

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/20/2001**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB: **01-0028/1**

For: **David Cullen (608) 267-9836**

By/Representing: **Ritch Williams**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

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

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Article IX of U.C.C. - Secured Transactions

**Instructions:**

Per LRB-0028/1.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 01/20/2001	gilfokm 01/20/2001		_____			S&L
/1			haugca 01/22/2001	_____	gretskl 01/22/2001	lrb_docadmin 01/30/2001	

FE Sent For:

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02-08-01  
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1?	kuesejt	1-1/20-01 Kmg	CH 1-22	CH 1-22 DWB			

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<END>

**NOTE**  
**WANTED SOON**

2001 - 2002 LEGISLATURE

-2160/1

LRB-0028/1

PJD:kmg:ch



# ~~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.

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***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](http://www.nccusl.org/uniformact_factsheets/uniformacts-fs-ucca9.htm); and [http://www.nccusl.org/uniformact\\_summaries/uniformacts-s-uccra9st1999.htm](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.

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***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:

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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

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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 minhead 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 minhead 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:



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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.

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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.



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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 (I.g) “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. (1), 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