

**ASSEMBLY AMENDMENT 3,
TO 2001 ASSEMBLY BILL 111**

March 20, 2001 – Offered by COMMITTEE ON FINANCIAL INSTITUTIONS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 41, line 4: after that line insert:

3 “(pu) “Production–money crops” means crops that secure a production–money
4 obligation incurred with respect to the production of those crops.

5 (pv) “Production–money obligation” means an obligation of an obligor incurred
6 for new value given to enable the debtor to produce crops if the value is in fact used
7 for the production of the crops.

8 (pw) “Production of crops” means the use of seed, fertilizer, or chemicals for
9 growing crops or protecting them from damage or disease.”.

10 **2.** Page 48, line 2: after that line insert:

11 **“409.1035 Production–money crops; production–money obligation;
12 production–money security interest; burden of establishing. (1) A security**

1 interest in crops is a production–money security interest to the extent that the crops
2 are production–money crops.

3 **(2)** If the extent to which a security interest is a production–money security
4 interest depends on the application of a payment to a particular obligation, the
5 payment must be applied in the following order until fully applied:

6 (a) First, to all production–money obligations secured by production–money
7 crops, in the order in which those obligations were incurred;

8 (b) Second, to all obligations secured by conflicting security interests in the
9 production–money crops referred to in par. (a), in the order in which those obligations
10 were incurred; and

11 (c) Third, to all unsecured obligations of the debtor making the payment, in the
12 order in which those obligations were incurred.

13 **(3)** A production–money security interest does not lose its status as such, even
14 if:

15 (a) The production–money crops also secure an obligation that is not a
16 production–money obligation;

17 (b) Collateral that is not production–money crops also secures the
18 production–money obligation; or

19 (c) The production–money obligation has been renewed, refinanced, or
20 restructured.

21 **(4)** A secured party claiming a production–money security interest has the
22 burden of establishing the extent to which the security interest is a
23 production–money security interest.

24 **(5)** This section does not affect any right to proceeds under s. 409.315.

1 **(6)** A person may not claim a purchase–money security interest in crops grown,
2 growing, or to be grown.”.

3 **3.** Page 95, line 21: after that line insert:

4 **“409.3245 Priority of production–money security interests and**
5 **agricultural liens. (1)** Except as otherwise provided in subs. (3), (4), and (5), if the
6 requirements of sub. (2) are satisfied, a perfected production–money security
7 interest in production–money crops has priority over a conflicting security interest
8 in the same crops to the extent of the production–money obligation secured by the
9 production–money security interest and, except as otherwise provided in s. 409.327,
10 also has priority in their identifiable proceeds.

11 **(2)** A production–money security interest has priority under sub. (1) if:

12 (a) The production–money security interest is perfected by filing when the
13 production–money secured party first gives new value to enable the debtor to
14 produce the crops;

15 (b) The production–money secured party sends an authenticated notification
16 by certified mail to the holder of the conflicting security interest not less than 20 or
17 more than 30 days before the production–money secured party first gives new value
18 to enable the debtor to produce the crops if the holder had filed a financing statement
19 covering the crops before the date of the filing made by the production–money
20 secured party; and

21 (c) The notification states that the production–money secured party has or
22 expects to acquire a production–money security interest in the debtor’s crops and
23 provides a description of the crops, the name and mailing address of the
24 production–money secured party giving the notice, the name and mailing address of

1 the debtor, the name and mailing address of the lender to whom notice is being sent,
2 the date on which the transaction would take place, and the maximum amount of
3 new value to be provided.

4 **(3)** Except as otherwise provided in sub. (4) or (5), if more than one security
5 interest qualifies for priority in the same collateral under sub. (1), the security
6 interests rank according to priority in time of filing under s. 409.322 (1).

7 **(4)** To the extent that a person holding a perfected security interest in
8 production–money crops that are the subject of a production–money security interest
9 gives new value to enable the debtor to produce the production–money crops and the
10 value is in fact used for the production of the production–money crops, the security
11 interests rank according to priority in time of filing under s. 409.322 (1).

12 **(5)** To the extent that a person holds both an agricultural lien and a
13 production–money security interest in the same collateral securing the same
14 obligations, the rules of priority applicable to agricultural liens govern priority.”.

15 **(END)**