2011 DRAFTING REQUEST

Bill

Received: **01/25/2012**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB: **-3505**

For: **Joan Ballweg (608) 266-8077**

By/Representing: **Bethany**

May Contact:

Drafter: **agary**

Subject: **Fin. Inst. - UCC**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ballweg@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Revised UCC Article 9

Instructions:

Companion to -3505

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary 01/25/2012	mduchek 01/25/2012		_____ _____			
/1			phenry 01/25/2012	_____ _____	sbasford 01/25/2012	ggodwin 01/25/2012	

FE Sent For: None

<END>

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary	1/25/12	1/26				

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<END>

State of Wisconsin
2011 – 2012 LEGISLATURE

in 1/25

LRB-~~2508~~ -3925/1
ARG:med:md

wanted by 1/27

RMNR

2011 BILL

Companion - no changes

AN ACT ***to repeal*** 409.503 (1) (c) 1. and 2. and 409.516 (2) (e) 3.; ***to renumber and amend*** 409.105 (intro.), 409.105 (1) to (6), 409.502 (3) (c), 409.503 (1) (d) and 409.518 (3); ***to amend*** 409.102 (1) (bm) 2., 409.102 (1) (cg), 409.102 (1) (mg), 409.102 (1) (rg), 409.307 (6) (b), 409.311 (1) (c), 409.316 (title), 409.317 (2) and (4), 409.326, 409.406 (5), 409.408 (2), 409.503 (1) (a), 409.503 (1) (b), 409.503 (1) (c) (intro.), 409.503 (2) (b), 409.507 (3), 409.515 (6), 409.516 (2) (c) 2. (intro.), 409.516 (2) (c) 3., 409.516 (2) (e) 1., 409.516 (2) (e) 2., 409.518 (1), 409.518 (2) (intro.), (a) 2. and (b), 409.607 (2) (b) 1. and 409.625 (3) (title); ***to repeal and recreate*** 409.521 (2) (form) and 409.521 (3) (form); and ***to create*** 409.102 (1) (qp), 409.316 (8) and (9), 409.502 (3) (c) 2., 409.503 (1) (c) 1m. and 2m., 409.503 (1) (dm) and (e), 409.503 (6), (7) and (8), 409.518 (3m) and (4) and subchapter VIII of chapter 409 [precedes 409.802] of the statutes; **relating to:** adopting amendments to the Uniform Commercial Code Article 9, relating to secured

1 transactions, recommended by the National Conference of Commissioners on
2 Uniform State Laws.

Analysis by the Legislative Reference Bureau

In 2001 Wisconsin Act 10, this state adopted the Revised Uniform Commercial Code (UCC) Article 9–Secured Transactions, which was approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1998, with amendments approved by NCCUSL in 1999 and 2000. UCC Article 9 governs transactions that involve the granting of credit secured by personal property of a debtor. The creditor's interest is called a "security interest." UCC Article 9 regulates the creation and enforcement of security interests in movable property, intangible property, and fixtures (items of personal property affixed to real property), but not in real property. Under UCC Article 9, if a debtor defaults, the creditor may repossess and sell the property (generally called collateral) to satisfy the debt. A creditor with a "perfected" security interest usually has "priority" in the distribution of the debtor's assets as compared to creditors with later–acquired security interests (junior secured creditors) and unsecured creditors. Before or at the time a security interest is perfected, it must "attach." Attachment arises when the security interest becomes effective between the creditor and the debtor and usually occurs when their security agreement becomes effective. Perfection of a security interest establishes the creditor's priority in relation to other creditors of the debtor in the same collateral and usually occurs with the filing by the creditor of a "financing statement" in a central filing office – in Wisconsin, the Department of Financial Institutions (DFI). (The only local filing of financing statements, in the local real estate records, is for security interests in fixtures or in certain land–related collateral such as timber.) However, filing a financing statement 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, and "control" is the method of perfection for certain kinds of collateral.

This bill adopts the 2010 amendments to UCC Article 9 approved by NCCUSL. Among the changes to UCC Article 9 are the following:

1. The bill makes modifications with respect to how a debtor's name must be identified on a financing statement. Most significantly, if the debtor is an individual to whom the Department of Transportation (DOT) has issued an operator's license or identification card that has not expired, the financing statement, to be sufficient, must provide the name of the individual as it appears on the operator's license or identification card. If the debtor is an individual who does not hold an unexpired DOT–issued operator's license or identification card, the financing statement must provide the individual name of the debtor or the surname and first personal name of the debtor. The bill also makes changes as to how the debtor's name must appear on a financing statement whenever collateral is held in a trust and also requires certain additional information on the financing statement if collateral is held in a trust or is being administered by a personal representative. The bill makes other

minor modifications or clarifications relating to how debtor names must appear on financing statements.

2. Under current law, the law of the jurisdiction (state) where a debtor is located, while the debtor is located there, governs perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in collateral. If the debtor moves to a new state or collateral is transferred to a new debtor in a new state after a security interest is perfected, the security interest remains perfected until the earliest of the following, as applicable: the time perfection would have ceased under the law of the original state; the expiration of four months after the change of the debtor's location to the new state; or the expiration of one year after the transfer of collateral to a person that becomes a debtor and is located in the new state. If the security interest becomes perfected under the law of the new state before any of these time periods elapse, the security interest remains perfected; otherwise, the security interest becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

The bill includes provisions applicable to the filing of a financing statement when the debtor has changed location to a new state and a security interest attaches within four months after this change of location. The bill specifies circumstances in which a financing statement filed before the change of location under the law of the original state is effective to perfect a security interest and specifies when the security interest remains perfected under the law of the new state. The bill also includes provisions applicable if a financing statement naming an original debtor is filed under the law of the original state where the debtor was located and a new debtor is located in a new state. The bill specifies circumstances in which a financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound by the security agreement and specifies when the security interest remains perfected under the law of the new state.

3. Under current law, among the reasons a filing office (usually DFI) may refuse filing of an initial financing statement or certain amendments is that, if the debtor is an organization, the financing statement or amendment does not provide a type of organization for the debtor, a jurisdiction of organization for the debtor, or an organizational identification number for the debtor or indicate that the debtor has no such number. This bill eliminates these omissions as reasons for refusing to file an initial financing statement or amendment to a financing statement.

4. Under current law, if a person believes that a filed record indexed under the person's name is inaccurate or was wrongfully filed, the person may file a correction statement. This bill changes the term from "correction statement" to "information statement." The bill also specifies that a secured party of record may file an information statement, containing certain information, relating to a filed record if the secured party believes that the person that filed the record was not entitled to file it.

5. Under current law, certain agreement terms involving account debtors (persons obligated on an account, chattel paper, or general intangible) or in

promissory notes relating to the debtor's consent to certain matters affecting a security interest are ineffective except with respect to the sale of a promissory note or payment intangible. This bill narrows this exception so that it does not apply if the sale is a disposition of collateral after default or is an acceptance of collateral in satisfaction of the debtor's obligation.

6. The bill makes changes relating to a secured party's control of electronic chattel paper by specifying that, for a secured party to have control, a system employed for evidencing the transfer of interests in the chattel paper must reliably establish the secured party as the person to which the chattel paper was assigned.

7. The bill includes several definitional changes, including changes to improve compatibility of provisions with the use of electronic records. The bill also creates a new term and definition of "public organic record" for public records relating to entity formation or organization.

8. The bill makes various minor and technical changes to UCC Article 9 and replaces current UCC forms with updated UCC forms that incorporate the changes in Article 9. The bill also includes transitional provisions relating to the applicability of the bill's changes to existing security interests.

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

1 **SECTION 1.** 409.102 (1) (bm) 2. of the statutes is amended to read:

2 409.102 **(1)** (bm) 2. ~~To execute or otherwise adopt a symbol, or encrypt or~~
3 ~~similarly process a record in whole or in part, with the~~ With present intent ~~of the~~
4 ~~authenticating person to identify the person and~~ to adopt or accept a record, to attach
5 to or logically associate with the record an electronic sound, symbol, or process.

6 **SECTION 2.** 409.102 (1) (cg) of the statutes is amended to read:

7 409.102 **(1)** (cg) "Certificate of title" means a certificate of title with respect to
8 which a statute provides for the security interest in question to be indicated on the
9 certificate as a condition or result of the security interest's obtaining priority over the
10 rights of a lien creditor with respect to the collateral. The term includes another
11 record maintained as an alternative to a certificate of title by the governmental unit
12 that issues certificates of title if a statute permits the security interest in question

to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

SECTION 3. 409.102 (1) (mg) of the statutes is amended to read:

409.102 **(1)** (mg) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

SECTION 4. 409.102 (1) (qp) of the statutes is created to read:

409.102 **(1)** (qp) "Public organic record" means a record that is available to the public for inspection and is:

1. A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

2. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

3. A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

SECTION 5. 409.102 (1) (rg) of the statutes is amended to read:

409.102 **(1)** (rg) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States ~~and as to which the state or the United States must maintain a public record showing the organization to have been organized~~ by the filing of a public organic record with, the

issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

SECTION 6. 409.105 (intro.) of the statutes is renumbered 409.105 (1m) and amended to read:

409.105 **(1m)** GENERAL RULE: CONTROL OF ELECTRONIC CHATTEL PAPER. A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(2m) SPECIFIC FACTS GIVING CONTROL. A system satisfies sub. (1m) if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

SECTION 7. 409.105 (1) to (6) of the statutes are renumbered 409.105 (2m) (a) to (f), and 409.105 (2m) (a), (d) and (f), as renumbered, are amended to read:

409.105 **(2m)** (a) A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in ~~subs. (4) to (6)~~ pars. (d) to (f), unalterable;

(d) Copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the ~~participation~~ consent of the secured party;

(f) Any ~~revision~~ amendment of the authoritative copy is readily identifiable as ~~an~~ authorized or unauthorized ~~revision~~.

SECTION 8. 409.307 (6) (b) of the statutes is amended to read:

409.307 **(6)** (b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

SECTION 9. 409.311 (1) (c) of the statutes is amended to read:

409.311 **(1)** (c) A ~~certificate–of–title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

SECTION 10. 409.316 (title) of the statutes is amended to read:

409.316 (title) ~~**Continued perfection of security interest following**~~ **Effect of change in governing law.**

SECTION 11. 409.316 (8) and (9) of the statutes are created to read:

409.316 **(8)** EFFECT ON FILED FINANCING STATEMENT OF CHANGE IN GOVERNING LAW. The following rules apply to collateral to which a security interest attaches within 4 months after the debtor changes its location to another jurisdiction:

(a) A financing statement filed before the change pursuant to the law of the jurisdiction designated in s. 409.301 (1) or 409.305 (3) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(b) If a security interest perfected by a financing statement that is effective under par. (a) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in s. 409.301 (1) or 409.305 (3) or the expiration of the 4–month period, it remains perfected thereafter. If the security interest does not

1 become perfected under the law of the other jurisdiction before the earlier time or
2 event, it becomes unperfected and is deemed never to have been perfected as against
3 a purchaser of the collateral for value.

4 **(9)** EFFECT OF CHANGE IN GOVERNING LAW ON FINANCING STATEMENT FILED AGAINST
5 ORIGINAL DEBTOR. If a financing statement naming an original debtor is filed
6 pursuant to the law of the jurisdiction designated in s. 409.301 (1) or 409.305 (3) and
7 the new debtor is located in another jurisdiction, the following rules apply:

8 (a) The financing statement is effective to perfect a security interest in
9 collateral acquired by the new debtor before, and within 4 months after, the new
10 debtor becomes bound under s. 409.203 (4), if the financing statement would have
11 been effective to perfect a security interest in the collateral had the collateral been
12 acquired by the original debtor.

13 (b) A security interest perfected by the financing statement and which becomes
14 perfected under the law of the other jurisdiction before the earlier of the time the
15 financing statement would have become ineffective under the law of the jurisdiction
16 designated in s. 409.301 (1) or 409.305 (3) or the expiration of the 4–month period
17 remains perfected thereafter. A security interest that is perfected by the financing
18 statement but which does not become perfected under the law of the other
19 jurisdiction before the earlier time or event becomes unperfected and is deemed
20 never to have been perfected as against a purchaser of the collateral for value.

21 **SECTION 12.** 409.317 (2) and (4) of the statutes are amended to read:

22 409.317 **(2)** BUYERS THAT RECEIVE DELIVERY. Except as otherwise provided in
23 sub. (5), a buyer, other than a secured party, of tangible chattel paper, tangible
24 documents, goods, instruments, or a <u>certificated</u> security ~~certificate~~ takes free of a
25 security interest or agricultural lien if the buyer gives value and receives delivery of

the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) LICENSEES AND BUYERS OF CERTAIN COLLATERAL. A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, electronic documents, general intangibles, or investment property~~ collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

SECTION 13. 409.326 of the statutes is amended to read:

409.326 Priority of security interests created by new debtor. (1) SUBORDINATION OF SECURITY INTEREST CREATED BY NEW DEBTOR. Subject to sub. (2), a security interest that is created by a new debtor ~~which is~~ in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that ~~is effective solely under s. 409.508 in collateral in which a new debtor has or acquires rights~~ would be ineffective to perfect the security interest but for the application of s. 409.316 (9) (a) or 409.508 is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement ~~that is effective solely under s. 409.508~~.

(2) PRIORITY UNDER OTHER PROVISIONS; MULTIPLE ORIGINAL DEBTORS. The other provisions of this subchapter determine the priority among conflicting security interests in the same collateral perfected by filed financing statements ~~that are effective solely under s. 409.508~~ described in sub. (1). However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

1 **SECTION 14.** 409.406 (5) of the statutes is amended to read:

2 409.406 **(5)** INAPPLICABILITY OF SUB. (4) TO CERTAIN SALES. Subsection (4) does not
3 apply to the sale of a payment intangible or promissory note, other than a sale
4 pursuant to a disposition under s. 409.610 or an acceptance of collateral under s.
5 409.620.

6 **SECTION 15.** 409.408 (2) of the statutes is amended to read:

7 409.408 **(2)** APPLICABILITY OF SUB. (1) TO SALES OF CERTAIN RIGHTS TO PAYMENT.
8 Subsection (1) applies to a security interest in a payment intangible or promissory
9 note only if the security interest arises out of a sale of the payment intangible or
10 promissory note, other than a sale pursuant to a disposition under s. 409.610 or an
11 acceptance of collateral under s. 409.620.

12 **SECTION 16.** 409.502 (3) (c) of the statutes is renumbered 409.502 (3) (c) (intro.)
13 and amended to read:

14 409.502 **(3)** (c) (intro.) The record satisfies the requirements for a financing
15 statement in this section ~~other than an indication~~, but:

16 1. The record need not indicate that it is to be filed in the real property records;
17 and

18 **SECTION 17.** 409.502 (3) (c) 2. of the statutes is created to read:

19 409.502 **(3)** (c) 2. The record sufficiently provides the name of a debtor who is
20 an individual if it provides the individual name of the debtor or the surname and first
21 personal name of the debtor, even if the debtor is an individual to whom s. 409.503
22 (1) (dm) applies; and

23 **SECTION 18.** 409.503 (1) (a) of the statutes is amended to read:

24 409.503 **(1)** (a) ~~If~~ Except as otherwise provided in par. (c), if the debtor is a
25 registered organization or the collateral is held in a trust that is a registered

organization, only if the financing statement provides the name ~~of the debtor indicated~~ that is stated to be the registered organization's name on the public organic record ~~of the debtor's~~ most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which ~~shows the debtor to have been organized~~ purports to state, amend, or restate the registered organization's name;

SECTION 19. 409.503 (1) (b) of the statutes is amended to read:

409.503 **(1)** (b) ~~If the debtor is a decedent's estate~~ Subject to sub. (6), if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the ~~debtor is an estate~~ collateral is being administered by a personal representative;

SECTION 20. 409.503 (1) (c) (intro.) of the statutes is amended to read:

409.503 **(1)** (c) (intro.) If the ~~debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement~~ collateral is held in a trust that is not a registered organization, only if the financing statement:

SECTION 21. 409.503 (1) (c) 1. and 2. of the statutes are repealed.

SECTION 22. 409.503 (1) (c) 1m. and 2m. of the statutes are created to read:

409.503 **(1)** (c) 1m. Provides, as the name of the debtor:

a. If the organic record of the trust specifies a name for the trust, the name specified; or

b. If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

2m. In a separate part of the financing statement:

a. If the name is provided in accordance with subd. 1m. a., indicates that the collateral is held in a trust; or

b. If the name is provided in accordance with subd. 1m. b., provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

SECTION 23. 409.503 (1) (d) of the statutes is renumbered 409.503 (1) (f), and 409.503 (1) (f) 1. and 2., as renumbered, are amended to read:

409.503 **(1)** (f) 1. If the debtor has a name, only if ~~it~~ the financing statement provides the ~~individual or~~ organizational name of the debtor; and

2. If the debtor does not have a name, only if ~~it~~ the financing statement provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

SECTION 24. 409.503 (1) (dm) and (e) of the statutes are created to read:

409.503 **(1)** (dm) Subject to sub. (7), if the debtor is an individual to whom this state has issued an operator's license under ch. 343 or identification card under s. 343.50 that has not expired, only if the financing statement provides the name of the individual which is indicated on the operator's license or identification card;

(e) If the debtor is an individual to whom par. (dm) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

SECTION 25. 409.503 (2) (b) of the statutes is amended to read:

409.503 **(2)** (b) Unless required under sub. (1) ~~(d)~~ (f) 2., names of partners, members, associates, or other persons comprising the debtor.

SECTION 26. 409.503 (6), (7) and (8) of the statutes are created to read:

409.503 **(6)** NAME OF DECEDENT. The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under sub. (1) (b).

(7) MULTIPLE LICENSES OR IDENTIFICATION CARDS. If this state has issued to an individual more than one operator's license under ch. 343 or identification card under s. 343.50 of a kind described in sub. (1) (dm), the one that was issued most recently is the one to which sub. (1) (dm) refers.

(8) DEFINITION. In this section, the "name of the settlor or testator" means:

(a) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name;

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

SECTION 27. 409.507 (3) of the statutes is amended to read:

409.507 **(3)** CHANGE IN DEBTOR'S NAME. If ~~a debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under s. 409.503 (1) so that the financing statement becomes seriously misleading under s. 409.506:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the ~~change~~ filed financing statement becomes seriously misleading; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the ~~change~~ filed financing

statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within 4 months after the ~~change~~ financing statement became seriously misleading.

SECTION 28. 409.515 (6) of the statutes is amended to read:

409.515 **(6)** TRANSMITTING UTILITY FINANCING STATEMENT. If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

SECTION 29. 409.516 (2) (c) 2. (intro.) of the statutes is amended to read:

409.516 **(2)** (c) 2. (intro.) In the case of an amendment or ~~correction~~ information statement, the record:

SECTION 30. 409.516 (2) (c) 3. of the statutes is amended to read:

409.516 **(2)** (c) 3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's ~~last name~~ surname; or

SECTION 31. 409.516 (2) (e) 1. of the statutes is amended to read:

409.516 **(2)** (e) 1. Provide a mailing address for the debtor; or

SECTION 32. 409.516 (2) (e) 2. of the statutes is amended to read:

409.516 **(2)** (e) 2. Indicate whether the name provided as the name of the debtor is the name of an individual or an organization; ~~or~~

SECTION 33. 409.516 (2) (e) 3. of the statutes is repealed.

SECTION 34. 409.518 (1) of the statutes is amended to read:

409.518 **(1)** ~~CORRECTION STATEMENT~~ STATEMENT WITH RESPECT TO RECORD INDEXED UNDER PERSON'S NAME. A person may file in the filing office ~~a correction~~ an information

statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

SECTION 35. 409.518 (2) (intro.), (a) 2. and (b) of the statutes are amended to read:

409.518 **(2)** ~~SUFFICIENCY OF CORRECTION~~ CONTENTS OF STATEMENT UNDER SUB. (1). (intro.) ~~A correction~~ An information statement under sub. (1) must:

(a) 2. If the ~~correction~~ information statement relates to a record filed or recorded in a filing office described in s. 409.501 (1) (a), the date on which the initial financing statement was filed or recorded and the information specified in s. 409.502 (2);

(b) Indicate that it is ~~a correction~~ an information statement; and

SECTION 36. 409.518 (3) of the statutes is renumbered 409.518 (5) and amended to read:

409.518 **(5)** RECORD NOT AFFECTED BY ~~CORRECTION~~ INFORMATION STATEMENT. The filing of ~~a correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

SECTION 37. 409.518 (3m) and (4) of the statutes are created to read:

409.518 **(3m)** STATEMENT BY SECURED PARTY OF RECORD. A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under s. 409.509 (4).

(4) CONTENTS OF STATEMENT UNDER SUB. (3M). An information statement under sub. (3m) must:

(a) Identify the record to which it relates by:

1 1. The file number assigned to the initial financing statement to which the
2 record relates; and
3 2. If the information statement relates to a record filed or recorded in a filing
4 office described in s. 409.501 (1) (a), the date that the initial financing statement was
5 filed or recorded and the information specified in s. 409.502 (2);
6 (b) Indicate that it is an information statement; and
7 (c) Provide the basis for the person's belief that the person that filed the record
8 was not entitled to do so under s. 409.509 (4).
9 **SECTION 38.** 409.521 (2) (form) of the statutes is repealed and recreated to read:

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

	1a. ORGANIZATION'S NAME				
OR	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

	2a. ORGANIZATION'S NAME				
OR	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

	3a. ORGANIZATION'S NAME				
OR	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

4. COLLATERAL: This financing statement covers the following collateral:

5. Check only if applicable and check only one box: Collateral is ☐ held in a Trust (see UCC1Ad, item 17 and Instructions) ☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box: ☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box: ☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer ☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT (Form UCC1) (Rev. 04/20/11)

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here ☐

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR

10b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11. ☐ **ADDITIONAL SECURED PARTY'S NAME** or ☐ **ASSIGNOR SECURED PARTY'S NAME:** Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

13. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT: ☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest)

16. Description of real estate:

17. MISCELLANEOUS:

1 **SECTION 39.** 409.521 (3) (form) of the statutes is repealed and recreated to read:

[redacted]

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER

1b. ☐ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS
Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. ☐ **ASSIGNMENT** (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. ☐ **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. ☐ **PARTY INFORMATION CHANGE:**
Check one of these two boxes: AND Check one of these three boxes to:
This Change affects ☐ Debtor or ☐ Secured Party of record ☐ CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c ☐ ADD name: Complete item 7a or 7b, and item 7c ☐ DELETE name: Give record name to be deleted in item 6a or 6b

6. **CURRENT RECORD INFORMATION:** Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

7. **CHANGED OR ADDED INFORMATION:** Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

8. ☐ **COLLATERAL CHANGE:** Also check one of these four boxes: ☐ ADD collateral ☐ DELETE collateral ☐ RESTATE covered collateral ☐ ASSIGN collateral
Indicate collateral:

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)
If this is an Amendment authorized by a **DEBTOR**, check here ☐ and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

10. **OPTIONAL FILER REFERENCE DATA:**

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. **INITIAL FINANCING STATEMENT FILE NUMBER:** 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 SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

13. **Name of DEBTOR on related financing statement** (Name of a current Debtor of record required for indexing purposes only in some filing offices - see Instruction item 13): Provide only one Debtor name (13a or 13b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name), see instructions if name does not fit

13a. ORGANIZATION'S NAME

OR

13b. INDIVIDUAL'S SURNAME | FIRST PERSONAL NAME | ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

14. **ADDITIONAL SPACE FOR ITEM 8 (Collateral):**

15. This FINANCING STATEMENT AMENDMENT:

☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing

16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

17. Description of real estate:

18. **MISCELLANEOUS:**

UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad) (Rev. 04/20/11)

1 **SECTION 40.** 409.607 (2) (b) 1. of the statutes is amended to read:

2 409.607 **(2)** (b) 1. A default has occurred with respect to the obligation secured
3 by the mortgage; and

4 **SECTION 41.** 409.625 (3) (title) of the statutes is amended to read:

5 409.625 **(3)** (title) PERSONS ENTITLED TO RECOVER DAMAGES; STATUTORY DAMAGES
6 ~~IN CONSUMER GOODS TRANSACTION~~ IF COLLATERAL IS CONSUMER GOODS.

7 **SECTION 42.** Subchapter VIII of chapter 409 [precedes 409.802] of the statutes
8 is created to read:

9 **CHAPTER 409**

10 SUBCHAPTER VIII

11 TRANSITION PROVISIONS

12 FOR 2010 AMENDMENTS

13 **409.802 Savings clause. (1)** PREEFFECTIVE–DATE TRANSACTIONS OR LIENS.
14 Except as otherwise provided in this subchapter, 2011 Wisconsin Act .... (this act)
15 applies to a transaction or lien within its scope, even if the transaction or lien was
16 entered into or created before the effective date of this subsection .... [LRB inserts
17 date].

18 **(2)** PREEFFECTIVE–DATE PROCEEDINGS. 2011 Wisconsin Act .... (this act) does not
19 affect an action, case, or proceeding commenced before the effective date of this
20 subsection .... [LRB inserts date].

21 **409.803 Security interest perfected before effective date. (1)**
22 CONTINUING PERFECTION: PERFECTION REQUIREMENTS SATISFIED. A security interest
23 that is a perfected security interest immediately before the effective date of this
24 subsection .... [LRB inserts date], is a perfected security interest under this chapter,
25 as affected by 2011 Wisconsin Act .... (this act) if, on the effective date of this

1 subsection .... [LRB inserts date], the applicable requirements for attachment and
2 perfection under this chapter, as affected by 2011 Wisconsin Act .... (this act) are
3 satisfied without further action.

4 **(2)** CONTINUING PERFECTION: PERFECTION REQUIREMENTS NOT SATISFIED. Except
5 as otherwise provided in s. 409.805, if, immediately before the effective date of this
6 subsection .... [LRB inserts date], a security interest is a perfected security interest,
7 but the applicable requirements for perfection under this chapter, as affected by 2011
8 Wisconsin Act .... (this act) are not satisfied as of the effective date of this subsection
9 .... [LRB inserts date], the security interest remains perfected thereafter only if the
10 applicable requirements for perfection under this chapter, as affected by 2011
11 Wisconsin Act .... (this act), are satisfied within one year after the effective date of
12 this subsection .... [LRB inserts date].

13 **409.804 Security interest unperfected before effective date.** A security
14 interest that is an unperfected security interest immediately before the effective date
15 of this section .... [LRB inserts date], becomes a perfected security interest:

16 **(1)** Without further action, on the effective date of this subsection .... [LRB
17 inserts date], if the applicable requirements for perfection under this chapter, as
18 affected by 2011 Wisconsin Act .... (this act), are satisfied before or at that time; or

19 **(2)** When the applicable requirements for perfection are satisfied if the
20 requirements are satisfied after that time.

21 **409.805 Effectiveness of action taken before effective date. (1)**
22 PREEFFECTIVE-DATE FILING EFFECTIVE. The filing of a financing statement before the
23 effective date of this subsection .... [LRB inserts date], is effective to perfect a security
24 interest to the extent the filing would satisfy the applicable requirements for
25 perfection under this chapter, as affected by 2011 Wisconsin Act .... (this act).

1 **(2)** WHEN PREEFFECTIVE–DATE FILING BECOMES INEFFECTIVE. 2011 Wisconsin Act
2 .... (this act) does not render ineffective an effective financing statement that, before
3 the effective date of this subsection .... [LRB inserts date], is filed and satisfies the
4 applicable requirements for perfection under the law of the jurisdiction governing
5 perfection as provided in ch. 409, 2009 stats. However, except as otherwise provided
6 in subs. (3) and (4) and s. 409.806, the financing statement ceases to be effective:
7 (a) If the financing statement is filed in this state, at the time the financing
8 statement would have ceased to be effective had 2011 Wisconsin Act .... (this act) not
9 taken effect; or
10 (b) If the financing statement is filed in another jurisdiction, at the earlier of:
11 1. The time the financing statement would have ceased to be effective under
12 the law of that jurisdiction; or
13 2. June 30, 2018.
14 **(3)** CONTINUATION STATEMENT. The filing of a continuation statement on or after
15 the effective date of this subsection .... [LRB inserts date], does not continue the
16 effectiveness of a financing statement filed before the effective date of this subsection
17 .... [LRB inserts date]. However, upon the timely filing of a continuation statement
18 on or after the effective date of this subsection .... [LRB inserts date], and in
19 accordance with the law of the jurisdiction governing perfection as provided in this
20 chapter, as affected by 2011 Wisconsin Act .... (this act), the effectiveness of a
21 financing statement filed in the same office in that jurisdiction before the effective
22 date of this subsection .... [LRB inserts date], continues for the period provided by the
23 law of that jurisdiction.
24 **(4)** APPLICATION OF SUB. (2) (B) 2. TO TRANSMITTING UTILITY FINANCING STATEMENT.
25 Subsection (2) (b) 2. applies to a financing statement that, before the effective date

1 of this subsection .... [LRB inserts date], is filed against a transmitting utility and
2 satisfies the applicable requirements for perfection under the law of the jurisdiction
3 governing perfection as provided in ch. 409, 2009 stats., only to the extent that this
4 chapter, as affected by 2011 Wisconsin Act .... (this act), provides that the law of a
5 jurisdiction other than the jurisdiction in which the financing statement is filed
6 governs perfection of a security interest in collateral covered by the financing
7 statement.

8 **(5)** APPLICATION OF SUBCH. V. A financing statement that includes a financing
9 statement filed before the effective date of this subsection .... [LRB inserts date], and
10 a continuation statement filed on or after the effective date of this subsection .... [LRB
11 inserts date], is effective only to the extent that it satisfies the requirements of subch.
12 V, as affected by 2011 Wisconsin Act .... (this act), for an initial financing statement.
13 A financing statement that indicates that the debtor is a decedent's estate indicates
14 that the collateral is being administered by a personal representative within the
15 meaning of s. 409.503 (1) (b), as affected by 2011 Wisconsin Act .... (this act). A
16 financing statement that indicates that the debtor is a trust or is a trustee acting with
17 respect to property held in trust indicates that the collateral is held in a trust within
18 the meaning of s. 409.503 (1) (c), as affected by 2011 Wisconsin Act .... (this act).

19 **409.806 When initial financing statement suffices to continue**
20 **effectiveness of financing statement. (1)** INITIAL FINANCING STATEMENT IN LIEU
21 OF CONTINUATION STATEMENT. The filing of an initial financing statement in the office
22 specified in s. 409.501 continues the effectiveness of a financing statement filed
23 before the effective date of this subsection .... [LRB inserts date], if:

1 (a) The filing of an initial financing statement in that office would be effective
2 to perfect a security interest under this chapter, as affected by 2011 Wisconsin Act
3 .... (this act);
4 (b) The preeffective–date financing statement was filed in an office in another
5 state; and
6 (c) The initial financing statement satisfies sub. (3).
7 **(2)** PERIOD OF CONTINUED EFFECTIVENESS. The filing of an initial financing
8 statement under sub. (1) continues the effectiveness of the preeffective–date
9 financing statement:
10 (a) If the initial financing statement is filed before the effective date of this
11 paragraph .... [LRB inserts date], for the period provided in s. 409.515, 2009 stats.,
12 with respect to an initial financing statement; and
13 (b) If the initial financing statement is filed on or after the effective date of this
14 paragraph .... [LRB inserts date], for the period provided in s. 409.515, as affected
15 by 2011 Wisconsin Act .... (this act), with respect to an initial financing statement.
16 **(3)** REQUIREMENTS FOR INITIAL FINANCING STATEMENT UNDER SUB. (1). To be
17 effective for purposes of sub. (1), an initial financing statement must:
18 (a) Satisfy the requirements of subch. V, as affected by 2011 Wisconsin Act ....
19 (this act), for an initial financing statement;
20 (b) Identify the preeffective–date financing statement by indicating the office
21 in which the financing statement was filed and providing the dates of filing and file
22 numbers, if any, of the financing statement and of the most recent continuation
23 statement filed with respect to the financing statement; and
24 (c) Indicate that the preeffective–date financing statement remains effective.

1 **409.807 Amendment of preeffective–date financing statement. (1)**
2 PREEFFECTIVE–DATE FINANCING STATEMENT. In this section, "preeffective–date
3 financing statement" means a financing statement filed before the effective date of
4 this subsection .... [LRB inserts date].

5 **(2)** APPLICABLE LAW. On or after the effective date of this subsection .... [LRB
6 inserts date], a person may add or delete collateral covered by, continue or terminate
7 the effectiveness of, or otherwise amend the information provided in, a
8 preeffective–date financing statement only in accordance with the law of the
9 jurisdiction governing perfection as provided in this chapter, as affected by 2011
10 Wisconsin Act .... (this act). However, the effectiveness of a preeffective–date
11 financing statement also may be terminated in accordance with the law of the
12 jurisdiction in which the financing statement is filed.

13 **(3)** METHOD OF AMENDING: GENERAL RULE. Except as otherwise provided in sub.
14 (4), if the law of this state governs perfection of a security interest, the information
15 in a preeffective–date financing statement may be amended on or after the effective
16 date of this subsection .... [LRB inserts date], only if:

17 (a) The preeffective–date financing statement and an amendment are filed in
18 the office specified in s. 409.501;

19 (b) An amendment is filed in the office specified in s. 409.501 concurrently with,
20 or after the filing in that office of, an initial financing statement that satisfies s.
21 409.806 (3); or

22 (c) An initial financing statement that provides the information as amended
23 and satisfies s. 409.806 (3) is filed in the office specified in s. 409.501.

1 **(4)** METHOD OF AMENDING: CONTINUATION. If the law of this state governs
2 perfection of a security interest, the effectiveness of a preeffective–date financing
3 statement may be continued only under s. 409.805 (3) and (5) or 409.806.

4 **(5)** METHOD OF AMENDING: ADDITIONAL TERMINATION RULE. Whether or not the law
5 of this state governs perfection of a security interest, the effectiveness of a
6 preeffective–date financing statement filed in this state may be terminated on or
7 after the effective date of this subsection .... [LRB inserts date], by filing a
8 termination statement in the office in which the preeffective–date financing
9 statement is filed, unless an initial financing statement that satisfies s. 409.806 (3)
10 has been filed in the office specified by the law of the jurisdiction governing perfection
11 as provided in this chapter, as affected by 2011 Wisconsin Act .... (this act), as the
12 office in which to file a financing statement.

13 **409.808 Persons entitled to file initial financing statement or**
14 **continuation statement.** A person may file an initial financing statement or a
15 continuation statement under this subchapter if:

16 **(1)** The secured party of record authorizes the filing; and

17 **(2)** The filing is necessary under this subchapter:

18 (a) To continue the effectiveness of a financing statement filed before the
19 effective date of this paragraph .... [LRB inserts date]; or

20 (b) To perfect or continue the perfection of a security interest.

21 **409.809 Priority.** 2011 Wisconsin Act .... (this act) determines the priority of
22 conflicting claims to collateral. However, if the relative priorities of the claims were
23 established before the effective date of this section .... [LRB inserts date], ch. 409,
24 2009 stats., determines priority.

25 **SECTION 43. Effective date.**

1 (1) This act takes effect on July 1, 2013.

2 **(END)**

Godwin, Gigi

From: Williams, Vincent
Sent: Wednesday, January 25, 2012 12:08 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3925/1 Topic: Revised UCC Article 9

Please Jacket LRB 11-3925/1 for the ASSEMBLY.