21 **409.604 Procedure if security agreement covers real property or**
22 **fixtures. (1) ENFORCEMENT: PERSONAL AND REAL PROPERTY.** If a security agreement
23 covers both personal and real property, a secured party may proceed:

24 (a) Under this subchapter as to the personal property without prejudicing any
25 rights with respect to the real property; or

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1 (b) As to both the personal property and the real property in accordance with
2 the rights with respect to the real property, in which case the other provisions of this
3 subchapter do not apply.

4 **(2) ENFORCEMENT: FIXTURES.** Subject to sub. (3), if a security agreement covers
5 goods that are or become fixtures, a secured party may proceed:

6 (a) Under this subchapter; or

7 (b) In accordance with the rights with respect to real property, in which case
8 the other provisions of this subchapter do not apply.

9 **(3) REMOVAL OF FIXTURES.** Subject to the other provisions of this subchapter, if
10 a secured party holding a security interest in fixtures has priority over all owners and
11 encumbrancers of the real property, the secured party, after default, may remove the
12 collateral from the real property.

13 **(4) INJURY CAUSED BY REMOVAL.** A secured party that removes collateral shall
14 promptly reimburse any encumbrancer or owner of the real property, other than the
15 debtor, for the cost of repair of any physical injury caused by the removal. The
16 secured party need not reimburse the encumbrancer or owner for any diminution in
17 value of the real property caused by the absence of the goods removed or by any
18 necessity of replacing them. A person entitled to reimbursement may refuse
19 permission to remove until the secured party gives adequate assurance for the
20 performance of the obligation to reimburse.

21 **409.605 Unknown debtor or secondary obligor.** A secured party does not
22 owe a duty based on its status as secured party:

23 **(1)** To a person that is a debtor or obligor, unless the secured party knows:

24 (a) That the person is a debtor or obligor;

25 (b) The identity of the person; and

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1 (c) How to communicate with the person; or

2 (2) To a secured party or lienholder that has filed a financing statement against
3 a person, unless the secured party knows:

4 (a) That the person is a debtor; and

5 (b) The identity of the person.

6 **409.606 Time of default for agricultural lien.** For purposes of this
7 subchapter, a default occurs in connection with an agricultural lien at the time the
8 secured party becomes entitled to enforce the lien in accordance with the statute
9 under which it was created.

10 **409.607 Collection and enforcement by secured party. (1) COLLECTION**
11 **AND ENFORCEMENT GENERALLY.** If so agreed, and in any event after default, a secured
12 party:

13 (a) May notify an account debtor or other person obligated on collateral to make
14 payment or otherwise render performance to or for the benefit of the secured party;

15 (b) May take any proceeds to which the secured party is entitled under s.
16 409.315;

17 (c) May enforce the obligations of an account debtor or other person obligated
18 on collateral and exercise the rights of the debtor with respect to the obligation of the
19 account debtor or other person obligated on collateral to make payment or otherwise
20 render performance to the debtor, and with respect to any property that secures the
21 obligations of the account debtor or other person obligated on the collateral;

22 (d) If it holds a security interest in a deposit account perfected by control under
23 s. 409.104 (1) (a), may apply the balance of the deposit account to the obligation
24 secured by the deposit account; and

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1 (e) If it holds a security interest in a deposit account perfected by control under
2 s. 409.104 (1) (b) or (c), may instruct the bank to pay the balance of the deposit
3 account to or for the benefit of the secured party.

4 **(2) NONJUDICIAL ENFORCEMENT OF MORTGAGE.** If necessary to enable a secured
5 party to exercise under sub. (1) (c) the right of a debtor to enforce a mortgage
6 nonjudicially, the secured party may record in the office in which a record of the
7 mortgage is recorded:

8 (a) A copy of the security agreement that creates or provides for a security
9 interest in the obligation secured by the mortgage; and

10 (b) The secured party's sworn affidavit in recordable form stating that:

11 1. A default has occurred; and

12 2. The secured party is entitled to enforce the mortgage nonjudicially.

13 **(3) COMMERCIALY REASONABLE COLLECTION AND ENFORCEMENT.** A secured party
14 shall proceed in a commercially reasonable manner if the secured party:

15 (a) Undertakes to collect from or enforce an obligation of an account debtor or
16 other person obligated on collateral; and

17 (b) Is entitled to charge back uncollected collateral or otherwise to full or
18 limited recourse against the debtor or a secondary obligor.

19 **(4) EXPENSES OF COLLECTION AND ENFORCEMENT.** A secured party may deduct
20 from the collections made pursuant to sub. (3) reasonable expenses of collection and
21 enforcement, including reasonable attorney fees and legal expenses incurred by the
22 secured party.

23 **(5) DUTIES TO SECURED PARTY NOT AFFECTED.** This section does not determine
24 whether an account debtor, bank, or other person obligated on collateral owes a duty
25 to a secured party.

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1 **409.608 Application of proceeds of collection or enforcement; liability**
2 **for deficiency and right to surplus. (1) APPLICATION OF PROCEEDS, SURPLUS, AND**
3 DEFICIENCY IF OBLIGATION SECURED. If a security interest or agricultural lien secures
4 payment or performance of an obligation, the following rules apply:

5 (a) A secured party shall apply or pay over for application the cash proceeds of
6 collection or enforcement under s. 409.607 in the following order to:

7 1. The reasonable expenses of collection and enforcement and, to the extent
8 provided for by agreement and not prohibited by law, reasonable attorney fees and
9 legal expenses incurred by the secured party;

10 2. The satisfaction of obligations secured by the security interest or
11 agricultural lien under which the collection or enforcement is made; and

12 3. The satisfaction of obligations secured by any subordinate security interest
13 in or other lien on the collateral subject to the security interest or agricultural lien
14 under which the collection or enforcement is made if the secured party receives an
15 authenticated demand for proceeds before distribution of the proceeds is completed.

16 (b) If requested by a secured party, a holder of a subordinate security interest
17 or other lien shall furnish reasonable proof of the interest or lien within a reasonable
18 time. Unless the holder complies, the secured party need not comply with the
19 holder's demand under par. (a) 3.

20 (c) A secured party need not apply or pay over for application noncash proceeds
21 of collection and enforcement under s. 409.607 unless the failure to do so would be
22 commercially unreasonable. A secured party that applies or pays over for application
23 noncash proceeds shall do so in a commercially reasonable manner.

24 (d) A secured party shall account to and pay a debtor for any surplus, and the
25 obligor is liable for any deficiency.

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1 **(2) NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT.** If the
2 underlying transaction is a sale of accounts, chattel paper, payment intangibles, or
3 promissory notes, the debtor is not entitled to any surplus, and the obligor is not
4 liable for any deficiency.

5 **409.609 Secured party's right to take possession after default. (1)**
6 POSSESSION; RENDERING EQUIPMENT UNUSABLE; DISPOSITION ON DEBTOR'S PREMISES. After
7 default, a secured party:

8 (a) May take possession of the collateral; and

9 (b) Without removal, may render equipment unusable and dispose of collateral
10 on a debtor's premises under s. 409.610.

11 **(2) JUDICIAL AND NONJUDICIAL PROCESS.** A secured party may proceed under sub.
12 (1):

13 (a) Pursuant to judicial process; or

14 (b) Without judicial process, if it proceeds without breach of the peace.

15 **(3) ASSEMBLY OF COLLATERAL.** If so agreed, and in any event after default, a
16 secured party may require the debtor to assemble the collateral and make it
17 available to the secured party at a place to be designated by the secured party which
18 is reasonably convenient to both parties.

19 **409.610 Disposition of collateral after default. (1) DISPOSITION AFTER**
20 **DEFAULT.** After default, a secured party may sell, lease, license, or otherwise dispose
21 of any or all of the collateral in its present condition or following any commercially
22 reasonable preparation or processing.

23 **(2) COMMERCIALY REASONABLE DISPOSITION.** Every aspect of a disposition of
24 collateral, including the method, manner, time, place, and other terms, must be
25 commercially reasonable. If commercially reasonable, a secured party may dispose

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1 of collateral by public or private proceedings, by one or more contracts, as a unit or
2 in parcels, and at any time and place and on any terms.

3 (3) PURCHASE BY SECURED PARTY. A secured party may purchase collateral:

4 (a) At a public disposition; or

5 (b) At a private disposition only if the collateral is of a kind that is customarily
6 sold on a recognized market or the subject of widely distributed standard price
7 quotations.

8 (4) WARRANTIES ON DISPOSITION. A contract for sale, lease, license, or other
9 disposition includes the warranties relating to title, possession, quiet enjoyment,
10 and the like which by operation of law accompany a voluntary disposition of property
11 of the kind subject to the contract.

12 (5) DISCLAIMER OF WARRANTIES. A secured party may disclaim or modify
13 warranties under sub. (4):

14 (a) In a manner that would be effective to disclaim or modify the warranties in
15 a voluntary disposition of property of the kind subject to the contract of disposition;
16 or

17 (b) By communicating to the purchaser a record evidencing the contract for
18 disposition and including an express disclaimer or modification of the warranties.

19 (6) RECORD SUFFICIENT TO DISCLAIM WARRANTIES. A record is sufficient to disclaim
20 warranties under sub. (5) if it indicates "There is no warranty relating to title,
21 possession, quiet enjoyment, or the like in this disposition" or uses words of similar
22 import.

23 **409.611 Notification before disposition of collateral. (1) NOTIFICATION**
24 DATE. In this section, "notification date" means the earlier of the date on which:

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1 (a) A secured party sends to the debtor and any secondary obligor an
2 authenticated notification of disposition; or

3 (b) The debtor and any secondary obligor waive the right to notification.

4 **(2) NOTIFICATION OF DISPOSITION REQUIRED.** Except as otherwise provided in sub.
5 (4), a secured party that disposes of collateral under s. 409.610 shall send to the
6 persons specified in sub. (3) a reasonable, authenticated notification of disposition.

7 **(3) PERSONS TO BE NOTIFIED.** To comply with sub. (2), the secured party shall
8 send an authenticated notification of disposition to:

9 (a) The debtor;

10 (b) Any secondary obligor; and

11 (c) If the collateral is other than consumer goods:

12 1. Any other person from which the secured party has received, before the
13 notification date, an authenticated notification of a claim of an interest in the
14 collateral;

15 2. Any other secured party or lienholder that, 10 days before the notification
16 date, held a security interest in or other lien on the collateral perfected by the filing
17 of a financing statement that:

18 a. Identified the collateral;

19 b. Was indexed under the debtor's name as of that date; and

20 c. Was filed in the office in which to file a financing statement against the debtor
21 covering the collateral as of that date; and

22 3. Any other secured party that, 10 days before the notification date, held a
23 security interest in the collateral perfected by compliance with a statute, regulation,
24 or treaty described in s. 409.311 (1).

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1 **(4) SUBSECTION (2) INAPPLICABLE: PERISHABLE COLLATERAL; RECOGNIZED MARKET.**

2 Subsection (2) does not apply if the collateral is perishable or threatens to decline
3 speedily in value or is of a type customarily sold on a recognized market.

4 **(5) COMPLIANCE WITH SUB. (3) (C) 2.** A secured party complies with the
5 requirement for notification prescribed by sub. (3) (c) 2. if:

6 (a) Not later than 20 days or earlier than 30 days before the notification date,
7 the secured party requests, in a commercially reasonable manner, information
8 concerning financing statements indexed under the debtor's name in the office
9 indicated in sub. (3) (c) 2.; and

10 (b) Before the notification date, the secured party:

11 1. Did not receive a response to the request for information; or

12 2. Received a response to the request for information and sent an authenticated
13 notification of disposition to each secured party or other lienholder named in that
14 response whose financing statement covered the collateral.

15 **409.612 Timeliness of notification before disposition of collateral. (1)**

16 REASONABLE TIME IS QUESTION OF FACT. Except as otherwise provided in sub. (2),
17 whether a notification is sent within a reasonable time is a question of fact.

18 **(2) TEN-DAY PERIOD SUFFICIENT IN NONCONSUMER TRANSACTION.** In a transaction
19 other than a consumer transaction, a notification of disposition sent after default and
20 10 days or more before the earliest time of disposition set forth in the notification is
21 sent within a reasonable time before the disposition.

22 **409.613 Contents and form of notification before disposition of**

23 **collateral: general.** Except in a consumer-goods transaction, the following rules
24 apply:

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1 From: [*Name, address, and telephone number of secured party*]

2 Name of Debtor(s): [*Include only if debtor(s) are not an addressee*]

3 [*For a public disposition*]:

4 We will sell [or lease or license, as *applicable*] the [*describe collateral*] [to the
5 highest qualified bidder] in public as follows:

6 Day and Date:

7 Time:

8 Place:

9 [*For a private disposition*]:

10 We will sell [or lease or license, as *applicable*] the [*describe collateral*]
11 privately sometime after [*day and date*].

12 You are entitled to an accounting of the unpaid indebtedness secured by the
13 property that we intend to sell [or lease or license, as *applicable*] [for a charge of \$
....]. You may request an accounting by calling us at [*telephone number*].

14 **409.614 Contents and form of notification before disposition of**
15 **collateral: consumer-goods transaction.** In a consumer-goods transaction, the
16 following rules apply:

17 **(1) NOTIFICATION OF DISPOSITION.** A notification of disposition must provide the
18 following information:

19 (a) The information specified in s. 409.613 (1);

20 (b) A description of any liability for a deficiency of the person to which the
21 notification is sent;

22 (c) A telephone number from which the amount that must be paid to the secured
23 party to redeem the collateral under s. 409.623 is available; and

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1 (d) A telephone number or mailing address from which additional information
2 concerning the disposition and the obligation secured is available.

3 (2) SUBSTANTIAL COMPLIANCE. A particular phrasing of the notification is not
4 required.

5 (3) NOTIFICATION: FORM SUFFICIENT. The following form of notification, when
6 completed, provides sufficient information:

7 [Name and address of secured party]

8 [Date]

9 **NOTICE OF OUR PLAN**

10 **TO SELL PROPERTY**

11 [*Name and address of any obligor who is also a debtor*]

12 Subject: [*Identification of transaction*]

13 We have your [*describe collateral*], because you broke promises in our
14 agreement.

15 [*For a public disposition*]:

16 We will sell [*describe collateral*] at public sale. A sale could include a lease
17 or license. The sale will be held as follows:

18 Date:

19 Time:

20 Place:

21 You may attend the sale and bring bidders if you want.

22 [*For a private disposition*]:

23 We will sell [*describe collateral*] at private sale sometime after [*date*]. A
24 sale could include a lease or license.

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1 **(6) NOTIFICATION:** NOT IN FORM. If a notification under this section is not in the
2 form of sub. (3), law other than this chapter determines the effect of including
3 information not required by sub. (1).

4 **409.615 Application of proceeds of disposition; liability for deficiency**
5 **and right to surplus. (1) APPLICATION OF PROCEEDS.** A secured party shall apply
6 or pay over for application the cash proceeds of disposition under s. 409.610 in the
7 following order to:

8 (a) The reasonable expenses of retaking, holding, preparing for disposition,
9 processing, and disposing of, and, to the extent provided for by agreement and not
10 prohibited by law, reasonable attorney fees and legal expenses incurred by the
11 secured party;

12 (b) The satisfaction of obligations secured by the security interest or
13 agricultural lien under which the disposition is made;

14 (c) The satisfaction of obligations secured by any subordinate security interest
15 in or other subordinate lien on the collateral if:

16 1. The secured party receives from the holder of the subordinate security
17 interest or other lien an authenticated demand for proceeds before distribution of the
18 proceeds is completed; and

19 2. In a case in which a consignor has an interest in the collateral, the
20 subordinate security interest or other lien is senior to the interest of the consignor;
21 and

22 (d) A secured party that is a consignor of the collateral if the secured party
23 receives from the consignor an authenticated demand for proceeds before
24 distribution of the proceeds is completed.

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1 **(2) PROOF OF SUBORDINATE INTEREST.** If requested by a secured party, a holder
2 of a subordinate security interest or other lien shall furnish reasonable proof of the
3 interest or lien within a reasonable time. Unless the holder does so, the secured party
4 need not comply with the holder's demand under sub. (1) (c).

5 **(3) APPLICATION OF NONCASH PROCEEDS.** A secured party need not apply or pay
6 over for application noncash proceeds of disposition under s. 409.610 unless the
7 failure to do so would be commercially unreasonable. A secured party that applies
8 or pays over for application noncash proceeds shall do so in a commercially
9 reasonable manner.

10 **(4) SURPLUS OR DEFICIENCY IF OBLIGATION SECURED.** If the security interest under
11 which a disposition is made secures payment or performance of an obligation, after
12 making the payments and applications required by sub. (1) and permitted by sub. (3):

13 (a) Unless sub. (1) (d) requires the secured party to apply or pay over cash
14 proceeds to a consignor, the secured party shall account to and pay a debtor for any
15 surplus; and

16 (b) The obligor is liable for any deficiency.

17 **(5) NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT.** If the
18 underlying transaction is a sale of accounts, chattel paper, payment intangibles, or
19 promissory notes:

20 (a) The debtor is not entitled to any surplus; and

21 (b) The obligor is not liable for any deficiency.

22 **(6) CALCULATION OF SURPLUS OR DEFICIENCY IN DISPOSITION TO PERSON RELATED TO**
23 **SECURED PARTY.** The surplus or deficiency following a disposition is calculated based
24 on the amount of proceeds that would have been realized in a disposition complying

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1 with this subchapter to a transferee other than the secured party, a person related
2 to the secured party or a secondary obligor if:

3 (a) The transferee in the disposition is the secured party, a person related to
4 the secured party, or a secondary obligor; and

5 (b) The amount of proceeds of the disposition is significantly below the range
6 of proceeds that a complying disposition to a person other than the secured party, a
7 person related to the secured party, or a secondary obligor would have brought.

8 **(7) CASH PROCEEDS RECEIVED BY JUNIOR SECURED PARTY.** A secured party that
9 receives cash proceeds of a disposition in good faith and without knowledge that the
10 receipt violates the rights of the holder of a security interest or other lien that is not
11 subordinate to the security interest or agricultural lien under which the disposition
12 is made:

13 (a) Takes the cash proceeds free of the security interest or other lien;

14 (b) Is not obligated to apply the proceeds of the disposition to the satisfaction
15 of obligations secured by the security interest or other lien; and

16 (c) Is not obligated to account to or pay the holder of the security interest or
17 other lien for any surplus.

18 **409.616 Explanation of calculation of surplus or deficiency. (1)**

19 DEFINITIONS. In this section:

20 (a) "Explanation" means a writing that:

21 1. States the amount of the surplus or deficiency;

22 2. Provides an explanation in accordance with sub. (3) of how the secured party
23 calculated the surplus or deficiency;

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1 3. States, if applicable, that future debits, credits, charges, including additional
2 credit service charges or interest, rebates, and expenses may affect the amount of the
3 surplus or deficiency; and

4 4. Provides a telephone number or mailing address from which additional
5 information concerning the transaction is available.

6 (b) "Request" means a record:

7 1. Authenticated by a debtor or consumer obligor;

8 2. Requesting that the recipient provide an explanation; and

9 3. Sent after disposition of the collateral under s. 409.610.

10 **(2) EXPLANATION OF CALCULATION.** In a consumer-goods transaction in which
11 the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under
12 s. 409.615, the secured party shall:

13 (a) Send an explanation to the debtor or consumer obligor, as applicable, after
14 the disposition and:

15 1. Before or when the secured party accounts to the debtor and pays any surplus
16 or first makes written demand on the consumer obligor after the disposition for
17 payment of the deficiency; and

18 2. Within 14 days after receipt of a request; or

19 (b) In the case of a consumer obligor who is liable for a deficiency, within 14 days
20 after receipt of a request, send to the consumer obligor a record waiving the secured
21 party's right to a deficiency.

22 **(3) REQUIRED INFORMATION.** To comply with sub. (1) (a) 2., a writing must provide
23 the following information in the following order:

24 (a) The aggregate amount of obligations secured by the security interest under
25 which the disposition was made, and, if the amount reflects a rebate of unearned

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1 interest or credit service charge, an indication of that fact, calculated as of a specified
2 date:

3 1. If the secured party takes or receives possession of the collateral after
4 default, not more than 35 days before the secured party takes or receives possession;
5 or

6 2. If the secured party takes or receives possession of the collateral before
7 default or does not take possession of the collateral, not more than 35 days before the
8 disposition;

9 (b) The amount of proceeds of the disposition;

10 (c) The aggregate amount of the obligations after deducting the amount of
11 proceeds;

12 (d) The amount, in the aggregate or by type, and types of expenses, including
13 expenses of retaking, holding, preparing for disposition, processing, and disposing
14 of the collateral, and attorney fees secured by the collateral which are known to the
15 secured party and relate to the current disposition;

16 (e) The amount, in the aggregate or by type, and types of credits, including
17 rebates of interest or credit service charges, to which the obligor is known to be
18 entitled and which are not reflected in the amount in par. (a); and

19 (f) The amount of the surplus or deficiency.

20 **(4) SUBSTANTIAL COMPLIANCE.** A particular phrasing of the explanation is not
21 required. An explanation complying substantially with the requirements of sub. (1)
22 is sufficient, even if it includes minor errors that are not seriously misleading.

23 **(5) CHARGES FOR RESPONSES.** A debtor or consumer obligor is entitled without
24 charge to one response to a request under this section during any 6-month period in
25 which the secured party did not send to the debtor or consumer obligor an

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1 explanation pursuant to sub. (2) (a). The secured party may require payment of a
2 charge not exceeding \$25 for each additional response.

3 **409.617 Rights of transferee of collateral. (1) EFFECTS OF DISPOSITION.** A
4 secured party's disposition of collateral after default:

5 (a) Transfers to a transferee for value all of the debtor's rights in the collateral;

6 (b) Discharges the security interest under which the disposition is made; and

7 (c) Discharges any subordinate security interest or other subordinate lien other
8 than liens held by this state or a local governmental unit, as defined in s. 19.42 (7u).

9 **(2) RIGHTS OF GOOD-FAITH TRANSFEREE.** A transferee that acts in good faith takes
10 free of the rights and interests described in sub. (1), even if the secured party fails
11 to comply with this chapter or the requirements of any judicial proceeding.

12 **(3) RIGHTS OF OTHER TRANSFEREE.** If a transferee does not take free of the rights
13 and interests described in sub. (1), the transferee takes the collateral subject to:

14 (a) The debtor's rights in the collateral;

15 (b) The security interest or agricultural lien under which the disposition is
16 made; and

17 (c) Any other security interest or other lien.

18 **409.618 Rights and duties of certain secondary obligors. (1) RIGHTS AND**
19 **DUTIES OF SECONDARY OBLIGOR.** A secondary obligor acquires the rights and becomes
20 obligated to perform the duties of the secured party after the secondary obligor:

21 (a) Receives an assignment of a secured obligation from the secured party;

22 (b) Receives a transfer of collateral from the secured party and agrees to accept
23 the rights and assume the duties of the secured party; or

24 (c) Is subrogated to the rights of a secured party with respect to collateral.

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1 **(2) EFFECT OF ASSIGNMENT, TRANSFER, OR SUBROGATION.** An assignment, transfer,
2 or subrogation described in sub. (1):

3 (a) Is not a disposition of collateral under s. 409.610; and

4 (b) Relieves the secured party of further duties under this chapter.

5 **409.619 Transfer of record or legal title. (1) TRANSFER STATEMENT.** In this
6 section, “transfer statement” means a record authenticated by a secured party
7 stating:

8 (a) That the debtor has defaulted in connection with an obligation secured by
9 specified collateral;

10 (b) That the secured party has exercised its postdefault remedies with respect
11 to the collateral;

12 (c) That, by reason of the exercise, a transferee has acquired the rights of the
13 debtor in the collateral; and

14 (d) The name and mailing address of the secured party, debtor, and transferee.

15 **(2) EFFECT OF TRANSFER STATEMENT.** A transfer statement entitles the transferee
16 to the transfer of record of all rights of the debtor in the collateral specified in the
17 statement in any official filing, recording, registration, or certificate-of-title system
18 covering the collateral. If a transfer statement is presented with the applicable fee
19 and request form to the official or office responsible for maintaining the system, the
20 official or office shall:

21 (a) Accept the transfer statement;

22 (b) Promptly amend its records to reflect the transfer; and

23 (c) If applicable, issue a new appropriate certificate of title in the name of the
24 transferee.

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1 **(3) TRANSFER NOT A DISPOSITION; NO RELIEF OF SECURED PARTY'S DUTIES.** A transfer
2 of the record or legal title to collateral to a secured party under sub. (2) or otherwise
3 is not of itself a disposition of collateral under this chapter and does not of itself
4 relieve the secured party of its duties under this chapter.

5 **409.620 Acceptance of collateral in full or partial satisfaction of**
6 **obligation; compulsory disposition of collateral. (1) CONDITIONS TO**
7 **ACCEPTANCE IN SATISFACTION.** Except as otherwise provided in sub. (7), a secured party
8 may accept collateral in full or partial satisfaction of the obligation it secures only
9 if:

10 (a) The debtor consents to the acceptance under sub. (3);

11 (b) The secured party does not receive, within the time set forth in sub. (4), a
12 notification of objection to the proposal authenticated by:

13 1. A person to which the secured party was required to send a proposal under
14 s. 409.621; or

15 2. Any other person, other than the debtor, holding an interest in the collateral
16 subordinate to the security interest that is the subject of the proposal;

17 (c) If the collateral is consumer goods, the collateral is not in the possession of
18 the debtor when the debtor consents to the acceptance; and

19 (d) Subsection (5) does not require the secured party to dispose of the collateral
20 or the debtor waives the requirement pursuant to s. 409.624.

21 **(2) PURPORTED ACCEPTANCE INEFFECTIVE.** A purported or apparent acceptance
22 of collateral under this section is ineffective unless:

23 (a) The secured party consents to the acceptance in an authenticated record or
24 sends a proposal to the debtor; and

25 (b) The conditions of sub. (1) are met.

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1 **(3) DEBTOR'S CONSENT.** For purposes of this section:

2 (a) A debtor consents to an acceptance of collateral in partial satisfaction of the
3 obligation it secures only if the debtor agrees to the terms of the acceptance in a
4 record authenticated after default; and

5 (b) A debtor consents to an acceptance of collateral in full satisfaction of the
6 obligation it secures only if the debtor agrees to the terms of the acceptance in a
7 record authenticated after default or the secured party:

8 1. Sends to the debtor after default a proposal that is unconditional or subject
9 only to a condition that collateral not in the possession of the secured party be
10 preserved or maintained;

11 2. In the proposal, proposes to accept collateral in full satisfaction of the
12 obligation it secures; and

13 3. Does not receive a notification of objection authenticated by the debtor
14 within 20 days after the proposal is sent.

15 **(4) EFFECTIVENESS OF NOTIFICATION.** To be effective under sub. (1) (b), a
16 notification of objection must be received by the secured party:

17 (a) In the case of a person to which the proposal was sent pursuant to s. 409.621,
18 within 20 days after notification was sent to that person; and

19 (b) In other cases:

20 1. Within 20 days after the last notification was sent pursuant to s. 409.621;
21 or

22 2. If a notification was not sent, before the debtor consents to the acceptance
23 under sub. (3).

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1 **(5) MANDATORY DISPOSITION OF CONSUMER GOODS.** A secured party that has taken
2 possession of collateral shall dispose of the collateral pursuant to s. 409.610 within
3 the time specified in sub. (6) if:

4 (a) Sixty percent of the cash price has been paid in the case of a
5 purchase-money security interest in consumer goods; or

6 (b) Sixty percent of the principal amount of the obligation secured has been paid
7 in the case of a nonpurchase-money security interest in consumer goods.

8 **(6) COMPLIANCE WITH MANDATORY DISPOSITION REQUIREMENT.** To comply with sub.
9 (5), the secured party shall dispose of the collateral:

10 (a) Within 90 days after taking possession; or

11 (b) Within any longer period to which the debtor and all secondary obligors
12 have agreed in an agreement to that effect entered into and authenticated after
13 default.

14 **(7) NO PARTIAL SATISFACTION IN CONSUMER TRANSACTION.** In a consumer
15 transaction, a secured party may not accept collateral in partial satisfaction of the
16 obligation it secures.

17 **409.621 Notification of proposal to accept collateral. (1) PERSONS TO**
18 **WHICH PROPOSAL TO BE SENT.** A secured party that desires to accept collateral in full
19 or partial satisfaction of the obligation it secures shall send its proposal to:

20 (a) Any person from which the secured party has received, before the debtor
21 consented to the acceptance, an authenticated notification of a claim of an interest
22 in the collateral;

23 (b) Any other secured party or lienholder that, 10 days before the debtor
24 consented to the acceptance, held a security interest in or other lien on the collateral
25 perfected by the filing of a financing statement that:

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- 1 1. Identified the collateral;
- 2 2. Was indexed under the debtor's name as of that date; and
- 3 3. Was filed in the office or offices in which to file a financing statement against
- 4 the debtor covering the collateral as of that date; and

5 (c) Any other secured party that, 10 days before the debtor consented to the
6 acceptance, held a security interest in the collateral perfected by compliance with a
7 statute, regulation, or treaty described in s. 409.311 (1).

8 **(2) PROPOSAL TO BE SENT TO SECONDARY OBLIGOR IN PARTIAL SATISFACTION.** A
9 secured party that desires to accept collateral in partial satisfaction of the obligation
10 it secures shall send its proposal to any secondary obligor in addition to the persons
11 described in sub. (1).

12 **409.622 Effect of acceptance of collateral. (1) EFFECT OF ACCEPTANCE.** A
13 secured party's acceptance of collateral in full or partial satisfaction of the obligation
14 it secures:

- 15 (a) Discharges the obligation to the extent consented to by the debtor;
- 16 (b) Transfers to the secured party all of a debtor's rights in the collateral;
- 17 (c) Discharges the security interest or agricultural lien that is the subject of the
18 debtor's consent and any subordinate security interest or other subordinate lien; and
- 19 (d) Terminates any other subordinate interest.

20 **(2) DISCHARGE OF SUBORDINATE INTEREST NOTWITHSTANDING NONCOMPLIANCE.** A
21 subordinate interest is discharged or terminated under sub. (1), even if the secured
22 party fails to comply with this chapter.

23 **409.623 Right to redeem collateral. (1) PERSONS THAT MAY REDEEM.** A
24 debtor, any secondary obligor, or any other secured party or lienholder may redeem
25 collateral.

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1 **(2) REQUIREMENTS FOR REDEMPTION.** To redeem collateral, a person shall tender:

2 (a) Fulfillment of all obligations secured by the collateral; and

3 (b) The reasonable expenses and attorney fees described in s. 409.615 (1) (a).

4 **(3) WHEN REDEMPTION MAY OCCUR.** A redemption may occur at any time before
5 a secured party:

6 (a) Has collected collateral under s. 409.607;

7 (b) Has disposed of collateral or entered into a contract for its disposition under
8 s. 409.610; or

9 (c) Has accepted collateral in full or partial satisfaction of the obligation it
10 secures under s. 409.622.

11 **409.624 Waiver. (1) WAIVER OF DISPOSITION NOTIFICATION.** A debtor or
12 secondary obligor may waive the right to notification of disposition of collateral
13 under s. 409.611 only by an agreement to that effect entered into and authenticated
14 after default.

15 **(2) WAIVER OF MANDATORY DISPOSITION.** A debtor may waive the right to require
16 disposition of collateral under s. 409.620 (5) only by an agreement to that effect
17 entered into and authenticated after default.

18 **(3) WAIVER OF REDEMPTION RIGHT.** Except in a consumer-goods transaction, a
19 debtor or secondary obligor may waive the right to redeem collateral under s. 409.623
20 only by an agreement to that effect entered into and authenticated after default.

21 **409.625 Remedies for secured party's failure to comply with chapter.**

22 **(1) JUDICIAL ORDERS CONCERNING NONCOMPLIANCE.** If it is established that a secured
23 party is not proceeding in accordance with this chapter, a court may order or restrain
24 collection, enforcement, or disposition of collateral on appropriate terms and
25 conditions.

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1 **(2) DAMAGES FOR NONCOMPLIANCE.** Subject to subs. (3), (4), and (6), a person is
2 liable for damages in the amount of any loss caused by a failure to comply with this
3 chapter. Loss caused by a failure to comply may include loss resulting from the
4 debtor's inability to obtain, or increased costs of, alternative financing.

5 **(3) PERSONS ENTITLED TO RECOVER DAMAGES; STATUTORY DAMAGES IN**
6 **CONSUMER-GOODS TRANSACTION.** Except as otherwise provided in s. 409.628:

7 (a) A person that, at the time of the failure, was a debtor, was an obligor, or held
8 a security interest in or other lien on the collateral may recover damages under sub.
9 (2) for its loss; and

10 (b) If the collateral is consumer goods, a person that was a debtor or a secondary
11 obligor at the time a secured party failed to comply with this subchapter may recover
12 for that failure in any event an amount not less than the credit service charge plus
13 10% of the principal amount of the obligation or the time-price differential plus 10%
14 of the cash price.

15 **(4) RECOVERY WHEN DEFICIENCY ELIMINATED OR REDUCED.** A debtor whose
16 deficiency is eliminated under s. 409.626 may recover damages for the loss of any
17 surplus. However, a debtor or secondary obligor whose deficiency is eliminated or
18 reduced under s. 409.626 may not otherwise recover under sub. (2) for noncompliance
19 with the provisions of this subchapter relating to collection, enforcement,
20 disposition, or acceptance.

21 **(5) STATUTORY DAMAGES: NONCOMPLIANCE WITH SPECIFIED PROVISIONS.** In addition
22 to any damages recoverable under sub. (2), the debtor, consumer obligor, or person
23 named as a debtor in a filed record, as applicable, may recover \$500 in each case from
24 a person that:

25 (a) Fails to comply with s. 409.208;

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1 (b) Fails to comply with s. 409.209;

2 (c) Files a record that the person is not entitled to file under s. 409.509 (1);

3 (d) Fails to cause the secured party of record to file or send a termination
4 statement as required by s. 409.513 (1) or (3);

5 (e) Fails to comply with s. 409.616 (2) (a) and whose failure is part of a pattern,
6 or consistent with a practice, of noncompliance; or

7 (f) Fails to comply with s. 409.616 (2) (b).

8 **(6) STATUTORY DAMAGES: NONCOMPLIANCE WITH S. 409.210.** A debtor or consumer
9 obligor may recover damages under sub. (2) and, in addition, \$500 in each case from
10 a person that, without reasonable cause, fails to comply with a request under s.
11 409.210. A recipient of a request under s. 409.210 which never claimed an interest
12 in the collateral or obligations that are the subject of a request under that section has
13 a reasonable excuse for failure to comply with the request within the meaning of this
14 subsection.

15 **(7) LIMITATION OF SECURITY INTEREST: NONCOMPLIANCE WITH S. 409.210.** If a secured
16 party fails to comply with a request regarding a list of collateral or a statement of
17 account under s. 409.210, the secured party may claim a security interest only as
18 shown in the list or statement included in the request as against a person that is
19 reasonably misled by the failure.

20 **409.626 Action in which deficiency or surplus is in issue. (1) APPLICABLE**
21 **RULES IF AMOUNT OF DEFICIENCY OR SURPLUS IN ISSUE.** In an action arising from a
22 transaction, other than a consumer transaction, in which the amount of a deficiency
23 or surplus is in issue, the following rules apply:

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1 (a) A secured party need not prove compliance with the provisions of this
2 subchapter relating to collection, enforcement, disposition, or acceptance unless the
3 debtor or a secondary obligor places the secured party's compliance in issue.

4 (b) If the secured party's compliance is placed in issue, the secured party has
5 the burden of establishing that the collection, enforcement, disposition, or
6 acceptance was conducted in accordance with this subchapter.

7 (c) Except as otherwise provided in s. 409.628, if a secured party fails to prove
8 that the collection, enforcement, disposition, or acceptance was conducted in
9 accordance with the provisions of this subchapter relating to collection, enforcement,
10 disposition, or acceptance, the liability of a debtor or a secondary obligor for a
11 deficiency is limited to an amount by which the sum of the secured obligation,
12 expenses, and attorney fees exceeds the greater of:

- 13 1. The proceeds of the collection, enforcement, disposition, or acceptance; or
- 14 2. The amount of proceeds that would have been realized had the noncomplying
15 secured party proceeded in accordance with the provisions of this subchapter
16 relating to collection, enforcement, disposition, or acceptance.

17 (d) For purposes of par. (c) 2., the amount of proceeds that would have been
18 realized is equal to the sum of the secured obligation, expenses, and attorney fees
19 unless the secured party proves that the amount is less than that sum.

20 (e) If a deficiency or surplus is calculated under s. 409.615 (6), the debtor or
21 obligor has the burden of establishing that the amount of proceeds of the disposition
22 is significantly below the range of prices that a complying disposition to a person
23 other than the secured party, a person related to the secured party, or a secondary
24 obligor would have brought.

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1 **(2) NONCONSUMER TRANSACTIONS; NO INFERENCE.** The limitation of the rules in
2 sub. (1) to transactions other than consumer transactions is intended to leave to the
3 court the determination of the proper rules in consumer transactions. The court may
4 not infer from that limitation the nature of the proper rule in consumer transactions
5 and may continue to apply established approaches.

6 **409.627 Determination of whether conduct was commercially**
7 **reasonable. (1) GREATER AMOUNT OBTAINABLE UNDER OTHER CIRCUMSTANCES; NO**
8 **PRECLUSION OF COMMERCIAL REASONABLENESS.** The fact that a greater amount could
9 have been obtained by a collection, enforcement, disposition, or acceptance at a
10 different time or in a different method from that selected by the secured party is not
11 of itself sufficient to preclude the secured party from establishing that the collection,
12 enforcement, disposition, or acceptance was made in a commercially reasonable
13 manner.

14 **(2) DISPOSITIONS THAT ARE COMMERCIALY REASONABLE.** A disposition of collateral
15 is made in a commercially reasonable manner if the disposition is made:

16 (a) In the usual manner on any recognized market;

17 (b) At the price current in any recognized market at the time of the disposition;

18 or

19 (c) Otherwise in conformity with reasonable commercial practices among
20 dealers in the type of property that was the subject of the disposition.

21 **(3) APPROVAL BY COURT OR ON BEHALF OF CREDITORS.** A collection, enforcement,
22 disposition, or acceptance is commercially reasonable if it has been approved:

23 (a) In a judicial proceeding;

24 (b) By a bona fide creditors' committee;

25 (c) By a representative of creditors; or

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1 (d) By an assignee for the benefit of creditors.

2 **(4) APPROVAL UNDER SUB. (3) NOT NECESSARY; ABSENCE OF APPROVAL HAS NO EFFECT.**

3 Approval under sub. (3) need not be obtained, and lack of approval does not mean
4 that the collection, enforcement, disposition, or acceptance is not commercially
5 reasonable.

6 **409.628 Nonliability and limitation on liability of secured party;**
7 **liability of secondary obligor. (1) LIMITATION OF LIABILITY OF SECURED PARTY FOR**
8 **NONCOMPLIANCE WITH CHAPTER.** Unless a secured party knows that a person is a debtor
9 or obligor, knows the identity of the person, and knows how to communicate with the
10 person:

11 (a) The secured party is not liable to the person, or to a secured party or
12 lienholder that has filed a financing statement against the person, for failure to
13 comply with this chapter; and

14 (b) The secured party's failure to comply with this chapter does not affect the
15 liability of the person for a deficiency.

16 **(2) LIMITATION OF LIABILITY BASED ON STATUS AS SECURED PARTY.** A secured party
17 is not liable because of its status as secured party:

18 (a) To a person that is a debtor or obligor, unless the secured party knows:

- 19 1. That the person is a debtor or obligor;
20 2. The identity of the person; and
21 3. How to communicate with the person; or

22 (b) To a secured party or lienholder that has filed a financing statement against
23 a person, unless the secured party knows:

- 24 1. That the person is a debtor; and
25 2. The identity of the person.

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1 **(3) LIMITATION OF LIABILITY IF REASONABLE BELIEF THAT TRANSACTION NOT A**
2 CONSUMER-GOODS TRANSACTION OR CONSUMER TRANSACTION. A secured party is not
3 liable to any person, and a person's liability for a deficiency is not affected, because
4 of any act or omission arising out of the secured party's reasonable belief that a
5 transaction is not a consumer-goods transaction or a consumer transaction or that
6 goods are not consumer goods, if the secured party's belief is based on its reasonable
7 reliance on:

8 (a) A debtor's representation concerning the purpose for which collateral was
9 to be used, acquired, or held; or

10 (b) An obligor's representation concerning the purpose for which a secured
11 obligation was incurred.

12 **(4) LIMITATION OF LIABILITY FOR STATUTORY DAMAGES.** A secured party is not liable
13 to any person under s. 409.625 (3) (b) for its failure to comply with s. 409.616.

14 **(5) LIMITATION OF MULTIPLE LIABILITY FOR STATUTORY DAMAGES.** A secured party
15 is not liable under s. 409.625 (3) (b) more than once with respect to any one secured
16 obligation.

SUBCHAPTER VII**TRANSITION**

17 **409.702 Savings clause. (1) PREEFFECTIVE-DATE TRANSACTIONS OR LIENS.**
18 Except as otherwise provided in this subchapter, 1999 Wisconsin Act ... (this act)
19 applies to a transaction or lien within its scope, even if the transaction or lien was
20 entered into or created before the effective date of this subsection ... [revisor inserts
21 date].

22 **(2) CONTINUING VALIDITY.** Except as otherwise provided in sub. (3) and ss.
23 409.703 to 409.709:
24
25

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1 (a) Transactions and liens that were not governed by ch. 409, 1999 stats., were
2 validly entered into or created before effective date of this paragraph [revisor
3 inserts date], and would be subject to 1999 Wisconsin Act (this act) if they had
4 been entered into or created on or after the effective date of this paragraph [revisor
5 inserts date], and the rights, duties, and interests flowing from those transactions
6 and liens remain valid on and after the effective date of this paragraph [revisor
7 inserts date]; and

8 (b) The transactions and liens may be terminated, completed, consummated,
9 and enforced as required or permitted by 1999 Wisconsin Act (this act) or by the
10 law that otherwise would apply if this paragraph had not taken effect.

11 **(3) PREEFFECTIVE-DATE PROCEEDINGS.** 1999 Wisconsin Act (this act) does not
12 affect an action, case, or proceeding commenced before the effective date of this
13 subsection [revisor inserts date].

14 **409.703 Security interest perfected before effective date. (1)**
15 CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS SATISFIED. A
16 security interest that is enforceable immediately before the effective date of this
17 subsection [revisor inserts date], and would have priority over the rights of a
18 person that becomes a lien creditor at that time is a perfected security interest under
19 1999 Wisconsin Act (this act) if, on the effective date of this subsection [revisor
20 inserts date], the applicable requirements for enforceability and perfection under
21 1999 Wisconsin Act (this act) are satisfied without further action.

22 **(2) CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS NOT**
23 **SATISFIED.** Except as otherwise provided in s. 409.705, if, immediately before the
24 effective date of this subsection [revisor inserts date], a security interest is
25 enforceable and would have priority over the rights of a person that becomes a lien

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1 creditor at that time, but the applicable requirements for enforceability or perfection
2 under 1999 Wisconsin Act ... (this act) are not satisfied as of the effective date of this
3 subsection [revisor inserts date], the security interest:

4 (a) Is a perfected security interest until one year after the effective date of this
5 paragraph [revisor inserts date];

6 (b) Remains enforceable on and after one year after the effective date of this
7 paragraph [revisor inserts date], only if the security interest becomes enforceable
8 under s. 409.203 before one year after the effective date of this paragraph [revisor
9 inserts date]; and

10 (c) Remains perfected on and after one year after the effective date of this
11 paragraph [revisor inserts date], only if the applicable requirements for perfection
12 under 1999 Wisconsin Act ... (this act) are satisfied before one year after the effective
13 date of this paragraph [revisor inserts date].

14 **409.704 Security interest unperfected before effective date.** A security
15 interest that is enforceable immediately before the effective date of this section ...
16 [revisor inserts date], but which would be subordinate to the rights of a person that
17 becomes a lien creditor at that time:

18 (1) Remains an enforceable security interest for one year after the effective
19 date of this subsection [revisor inserts date];

20 (2) Remains enforceable on and after one year after the effective date of this
21 subsection [revisor inserts date], if the security interest becomes enforceable
22 under s. 409.203 on the effective date of this subsection [revisor inserts date], or
23 within one year thereafter; and

24 (3) Becomes perfected:

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1 1. Without further action, on the effective date of this subdivision [revisor
2 inserts date], if the applicable requirements for perfection under 1999 Wisconsin Act
3 (this act) are satisfied before or at that time; or

4 2. When the applicable requirements for perfection are satisfied if the
5 requirements are satisfied after that time.

409.705 Effectiveness of action taken before effective date. (1)

6 PREEFFECTIVE-DATE ACTION; ONE-YEAR PERFECTION PERIOD UNLESS REPERFECTED. If
7 action, other than the filing of a financing statement, is taken before the effective
8 date of this subsection [revisor inserts date], and the action would have resulted
9 in priority of a security interest over the rights of a person that becomes a lien
10 creditor had the security interest become enforceable before the effective date of this
11 subsection [revisor inserts date], the action is effective to perfect a security
12 interest that attaches under 1999 Wisconsin Act (this act) before the effective date
13 of this subsection [revisor inserts date]. An attached security interest becomes
14 unperfected one year after the effective date of this subsection [revisor inserts
15 date], unless the security interest becomes a perfected security interest under 1999
16 Wisconsin Act (this act) before one year after the effective date of this subsection
17 [revisor inserts date].

18 **(2)** PREEFFECTIVE-DATE FILING. The filing of a financing statement before the
19 effective date of this subsection [revisor inserts date], is effective to perfect a
20 security interest to the extent that the filing would satisfy the applicable
21 requirements for perfection under 1999 Wisconsin Act (this act).

22 **(3)** PREEFFECTIVE-DATE FILING IN JURISDICTION FORMERLY GOVERNING PERFECTION.
23 1999 Wisconsin Act (this act) does not render ineffective an effective financing
24 statement that, before the effective date of this subsection [revisor inserts date],
25

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1 is filed and satisfies the applicable requirements for perfection under the law of the
2 jurisdiction governing perfection as provided in s. 409.103, 1999 stats. However,
3 except as otherwise provided in subs. (4) and (5) and s. 409.706, the financing
4 statement ceases to be effective at the earlier of:

5 (a) The time the financing statement would have ceased to be effective under
6 the law of the jurisdiction in which it is filed; or

7 (b) June 30, 2006.

8 **(4) CONTINUATION STATEMENT.** The filing of a continuation statement on or after
9 the effective date of this subsection [revisor inserts date], does not continue the
10 effectiveness of the financing statement filed before the effective date of this
11 subsection [revisor inserts date]. However, upon the timely filing of a
12 continuation statement on or after the effective date of this subsection [revisor
13 inserts date], and in accordance with the law of the jurisdiction governing perfection
14 as provided in subch. III, the effectiveness of a financing statement filed in the same
15 office in that jurisdiction before the effective date of this subsection [revisor
16 inserts date], continues for the period provided by the law of that jurisdiction.

17 **(5) APPLICATION OF SUB. (3) (B) TO TRANSMITTING UTILITY FINANCING STATEMENT.**
18 Subsection (3) (b) applies to a financing statement that, before the effective date of
19 this subsection [revisor inserts date], is filed against a transmitting utility and
20 satisfies the applicable requirements for perfection under the law of the jurisdiction
21 governing perfection as provided in s. 409.103, 1999 stats., only to the extent that
22 subch. III provides that the law of a jurisdiction other than the jurisdiction in which
23 the financing statement is filed governs perfection of a security interest in collateral
24 covered by the financing statement.

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1 **(6)** APPLICATION OF SUBCH. V. A financing statement that includes a financing
2 statement filed before the effective date of this subsection [revisor inserts date],
3 and a continuation statement filed on or after the effective date of this subsection
4 [revisor inserts date], is effective only to the extent that it satisfies the requirements
5 of subch. V for an initial financing statement.

6 **409.706 When initial financing statement suffices to continue**
7 **effectiveness of financing statement. (1) INITIAL FINANCING STATEMENT IN LIEU**
8 **OF CONTINUATION STATEMENT.** The filing of an initial financing statement in the office
9 specified in s. 409.501 continues the effectiveness of a financing statement filed
10 before the effective date of this subsection [revisor inserts date], if:

11 (a) The filing of an initial financing statement in that office would be effective
12 to perfect a security interest under 1999 Wisconsin Act (this act);

13 (b) The preeffective-date financing statement was filed in an office in another
14 state or another office in this state; and

15 (c) The initial financing statement satisfies sub. (3).

16 **(2) PERIOD OF CONTINUED EFFECTIVENESS.** The filing of an initial financing
17 statement under sub. (1) continues the effectiveness of the preeffective-date
18 financing statement:

19 (a) If the initial financing statement is filed before the effective date of this
20 paragraph [revisor inserts date], for the period provided in s. 409.403, 1999 stats.,
21 with respect to a financing statement; and

22 (b) If the initial financing statement is filed on or after the effective date of this
23 paragraph [revisor inserts date], for the period provided in s. 409.515 with respect
24 to an initial financing statement.

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1 **(3) REQUIREMENTS FOR INITIAL FINANCING STATEMENT UNDER SUB. (1).** To be
2 effective for purposes of sub. (1), an initial financing statement must:

3 (a) Satisfy the requirements of subch. V for an initial financing statement;

4 (b) Identify the preeffective-date financing statement by indicating the office
5 in which the financing statement was filed and providing the dates of filing and file
6 numbers, if any, of the financing statement and of the most recent continuation
7 statement filed with respect to the financing statement; and

8 (c) Indicate that the preeffective-date financing statement remains effective.

9 **409.707 Amendment of preeffective-date financing statement. (1)**

10 PREEFFECTIVE-DATE FINANCING STATEMENT. In this section, “preeffective-date
11 financing statement” means a financing statement filed before the effective date of
12 this subsection [revisor inserts date].

13 **(2) APPLICABLE LAW.** On or after the effective date of this subsection [revisor
14 inserts date], a person may add or delete collateral covered by, continue or terminate
15 the effectiveness of, or otherwise amend the information provided in, a
16 preeffective-date financing statement only in accordance with the law of the
17 jurisdiction governing perfection as provided in subch. III. However, the
18 effectiveness of a preeffective-date financing statement also may be terminated in
19 accordance with the law of the jurisdiction in which the financing statement is filed.

20 **(3) METHOD OF AMENDING: GENERAL RULE.** Except as otherwise provided in sub.
21 (4), if the law of this state governs perfection of a security interest, the information
22 in a preeffective-date financing statement may be amended on or after the effective
23 date of this subsection [revisor inserts date], only if:

24 (a) The preeffective-date financing statement and an amendment are filed in
25 the office specified in s. 409.501;

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1 (b) An amendment is filed in the office specified in s. 409.501 concurrently with,
2 or after the filing in that office of, an initial financing statement that satisfies s.
3 409.706 (3); or

4 (c) An initial financing statement that provides the information as amended
5 and satisfies s. 409.706 (3) is filed in the office specified in s. 409.501.

6 (4) METHOD OF AMENDING: CONTINUATION. If the law of this state governs
7 perfection of a security interest, the effectiveness of a preeffective-date financing
8 statement may be continued only under s. 409.705 (4) and (6) or 409.706.

9 (5) METHOD OF AMENDING: ADDITIONAL TERMINATION RULE. Whether or not the law
10 of this state governs perfection of a security interest, the effectiveness of a
11 preeffective-date financing statement filed in this state may be terminated on or
12 after the effective date of this subsection [revisor inserts date], by filing a
13 termination statement in the office in which the preeffective-date financing
14 statement is filed, unless an initial financing statement that satisfies s. 409.706 (3)
15 has been filed in the office specified by the law of the jurisdiction governing perfection
16 as provided in subch. III as the office in which to file a financing statement.

17 **409.708 Persons entitled to file initial financing statement or**
18 **continuation statement.** A person may file an initial financing statement or a
19 continuation statement under this subchapter if:

20 (1) The secured party of record authorizes the filing; and

21 (2) The filing is necessary under this subchapter:

22 (a) To continue the effectiveness of a financing statement filed before the
23 effective date of this paragraph [revisor inserts date]; or

24 (b) To perfect or continue the perfection of a security interest.

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1 **409.709 Priority.** (1) LAW GOVERNING PRIORITY. 1999 Wisconsin Act (this
2 act) determines the priority of conflicting claims to collateral. However, if the
3 relative priorities of the claims were established before the effective date of this
4 subsection [revisor inserts date], ch. 409, 1999 stats., determines priority.

5 (2) PRIORITY IF SECURITY INTEREST BECOMES ENFORCEABLE UNDER S. 409.203. For
6 purposes of s. 409.322 (1), the priority of a security interest that becomes enforceable
7 under s. 409.203 dates from the effective date of this subsection [revisor inserts
8 date], if the security interest is perfected under 1999 Wisconsin Act (this act) by
9 the filing of a financing statement before the effective date of this subsection
10 [revisor inserts date], which would not have been effective to perfect the security
11 interest under ch. 409, 1999 stats. This subsection does not apply to conflicting
12 security interests each of which is perfected by the filing of such a financing
13 statement.

14 **409.710 Special transitional provision for maintaining and searching**
15 **local filing office records.** (1) DEFINITIONS. In this section:

16 (a) "Former-ch.-409 records":

17 1. Means:

18 a. Financing statements and other records that have been filed in a local filing
19 office before July 1, 2001, and that are, or upon processing and indexing will be,
20 reflected in the index maintained, as of June 30, 2001, by the local filing office for
21 financing statements and other records filed in the local filing office before July 1,
22 2001; and

23 b. The index as of June 30, 2001.

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1 2. Does not include records presented to a local filing office for filing after June
2 30, 2001, whether or not the records relate to financing statements filed in the local
3 filing office before July 1, 2001.

4 (b) "Local filing office" means a filing office, other than the department of
5 financial institutions, that is designated as the proper place to file a financing
6 statement under s. 409.401 (1), 1999 stats., with respect to a record that covers a type
7 of collateral as to which the filing office is designated in that subsection as the proper
8 place to file.

9 **(2) PROHIBITION OF FILING AFTER JUNE 30, 2001.** A local filing office shall not accept
10 for filing a record presented after June 30, 2001, whether or not the record relates
11 to a financing statement filed in the local filing office before July 1, 2001.

12 **(3) MAINTENANCE OF RECORDS.** Until July 1, 2008, each local filing office must
13 maintain all former-ch.-409 records in accordance with ch. 409, 1999 stats. A
14 former-ch.-409 record that is not reflected on the index maintained at June 30, 2001,
15 by the local filing office must be processed and indexed, and reflected on the index
16 as of June 30, 2001, as soon as practicable but in any event no later than July 30,
17 2001.

18 **(4) INFORMATION REQUESTS.** Until at least June 30, 2008, each local filing office
19 must respond to requests for information with respect to former-ch.-409 records
20 relating to a debtor and issue certificates, in accordance with ch. 409, 1999 stats. The
21 fees charged for responding to requests for information relating to a debtor and
22 issuing certificates with respect to former-ch.-409 records must be the fees in effect
23 under ch. 409, 1999 stats., on June 30, 2001, unless a different fee is later set by the
24 local filing office. However, the different fee must not exceed the amount set by
25 filing-office rule for responding to a request for information relating to a debtor or

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1 for issuing a certificate. This subsection does not require that a fee be charged for
2 remote access searching of the filing-office data base. The rule promulgated
3 pursuant to this subsection need not specify a fee for remote access searching of the
4 filing-office data base.

5 **(5) DESTRUCTION OF RECORDS.** After June 30, 2008, each local filing office may
6 remove and destroy, in accordance with any then-applicable record retention law of
7 this state, all former-ch.-409 records, including the related index.

8 **(6) EXCLUSION.** This section does not apply, with respect to financing
9 statements and other records, to a filing office in which mortgages or records of
10 mortgages on real property are required to be filed or recorded, if:

11 (a) The collateral is timber to be cut or as-extracted collateral; or

12 (b) The record is or relates to a financing statement filed as a fixture filing and
13 the collateral is goods that are or are to become fixtures.

14 **SECTION 79.** 411.103 (3) (a) of the statutes is amended to read:

15 411.103 (3) (a) "Account" — s. 409.106 409.102 (1) (ag).

16 **SECTION 80.** 411.103 (3) (d) of the statutes is amended to read:

17 411.103 (3) (d) "Chattel paper" — s. 409.105 (1) (b) 409.102 (1) (cm).

18 **SECTION 81.** 411.103 (3) (e) of the statutes is amended to read:

19 411.103 (3) (e) "Consumer goods" — s. 409.109 (1) 409.102 (1) (fm).

20 **SECTION 82.** 411.103 (3) (f) of the statutes is amended to read:

21 411.103 (3) (f) "Document" — s. 409.105 (1) (f) 409.102 (1) (hg).

22 **SECTION 83.** 411.103 (3) (h) of the statutes is amended to read:

23 411.103 (3) (h) "General intangibles intangible" — s. 409.106 409.102 (1) (kg).

24 **SECTION 84.** 411.103 (3) (j) of the statutes is amended to read:

25 411.103 (3) (j) "Instrument" — s. 409.105 (1) (i) 409.102 (1) (Lm).

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1 **SECTION 85.** 411.103 (3) (L) of the statutes is amended to read:

2 411.103 (3) (L) “Mortgage” — s. ~~409.105 (1) (j)~~ 409.102 (1) (nm).

3 **SECTION 86.** 411.103 (3) (m) of the statutes is amended to read:

4 411.103 (3) (m) “Pursuant to commitment” — s. ~~409.105 (1) (k)~~ 409.102 (1) (qs).

5 **SECTION 87.** 411.303 (1) and (2) of the statutes are amended to read:

6 411.303 (1) In this section, “creation of a security interest” includes the sale of
7 a lease contract that is subject to ch. 409 under s. ~~409.102 (1) (b)~~ 409.109 (1) (c).

8 (2) Except as provided in ~~subs. sub.~~ (3) and ~~(4)~~ s. 409.407, a provision in a lease
9 agreement that prohibits the voluntary or involuntary transfer, including a transfer
10 by sale, sublease, creation or enforcement of a security interest, or attachment, levy,
11 or other judicial process, of an interest of a party under the lease contract or of the
12 lessor’s residual interest in the goods, or that makes such a transfer an event of
13 default, gives rise to the rights and remedies provided in sub. ~~(5)~~ (4), but a transfer
14 that is prohibited or is an event of default under the lease agreement is otherwise
15 effective.

16 **SECTION 88.** 411.303 (3) of the statutes is repealed.

17 **SECTION 89.** 411.303 (4) of the statutes is renumbered 411.303 (3) and amended
18 to read:

19 411.303 (3) A provision in a lease agreement that prohibits a transfer of a right
20 to damages for default with respect to the whole lease contract or of a right to
21 payment arising out of the transferor’s due performance of the transferor’s entire
22 obligation, or that makes such a transfer an event of default, is not enforceable, and
23 such a transfer is not a transfer that materially impairs the prospect of obtaining
24 return performance by, materially changes the duty of, or materially increases the

SENATE BILL 9**SECTION 89**

1 burden or risk imposed on, the other party to the lease contract within the purview
2 of sub. ~~(5)~~ (4).

3 **SECTION 90.** 411.303 (5) of the statutes is renumbered 411.303 (4), and 411.303
4 (4) (intro.), as renumbered, is amended to read:

5 411.303 **(4)** (intro.) Subject to ~~subs. sub.~~ sub. (3) and (4) s. 409.407:

6 **SECTION 91.** 411.303 (6), (7) and (8) of the statutes are renumbered 411.303 (5),
7 (6) and (7).

8 **SECTION 92.** 411.307 (2) (intro.) and (a) of the statutes are consolidated,
9 renumbered 411.307 (2) and amended to read:

10 411.307 **(2)** Except as provided in ~~subs. sub.~~ sub. (3) ~~and (4)~~ and ss. 411.306 and
11 411.308, a creditor of a lessor takes subject to the lease contract unless ~~any of the~~
12 ~~following occurs:~~ ~~(a)~~ the creditor holds a lien that attached to the goods before
13 the lease contract became enforceable.

14 **SECTION 93.** 411.307 (2) (b) and (c) of the statutes are repealed.

15 **SECTION 94.** 411.307 (3) of the statutes is repealed and recreated to read:

16 411.307 **(3)** Except as otherwise provided in ss. 409.317, 409.321, and 409.323,
17 a lessee takes a leasehold interest subject to a security interest held by a creditor of
18 the lessor.

19 **SECTION 95.** 411.307 (4) of the statutes is repealed.

20 **SECTION 96.** 411.309 (1) (c) of the statutes is amended to read:

21 411.309 **(1)** (c) "Fixture filing" means a filing, in the office where a record of a
22 mortgage on real estate would be filed or recorded, of a financing statement covering
23 goods that are or are to become fixtures and conforming to the requirements of s.
24 ~~409.402 (5)~~ 409.502 (1) and (2).

25 **SECTION 97.** 421.301 (21) of the statutes is amended to read:

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1 421.301 (21) “Goods” has the meaning given in s. 409.102 (1) (ks) and includes
2 goods (~~s. 409.105~~) not in existence at the time the transaction is entered into and
3 goods which are or are to become fixtures.

4 **SECTION 98.** 422.413 (2r) (intro.) of the statutes is amended to read:

5 422.413 (2r) (intro.) Notwithstanding s. ~~409.504~~ 409.615 (1), the proceeds of
6 any disposition of collateral referred to in sub. (2g) shall be applied in the following
7 order to:

8 **SECTION 99.** 422.413 (2r) (f) of the statutes is amended to read:

9 422.413 (2r) (f) The satisfaction of indebtedness secured by any subordinate
10 security interest in the collateral, subject to the restrictions set forth in s. ~~409.504~~
11 409.615 (1) (c) and (2).

12 **SECTION 100.** 425.105 (4) of the statutes is amended to read:

13 425.105 (4) With respect to consumer credit transactions in which the creditor
14 has a security interest in, and possession of, instruments or documents (~~s. 409.105~~),
15 as each is defined in s. 409.102 (1), which threaten to decline speedily in value, this
16 section does not restrict the creditor’s rights to dispose of such property pursuant to
17 ~~s. 409.504 subch. VI of ch. 409~~ and the terms of the creditor’s security agreement.

18 **SECTION 101.** 425.203 (3) (intro.) of the statutes is amended to read:

19 425.203 (3) (intro.) Following recovery of collateral pursuant to a judgment
20 under sub. (2), the merchant may either retain the collateral in full satisfaction of
21 the customer’s obligation pursuant to s. ~~409.505~~ ss. 409.620 to 409.624, in which
22 event the merchant shall satisfy the judgment obtained pursuant to sub. (2); or shall
23 dispose of the collateral pursuant to ~~s. 409.504 subch. VI of ch. 409~~, in which event:

24 **SECTION 102.** 425.204 (2) of the statutes is amended to read:

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1 425.204 (2) The rights and obligations of the merchant and customer with
2 respect to collateral voluntarily surrendered as defined in this section shall be
3 governed by ~~ss. 409.504 to 409.507~~ subch. VI of ch. 409, and are not subject to this
4 subchapter.

5 **SECTION 103.** 425.207 (2) of the statutes is amended to read:

6 425.207 (2) A merchant who reasonably believes that a customer has
7 abandoned collateral or goods subject to a consumer lease may take possession of
8 such collateral or leased goods and preserve it. However, the customer may recover
9 such collateral or leased goods upon request unless at the time of request the
10 customer has surrendered the collateral or leased goods, or judgment for the
11 merchant has been entered in a proceeding for recovery of collateral or leased goods
12 under s. 425.205 or in a judgment described in s. 425.203 (2). A merchant taking
13 possession of collateral or leased goods pursuant to this section shall promptly send
14 notification to the customer's last-known address of such action and of the
15 customer's right to recover such collateral or leased goods under this section. If the
16 collateral or leased goods are recovered by the customer pursuant to this section, it
17 shall be returned to the customer at the location where the merchant took possession
18 of such collateral or leased goods pursuant to this section or, at the option of the
19 merchant, at such other location designated by the customer; and any expense
20 incurred by the merchant in taking possession of, holding and returning the
21 collateral or leased goods to the customer shall be borne by the merchant. If after
22 taking possession of collateral or leased goods pursuant to this subsection, the
23 merchant perfects the right to possession through a surrender by the customer or a
24 judgment under s. 425.203 (2) or 425.205, the customer is liable for the expenses set
25 forth in s. ~~409.504~~ 409.615 (1). In determining such expenses, leased goods shall be

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1 considered collateral under s. ~~409.504~~ 409.615 (1). However, a customer is not liable
2 for expenses of holding the collateral or leased goods from the time the merchant
3 takes possession until the merchant perfects the right to possession in the manner
4 provided in this subsection.

5 **SECTION 104.** 425.208 (6) of the statutes is amended to read:

6 425.208 (6) The creditor shall not dispose of the collateral or enter into a
7 contract for the disposition of the collateral, until the expiration of the period for
8 redemption provided in this section, unless the collateral is perishable or threatens
9 to decline speedily in value. Upon the expiration of such period any disposition of the
10 collateral shall be subject to ~~ss. 409.504, 409.505 and 409.506~~ subch. VI of ch. 409,
11 except that the customer may be liable for a deficiency only to the extent provided
12 in ss. 425.209 and 425.210.

13 **SECTION 105.** 779.48 (2) of the statutes is amended to read:

14 779.48 (2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case
15 the claim remains unpaid for 2 months after the debt is incurred, and a person given
16 a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is
17 perfected, enforce such lien by sale of the property substantially in conformity with
18 ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409 and the lien claimant shall have the rights
19 and duties of a secured party thereunder. When such sections are applied to the
20 enforcement of such lien the word debtor or equivalent when used therein shall be
21 deemed to refer to the owner of the property and any other person having an interest
22 shown by instrument filed as required by law or shown in the records of the
23 department of transportation, and the word indebtedness or equivalent shall include
24 all claims upon which such lien is based.

25 **SECTION 106.** 779.89 of the statutes is amended to read:

SENATE BILL 9**SECTION 106**

1 **779.89 Attachment and preservation.** All prepaid maintenance liens
2 attach at the time of the first prepayment and shall be preserved from the time the
3 lien attaches. It is not necessary to file or record any notice of the lien in order to
4 preserve or perfect the lien although a customer may file this lien in the manner
5 prescribed for perfecting liens under subch. III of ch. 409 regarding debtors who are
6 located in this state.

7 **SECTION 107.** 779.91 (2) of the statutes is amended to read:

8 779.91 (2) Upon discharge of a prepaid maintenance lien, any customer who
9 filed the lien as permitted in s. 779.89 is subject to the requirements of s. ~~409.404~~
10 409.513.

11 **SECTION 108.** 779.97 (4) (a) 1. of the statutes is amended to read:

12 779.97 (4) (a) 1. With the department of financial institutions, the filing officer
13 shall cause the notice to be ~~marked, held and indexed~~ dealt with in accordance with
14 s. ~~409.403 (4)~~ 409.519 as if the notice were a financing statement within the meaning
15 of chs. 401 to 411; or

16 **SECTION 109.** 779.97 (4) (b) 1. of the statutes is amended to read:

17 779.97 (4) (b) 1. If a refiling of a notice of lien is presented to the department
18 of financial institutions for filing, the filing officer shall cause the refiled notice of
19 federal lien to be ~~marked, held and indexed~~ dealt with in accordance with s. ~~409.403~~
20 409.519 as if the refiling were a continuation statement within the meaning of chs.
21 401 to 411, except that the time period in par. (d) shall apply instead of the time period
22 in s. ~~409.403 (2) and (3)~~ 409.515.

23 **SECTION 110.** 779.97 (4) (b) 2. of the statutes is amended to read:

24 779.97 (4) (b) 2. If a certificate of release is presented to the department of
25 financial institutions for filing, the filing officer shall cause the certificate to be

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1 ~~marked, held and indexed~~ dealt with in accordance with s. 409.404 ~~409.513~~ as if the
2 certificate were a termination statement within the meaning of chs. 401 to 411, and
3 the filing officer may remove the notice of federal lien and any related refiling of a
4 notice of lien, certificate of nonattachment, discharge or subordination from the files
5 at any time after receipt of the certificate of release, but the department of financial
6 institutions shall keep the certificate of release or a microfilm or other photographic
7 record or optical disk or electronic record of the certificate of release in a file, separate
8 from those containing currently effective notices of liens, for a period of 30 years after
9 the date of filing of the certificate of release.

10 **SECTION 111.** 779.97 (4) (b) 3. of the statutes is amended to read:

11 779.97 (4) (b) 3. If a certificate of discharge is presented to the department of
12 financial institutions for filing, the filing officer shall cause the certificate to be
13 ~~marked, held and indexed~~ dealt with as if the certificate were ~~a release of collateral~~
14 an amendment that deletes collateral within the meaning of chs. 401 to 411.

15 **SECTION 112.** 779.97 (4) (b) 4. of the statutes is amended to read:

16 779.97 (4) (b) 4. If a certificate of nonattachment or subordination of any lien
17 is presented to the department of financial institutions for filing, the filing officer
18 shall cause the certificate to be ~~marked, held and indexed~~ dealt with as if the
19 certificate were an amendment that deletes collateral within the meaning of chs. 401
20 to 411.

21 **SECTION 113.** 779.97 (4) (d) of the statutes is amended to read:

22 779.97 (4) (d) Unless a refiling of a notice of lien is presented to a filing officer
23 for filing within 11 years and 60 days after the date on which a notice of lien or the
24 latest refiling of a notice of that lien is filed with that officer, the filing officer may
25 remove the notice of federal lien and any related refiling of a notice of lien, certificate

SENATE BILL 9**SECTION 113**

1 of nonattachment, discharge or subordination from the files. Any refileing of a notice
2 of lien presented to a filing officer after such removal shall be ~~marked, held and~~
3 ~~indexed~~ dealt with as though the document were a notice of federal lien instead of
4 a refileing of a notice of lien.

5 **SECTION 114.** 779.97 (4) (e) of the statutes is amended to read:

6 779.97 (4) (e) Upon request of any person, the filing officer shall issue a
7 certificate showing whether there is on file, on the date and hour stated therein, any
8 notice of federal lien or any related refileing of a notice of lien, certificate of
9 nonattachment, discharge or subordination filed on or after February 1, 1968,
10 naming a particular person, and if a notice or certificate is on file, giving the date and
11 hour of filing of each notice or certificate. ~~The fee for a certificate is \$2. Upon request~~
12 ~~the filing officer shall furnish a copy of any notice of federal lien or notice or certificate~~
13 ~~affecting a federal lien for a fee of 50 cents per page~~ If the filing officer is the
14 department of financial institutions, the filing officer shall include the information
15 concerning the notice of federal lien, or notice or certificate affecting a federal lien,
16 in the information communicated or otherwise made available in response to a
17 request under s. 409.523 (3), and the fee charged shall be that charged in accordance
18 with s. 409.525.

19 **SECTION 115.** 815.18 (2) (i) of the statutes is amended to read:

20 815.18 (2) (i) "Farm products" has the meaning given under s. ~~409.109 (3)~~
21 409.102 (1) (im).

22 **SECTION 116.** 815.18 (2) (j) of the statutes is amended to read:

23 815.18 (2) (j) "Inventory" has the meaning given under s. ~~409.109 (4)~~ 409.102
24 (1) (Ls).

25 **SECTION 117.** 818.02 (4) of the statutes is amended to read:

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1 818.02 (4) Subsections (1) and (3) do not apply to any security agreement under
2 which the plaintiff claims a purchase money security interest, as defined in ~~ch. 409~~
3 s. 409.103.

4 **SECTION 118.** 893.36 (3) (b) of the statutes is amended to read:

5 893.36 (3) (b) “Collateral” has the meaning provided by s. ~~409.105 (1) (e)~~
6 409.102 (1) (cs).

7 **SECTION 119.** 893.36 (3) (c) of the statutes is amended to read:

8 893.36 (3) (c) “Debtor” has the meaning provided by s. ~~409.105 (1) (d)~~ 409.102
9 (1) (gs).

10 **SECTION 120.** 893.36 (3) (e) of the statutes is amended to read:

11 893.36 (3) (e) “Secured party” has the meaning provided by s. ~~409.105 (1) (L)~~
12 409.102 (1) (rs).

13 **SECTION 121.** 893.36 (3) (f) of the statutes is amended to read:

14 893.36 (3) (f) “Security agreement” has the meaning provided by s. ~~409.105 (1)~~
15 ~~(m)~~ 409.102 (1) (s).

16 **SECTION 122. Effective date.**

17 (1) This act takes effect on July 1, 2001, or on the day after publication,
18 whichever is later.

19

(END)