CHAPTER 409.


Editor's Notes:
(1) For notes of decisions construing prior statutes on subjects within the scope of this chapter see Wis. Annotations, 1966, and Wis. Stats. 1963. See also Opitz v. Brawley, 10 W (2d) 93, 152 NW (2d) 117.
(2) For foreign decisions construing the Uniform Commercial Code: Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper, and other relevant information, see Uniform Laws, Annotated.

409.101 History: 1963 c. 158; Stats. 1963 s. 409.101.

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

409.102 History: 1963 c. 158; Stats. 1963 s. 409.102.

Introduction to secured financing. Norris and DeGuire, 48 MLR 481. Surety's rights as security interest. 49 MLR 104.

409.103 History: 1963 c. 158; Stats. 1963 s. 409.103.

409.104 History: 1963 c. 158; Stats. 1963 s. 409.104.

Legislative Council Note, 1963: There is a decisional rule in this state to the effect that all property of a public utility is incidental to its franchise and therefore assumes the character of personal property, even though the particular property normally would be real estate. See Superior Water, Light & Power Co. v. Superior, 174 Wis. 237, 181 NW 115, 183 NW 254 (1921); Ireland v. Tomahawk Light, Telephone & Improvement Co. 185 Wis. 146, 200 NW 442 (1924). To make clear that this rule does not enlarge this chapter of the Code to encompass any property normally considered to be real estate, the study committee added to sub. (10) the phrase “and including an interest in or lien on real estate owned by a public utility even though for some purposes such real estate is deemed to be personal property.”

Subsection (12) was added by the study committee to make clear that a co-op member contract does not come within the scope of this chapter of the Code. Such contracts technically may come within the definition of security agreement in which they secure the performance of an obligation, i.e., the obligation of the member to market his crops to the association, but they are not the type of security agreements with which this chapter generally is concerned. [Bill 1-S]

409.105 History: 1963 c. 158; Stats. 1963 s. 409.105; 1969 c. 39.

Legislative Council Note, 1963: This amendment [of sub. (1) (b) ] which was proposed by the UCC editorial board, makes clear that a ship charter is not chattel paper. [Bill 2-A]

409.106 History: 1963 c. 158; Stats. 1963 s. 409.106; 1969 c. 39.

Legislative Council Note, 1963: This amendment, which, as in s. 409.105 (1) (b), was proposed by the UCC editorial board, makes clear that rights arising out of a ship charter are contract rights and neither accounts nor general intangibles. [Bill 2-A]

409.107 History: 1963 c. 158; Stats. 1963 s. 409.107.

409.108 History: 1963 c. 158; Stats. 1963 s. 409.108.

409.109 History: 1963 c. 158; Stats. 1963 s. 409.109.

409.110 History: 1963 c. 158; Stats. 1963 s. 409.110.

409.111 History: 1963 c. 158; Stats. 1963 s. 409.111.

409.112 History: 1963 c. 158; Stats. 1963 s. 409.112.

409.113 History: 1963 c. 158; Stats. 1963 s. 409.113.

409.114 History: 1963 c. 158; Stats. 1963 s. 409.114.

409.115 History: 1963 c. 158; Stats. 1963 s. 409.115.

409.201 History: 1963 c. 158; Stats. 1963 s. 409.201.


409.203 History: 1963 c. 158; Stats. 1963 s. 409.203; 1967 c. 53 s. 22.

Legislative Council Note, 1963: Subsection (2) is not part of the official text of the Code. It is derived from Wis. Stats. s. 241.08. The study committee deemed it advisable to continue the special policy of this section. Subsection (3) is part of the official text (s. 9-203 (3)) but the words “chs. 115, 214, s. 182.026, or any other similar statute which may be applicable to the particular transaction” were inserted where the official text shows a blank. They are designed to make clear that certain regulatory and other legislation is preserved intact. [Bill 1-S]

409.204 History: 1963 c. 158; Stats. 1963 s. 409.204.


409.205 History: 1963 c. 158; Stats. 1963 s. 409.205.

409.206 History: 1963 c. 158; Stats. 1963 s. 409.206.

409.207 History: 1963 c. 158; Stats. 1963 s. 409.207.

409.208 History: 1963 c. 158; Stats. 1963 s. 409.208.
An unperfected security interest in accounts receivable is subordinate to the rights of a lien creditor, which term, by statutory definition, includes "an assignee for the benefit of creditors from the time of assignment". In re Voluntary Assignment of Federal Wholesale Meats & Frozen Foods, Inc. 49 W (2d) 21, 180 NW (2d) 70.

The committee in their introductory paragraph of sub. (3) to make clear that the present procedure for filing of public utility mortgages is to be continued. Reference in the official text of subs. (3) (b) and (4) to statutes which require notation of a motor vehicle security interest on a certificate of title. The advisory committee proposed changes in article 9. Henson, 52 MLR 179.

A secured creditor cannot replevy property seized by a sheriff on execution in favor of another creditor where he has no right of immediate possession at the time of the execution. His only protection is the fact that the execution sale is subject to his interest. First Nat. Bank vs. Sheriff of Milwaukee County, 34 W (2d) 346, 149 NW (2d) 448.

Legislative Council Note, 1963: The official text of sub. (2) was changed to coincide with the changes made in s. 409.302 (1) (c) and (d). A $250 limitation was substituted for the previous $2500 limitation on farm goods, and the $250 limitation also was made applicable to consumer goods. [Bill 1-S]

Legislative Council Note, 1969: This amendment of sub. (3) is necessitated by the change made in s. 409.302 (1) (d). [Bill 2-A]

409.303 History: 1963 c. 158; Stats. 1963 s. 409.303.

409.304 History: 1963 c. 158; Stats. 1963 s. 409.304.

409.305 History: 1963 c. 158; Stats. 1963 s. 409.305.

409.306 History: 1963 c. 158; Stats. 1963 s. 409.306.


Legislative Council Note, 1963: The study committee changed the filing exemptions in sub. (1) (c) and (d) by inserting a limit of $250 in each case. The official text exempted purchase money security interests in farm equipment having a purchase price of $2500 or less and all purchase money security interests in consumer goods, except fixtures and motor vehicles, regardless of purchase price. This change in the official text is a compromise between the position that there ought to be no secret liens and the position that filing is unnecessary and wasteful in the case of consumer goods because it is generally known that such goods usually are purchased on credit and are likely to be subject to a lien. A reference to s. 182.025 was inserted in the introductory paragraph of sub. (3) to make clear that the present procedure for filing of public utility mortgages is to be continued. Reference in the official text of subs. (3) (b) and (4) to statutes which require notation of the security interest on a certificate of title were deleted so as to avoid giving any new vitality to provisions in the motor vehicle laws which require notation of a motor vehicle lien on the certificate of title. These provisions have been held to be of no effect insofar as the perfection of the security interest is concerned. See Commercial Credit Corp. v. Schneider, 295 Wis. 246, 61 NW (2d) 499, (1933). This will continue to be the situation under the Code; security interests in motor vehicles will be subject to the filing provisions of the Code. [Bill 1-S]

Legislative Council Note, 1969: Wisconsin, when adopting the code, changed the complete filing exemption in sub. (1) (d) of the official text by inserting the $250 limit, as a compromise between the position that there should be no secret liens and the position that filing is unnecessary and wasteful in the case of consumer goods because it is generally known that such goods usually are purchased on credit and subject to lien. The advisory committee's study indicated that this state's $250 limit was the lowest except for one other state and that a number of other states have adopted a $500 limit. Also, it appears that Wisconsin banks, financial institutions and businesses for the most part do not file financing statements for less than $500. The committee increased the filing exemption limit to $500 to conform with general business practices and to facilitate interstate financial activities. [Bill 2-A]
ample protection for all concerned and will in sub. (1) for failure to furnish a termina-

those counties which do not have a tract

provide a more expeditious filing procedure.

plicity allowing a public officer or notary

hinders interstate financial activities. Alter­

statement relating thereto must be filed in both

security interests in consumer goods, farm

The penalty in sub. (1) for failure to furnish a termina-

ing crops or fixtures must contain the

the study committee to clarify the meaning of

price”. [Bill 1-S]

Editor's Note: Certain changes were made in this section by Amendment No. 2, S, prin-

there is a refiling in accordance with

system of filing in Wisconsin.

The official draft contained an alternate sub. (3) which was rejected by the study

The language of par. (c) was

The penalty

Text

(b) local-central filing, whereby filing is

local registers of deeds with respect to

rability or commitment to make advances,

409.404 History: 1963 c. 158; Stats. 1963 s. 409.405.

409.405 History: 1963 c. 158; Stats. 1963 s. 409.406.


409.407 History: 1963 c. 158; Stats. 1963 s. 409.407.

Legislative Council Note: 1963: The last sentence of sub (1) is not part of the official
text. It was added by the study committee to make clear that a filing officer who notes certain information upon a duplicate furnished by the person filing the financing state-

must furnish a certified copy when he is paid

uniformity. In actual practice, the use of the

creates administrative

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to that extent the subsection departs from the

Legislative Council Note: 1963: The study commit-
to and, in the interest of uniformity, it has been deleted. No change in the

This section, as added by Amendment No. 2, S, has been

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Legislative Council Note, 1963: The last sentence of sub. (1) is considered unnecessary by the advisory committee and, the interest of uniformity, it has been deleted. No change in the law is intended or made by this amendment.

in sub. (2) the code phrase “presently effective” has been substituted for the Wi-}

Legislative Council Note, 1963: The last sentence of sub. (1) is considered unnecessary by the advisory committee and, the interest of uniformity, it has been deleted. No change in the law is intended or made by this amendment.

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Legislative Council Note, 1963: The last sentence of sub. (1) was added by the study committee to clarify the meaning of “cash price” and “loan”. [Bill 1-S]

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CHAPTER 440.

Department of Regulation and Licensing.

440.01 History: 1969 c. 336 s. 106; Stats. 1969 s. 440.01.

440.02 History: 1969 c. 336 s. 106; Stats. 1969 s. 440.02.

440.26 History: 1919 c. 444; Stats. 1919 s. 1836—1839; 1923 c. 291 s. 3; Stats. 1923 s. 175.07; 1925 c. 269; 1931 c. 52; 1936 c. 405; 1957 c. 97; 1965 c. 377; 1969 c. 336 s. 151; 1969 c. 497; Stats. 1969 s. 440.26.

See note to sec. 1, art. I, on exercises of police power, and note to sec. 1, art. IV, on delegation of power, citing Pinkerton v. Buech, 173 W 430, 181 NW 125.

The requirement that a license to private detectives shall be issued to applicants of good character, competency, and integrity furnishes to the fire and police commissioners a standard for their guidance. Pinkerton v. Buech, 176 W 433, 181 NW 126.

A firm of private detectives, employed prior to the act, cannot recover for services performed after its passage and publication, where they have not complied with the provisions as to license and bond. Andrews v. La Crosse R. Corp. 196 W 622, 220 NW 214.

A license to act as a detective may be revoked by the secretary of state, and, after revocation, the licensee may not act as a detective. A person directly injured by the wilful or malicious act of such licensed person may sue on his bond. 9 Atty. Gen. 447.

A partnership detective agency having its office in another state, but desiring to act as or advertise itself as a private detective agency in this state, must make application for a license. 10 Atty. Gen. 221.

See note to 192.47, citing 10 Atty. Gen. 809.

When a partnership licensed as a detective agency is dissolved, the partners continuing the business as sole proprietor must obtain a new license. 11 Atty. Gen. 297.

The license does not give the right to carry concealed weapons. 11 Atty. Gen. 372.

A night watchman is not a detective. 11 Atty. Gen. 474.

A license issued to a nonresident does not authorize him to open a branch office in this state. In order that a licensed nonresident may take a partner and open a branch office, application must be made by the partnership, naming the city in which such office is to be established. 12 Atty. Gen. 3.

A nonresident may be licensed as a private detective in Wisconsin, but he is required to establish a place of business or office in the state. 14 Atty. Gen. 492.

Officers of a corporation or members of a partnership operating a private detective agency who act as private detectives in their individual capacities must secure licenses. 19 Atty. Gen. 68.

One who solicits business for a private detective agency in this state is required to have a license. 19 Atty. Gen. 155.

The exception of "any watchman privately employed" from the detective license law refers to an employe rather than to an independent contractor. 20 Atty. Gen. 590.

A copartnership may be licensed as a detective agency under 175.07, upon filing of but one bond and payment of $200 fee as principal. Members of a copartnership operating a private detective agency who act as private detectives in their individual capacities must secure individual licenses under 175.07 (5).


Employees of a corporation engaged in making investigations and reports with respect to efficiency and honesty of employees of certain business are private detectives within 175.07 and are required to be licensed and bonded. 28 Atty. Gen. 405.

A merchant patrol agency contracting for a monthly fee to inspect premises between certain hours of the night, seeing that doors are locked, etc., is a "private guard" within the meaning of 175.07. 30 Atty. Gen. 164.

Persons engaged in posing as patrons for the purpose of checking honesty, efficiency and neatness of employees and the condition of the premises of hotels, restaurants and theaters and rendering reports thereon to the employer are required to be licensed as "private detectives" under 175.07. 38 Atty. Gen. 232.

An agency and employees thereof engaged in the business of theater checking must be licensed as private detectives. 37 Atty. Gen. 469.

Open checking by a third-party independent contractor of theater attendance and box office receipts with full knowledge of all parties observed and in accordance with specific terms of the contract between distributor and exhibitor is not a private detective activity subject to license. Persons engaged in "blind checking," or in making any observation and reports outside the scope of the distributor-exhibitor contract are private detectives and must be licensed. 37 Atty. Gen. 542.

Persons whose sole activities consist of obtaining ticket stubs from theaters at sporadic intervals and forwarding such stubs to others need not be licensed as private detectives. 40 Atty. Gen. 498.


A charitable organization which received contributions in 1961 must file a report as provided in 175.13, Stats. 1961. 51 Atty. Gen. 175.13, Stats. 1961, is not applicable to an arm or agency of the state. It does apply to private nonprofit units engaged in solicitation of contributions to aid the university. 51 Atty. Gen. 175.13.

440.61 History: 1939 c. 370, 486; Stats. 1938 s. 129.11; 1943 c. 229; Stats. 1943 s. 110.10; 1951 c. 261 s. 10; 1953 c. 631; 1958 c. 316; 1969 c. 336 ss. 13, 14; Stats. 1969 s. 440.61.

On peddlers, truckers, transient merchants, secondhand dealers and showmen see notes to 440.61 to 440.96.

The exception to the itinerant merchant trucker law contained in 129.11 (2) (b), Stats.