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1 (a) Transactions and liens that were not governed by ch. 409, 1999 stats., were
2 validly entered into or created before effective date of this paragraph [revisor
3 inserts date], and would be subject to 1999 Wisconsin Act (this act) if they had
4 been entered into or created on or after the effective date of this paragraph [revisor
5 inserts date], and the rights, duties, and interests flowing from those transactions
6 and liens remain valid on and after the effective date of this paragraph [revisor
7 inserts date]; and

8 (b) The transactions and liens may be terminated, completed, consummated,
9 and enforced as required or permitted by 1999 Wisconsin Act (this act) or by the
10 law that otherwise would apply if this paragraph had not taken effect.

11 (3) ~~PREEFFECTIVE-DATE PROCEEDINGS.~~ 1999 Wisconsin Act (this act) does not
12 affect an action, case, or proceeding commenced before the effective date of this
13 subsection [revisor inserts date].

14 **409.703 Security interest perfected before effective date. (1)**
15 CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS SATISFIED. A
16 security interest that is enforceable immediately before the effective date of this
17 subsection [revisor inserts date], and would have priority over the rights of a
18 person that becomes a lien creditor at that time is a perfected security interest under
19 1999 Wisconsin Act (this act) if, on the effective date of this subsection [revisor
20 inserts date], the applicable requirements for enforceability and perfection under
21 1999 Wisconsin Act (this act) are satisfied without further action.

22 (2) CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS NOT
23 SATISFIED. Except as otherwise provided in s. 409.705, if, immediately before the
24 effective date of this subsection [revisor inserts date], a security interest is
25 enforceable and would have priority over the rights of a person that becomes a lien

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1 creditor at that time, but the applicable requirements for enforceability or perfection
2 under 1999 Wisconsin Act (this act) are not satisfied as of the effective date of this
3 subsection [revisor inserts date], the security interest:

4 (a) Is a perfected security interest until one year after the effective date of this
5 paragraph [revisor inserts date];

6 (b) Remains enforceable on and after one year after the effective date of this
7 paragraph [revisor inserts date], only if the security interest becomes enforceable
8 under s. 409.203 before one year after the effective date of this paragraph [revisor
9 inserts date]; and

10 (c) Remains perfected on and after one year after the effective date of this
11 paragraph [revisor inserts date], only if the applicable requirements for perfection
12 under 1999 Wisconsin Act (this act) are satisfied before one year after the effective
13 date of this paragraph [revisor inserts date].

14 **409.704 Security interest unperfected before effective date.** A security
15 interest that is enforceable immediately before the effective date of this section
16 [revisor inserts date], but which would be subordinate to the rights of a person that
17 becomes a lien creditor at that time:

18 (1) Remains an enforceable security interest for one year after the effective
19 date of this subsection [revisor inserts date];

20 (2) Remains enforceable on and after one year after the effective date of this
21 subsection [revisor inserts date], if the security interest becomes enforceable
22 under s. 409.203 on the effective date of this subsection [revisor inserts date], or
23 within one year thereafter; and

24 (3) Becomes perfected:

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1 1. Without further action, on the effective date of this subdivision [revisor
2 inserts date], if the applicable requirements for perfection under 1999 Wisconsin Act
3 (this act) are satisfied before or at that time; or

4 2. When the applicable requirements for perfection are satisfied if the
5 requirements are satisfied after that time.

6 **409.705 Effectiveness of action taken before effective date. (1)**

7 PREEFFECTIVE-DATE ACTION; ONE-YEAR PERFECTION PERIOD UNLESS REPERFECTED. If
8 action, other than the filing of a financing statement, is taken before the effective
9 date of this subsection [revisor inserts date], and the action would have resulted
10 in priority of a security interest over the rights of a person that becomes a lien
11 creditor had the security interest become enforceable before the effective date of this
12 subsection [revisor inserts date], the action is effective to perfect a security
13 interest that attaches under 1999 Wisconsin Act (this act) before the effective date
14 of this subsection [revisor inserts date]. An attached security interest becomes
15 unperfected one year after the effective date of this subsection [revisor inserts
16 date], unless the security interest becomes a perfected security interest under 1999
17 Wisconsin Act (this act) before one year after the effective date of this subsection
18 [revisor inserts date].

19 (2) PREEFFECTIVE-DATE FILING. The filing of a financing statement before the
20 effective date of this subsection [revisor inserts date], is effective to perfect a
21 security interest to the extent that the filing would satisfy the applicable
22 requirements for perfection under 1999 Wisconsin Act (this act).

23 (3) PREEFFECTIVE-DATE FILING IN JURISDICTION FORMERLY GOVERNING PERFECTION.
24 1999 Wisconsin Act (this act) does not render ineffective an effective financing
25 statement that, before the effective date of this subsection [revisor inserts date],

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1 is filed and satisfies the applicable requirements for perfection under the law of the
2 jurisdiction governing perfection as provided in s. 409.103, 1999 stats. However,
3 except as otherwise provided in subs. (4) and (5) and s. 409.706, the financing
4 statement ceases to be effective at the earlier of:

5 (a) The time the financing statement would have ceased to be effective under
6 the law of the jurisdiction in which it is filed; or

7 (b) June 30, 2006.

8 (4) CONTINUATION STATEMENT. The filing of a continuation statement on or after
9 the effective date of this subsection [revisor inserts date], does not continue the
10 effectiveness of the financing statement filed before the effective date of this
11 subsection [revisor inserts date]. However, upon the timely filing of a
12 continuation statement on or after the effective date of this subsection [revisor
13 inserts date], and in accordance with the law of the jurisdiction governing perfection
14 as provided in subch. III, the effectiveness of a financing statement filed in the same
15 office in that jurisdiction before the effective date of this subsection [revisor
16 inserts date], continues for the period provided by the law of that jurisdiction.

17 (5) APPLICATION OF SUB. (3) (B) TO TRANSMITTING UTILITY FINANCING STATEMENT.

18 Subsection (3) (b) applies to a financing statement that, before the effective date of
19 this subsection [revisor inserts date], is filed against a transmitting utility and
20 satisfies the applicable requirements for perfection under the law of the jurisdiction
21 governing perfection as provided in s. 409.103, 1999 stats., only to the extent that
22 subch. III provides that the law of a jurisdiction other than the jurisdiction in which
23 the financing statement is filed governs perfection of a security interest in collateral
24 covered by the financing statement.

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1 **(6) APPLICATION OF SUBCH. V.** A financing statement that includes a financing
2 statement filed before the effective date of this subsection [revisor inserts date],
3 and a continuation statement filed on or after the effective date of this subsection
4 [revisor inserts date], is effective only to the extent that it satisfies the requirements
5 of subch. V for an initial financing statement.

6 **409.706 When initial financing statement suffices to continue**
7 **effectiveness of financing statement.** **(1) INITIAL FINANCING STATEMENT IN LIEU**
8 **OF CONTINUATION STATEMENT.** The filing of an initial financing statement in the office
9 specified in s. 409.501 continues the effectiveness of a financing statement filed
10 before the effective date of this subsection [revisor inserts date], if:

11 (a) The filing of an initial financing statement in that office would be effective
12 to perfect a security interest under 1999 Wisconsin Act (this act);

13 (b) The preeffective-date financing statement was filed in an office in another
14 state or another office in this state; and

15 (c) The initial financing statement satisfies sub. (3).

16 **(2) PERIOD OF CONTINUED EFFECTIVENESS.** The filing of an initial financing
17 statement under sub. (1) continues the effectiveness of the preeffective-date
18 financing statement:

19 (a) If the initial financing statement is filed before the effective date of this
20 paragraph [revisor inserts date], for the period provided in s. 409.403, 1999 stats.,
21 with respect to a financing statement; and

22 (b) If the initial financing statement is filed on or after the effective date of this
23 paragraph [revisor inserts date], for the period provided in s. 409.515 with respect
24 to an initial financing statement.

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1 **(3) REQUIREMENTS FOR INITIAL FINANCING STATEMENT UNDER SUB. (1).** To be
2 effective for purposes of sub. (1), an initial financing statement must:

3 (a) Satisfy the requirements of subch. V for an initial financing statement;

4 (b) Identify the preeffective–date financing statement by indicating the office
5 in which the financing statement was filed and providing the dates of filing and file
6 numbers, if any, of the financing statement and of the most recent continuation
7 statement filed with respect to the financing statement; and

8 (c) Indicate that the preeffective–date financing statement remains effective.

9 **409.707 Amendment of preeffective–date financing statement. (1)**

10 PREEFFECTIVE–DATE FINANCING STATEMENT. In this section, “preeffective–date
11 financing statement” means a financing statement filed before the effective date of
12 this subsection [revisor inserts date].

13 **(2) APPLICABLE LAW.** On or after the effective date of this subsection [revisor
14 inserts date], a person may add or delete collateral covered by, continue or terminate
15 the effectiveness of, or otherwise amend the information provided in, a
16 preeffective–date financing statement only in accordance with the law of the
17 jurisdiction governing perfection as provided in subch. III. However, the
18 effectiveness of a preeffective–date financing statement also may be terminated in
19 accordance with the law of the jurisdiction in which the financing statement is filed.

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

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

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1 (b) An amendment is filed in the office specified in s. 409.501 concurrently with,
2 or after the filing in that office of, an initial financing statement that satisfies s.
3 409.706 (3); or

4 (c) An initial financing statement that provides the information as amended
5 and satisfies s. 409.706 (3) is filed in the office specified in s. 409.501.

6 (4) **METHOD OF AMENDING: CONTINUATION.** If the law of this state governs
7 perfection of a security interest, the effectiveness of a preeffective–date financing
8 statement may be continued only under s. 409.705 (4) and (6) or 409.706.

9 (5) **METHOD OF AMENDING: ADDITIONAL TERMINATION RULE.** Whether or not the law
10 of this state governs perfection of a security interest, the effectiveness of a
11 preeffective–date financing statement filed in this state may be terminated on or
12 after the effective date of this subsection [revisor inserts date], by filing a
13 termination statement in the office in which the preeffective–date financing
14 statement is filed, unless an initial financing statement that satisfies s. 409.706 (3)
15 has been filed in the office specified by the law of the jurisdiction governing perfection
16 as provided in subch. III as the office in which to file a financing statement.

17 **409.708 Persons entitled to file initial financing statement or**
18 **continuation statement.** A person may file an initial financing statement or a
19 continuation statement under this subchapter if:

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

21 (2) The filing is necessary under this subchapter:

22 (a) To continue the effectiveness of a financing statement filed before the
23 effective date of this paragraph [revisor inserts date]; or

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

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1 **409.709 Priority.** (1) LAW GOVERNING PRIORITY. 1999 Wisconsin Act ... (this
2 act) determines the priority of conflicting claims to collateral. However, if the
3 relative priorities of the claims were established before the effective date of this
4 subsection [revisor inserts date], ch. 409, 1999 stats., determines priority.

5 (2) PRIORITY IF SECURITY INTEREST BECOMES ENFORCEABLE UNDER S. 409.203. For
6 purposes of s. 409.322 (1), the priority of a security interest that becomes enforceable
7 under s. 409.203 dates from the effective date of this subsection [revisor inserts
8 date], if the security interest is perfected under 1999 Wisconsin Act ... (this act) by
9 the filing of a financing statement before the effective date of this subsection
10 [revisor inserts date], which would not have been effective to perfect the security
11 interest under ch. 409, 1999 stats. This subsection does not apply to conflicting
12 security interests each of which is perfected by the filing of such a financing
13 statement.

14 **409.710 Special transitional provision for maintaining and searching**
15 **local filing office records.** (1) DEFINITIONS. In this section:

16 (a) "Former-ch.-409 records":

17 1. Means:

18 a. Financing statements and other records that have been filed in a local filing
19 office before July 1, 2001, and that are, or upon processing and indexing will be,
20 reflected in the index maintained, as of June 30, 2001, by the local filing office for
21 financing statements and other records filed in the local filing office before July 1,
22 2001; and

23 b. The index as of June 30, 2001.

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1 2. Does not include records presented to a local filing office for filing after June
2 30, 2001, whether or not the records relate to financing statements filed in the local
3 filing office before July 1, 2001.

4 (b) “Local filing office” means a filing office, other than the department of
5 financial institutions, that is designated as the proper place to file a financing
6 statement under s. 409.401 (1), 1999 stats., with respect to a record that covers a type
7 of collateral as to which the filing office is designated in that subsection as the proper
8 place to file.

9 (2) PROHIBITION OF FILING AFTER JUNE 30, 2001. A local filing office shall not accept
10 for filing a record presented after June 30, 2001, whether or not the record relates
11 to a financing statement filed in the local filing office before July 1, 2001.

12 (3) MAINTENANCE OF RECORDS. Until July 1, 2008, each local filing office must
13 maintain all former-ch.-409 records in accordance with ch. 409, 1999 stats. A
14 former-ch.-409 record that is not reflected on the index maintained at June 30, 2001,
15 by the local filing office must be processed and indexed, and reflected on the index
16 as of June 30, 2001, as soon as practicable but in any event no later than July 30,
17 2001.

18 (4) INFORMATION REQUESTS. Until at least June 30, 2008, each local filing office
19 must respond to requests for information with respect to former-ch.-409 records
20 relating to a debtor and issue certificates, in accordance with ch. 409, 1999 stats. The
21 fees charged for responding to requests for information relating to a debtor and
22 issuing certificates with respect to former-ch.-409 records must be the fees in effect
23 under ch. 409, 1999 stats., on June 30, 2001, unless a different fee is later set by the
24 local filing office. However, the different fee must not exceed the amount set by
25 filing-office rule for responding to a request for information relating to a debtor or

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1 for issuing a certificate. This subsection does not require that a fee be charged for
2 remote access searching of the filing-office data base. The rule promulgated
3 pursuant to this subsection need not specify a fee for remote access searching of the
4 filing-office data base.

5 (5) DESTRUCTION OF RECORDS. After June 30, 2008, each local filing office may
6 remove and destroy, in accordance with any then-applicable record retention law of
7 this state, all former-ch.-409 records, including the related index.

8 (6) EXCLUSION. This section does not apply, with respect to financing
9 statements and other records, to a filing office in which mortgages or records of
10 mortgages on real property are required to be filed or recorded, if:

11 (a) The collateral is timber to be cut or as-extracted collateral; or

12 (b) The record is or relates to a financing statement filed as a fixture filing and
13 the collateral is goods that are or are to become fixtures.

14 **SECTION 79.** 411.103 (3) (a) of the statutes is amended to read:

15 411.103 (3) (a) "Account" — s. ~~409.106~~ 409.102 (1) (ag).

16 **SECTION 80.** 411.103 (3) (d) of the statutes is amended to read:

17 411.103 (3) (d) "Chattel paper" — s. ~~409.105 (1) (b)~~ 409.102 (1) (cm).

18 **SECTION 81.** 411.103 (3) (e) of the statutes is amended to read:

19 411.103 (3) (e) "Consumer goods" — s. ~~409.109 (1)~~ 409.102 (1) (fm).

20 **SECTION 82.** 411.103 (3) (f) of the statutes is amended to read:

21 411.103 (3) (f) "Document" — s. ~~409.105 (1) (f)~~ 409.102 (1) (hg).

22 **SECTION 83.** 411.103 (3) (h) of the statutes is amended to read:

23 411.103 (3) (h) "General ~~intangibles~~ intangible" — s. ~~409.106~~ 409.102 (1) (kg).

24 **SECTION 84.** 411.103 (3) (j) of the statutes is amended to read:

25 411.103 (3) (j) "Instrument" — s. ~~409.105 (1) (i)~~ 409.102 (1) (Lm).

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1 **SECTION 85.** 411.103 (3) (L) of the statutes is amended to read:

2 411.103 (3) (L) “Mortgage” — s. ~~409.105 (1) (j)~~ 409.102 (1) (nm).

3 **SECTION 86.** 411.103 (3) (m) of the statutes is amended to read:

4 411.103 (3) (m) “Pursuant to commitment” — s. ~~409.105 (1) (k)~~ 409.102 (1) (qs).

5 **SECTION 87.** 411.303 (1) and (2) of the statutes are amended to read:

6 411.303 (1) In this section, “creation of a security interest” includes the sale of
7 a lease contract that is subject to ch. 409 under s. ~~409.102 (1) (b)~~ 409.109 (1) (c).

8 (2) Except as provided in ~~subs. sub. (3) and (4)~~ s. 409.407, a provision in a lease
9 agreement that prohibits the voluntary or involuntary transfer, including a transfer
10 by sale, sublease, creation or enforcement of a security interest, or attachment, levy,
11 or other judicial process, of an interest of a party under the lease contract or of the
12 lessor’s residual interest in the goods, or that makes such a transfer an event of
13 default, gives rise to the rights and remedies provided in sub. ~~(5)~~ (4), but a transfer
14 that is prohibited or is an event of default under the lease agreement is otherwise
15 effective.

16 **SECTION 88.** 411.303 (3) of the statutes is repealed.

17 **SECTION 89.** 411.303 (4) of the statutes is renumbered 411.303 (3) and amended
18 to read:

19 411.303 (3) A provision in a lease agreement that prohibits a transfer of a right
20 to damages for default with respect to the whole lease contract or of a right to
21 payment arising out of the transferor’s due performance of the transferor’s entire
22 obligation, or that makes such a transfer an event of default, is not enforceable, and
23 such a transfer is not a transfer that materially impairs the prospect of obtaining
24 return performance by, materially changes the duty of, or materially increases the

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1 burden or risk imposed on, the other party to the lease contract within the purview
2 of sub. ~~(5)~~ (4).

3 **SECTION 90.** 411.303 (5) of the statutes is renumbered 411.303 (4), and 411.303
4 (4) (intro.), as renumbered, is amended to read:

5 411.303 (4) (intro.) Subject to ~~subs.~~ sub. (3) and ~~(4)~~ s. 409.407:

6 **SECTION 91.** 411.303 (6), (7) and (8) of the statutes are renumbered 411.303 (5),
7 (6) and (7).

8 **SECTION 92.** 411.307 (2) (intro.) and (a) of the statutes are consolidated,
9 renumbered 411.307 (2) and amended to read:

10 411.307 (2) Except as provided in ~~subs.~~ sub. (3) and ~~(4)~~ and ss. 411.306 and
11 411.308, a creditor of a lessor takes subject to the lease contract unless ~~any of the~~
12 ~~following occurs:~~ (a) ~~The~~ the creditor holds a lien that attached to the goods before
13 the lease contract became enforceable.

14 **SECTION 93.** 411.307 (2) (b) and (c) of the statutes are repealed.

15 **SECTION 94.** 411.307 (3) of the statutes is repealed and recreated to read:

16 411.307 (3) Except as otherwise provided in ss. 409.317, 409.321, and 409.323,
17 a lessee takes a leasehold interest subject to a security interest held by a creditor of
18 the lessor.

19 **SECTION 95.** 411.307 (4) of the statutes is repealed.

20 **SECTION 96.** 411.309 (1) (c) of the statutes is amended to read:

21 411.309 (1) (c) "Fixture filing" means a filing, in the office where a record of a
22 mortgage on real estate would be filed or recorded, of a financing statement covering
23 goods that are or are to become fixtures and conforming to the requirements of s.
24 ~~409.402 (5)~~ 409.502 (1) and (2).

25 **SECTION 97.** 421.301 (21) of the statutes is amended to read:

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1 421.301 (21) “Goods” has the meaning given in s. 409.102 (1) (ks) and includes
2 goods (~~s. 409.105~~) not in existence at the time the transaction is entered into and
3 goods which are or are to become fixtures.

4 **SECTION 98.** 422.413 (2r) (intro.) of the statutes is amended to read:

5 422.413 (2r) (intro.) Notwithstanding s. ~~409.504~~ 409.615 (1), the proceeds of
6 any disposition of collateral referred to in sub. (2g) shall be applied in the following
7 order to:

8 **SECTION 99.** 422.413 (2r) (f) of the statutes is amended to read:

9 422.413 (2r) (f) The satisfaction of indebtedness secured by any subordinate
10 security interest in the collateral, subject to the restrictions set forth in s. ~~409.504~~
11 409.615 (1) (c) and (2).

12 **SECTION 100.** 425.105 (4) of the statutes is amended to read:

13 425.105 (4) With respect to consumer credit transactions in which the creditor
14 has a security interest in, and possession of, instruments or documents (~~s. 409.105~~),
15 as each is defined in s. 409.102 (1), which threaten to decline speedily in value, this
16 section does not restrict the creditor’s rights to dispose of such property pursuant to
17 ~~s. 409.504 subch. VI of ch. 409~~ and the terms of the creditor’s security agreement.

18 **SECTION 101.** 425.203 (3) (intro.) of the statutes is amended to read:

19 425.203 (3) (intro.) Following recovery of collateral pursuant to a judgment
20 under sub. (2), the merchant may either retain the collateral in full satisfaction of
21 the customer’s obligation pursuant to ~~s. 409.505~~ ss. 409.620 to 409.624, in which
22 event the merchant shall satisfy the judgment obtained pursuant to sub. (2); or shall
23 dispose of the collateral pursuant to ~~s. 409.504 subch. VI of ch. 409~~, in which event:

24 **SECTION 102.** 425.204 (2) of the statutes is amended to read:

SENATE BILL 9**SECTION 102**

1 425.204 (2) The rights and obligations of the merchant and customer with
2 respect to collateral voluntarily surrendered as defined in this section shall be
3 governed by ~~ss. 409.504 to 409.507~~ subch. VI of ch. 409, and are not subject to this
4 subchapter.

5 **SECTION 103.** 425.207 (2) of the statutes is amended to read:

6 425.207 (2) A merchant who reasonably believes that a customer has
7 abandoned collateral or goods subject to a consumer lease may take possession of
8 such collateral or leased goods and preserve it. However, the customer may recover
9 such collateral or leased goods upon request unless at the time of request the
10 customer has surrendered the collateral or leased goods, or judgment for the
11 merchant has been entered in a proceeding for recovery of collateral or leased goods
12 under s. 425.205 or in a judgment described in s. 425.203 (2). A merchant taking
13 possession of collateral or leased goods pursuant to this section shall promptly send
14 notification to the customer's last-known address of such action and of the
15 customer's right to recover such collateral or leased goods under this section. If the
16 collateral or leased goods are recovered by the customer pursuant to this section, it
17 shall be returned to the customer at the location where the merchant took possession
18 of such collateral or leased goods pursuant to this section or, at the option of the
19 merchant, at such other location designated by the customer; and any expense
20 incurred by the merchant in taking possession of, holding and returning the
21 collateral or leased goods to the customer shall be borne by the merchant. If after
22 taking possession of collateral or leased goods pursuant to this subsection, the
23 merchant perfects the right to possession through a surrender by the customer or a
24 judgment under s. 425.203 (2) or 425.205, the customer is liable for the expenses set
25 forth in s. ~~409.504~~ 409.615 (1). In determining such expenses, leased goods shall be

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1 considered collateral under s. ~~409.504~~ 409.615 (1). However, a customer is not liable
2 for expenses of holding the collateral or leased goods from the time the merchant
3 takes possession until the merchant perfects the right to possession in the manner
4 provided in this subsection.

5 **SECTION 104.** 425.208 (6) of the statutes is amended to read:

6 425.208 (6) The creditor shall not dispose of the collateral or enter into a
7 contract for the disposition of the collateral, until the expiration of the period for
8 redemption provided in this section, unless the collateral is perishable or threatens
9 to decline speedily in value. Upon the expiration of such period any disposition of the
10 collateral shall be subject to ~~ss. 409.504, 409.505 and 409.506~~ subch. VI of ch. 409,
11 except that the customer may be liable for a deficiency only to the extent provided
12 in ss. 425.209 and 425.210.

13 **SECTION 105.** 779.48 (2) of the statutes is amended to read:

14 779.48 (2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case
15 the claim remains unpaid for 2 months after the debt is incurred, and a person given
16 a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is
17 perfected, enforce such lien by sale of the property substantially in conformity with
18 ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409 and the lien claimant shall have the rights
19 and duties of a secured party thereunder. When such sections are applied to the
20 enforcement of such lien the word debtor or equivalent when used therein shall be
21 deemed to refer to the owner of the property and any other person having an interest
22 shown by instrument filed as required by law or shown in the records of the
23 department of transportation, and the word indebtedness or equivalent shall include
24 all claims upon which such lien is based.

25 **SECTION 106.** 779.89 of the statutes is amended to read:

SENATE BILL 9**SECTION 106**

1 **779.89 Attachment and preservation.** All prepaid maintenance liens
2 attach at the time of the first prepayment and shall be preserved from the time the
3 lien attaches. It is not necessary to file or record any notice of the lien in order to
4 preserve or perfect the lien although a customer may file this lien in the manner
5 prescribed for perfecting liens under subch. III of ch. 409 regarding debtors who are
6 located in this state.

7 **SECTION 107.** 779.91 (2) of the statutes is amended to read:

8 779.91 (2) Upon discharge of a prepaid maintenance lien, any customer who
9 filed the lien as permitted in s. 779.89 is subject to the requirements of s. 409.404
10 409.513.

11 **SECTION 108.** 779.97 (4) (a) 1. of the statutes is amended to read:

12 779.97 (4) (a) 1. With the department of financial institutions, the filing officer
13 shall cause the notice to be ~~marked, held and indexed~~ dealt with in accordance with
14 s. 409.403 (4) 409.519 as if the notice were a financing statement within the meaning
15 of chs. 401 to 411; or

16 **SECTION 109.** 779.97 (4) (b) 1. of the statutes is amended to read:

17 779.97 (4) (b) 1. If a refiling of a notice of lien is presented to the department
18 of financial institutions for filing, the filing officer shall cause the refiled notice of
19 federal lien to be ~~marked, held and indexed~~ dealt with in accordance with s. 409.403
20 409.519 as if the refiling were a continuation statement within the meaning of chs.
21 401 to 411, except that the time period in par. (d) shall apply instead of the time period
22 in s. 409.403 (2) and (3) 409.515.

23 **SECTION 110.** 779.97 (4) (b) 2. of the statutes is amended to read:

24 779.97 (4) (b) 2. If a certificate of release is presented to the department of
25 financial institutions for filing, the filing officer shall cause the certificate to be

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1 ~~marked, held and indexed~~ dealt with in accordance with s. 409.404 ~~409.513~~ as if the
2 certificate were a termination statement within the meaning of chs. 401 to 411, and
3 the filing officer may remove the notice of federal lien and any related refiling of a
4 notice of lien, certificate of nonattachment, discharge or subordination from the files
5 at any time after receipt of the certificate of release, but the department of financial
6 institutions shall keep the certificate of release or a microfilm or other photographic
7 record or optical disk or electronic record of the certificate of release in a file, separate
8 from those containing currently effective notices of liens, for a period of 30 years after
9 the date of filing of the certificate of release.

10 **SECTION 111.** 779.97 (4) (b) 3. of the statutes is amended to read:

11 779.97 (4) (b) 3. If a certificate of discharge is presented to the department of
12 financial institutions for filing, the filing officer shall cause the certificate to be
13 ~~marked, held and indexed~~ dealt with as if the certificate were ~~a release of collateral~~
14 an amendment that deletes collateral within the meaning of chs. 401 to 411.

15 **SECTION 112.** 779.97 (4) (b) 4. of the statutes is amended to read:

16 779.97 (4) (b) 4. If a certificate of nonattachment or subordination of any lien
17 is presented to the department of financial institutions for filing, the filing officer
18 shall cause the certificate to be ~~marked, held and indexed~~ dealt with as if the
19 certificate were an amendment that deletes collateral within the meaning of chs. 401
20 to 411.

21 **SECTION 113.** 779.97 (4) (d) of the statutes is amended to read:

22 779.97 (4) (d) Unless a refiling of a notice of lien is presented to a filing officer
23 for filing within 11 years and 60 days after the date on which a notice of lien or the
24 latest refiling of a notice of that lien is filed with that officer, the filing officer may
25 remove the notice of federal lien and any related refiling of a notice of lien, certificate

SENATE BILL 9**SECTION 113**

1 of nonattachment, discharge or subordination from the files. Any refiling of a notice
2 of lien presented to a filing officer after such removal shall be ~~marked, held and~~
3 ~~indexed dealt with~~ as though the document were a notice of federal lien instead of
4 a refiling of a notice of lien.

5 **SECTION 114.** 779.97 (4) (e) of the statutes is amended to read:

6 779.97 (4) (e) Upon request of any person, the filing officer shall issue a
7 certificate showing whether there is on file, on the date and hour stated therein, any
8 notice of federal lien or any related refiling of a notice of lien, certificate of
9 nonattachment, discharge or subordination filed on or after February 1, 1968,
10 naming a particular person, and if a notice or certificate is on file, giving the date and
11 hour of filing of each notice or certificate. ~~The fee for a certificate is \$2. Upon request~~
12 ~~the filing officer shall furnish a copy of any notice of federal lien or notice or certificate~~
13 ~~affecting a federal lien for a fee of 50 cents per page~~ If the filing officer is the
14 department of financial institutions, the filing officer shall include the information
15 concerning the notice of federal lien, or notice or certificate affecting a federal lien,
16 in the information communicated or otherwise made available in response to a
17 request under s. 409.523 (3), and the fee charged shall be that charged in accordance
18 with s. 409.525.

19 **SECTION 115.** 815.18 (2) (i) of the statutes is amended to read:

20 815.18 (2) (i) "Farm products" has the meaning given under s. ~~409.109 (3)~~
21 409.102 (1) (im).

22 **SECTION 116.** 815.18 (2) (j) of the statutes is amended to read:

23 815.18 (2) (j) "Inventory" has the meaning given under s. ~~409.109 (4)~~ 409.102
24 (1) (Ls).

25 **SECTION 117.** 818.02 (4) of the statutes is amended to read:

SENATE BILL 9

1 818.02 (4) Subsections (1) and (3) do not apply to any security agreement under
2 which the plaintiff claims a purchase money security interest, as defined in ~~ch.~~ 409
3 s. 409.103.

4 **SECTION 118.** 893.36 (3) (b) of the statutes is amended to read:

5 893.36 (3) (b) "Collateral" has the meaning provided by s. ~~409.105 (1) (e)~~
6 409.102 (1) (cs).

7 **SECTION 119.** 893.36 (3) (c) of the statutes is amended to read:

8 893.36 (3) (c) "Debtor" has the meaning provided by s. ~~409.105 (1) (d)~~ 409.102
9 (1) (gs).

10 **SECTION 120.** 893.36 (3) (e) of the statutes is amended to read:

11 893.36 (3) (e) "Secured party" has the meaning provided by s. ~~409.105 (1) (L)~~
12 409.102 (1) (rs).

13 **SECTION 121.** 893.36 (3) (f) of the statutes is amended to read:

14 893.36 (3) (f) "Security agreement" has the meaning provided by s. ~~409.105 (1)~~
15 ~~(m)~~ 409.102 (1) (s).

16 **SECTION 122. Effective date.**

17 (1) This act takes effect on July 1, 2001, or on the day after publication,
18 whichever is later.

19

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

2160/1dn
LRB-0028/1dn

PJD:kmg:ch



~~December 6, 2000~~

This 2001 session draft is 1999 LRB-1446/P11 updated to reflect changes to the statutes made in the latter part of the 1999-2000 legislative session and the forms in ss. 409.521 and 409.613 checked for accuracy.

In reformatting Article 9-Secured Transactions to the repeal and recreation of ch. 409, Wis. Stats., and the conforming amendments to other articles to changes to *chs.* 401 to 411, the following conversions were made: Uniform Commercial Code-*chs.* 401 to 411; article-chapter; part-subchapter; subpart title-deleted it; Section 9-101 to s. 409.101 up through Section 9-710 to s. 409.710; act-*chs.* 401 to 411 (except in subchapter 7, this act-1999 Wisconsin Act ... (this act)); article 2A-ch. 411; article 1, etc., up to article 9-ch. 401, etc., up to ch. 409; section 9-403 (b) (4) and most other subsections and paragraphs-s. 409.403 (2) (d) and many other subsections and paragraphs; Section-s.; Sections-ss.; Subsection-sub.; Subsections-sub.; Paragraph-par.; Paragraphs-pars.; Subdivision-subd.; Subdivisions-subds.; regulation (only when referring to state regulations)-rule; cross-references (to a series) through-to; lowercased Governor, Legislature, and State; changed percent to %, indorse to endorse, adopt to promulgate (when referring to rules), one, etc., up to ten to 1 up to 10, "when act takes effect" to "the effective date of this subsection, etc., ... [revisor inserts date]," and attorney's fees to attorneys fees; deleted the hyphen in health-care, set-off, pre-effective, and non-consumer; initial capped the first word in every statutory unit, including paragraphs and subdivisions and lower units; bolded subsection numbers and retyped, bolded, and lowercased section titles, except for the first word; retained optional subsection titles in ch. 409; and inserted spaces in cross-references between the subsection and paragraph, between the paragraph and subdivision, and between the subdivision and lower unit. Inserted into the draft in s. 409.102 (1) were the definitions from Revised UCC Article 5 that are cross-referenced in Revised Article 9. The references to those cross-references are deleted from the listing in s. 409.102 (2). **WISCONSIN HAS YET TO ENACT REVISED ARTICLE 5 (CH. 405, WIS. STATS.). IF REVISED ARTICLE 5 IS ENACTED 2ND, IT NEEDS TO REPEAL THESE AND INSTEAD REINSERT THEM IN S. 409.102 (2) OF REVISED ARTICLE 9. IF REVISED ARTICLE 9 IS ENACTED 2ND, IT NEEDS TO BE AMENDED TO DO THE SAME.** Changed references in ch. 409 to sections of Revised Article 5 over to references to ch. 405. Inserted into the draft and amended were all statutory units of the current statutes (other than in current ch. 409) that contain cross-references to any statutory unit in current ch. 409.

The new chapter 409 of the statutes reflects choices from the bracketed options in the new Article 9. In addition, the new chapter 409 of the statutes has several nonuniform changes:

1. s. 409.203 (4) (b) is added to carry over the thrust of current s. 409.203 (2) regarding the signature of one spouse relating to marital property;
2. s. 409.311 (1) (bm) is added to carry over current s. 409.302 (3) (bm) regarding boat titling like car titling;
3. s. 409.311 (1) (d) is added to carry over current s. 409.302 (3) (d) regarding certain central filing provisions;
4. s. 409.311 (1) (e) is added to carry over current ss. 16.76 (4) and 409.302 (3) (e) regarding master leases by the state;
5. s. 409.311 (1) (f) is added to carry over current s. 409.302 (3) (f) regarding manufactured home titling like car titling;
6. s. 409.406 (6) is changed to add a cross-reference to current s. 565.30 to continue the applicability of s. 565.30 regarding lottery prizes;
7. ss. 409.519 (8), 409.520 (2), and 409.523 (5) are changed to give the department of financial institutions a five-day rather than a two-day period (but only for the two years after the effective date of the act) to comply with the requirements in those statutes;
8. s. 409.523 (7) is added to carry over current s. 409.407 (3) regarding personal liability of filing officers;
9. ss. 409.525 and 409.710 (4) are changed to require the department of financial institutions to set fees by rule rather than having fees set by statute;
10. s. 409.527 is changed to require that a biennial report be included in the department's currently required biennial report, rather than to require that an annual report be sent separately to the legislature; and
11. s. 409.528 is added to carry over the requirement for a statewide lien registration computer system by recreating current s. 409.410 as modified to fit the new chapter.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2160/1dn
FJD:kmg:ch

January 22, 2001

This 2001 session draft is 1999 LRB-1446/P11 updated to reflect changes to the statutes made in the latter part of the 1999-2000 legislative session and the forms in ss. 409.521 and 409.613 checked for accuracy.

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January 22, 2001

MEMORANDUM

To: Representative Cullen

From: Attorney Peter J. Dykman, General Counsel

Re: LRB-2160 Article IX of U.C.C. - Secured Transactions

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7098 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.