

1 file number should enact Alternative B to ss. 409.512 (1), 409.518 (2), 409.519 (6) and
2 409.522 (1).

3 4. A state that elects not to require real-estate filing offices to comply with
4 either or both of subs. (2) and (8) may adopt an applicable variation of sub. (9) and
5 add “Except as otherwise provided in sub. (9),” to the appropriate subsection or
6 subsections.

7 **409.520 Acceptance and refusal to accept record. (1) MANDATORY REFUSAL**
8 **TO ACCEPT RECORD.** A filing office shall refuse to accept a record for filing for a reason
9 set forth in ***s. 409.516 (2) and may refuse to accept a record for filing only for a
10 reason set forth in ***s. 409.516 (2).

11 **(2) COMMUNICATION CONCERNING REFUSAL.** If a filing office refuses to accept a
12 record for filing, it shall communicate to the person that presented the record the fact
13 of and reason for the refusal and the date and time the record would have been filed
14 had the filing office accepted it. The communication must be made at the time and
15 in the manner prescribed by filing-office rule but [, in the case of a filing office
16 described in ***s. 409.501 (1) (b),] in no event more than 2 business days after the
17 filing office receives the record.

18 **(3) WHEN FILED FINANCING STATEMENT EFFECTIVE.** A filed financing statement
19 satisfying ***s. 409.502 (1) and (2) is effective, even if the filing office is required to
20 refuse to accept it for filing under sub. (1). However, ***s. 409.338 applies to a filed
21 financing statement providing information described in ***s. 409.516 (2) (e) which
22 is incorrect at the time the financing statement is filed.

23 **(4) SEPARATE APPLICATION TO MULTIPLE DEBTORS.** If a record communicated to a
24 filing office provides information that relates to more than one debtor, this
25 subchapter applies as to each debtor separately.

1 Legislative Note: A state that elects not to require real-property filing offices
2 to comply with sub. (2) should include the bracketed language.

3 **409.521 Uniform form of written financing statement and amendment.**

4 (1) INITIAL FINANCING STATEMENT FORM. A filing office that accepts written records
5 may not refuse to accept a written initial financing statement in the following form
6 and format except for a reason set forth in ***s. 409.516 (2):

7 [insert form]

8
9 (2) AMENDMENT FORM. A filing office that accepts written records may not refuse
10 to accept a written record in the following form and format except for a reason set
11 forth in ***s. 409.516 (2):

12 [insert form]

13
14 **409.522 Maintenance and destruction of records.**

15 Alternative A

16 (1) POST-LAPSE MAINTENANCE AND RETRIEVAL OF INFORMATION. The filing office
17 shall maintain a record of the information provided in a filed financing statement for
18 at least one year after the effectiveness of the financing statement has lapsed under
19 ***s. 409.515 with respect to all secured parties of record. The record must be
20 retrievable by using the name of the debtor and by using the file number assigned
21 to the initial financing statement to which the record relates.

22 Alternative B

23 (1) POST-LAPSE MAINTENANCE AND RETRIEVAL OF INFORMATION. The filing office
24 shall maintain a record of the information provided in a filed financing statement for
25 at least one year after the effectiveness of the financing statement has lapsed under

1 ***s. 409.515 with respect to all secured parties of record. The record must be
2 retrievable by using the name of the debtor and:

3 (a) If the record was filed [or recorded] in the filing office described in ***s.
4 409.501 (1) (a), by using the file number assigned to the initial financing statement
5 to which the record relates and the date [and time] that the record was filed [or
6 recorded]; or

7 (b) If the record was filed in the filing office described in ***s. 409.501 (1) (b),
8 by using the file number assigned to the initial financing statement to which the
9 record relates.

10 End of Alternatives

11 (2) DESTRUCTION OF WRITTEN RECORDS. Except to the extent that a statute
12 governing disposition of public records provides otherwise, the filing office
13 immediately may destroy any written record evidencing a financing statement.
14 However, if the filing office destroys a written record, it shall maintain another
15 record of the financing statement which complies with sub. (1).

16 Legislative Note: States whose real-estate filing offices require additional
17 information in amendments and cannot search their records by both the name of the
18 debtor and the file number should enact Alternative B to ss. 409.512 (1), 409.518 (2),
19 409.519 (6) and 409.522 (1).

20 **409.523 Information from filing office; sale or license of records. (1)**

21 ACKNOWLEDGMENT OF FILING WRITTEN RECORD. If a person that files a written record
22 requests an acknowledgment of the filing, the filing office shall send to the person
23 an image of the record showing the number assigned to the record pursuant to ***s.
24 409.519 (1) (a) and the date and time of the filing of the record. However, if the person
25 furnishes a copy of the record to the filing office, the filing office may instead:

1 (a) Note upon the copy the number assigned to the record pursuant to ***s.
2 409.519 (1) (a) and the date and time of the filing of the record; and

3 (b) Send the copy to the person.

4 (2) ACKNOWLEDGMENT OF FILING OTHER RECORD. If a person files a record other
5 than a written record, the filing office shall communicate to the person an
6 acknowledgment that provides:

7 (a) The information in the record;

8 (b) The number assigned to the record pursuant to ***s. 409.519 (1) (a); and

9 (c) The date and time of the filing of the record.

10 (3) COMMUNICATION OF REQUESTED INFORMATION. The filing office shall
11 communicate or otherwise make available in a record the following information to
12 any person that requests it:

13 (a) Whether there is on file on a date and time specified by the filing office, but
14 not a date earlier than 3 business days before the filing office receives the request,
15 any financing statement that:

16 1. Designates a particular debtor [or, if the request so states, designates a
17 particular debtor at the address specified in the request];

18 2. Has not lapsed under ***s. 409.515 with respect to all secured parties of
19 record; and

20 3. If the request so states, has lapsed under ***s. 409.515 and a record of which
21 is maintained by the filing office under ***s. 409.522 (1);

22 (b) The date and time of filing of each financing statement; and

23 (c) The information provided in each financing statement.

24 (4) MEDIUM FOR COMMUNICATING INFORMATION. In complying with its duty under
25 sub. (3), the filing office may communicate information in any medium. However, if

1 requested, the filing office shall communicate information by issuing [its written
2 certificate] [a record that can be admitted into evidence in the courts of this state
3 without extrinsic evidence of its authenticity].

4 (5) TIMELINESS OF FILING OFFICE PERFORMANCE. The filing office shall perform
5 the acts required by subs. (1) to (4) at the time and in the manner prescribed by
6 filing-office rule, but not later than 2 business days after the filing office receives the
7 request.

8 (6) PUBLIC AVAILABILITY OF RECORDS. At least weekly, the [insert appropriate
9 official or governmental agency] [filing office] shall offer to sell or license to the public
10 on a nonexclusive basis, in bulk, copies of all records filed in it under this subchapter,
11 in every medium from time to time available to the filing office.

12 Legislative Notes:

13 1. States whose filing office does not offer the additional service of responding
14 to search requests limited to a particular address should omit the bracketed
15 language in sub. (3) (a) 1.

16 2. A state that elects not to require real-estate filing offices to comply with
17 either or both of subs. (5) and (6) should specify in the appropriate subsection(s) only
18 the filing office described in ***s. 409.501 (1) (b).

19 **409.524 Delay by filing office.** Delay by the filing office beyond a time limit
20 prescribed by this subchapter is excused if:

21 (1) The delay is caused by interruption of communication or computer facilities,
22 war, emergency conditions, failure of equipment or other circumstances beyond
23 control of the filing office; and

24 (2) The filing office exercises reasonable diligence under the circumstances.

1 **409.525 FEES. (1) INITIAL FINANCING STATEMENT: GENERAL.** Except as otherwise
2 provided in sub. (5), the fee for filing and indexing a record under this subchapter,
3 other than an initial financing statement of the kind described in ***s. 409.502 (3),
4 is [the amount specified in sub. (3), if applicable, plus]:

5 (a) \$ [X] if the record is communicated in writing and consists of one
6 or 2 pages;

7 (b) \$ [2X] if the record is communicated in writing and consists of more
8 than 2 pages; and

9 (c) \$ [1/2X] if the record is communicated by another medium authorized
10 by filing-office rule.

11 **(2) INITIAL FINANCING STATEMENT: ***S. 409.502 (3***).]** Except as otherwise provided
12 in sub. (5), the fee for filing and indexing an initial financing statement of the kind
13 described in ***s. 409.502 (3) is [the amount specified in sub. (3), if applicable, plus]:

14 (a) \$ _____ if the financing statement indicates that it is filed in connection with
15 a public-finance transaction; and

16 (b) \$ _____ if the financing statement indicates that it is filed in connection with
17 a manufactured-home transaction.

18 Alternative A

19 **(3) NUMBER OF NAMES.** The number of names required to be indexed does not
20 affect the amount of the fee in subs. (1) and (2).

21 Alternative B

22 **(3) NUMBER OF NAMES.** Except as otherwise provided in sub. (5), if a record is
23 communicated in writing, the fee for each name more than 2 required to be indexed
24 is \$ _____.

25 End of Alternatives]

1 (4) RESPONSE TO INFORMATION REQUEST. The fee for responding to a request for
2 information from the filing office, including for [issuing a certificate showing]
3 [communicating] whether there is on file any financing statement naming a
4 particular debtor, is:

5 (a) \$ ____ if the request is communicated in writing; and

6 (b) \$ ____ if the request is communicated by another medium authorized by
7 filing-office rule.

8 (5) RECORD OF MORTGAGE. This section does not require a fee with respect to a
9 record of a mortgage which is effective as a financing statement filed as a fixture
10 filing or as a financing statement covering as-extracted collateral or timber to be cut
11 under ***s. 409.502 (3). However, the recording and satisfaction fees that otherwise
12 would be applicable to the record of the mortgage apply.

13 Legislative Notes:

14 1. To preserve uniformity, a state that places the provisions of this section
15 together with statutes setting fees for other services should do so without
16 modification.

17 2. A state should enact sub. (3), Alternative A, and omit the bracketed language
18 in subs. (1) and (2) unless its indexing system entails a substantial additional cost
19 when indexing additional names.

20 **409.526 Filing office rules. (1) ADOPTION OF FILING-OFFICE RULES.** The [insert
21 appropriate governmental official or agency] shall adopt and publish rules to
22 implement this chapter. The filing-office rules must be[:

23 (a)] Consistent with this chapter[; and

24 (b) Adopted and published in accordance with the [insert any applicable state
25 administrative procedure act]].

1 (2) HARMONIZATION OF RULES. To keep the filing-office rules and practices of the
2 filing office in harmony with the rules and practices of filing offices in other
3 jurisdictions that enact substantially this subchapter, and to keep the technology
4 used by the filing office compatible with the technology used by filing offices in other
5 jurisdictions that enact substantially this subchapter, the [insert appropriate
6 governmental official or agency], so far as is consistent with the purposes, policies
7 and provisions of this chapter, in adopting, amending and repealing filing-office
8 rules, shall:

9 (a) Consult with filing offices in other jurisdictions that enact substantially this
10 subchapter;

11 (b) Consult the most recent version of the Model Rules promulgated by the
12 International Association of Corporate Administrators or any successor
13 organization; and

14 (c) Take into consideration the rules and practices of, and the technology used
15 by, filing offices in other jurisdictions that enact substantially this subchapter.

16 **409.527 Duty to report.** The [insert appropriate governmental official or
17 agency] shall report [annually on or before _____] to the [governor and
18 legislature] on the operation of the filing office. The report must contain a statement
19 of the extent to which:

20 (1) The filing-office rules are not in harmony with the rules of filing offices in
21 other jurisdictions that enact substantially this subchapter and the reasons for these
22 variations; and

23 (2) The filing-office rules are not in harmony with the most recent version of
24 the Model Rules promulgated by the International Association of Corporate
25 Administrators, or any successor organization, and the reasons for these variations.

1 SUBCHAPTER VI

2 DEFAULT

3 **409.601 Rights after default; judicial enforcement; consignor or buyer**
4 **of accounts, chattel paper, payment intangibles or promissory notes. (1)**5 RIGHTS OF SECURED PARTY AFTER DEFAULT. After default, a secured party has the rights
6 provided in this subchapter and, except as otherwise provided in ***s. 409.602, those
7 provided by agreement of the parties. A secured party:8 (a) May reduce a claim to judgment, foreclose or otherwise enforce the claim,
9 security interest or agricultural lien by any available judicial procedure; and10 (b) If the collateral is documents, may proceed either as to the documents or as
11 to the goods they cover.12 (2) RIGHTS AND DUTIES OF SECURED PARTY IN POSSESSION OR CONTROL. A secured
13 party in possession of collateral or control of collateral under ***s. 409.104, 409.105,
14 409.106 or 409.107 has the rights and duties provided in ***s. 409.207.15 (3) RIGHTS CUMULATIVE; SIMULTANEOUS EXERCISE. The rights under subs. (1) and
16 (2) are cumulative and may be exercised simultaneously.17 (4) RIGHTS OF DEBTOR AND OBLIGOR. Except as otherwise provided in sub. (7) and
18 ***s. 409.605, after default, a debtor and an obligor have the rights provided in this
19 subchapter and by agreement of the parties.20 (5) LIEN OF LEVY AFTER JUDGMENT. If a secured party has reduced its claim to
21 judgment, the lien of any levy that may be made upon the collateral by virtue of an
22 execution based upon the judgment relates back to the earliest of:23 (a) The date of perfection of the security interest or agricultural lien in the
24 collateral;

25 (b) The date of filing a financing statement covering the collateral; or

1 (c) Any date specified in a statute under which the agricultural lien was created.

2 (6) EXECUTION SALE. A sale pursuant to an execution is a foreclosure of the
3 security interest or agricultural lien by judicial procedure within the meaning of this
4 section. A secured party may purchase at the sale and thereafter hold the collateral
5 free of any other requirements of this chapter.

6 (7) CONSIGNOR OR BUYER OF CERTAIN RIGHTS TO PAYMENT. Except as otherwise
7 provided in ***s. 409.607 (3), this subchapter imposes no duties upon a secured party
8 that is a consignor or is a buyer of accounts, chattel paper, payment intangibles or
9 promissory notes.

10 **409.602 Waiver and variance of rights and duties.** Except as otherwise
11 provided in ***s. 409.624, to the extent that they give rights to a debtor or obligor and
12 impose duties on a secured party, the debtor or obligor may not waive or vary the
13 rules stated in the following listed sections:

14 (1) Section *** 409.207 (2) (d) 3., which deals with use and operation of the
15 collateral by the secured party;

16 (2) Section *** 409.210, which deals with requests for an accounting and
17 requests concerning a list of collateral and statement of account;

18 (3) Section *** 409.607 (3), which deals with collection and enforcement of
19 collateral;

20 (4) Sections 409.608 (1) and 409.615 (3) to the extent that they deal with
21 application or payment of noncash proceeds of collection, enforcement or disposition;

22 (5) Sections 409.608 (1) and 409.615 (4) to the extent that they require
23 accounting for or payment of surplus proceeds of collateral;

1 (6) Section *** 409.609 to the extent that it imposes upon a secured party that
2 takes possession of collateral without judicial process the duty to do so without
3 breach of the peace;

4 (7) Sections 409.610 (2), 409.611, 409.613 and 409.614, which deal with
5 disposition of collateral;

6 (8) Section *** 409.615 (6), which deals with calculation of a deficiency or
7 surplus when a disposition is made to the secured party, a person related to the
8 secured party or a secondary obligor;

9 (9) Section *** 409.616, which deals with explanation of the calculation of a
10 surplus or deficiency;

11 (10) Sections 409.620, 409.621 and 409.622, which deal with acceptance of
12 collateral in satisfaction of obligation;

13 (11) Section *** 409.623, which deals with redemption of collateral;

14 (12) Section *** 409.624, which deals with permissible waivers; and

15 (13) Sections 409.625 and 409.626, which deal with the secured party's liability
16 for failure to comply with this chapter.

17 **409.603 Agreement on standards concerning rights and duties. (1)**
18 AGREED STANDARDS. The parties may determine by agreement the standards
19 measuring the fulfillment of the rights of a debtor or obligor and the duties of a
20 secured party under a rule stated in ***s. 409.602 if the standards are not manifestly
21 unreasonable.

22 (2) AGREED STANDARDS INAPPLICABLE TO BREACH OF PEACE. Subsection (1) does not
23 apply to the duty under ***s. 409.609 to refrain from breaching the peace.

1 **409.604 Procedure if security agreement covers real property or**
2 **fixtures. (1) ENFORCEMENT: PERSONAL AND REAL PROPERTY.** If a security agreement
3 covers both personal and real property, a secured party may proceed:

4 (a) Under this subchapter as to the personal property without prejudicing any
5 rights with respect to the real property; or

6 (b) As to both the personal property and the real property in accordance with
7 the rights with respect to the real property, in which case the other provisions of this
8 subchapter do not apply.

9 **(2) ENFORCEMENT: FIXTURES.** Subject to sub. (3), if a security agreement covers
10 goods that are or become fixtures, a secured party may proceed:

11 (a) Under this subchapter; or

12 (b) In accordance with the rights with respect to real property, in which case the
13 other provisions of this subchapter do not apply.

14 **(3) REMOVAL OF FIXTURES.** Subject to the other provisions of this subchapter, if
15 a secured party holding a security interest in fixtures has priority over all owners and
16 encumbrancers of the real property, the secured party, after default, may remove the
17 collateral from the real property.

18 **(4) INJURY CAUSED BY REMOVAL.** A secured party that removes collateral shall
19 promptly reimburse any encumbrancer or owner of the real property, other than the
20 debtor, for the cost of repair of any physical injury caused by the removal. The
21 secured party need not reimburse the encumbrancer or owner for any diminution in
22 value of the real property caused by the absence of the goods removed or by any
23 necessity of replacing them. A person entitled to reimbursement may refuse
24 permission to remove until the secured party gives adequate assurance for the
25 performance of the obligation to reimburse.

1 **409.605 Unknown debtor or secondary obligor.** A secured party does not
2 owe a duty based on its status as secured party:

3 (1) To a person that is a debtor or obligor, unless the secured party knows:

4 (a) That the person is a debtor or obligor;

5 (b) The identity of the person; and

6 (c) How to communicate with the person; or

7 (2) To a secured party or lienholder that has filed a financing statement against
8 a person, unless the secured party knows:

9 (a) That the person is a debtor; and

10 (b) The identity of the person.

11 **409.606 Time of default for agricultural lien.** For purposes of this
12 subchapter, a default occurs in connection with an agricultural lien at the time the
13 secured party becomes entitled to enforce the lien in accordance with the statute
14 under which it was created.

15 **409.607 Collection and enforcement by secured party.** (1) COLLECTION
16 AND ENFORCEMENT GENERALLY. If so agreed, and in any event after default, a secured
17 party:

18 (a) May notify an account debtor or other person obligated on collateral to make
19 payment or otherwise render performance to or for the benefit of the secured party;

20 (b) May take any proceeds to which the secured party is entitled under ***s.
21 409.315;

22 (c) May enforce the obligations of an account debtor or other person obligated
23 on collateral and exercise the rights of the debtor with respect to the obligation of the
24 account debtor or other person obligated on collateral to make payment or otherwise

1 render performance to the debtor, and with respect to any property that secures the
2 obligations of the account debtor or other person obligated on the collateral;

3 (d) If it holds a security interest in a deposit account perfected by control under
4 ***s. 409.104 (1) (a), may apply the balance of the deposit account to the obligation
5 secured by the deposit account; and

6 (e) If it holds a security interest in a deposit account perfected by control under
7 ***s. 409.104 (1) (b) or (c), may instruct the bank to pay the balance of the deposit
8 account to or for the benefit of the secured party.

9 (2) NONJUDICIAL ENFORCEMENT OF MORTGAGE. If necessary to enable a secured
10 party to exercise under sub. (1) (c) the right of a debtor to enforce a mortgage
11 nonjudicially, the secured party may record in the office in which a record of the
12 mortgage is recorded:

13 (a) A copy of the security agreement that creates or provides for a security
14 interest in the obligation secured by the mortgage; and

15 (b) The secured party's sworn affidavit in recordable form stating that:

16 1. A default has occurred; and

17 2. The secured party is entitled to enforce the mortgage nonjudicially.

18 (3) COMMERCIALY REASONABLE COLLECTION AND ENFORCEMENT. A secured party
19 shall proceed in a commercially reasonable manner if the secured party:

20 (a) Undertakes to collect from or enforce an obligation of an account debtor or
21 other person obligated on collateral; and

22 (b) Is entitled to charge back uncollected collateral or otherwise to full or limited
23 recourse against the debtor or a secondary obligor.

24 (4) EXPENSES OF COLLECTION AND ENFORCEMENT. A secured party may deduct
25 from the collections made pursuant to sub. (3) reasonable expenses of collection and

1 enforcement, including reasonable attorney's fees and legal expenses incurred by the
2 secured party.

3 (5) DUTIES TO SECURED PARTY NOT AFFECTED. This section does not determine
4 whether an account debtor, bank or other person obligated on collateral owes a duty
5 to a secured party.

6 **409.608 Application of proceeds of collection or enforcement; liability**
7 **for deficiency and right to surplus. (1) APPLICATION OF PROCEEDS, SURPLUS, AND**
8 **DEFICIENCY IF OBLIGATION SECURED.** If a security interest or agricultural lien secures
9 payment or performance of an obligation, the following rules apply:

10 (a) A secured party shall apply or pay over for application the cash proceeds of
11 collection or enforcement under this section in the following order to:

12 1. The reasonable expenses of collection and enforcement and, to the extent
13 provided for by agreement and not prohibited by law, reasonable attorney's fees and
14 legal expenses incurred by the secured party;

15 2. The satisfaction of obligations secured by the security interest or agricultural
16 lien under which the collection or enforcement is made; and

17 3. The satisfaction of obligations secured by any subordinate security interest
18 in or other lien on the collateral subject to the security interest or agricultural lien
19 under which the collection or enforcement is made if the secured party receives an
20 authenticated demand for proceeds before distribution of the proceeds is completed.

21 (b) If requested by a secured party, a holder of a subordinate security interest
22 or other lien shall furnish reasonable proof of the interest or lien within a reasonable
23 time. Unless the holder complies, the secured party need not comply with the
24 holder's demand under par. (a) 3.

1 (c) A secured party need not apply or pay over for application noncash proceeds
 2 of collection and enforcement under this section unless the failure to do so would be
 3 commercially unreasonable. A secured party that applies or pays over for application
 4 noncash proceeds shall do so in a commercially reasonable manner.

5 (d) A secured party shall account to and pay a debtor for any surplus, and the
 6 obligor is liable for any deficiency.

7 (2) NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT. If the
 8 underlying transaction is a sale of accounts, chattel paper, payment intangibles or
 9 promissory notes, the debtor is not entitled to any surplus, and the obligor is not
 10 liable for any deficiency.

11 **409.609 Secured party’s right to take possession after default. (1)**
 12 POSSESSION; RENDERING EQUIPMENT UNUSABLE; DISPOSITION ON DEBTOR’S PREMISES. After
 13 default, a secured party:

- 14 (a) May take possession of the collateral; and
- 15 (b) Without removal, may render equipment unusable and dispose of collateral
 16 on a debtor’s premises under ***s. 409.610.

17 (2) JUDICIAL AND NONJUDICIAL PROCESS. A secured party may proceed under sub.

- 18 (1):
- 19 (a) Pursuant to judicial process; or
- 20 (b) Without judicial process, if it proceeds without breach of the peace.

21 (3) ASSEMBLY OF COLLATERAL. If so agreed, and in any event after default, a
 22 secured party may require the debtor to assemble the collateral and make it
 23 available to the secured party at a place to be designated by the secured party which
 24 is reasonably convenient to both parties.

1 **409.610 Disposition of collateral after default.** (1) DISPOSITION AFTER
2 DEFAULT. After default, a secured party may sell, lease, license or otherwise dispose
3 of any or all of the collateral in its present condition or following any commercially
4 reasonable preparation or processing.

5 (2) COMMERCIALY REASONABLE DISPOSITION. Every aspect of a disposition of
6 collateral, including the method, manner, time, place and other terms, must be
7 commercially reasonable. If commercially reasonable, a secured party may dispose
8 of collateral by public or private proceedings, by one or more contracts, as a unit or
9 in parcels, and at any time and place and on any terms.

10 (3) PURCHASE BY SECURED PARTY. A secured party may purchase collateral:

11 (a) At a public disposition; or

12 (b) At a private disposition only if the collateral is of a kind that is customarily
13 sold on a recognized market or the subject of widely distributed standard price
14 quotations.

15 (4) WARRANTIES ON DISPOSITION. A contract for sale, lease, license or other
16 disposition includes the warranties relating to title, possession, quiet enjoyment and
17 the like which by operation of law accompany a voluntary disposition of property of
18 the kind subject to the contract.

19 (5) DISCLAIMER OF WARRANTIES. A secured party may disclaim or modify
20 warranties under sub. (4):

21 (a) In a manner that would be effective to disclaim or modify the warranties in
22 a voluntary disposition of property of the kind subject to the contract of disposition;
23 or

24 (b) By communicating to the purchaser a record evidencing the contract for
25 disposition and including an express disclaimer or modification of the warranties.

1 **(6) RECORD SUFFICIENT TO DISCLAIM WARRANTIES.** A record is sufficient to disclaim
2 warranties under sub. (5) if it indicates “There is no warranty relating to title,
3 possession, quiet enjoyment or the like in this disposition” or uses words of similar
4 import.

5 **409.611 Notification before disposition of collateral. (1) NOTIFICATION**
6 **DATE.** In this section, “notification date” means the earlier of the date on which:

7 (a) A secured party sends to the debtor and any secondary obligor an
8 authenticated notification of disposition; or

9 (b) The debtor and any secondary obligor waive the right to notification.

10 **(2) NOTIFICATION OF DISPOSITION REQUIRED.** Except as otherwise provided in sub.
11 (4), a secured party that disposes of collateral under ***s. 409.610 shall send to the
12 persons specified in sub. (3) a reasonable authenticated notification of disposition.

13 **(3) PERSONS TO BE NOTIFIED.** To comply with sub. (2), the secured party shall
14 send an authenticated notification of disposition to:

15 (a) The debtor;

16 (b) Any secondary obligor; and

17 (c) If the collateral is other than consumer goods:

18 1. Any other person from which the secured party has received, before the
19 notification date, an authenticated notification of a claim of an interest in the
20 collateral;

21 2. Any other secured party or lienholder that, 10 days before the notification
22 date, held a security interest in or other lien on the collateral perfected by the filing
23 of a financing statement that:

24 a. Identified the collateral;

25 b. Was indexed under the debtor’s name as of that date; and

1 c. Was filed in the office in which to file a financing statement against the debtor
2 covering the collateral as of that date; and

3 3. Any other secured party that, 10 days before the notification date, held a
4 security interest in the collateral perfected by compliance with a statute, regulation
5 or treaty described in ***s. 409.311 (1).

6 (4) SUB. (2) INAPPLICABLE: PERISHABLE COLLATERAL; RECOGNIZED MARKET.
7 Subsection (2) does not apply if the collateral is perishable or threatens to decline
8 speedily in value or is of a type customarily sold on a recognized market.

9 (5) COMPLIANCE WITH SUB. (3) (C) 2. A secured party complies with the
10 requirement for notification prescribed by sub. (3) (c) 2. if:

11 (a) Not later than 20 days or earlier than 30 days before the notification date,
12 the secured party requests, in a commercially reasonable manner, information
13 concerning financing statements indexed under the debtor's name in the office
14 indicated in sub. (3) (c) 2.; and

15 (b) Before the notification date, the secured party:

16 1. Did not receive a response to the request for information; or

17 2. Received a response to the request for information and sent an authenticated
18 notification of disposition to each secured party or other lienholder named in that
19 response whose financing statement covered the collateral.

20 **409.612 Timeliness of notification before disposition of collateral. (1)**

21 REASONABLE TIME IS QUESTION OF FACT. Except as otherwise provided in sub. (2),
22 whether a notification is sent within a reasonable time is a question of fact.

23 (2) TEN-DAY PERIOD SUFFICIENT IN NON-CONSUMER TRANSACTION. In a transaction
24 other than a consumer transaction, a notification of disposition sent after default and

1 10 days or more before the earliest time of disposition set forth in the notification is
2 sent within a reasonable time before the disposition.

3 **409.613 Contents and form of notification before disposition of**
4 **collateral: general.** Except in a consumer-goods transaction, the following rules
5 apply:

6 (1) The contents of a notification of disposition are sufficient if the notification:

7 (a) Describes the debtor and the secured party;

8 (b) Describes the collateral that is the subject of the intended disposition;

9 (c) States the method of intended disposition;

10 (d) States that the debtor is entitled to an accounting of the unpaid
11 indebtedness and states the charge, if any, for an accounting; and

12 (e) States the time and place of a public sale or the time after which any other
13 disposition is to be made.

14 (2) Whether the contents of a notification that lacks any of the information
15 specified in sub. (1) are nevertheless sufficient is a question of fact.

16 (3) The contents of a notification providing substantially the information
17 specified in sub. (1) are sufficient, even if the notification includes:

18 (a) Information not specified by sub. (1); or

19 (b) Minor errors that are not seriously misleading.

20 (4) A particular phrasing of the notification is not required.

21 (5) The following form of notification and the form appearing in ***s. 409.614
22 (3), when completed, each provides sufficient information:

23 **NOTIFICATION OF DISPOSITION OF COLLATERAL**

24 To: *[Name of debtor, obligor, or other person to which the notification is sent]*

25 From: *[Name, address, and telephone number of secured party]*

1 Name of Debtor(s): *[Include only if debtor(s) are not an addressee]*

2 *[For a public disposition:]*

3 We will sell [or lease or license, as *applicable*] the *[describe collateral]* [to
4 the highest qualified bidder] in public as follows:

5 Day and Date:

6 Time:

7 Place:

8 *[For a private disposition:]*

9 We will sell [or lease or license, as *applicable*] the *[describe collateral]*
10 privately sometime after *[day and date]* .

11 You are entitled to an accounting of the unpaid indebtedness secured by the
12 property that we intend to sell [or lease or license, as *applicable*]

13 [for a charge of \$]. You may request an accounting by calling us at
14 *[telephone number]*

15 **[End of Form]**

16 **409.614 Contents and form of notification before disposition of**
17 **collateral: consumer-goods transaction.** In a consumer-goods transaction, the
18 following rules apply:

19 (1) A notification of disposition must provide the following information:

20 (a) The information specified in ***s. 409.613 (1);

21 (b) A description of any liability for a deficiency of the person to which the
22 notification is sent;

23 (c) A telephone number from which the amount that must be paid to the secured
24 party to redeem the collateral under ***s. 409.623 is available; and

1 (d) A telephone number or mailing address from which additional information
2 concerning the disposition and the obligation secured is available.

3 (2) A particular phrasing of the notification is not required.

4 (3) The following form of notification, when completed, provides sufficient
5 information:

6 [Name and address of secured party]

7 [Date]

8 **NOTICE OF OUR PLAN TO SELL PROPERTY**

9 [*Name and address of any obligor who is also a debtor*]

10 Subject: [*Identification of Transaction*]

11 We have your [*describe collateral*], because you broke promises in our
12 agreement.

13 [*For a public disposition:*]

14 We will sell [*describe collateral*] at public sale. A sale could include a lease
15 or license. The sale will be held as follows:

16 Date:

17 Time:

18 Place:

19 You may attend the sale and bring bidders if you want.

20 [*For a private disposition:*]

21 We will sell [*describe collateral*] at private sale sometime after [*date*]

. A sale could include a lease or license.

22 The money that we get from the sale (after paying our costs) will reduce the
23 amount you owe. If we get less money than you owe, you [*will or will not, as*

1 *applicable*] still owe us the difference. If we get more money than you owe, you
2 will get the extra money, unless we must pay it to someone else.

3 You can get the property back at any time before we sell it by paying us the full
4 amount you owe (not just the past due payments), including our expenses. To learn
5 the exact amount you must pay, call us at *[telephone number]* .

6 If you want us to explain to you in writing how we have figured the amount that
7 you owe us, you may call us at *[telephone number]* [or write us at *[secured*
8 *party's address]*] and request a written explanation. [We will charge you \$ for
9 the explanation if we sent you another written explanation of the amount you owe
10 us within the last 6 months.]

11 If you need more information about the sale call us at *[telephone number]*
12] [or write us at *[secured party's address]*].

13 We are sending this notice to the following other people who have an interest
14 in *[describe collateral]* or who owe money under your agreement:

15 *[Names of all other debtors and obligors, if any]*

16 **[End of Form]**

17 (4) A notification in the form of sub. (3) is sufficient, even if additional
18 information appears at the end of the form.

19 (5) A notification in the form of sub. (3) is sufficient, even if it includes errors
20 in information not required by sub. (1), unless the error is misleading with respect
21 to rights arising under this chapter.

22 (6) If a notification under this section is not in the form of sub. (3), law other
23 than this chapter determines the effect of including information not required by sub.
24 (1).

1 **409.615 Application of proceeds of disposition; liability fro deficiency**
2 **and right to surplus. (1) APPLICATION OF PROCEEDS.** A secured party shall apply

3 or pay over for application the cash proceeds of disposition in the following order to:

4 (a) The reasonable expenses of retaking, holding, preparing for disposition,
5 processing and disposing, and, to the extent provided for by agreement and not
6 prohibited by law, reasonable attorney's fees and legal expenses incurred by the
7 secured party;

8 (b) The satisfaction of obligations secured by the security interest or
9 agricultural lien under which the disposition is made;

10 (c) The satisfaction of obligations secured by any subordinate security interest
11 in or other subordinate lien on the collateral if:

12 1. The secured party receives from the holder of the subordinate security
13 interest or other lien an authenticated demand for proceeds before distribution of the
14 proceeds is completed; and

15 2. In a case in which a consignor has an interest in the collateral, the
16 subordinate security interest or other lien is senior to the interest of the consignor;
17 and

18 (d) A secured party that is a consignor of the collateral if the secured party
19 receives from the consignor an authenticated demand for proceeds before
20 distribution of the proceeds is completed.

21 **(2) PROOF OF SUBORDINATE INTEREST.** If requested by a secured party, a holder
22 of a subordinate security interest or other lien shall furnish reasonable proof of the
23 interest or lien within a reasonable time. Unless the holder does so, the secured party
24 need not comply with the holder's demand under sub. (1) (c).

1 **(3) APPLICATION OF NONCASH PROCEEDS.** A secured party need not apply or pay
2 over for application noncash proceeds of disposition under this section unless the
3 failure to do so would be commercially unreasonable. A secured party that applies
4 or pays over for application noncash proceeds shall do so in a commercially
5 reasonable manner.

6 **(4) SURPLUS OR DEFICIENCY IF OBLIGATION SECURED.** If the security interest under
7 which a disposition is made secures payment or performance of an obligation, after
8 making the payments and applications required by sub. (1) and permitted by sub. (3):

9 (a) Unless sub. (1) (d) requires the secured party to apply or pay over cash
10 proceeds to a consignor, the secured party shall account to and pay a debtor for any
11 surplus; and

12 (b) The obligor is liable for any deficiency.

13 **(5) NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT.** If the
14 underlying transaction is a sale of accounts, chattel paper, payment intangibles or
15 promissory notes:

16 (a) The debtor is not entitled to any surplus; and

17 (b) The obligor is not liable for any deficiency.

18 **(6) CALCULATION OF SURPLUS OR DEFICIENCY IN DISPOSITION TO PERSON RELATED TO**
19 **SECURED PARTY.** The surplus or deficiency following a disposition is calculated based
20 on the amount of proceeds that would have been realized in a disposition complying
21 with this subchapter to a transferee other than the secured party, a person related
22 to the secured party or a secondary obligor if:

23 (a) The transferee in the disposition is the secured party, a person related to the
24 secured party or a secondary obligor; and

1 (b) The amount of proceeds of the disposition is significantly below the range
 2 of proceeds that a complying disposition to a person other than the secured party, a
 3 person related to the secured party or a secondary obligor would have brought.

4 **(7) CASH PROCEEDS RECEIVED BY JUNIOR SECURED PARTY.** A secured party that
 5 receives cash proceeds of a disposition in good faith and without knowledge that the
 6 receipt violates the rights of the holder of a security interest or other lien that is not
 7 subordinate to the security interest or agricultural lien under which the disposition
 8 is made:

9 (a) Takes the cash proceeds free of the security interest or other lien;

10 (b) Is not obligated to apply the proceeds of the disposition to the satisfaction
 11 of obligations secured by the security interest or other lien; and

12 (c) Is not obligated to account to or pay the holder of the security interest or
 13 other lien for any surplus.

14 **409.616 Explanation of calculation of surplus or deficiency. (1)**

15 DEFINITIONS. In this section:

16 (a) “Explanation” means a writing that:

17 1. States the amount of the surplus or deficiency;

18 2. Provides an explanation in accordance with sub. (3) of how the secured party
 19 calculated the surplus or deficiency;

20 3. States, if applicable, that future debits, credits, charges, including additional
 21 credit service charges or interest, rebates and expenses may affect the amount of the
 22 surplus or deficiency; and

23 4. Provides a telephone number or mailing address from which additional
 24 information concerning the transaction is available.

25 (b) “Request” means a record:

- 1 1. Authenticated by a debtor or consumer obligor;
- 2 2. Requesting that the recipient provide an explanation; and
- 3 3. Sent after disposition of the collateral under ***s. 409.610.

4 **(2) EXPLANATION OF CALCULATION.** In a consumer-goods transaction in which
5 the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under
6 ***s. 409.615, the secured party shall:

7 (a) Send an explanation to the debtor or consumer obligor, as applicable, after
8 the disposition and:

9 1. Before or when the secured party accounts to the debtor and pays any surplus
10 or first makes written demand on the consumer obligor after the disposition for
11 payment of the deficiency; and

12 2. Within 14 days after receipt of a request; or

13 (b) In the case of a consumer obligor who is liable for a deficiency, within 14 days
14 after receipt of a request, send to the consumer obligor a record waiving the secured
15 party's right to a deficiency.

16 **(3) REQUIRED INFORMATION.** To comply with sub. (1) (a) 2., a writing must provide
17 the following information in the following order:

18 (a) The aggregate amount of obligations secured by the security interest under
19 which the disposition was made, and, if the amount reflects a rebate of unearned
20 interest or credit service charge, an indication of that fact, calculated as of a specified
21 date:

22 1. If the secured party takes or receives possession of the collateral after
23 default, not more than 35 days before the secured party takes or receives possession;
24 or

1 2. If the secured party takes or receives possession of the collateral before
2 default or does not take possession of the collateral, not more than 35 days before the
3 disposition;

4 (b) The amount of proceeds of the disposition;

5 (c) The aggregate amount of the obligations after deducting the amount of
6 proceeds;

7 (d) The amount, in the aggregate or by type, and types of expenses, including
8 expenses of retaking, holding, preparing for disposition, processing and disposing of
9 the collateral, and attorney's fees secured by the collateral which are known to the
10 secured party and relate to the current disposition;

11 (e) The amount, in the aggregate or by type, and types of credits, including
12 rebates of interest or credit service charges, to which the obligor is known to be
13 entitled and which are not reflected in the amount in par. (a); and

14 (f) The amount of the surplus or deficiency.

15 (4) SUBSTANTIAL COMPLIANCE. A particular phrasing of the explanation is not
16 required. An explanation complying substantially with the requirements of sub. (1)
17 is sufficient, even if it includes minor errors that are not seriously misleading.

18 (5) CHARGES FOR RESPONSES. A debtor or consumer obligor is entitled without
19 charge to one response to a request under this section during any 6-month period in
20 which the secured party did not send to the debtor or consumer obligor an
21 explanation pursuant to sub. (2) (a). The secured party may require payment of a
22 charge not exceeding \$25 for each additional response.

23 **409.617 Rights of transferee of collateral. (1) EFFECTS OF DISPOSITION.** A
24 secured party's disposition of collateral after default:

25 (a) Transfers to a transferee for value all of the debtor's rights in the collateral;

1 (b) Discharges the security interest under which the disposition is made; and

2 (c) Discharges any subordinate security interest or other subordinate lien
3 [other than liens created under [cite acts or statutes providing for liens, if any, that
4 are not to be discharged]].

5 (2) RIGHTS OF GOOD-FAITH TRANSFEREE. A transferee that acts in good faith takes
6 free of the rights and interests described in sub. (1), even if the secured party fails
7 to comply with this chapter or the requirements of any judicial proceeding.

8 (3) RIGHTS OF OTHER TRANSFEREE. If a transferee does not take free of the rights
9 and interests described in sub. (1), the transferee takes the collateral subject to:

10 (a) The debtor's rights in the collateral;

11 (b) The security interest or agricultural lien under which the disposition is
12 made; and

13 (c) Any other security interest or other lien.

14 **409.618 Rights and duties of certain secondary obligors.** (1) RIGHTS AND
15 DUTIES OF SECONDARY OBLIGOR. A secondary obligor acquires the rights and becomes
16 obligated to perform the duties of the secured party after the secondary obligor:

17 (a) Receives an assignment of a secured obligation from the secured party;

18 (b) Receives a transfer of collateral from the secured party and agrees to accept
19 the rights and assume the duties of the secured party; or

20 (c) Is subrogated to the rights of a secured party with respect to collateral.

21 (2) EFFECT OF ASSIGNMENT, TRANSFER OR SUBROGATION. An assignment, transfer
22 or subrogation described in sub. (1):

23 (a) Is not a disposition of collateral under ***s. 409.610; and

24 (b) Relieves the secured party of further duties under this chapter.

1 **409.619 Transfer of record or legal title. (1) TRANSFER STATEMENT.** In this
2 section, “transfer statement” means a record authenticated by a secured party
3 stating:

4 (a) That the debtor has defaulted in connection with an obligation secured by
5 specified collateral;

6 (b) That the secured party has exercised its post–default remedies with respect
7 to the collateral;

8 (c) That, by reason of the exercise, a transferee has acquired the rights of the
9 debtor in the collateral; and

10 (d) The name and mailing address of the secured party, debtor and transferee.

11 **(2) EFFECT OF TRANSFER STATEMENT.** A transfer statement entitles the transferee
12 to the transfer of record of all rights of the debtor in the collateral specified in the
13 statement in any official filing, recording, registration or certificate–of–title system
14 covering the collateral. If a transfer statement is presented with the applicable fee
15 and request form to the official or office responsible for maintaining the system, the
16 official or office shall:

17 (a) Accept the transfer statement;

18 (b) Promptly amend its records to reflect the transfer; and

19 (c) If applicable, issue a new appropriate certificate of title in the name of the
20 transferee.

21 **(3) TRANSFER NOT A DISPOSITION; NO RELIEF OF SECURED PARTY'S DUTIES.** A transfer
22 of the record or legal title to collateral to a secured party under sub. (2) or otherwise
23 is not of itself a disposition of collateral under this chapter and does not of itself
24 relieve the secured party of its duties under this chapter.

1 **409.620 Acceptance of collateral in full or partial satisfaction of**
2 **obligation; compulsory disposition of collateral. (1) CONDITIONS TO ACCEPTANCE**
3 IN SATISFACTION. Except as otherwise provided in sub. (7), a secured party may accept
4 collateral in full or partial satisfaction of the obligation it secures only if:

5 (a) The debtor consents to the acceptance under sub. (3);

6 (b) The secured party does not receive, within the time set forth in sub. (4), a
7 notification of objection to the proposal authenticated by:

8 1. A person to which the secured party was required to send a proposal under
9 ***s. 409.621; or

10 2. Any other person, other than the debtor, holding an interest in the collateral
11 subordinate to the security interest that is the subject of the proposal;

12 (c) if the collateral is consumer goods, the collateral is not in the possession of
13 the debtor when the debtor consents to the acceptance; and

14 (d) Subsection (5) does not require the secured party to dispose of the collateral
15 or the debtor waives the requirement pursuant to ***s. 409.624.

16 **(2) PURPORTED ACCEPTANCE INEFFECTIVE.** A purported or apparent acceptance
17 of collateral under this section is ineffective unless:

18 (a) The secured party consents to the acceptance in an authenticated record or
19 sends a proposal to the debtor; and

20 (b) The conditions of sub. (1) are met.

21 **(3) DEBTOR'S CONSENT.** For purposes of this section:

22 (a) A debtor consents to an acceptance of collateral in partial satisfaction of the
23 obligation it secures only if the debtor agrees to the terms of the acceptance in a
24 record authenticated after default; and

1 (b) A debtor consents to an acceptance of collateral in full satisfaction of the
2 obligation it secures only if the debtor agrees to the terms of the acceptance in a
3 record authenticated after default or the secured party:

4 1. Sends to the debtor after default a proposal that is unconditional or subject
5 only to a condition that collateral not in the possession of the secured party be
6 preserved or maintained;

7 2. In the proposal, proposes to accept collateral in full satisfaction of the
8 obligation it secures; and

9 3. Does not receive a notification of objection authenticated by the debtor within
10 20 days after the proposal is sent.

11 (4) EFFECTIVENESS OF NOTIFICATION. To be effective under sub. (1) (b), a
12 notification of objection must be received by the secured party:

13 (a) In the case of a person to which the proposal was sent pursuant to ***s.
14 409.621, within 20 days after notification was sent to that person; and

15 (b) In other cases:

16 1. Within 20 days after the last notification was sent pursuant to ***s. 409.621;
17 or

18 2. If a notification was not sent, before the debtor consents to the acceptance
19 under sub. (3).

20 (5) MANDATORY DISPOSITION OF CONSUMER GOODS. A secured party that has taken
21 possession of collateral shall dispose of the collateral pursuant to ***s. 409.610
22 within the time specified in sub. (6) if:

23 (a) Sixty percent of the cash price has been paid in the case of a purchase-money
24 security interest in consumer goods; or

1 (b) Sixty percent of the principal amount of the obligation secured has been paid
2 in the case of a non-purchase-money security interest in consumer goods.

3 (6) COMPLIANCE WITH MANDATORY DISPOSITION REQUIREMENT. To comply with sub.
4 (5), the secured party shall dispose of the collateral:

5 (a) Within 90 days after taking possession; or

6 (b) Within any longer period to which the debtor and all secondary obligors have
7 agreed in an agreement to that effect entered into and authenticated after default.

8 (7) NO PARTIAL SATISFACTION IN CONSUMER TRANSACTION. In a consumer
9 transaction, a secured party may not accept collateral in partial satisfaction of the
10 obligation it secures.

11 **409.621 Notification of proposal to accept collateral. (1) PERSONS TO**
12 **WHICH PROPOSAL TO BE SENT.** A secured party that desires to accept collateral in full
13 or partial satisfaction of the obligation it secures shall send its proposal to:

14 (a) Any person from which the secured party has received, before the debtor
15 consented to the acceptance, an authenticated notification of a claim of an interest
16 in the collateral;

17 (b) Any other secured party or lienholder that, 10 days before the debtor
18 consented to the acceptance, held a security interest in or other lien on the collateral
19 perfected by the filing of a financing statement that:

- 20 1. Identified the collateral;
- 21 2. Was indexed under the debtor's name as of that date; and
- 22 3. Was filed in the office or offices in which to file a financing statement against
23 the debtor covering the collateral as of that date; and

1 (c) Any other secured party that, 10 days before the debtor consented to the
2 acceptance, held a security interest in the collateral perfected by compliance with a
3 statute, regulation or treaty described in ***s. 409.311 (1).

4 (2) PROPOSAL TO BE SENT TO SECONDARY OBLIGOR IN PARTIAL SATISFACTION. A
5 secured party that desires to accept collateral in partial satisfaction of the obligation
6 it secures shall send its proposal to any secondary obligor in addition to the persons
7 described in sub. (1).

8 **409.622 Effect of acceptance of collateral. (1) EFFECT OF ACCEPTANCE.** A
9 secured party's acceptance of collateral in full or partial satisfaction of the obligation
10 it secures:

11 (a) Discharges the obligation to the extent consented to by the debtor;

12 (b) Transfers to the secured party all of a debtor's rights in the collateral;

13 (c) Discharges the security interest or agricultural lien that is the subject of the
14 debtor's consent and any subordinate security interest or other subordinate lien; and

15 (d) Terminates any other subordinate interest.

16 (2) DISCHARGE OF SUBORDINATE INTEREST NOTWITHSTANDING NONCOMPLIANCE. A
17 subordinate interest is discharged or terminated under sub. (1), even if the secured
18 party fails to comply with this chapter.

19 **409.623 Right to redeem collateral. (1) PERSONS THAT MAY REDEEM.** A debtor,
20 any secondary obligor or any other secured party or lienholder may redeem
21 collateral.

22 (2) REQUIREMENTS FOR REDEMPTION. To redeem collateral, a person shall tender:

23 (a) Fulfillment of all obligations secured by the collateral; and

24 (b) The reasonable expenses and attorney's fees described in ***s. 409.615 (1)

25 (a).

1 **(3) WHEN REDEMPTION MAY OCCUR.** A redemption may occur at any time before
2 a secured party:

3 (a) Has collected collateral under ***s. 409.607;

4 (b) Has disposed of collateral or entered into a contract for its disposition under
5 ***s. 409.610; or

6 (c) Has accepted collateral in full or partial satisfaction of the obligation it
7 secures under ***s. 409.622.

8 **409.624 Waiver. (1) WAIVER OF DISPOSITION NOTIFICATION.** A debtor or secondary
9 obligor may waive the right to notification of disposition of collateral under ***s.
10 409.611 only by an agreement to that effect entered into and authenticated after
11 default.

12 **(2) WAIVER OF MANDATORY DISPOSITION.** A debtor may waive the right to require
13 disposition of collateral under ***s. 409.620 (5) only by an agreement to that effect
14 entered into and authenticated after default.

15 **(3) WAIVER OF REDEMPTION RIGHT.** Except in a consumer-goods transaction, a
16 debtor or secondary obligor may waive the right to redeem collateral under ***s.
17 409.623 only by an agreement to that effect entered into and authenticated after
18 default.

19 **409.625 Remedies for secured party's failure to comply with chapter.**

20 **(1) JUDICIAL ORDERS CONCERNING NONCOMPLIANCE.** If it is established that a secured
21 party is not proceeding in accordance with this chapter, a court may order or restrain
22 collection, enforcement or disposition of collateral on appropriate terms and
23 conditions.

24 **(2) DAMAGES FOR NONCOMPLIANCE.** Subject to subs. (3), (4) and (6), a person is
25 liable for damages in the amount of any loss caused by a failure to comply with this

1 chapter. Loss caused by a failure to comply with a request under ***s. 409.210 may
2 include loss resulting from the debtor's inability to obtain, or increased costs of,
3 alternative financing.

4 **(3) PERSONS ENTITLED TO RECOVER DAMAGES; STATUTORY DAMAGES IN**
5 **CONSUMER-GOODS TRANSACTION.** Except as otherwise provided in ***s. 409.628:

6 (a) A person that, at the time of the failure, was a debtor, was an obligor or held
7 a security interest in or other lien on the collateral may recover damages under sub.
8 (2) for its loss; and

9 (b) If the collateral is consumer goods, a person that was a debtor or a secondary
10 obligor at the time a secured party failed to comply with this subchapter may recover
11 for that failure in any event an amount not less than the credit service charge plus
12 10% of the principal amount of the obligation or the time-price differential plus 10%
13 of the cash price.

14 **(4) RECOVERY WHEN DEFICIENCY ELIMINATED OR REDUCED.** A debtor whose
15 deficiency is eliminated under ***s. 409.626 may recover damages for the loss of any
16 surplus. However, a debtor or secondary obligor whose deficiency is eliminated or
17 reduced under ***s. 409.626 may not otherwise recover under sub. (2) for
18 noncompliance with the provisions of this subchapter relating to collection,
19 enforcement, disposition or acceptance.

20 **(5) STATUTORY DAMAGES: NONCOMPLIANCE WITH SPECIFIED PROVISIONS.** In addition
21 to any damages recoverable under sub. (2), the debtor, consumer obligor or person
22 named as a debtor in a filed record, as applicable, may recover \$500 in each case from
23 a person that:

24 (a) Fails to comply with ***s. 409.208;

25 (b) Fails to comply with ***s. 409.209;

1 (c) Files a record that the person is not entitled to file under ***s. 409.509 (1);

2 (d) Fails to cause the secured party of record to file or send a termination
3 statement as required by ***s. 409.513 (1) or (3);

4 (e) Fails to comply with ***s. 409.616 (2) (a) and whose failure is part of a
5 pattern, or consistent with a practice, of noncompliance; or

6 (f) Fails to comply with ***s. 409.616 (2) (b).

7 (6) STATUTORY DAMAGES: NONCOMPLIANCE WITH ***S. 409.210. A debtor or consumer
8 obligor may recover damages under sub. (2) and, in addition, \$500 in each case from
9 a person that, without reasonable cause, fails to comply with a request under ***s.
10 409.210. A recipient of a request under ***s. 409.210 which never claimed an
11 interest in the collateral or obligations that are the subject of a request under that
12 section has a reasonable excuse for failure to comply with the request within the
13 meaning of this subsection.

14 (7) LIMITATION OF SECURITY INTEREST: NONCOMPLIANCE WITH ***S. 409.210. If a
15 secured party fails to comply with a request regarding a list of collateral or a
16 statement of account under ***s. 409.210, the secured party may claim a security
17 interest only as shown in the statement included in the request as against a person
18 that is reasonably misled by the failure.

19 **409.626 Action in which deficiency or surplus is in issue. (1) APPLICABLE**
20 **RULES IF AMOUNT OF DEFICIENCY OR SURPLUS IN ISSUE.** In an action arising from a
21 transaction, other than a consumer transaction, in which the amount of a deficiency
22 or surplus is in issue, the following rules apply:

23 (a) A secured party need not prove compliance with the provisions of this
24 subchapter relating to collection, enforcement, disposition or acceptance unless the
25 debtor or a secondary obligor places the secured party's compliance in issue.

1 (b) If the secured party's compliance is placed in issue, the secured party has
2 the burden of establishing that the collection, enforcement, disposition or acceptance
3 was conducted in accordance with this subchapter.

4 (c) Except as otherwise provided in ***s. 409.628, if a secured party fails to
5 prove that the collection, enforcement, disposition or acceptance was conducted in
6 accordance with the provisions of this subchapter relating to collection, enforcement,
7 disposition or acceptance, the liability of a debtor or a secondary obligor for a
8 deficiency is limited to an amount by which the sum of the secured obligation,
9 expenses and attorney's fees exceeds the greater of:

10 1. The proceeds of the collection, enforcement, disposition or acceptance; or

11 2. The amount of proceeds that would have been realized had the noncomplying
12 secured party proceeded in accordance with the provisions of this subchapter
13 relating to collection, enforcement, disposition or acceptance.

14 (d) For purposes of par. (c) 2., the amount of proceeds that would have been
15 realized is equal to the sum of the secured obligation, expenses and attorney's fees
16 unless the secured party proves that the amount is less than that sum.

17 (e) If a deficiency or surplus is calculated under ***s. 409.615 (6), the debtor
18 or obligor has the burden of establishing that the amount of proceeds of the
19 disposition is significantly below the range of prices that a complying disposition to
20 a person other than the secured party, a person related to the secured party, or a
21 secondary obligor would have brought.

22 (2) NON-CONSUMER TRANSACTIONS; NO INFERENCE. The limitation of the rules in
23 sub. (1) to transactions other than consumer transactions is intended to leave to the
24 court the determination of the proper rules in consumer transactions. The court may

1 not infer from that limitation the nature of the proper rule in consumer transactions
2 and may continue to apply established approaches.

3 **409.627 Determination of whether conduct was commercially**
4 **reasonable. (1) GREATER AMOUNT OBTAINABLE UNDER OTHER CIRCUMSTANCES; NO**
5 **PRECLUSION OF COMMERCIAL REASONABLENESS.** The fact that a greater amount could
6 have been obtained by a collection, enforcement, disposition or acceptance at a
7 different time or in a different method from that selected by the secured party is not
8 of itself sufficient to preclude the secured party from establishing that the collection,
9 enforcement, disposition or acceptance was made in a commercially reasonable
10 manner.

11 **(2) DISPOSITIONS THAT ARE COMMERCIALY REASONABLE.** A disposition of collateral
12 is made in a commercially reasonable manner if the disposition is made:

- 13 (a) In the usual manner on any recognized market;
14 (b) At the price current in any recognized market at the time of the disposition;
15 or
16 (c) Otherwise in conformity with reasonable commercial practices among
17 dealers in the type of property that was the subject of the disposition.

18 **(3) APPROVAL BY COURT OR ON BEHALF OF CREDITORS.** A collection, enforcement,
19 disposition or acceptance is commercially reasonable if it has been approved:

- 20 (a) In a judicial proceeding;
21 (b) By a bona fide creditors' committee;
22 (c) By a representative of creditors; or
23 (d) By an assignee for the benefit of creditors.

24 **(4) APPROVAL UNDER SUB. (3) NOT NECESSARY; ABSENCE OF APPROVAL HAS NO EFFECT.**
25 Approval under sub. (3) need not be obtained, and lack of approval does not mean

1 that the collection, enforcement, disposition or acceptance is not commercially
2 reasonable.

3 **409.628 Nonliability and limitation on liability of secured party;**
4 **liability of secondary obligor. (1) LIMITATION OF LIABILITY TO DEBTOR OR OBLIGOR.**

5 Unless a secured party knows that a person is a debtor or obligor, knows the identity
6 of the person and knows how to communicate with the person:

7 (a) The secured party is not liable to the person, or to a secured party or
8 lienholder that has filed a financing statement against the person, for failure to
9 comply with this chapter; and

10 (b) The secured party's failure to comply with this chapter does not affect the
11 liability of the person for a deficiency.

12 **(2) LIMITATION OF LIABILITY TO DEBTOR, OBLIGOR, ANOTHER SECURED PARTY, OR**
13 **LIENHOLDER. A secured party is not liable because of its status as secured party:**

14 (a) To a person that is a debtor or obligor, unless the secured party knows:

15 1. That the person is a debtor or obligor;

16 2. The identity of the person; and

17 3. How to communicate with the person; or

18 (b) To a secured party or lienholder that has filed a financing statement against
19 a person, unless the secured party knows:

20 1. That the person is a debtor; and

21 2. The identity of the person.

22 **(3) LIMITATION OF LIABILITY IF REASONABLE BELIEF THAT TRANSACTION NOT A**
23 **CONSUMER-GOODS TRANSACTION OR CONSUMER TRANSACTION. A secured party is not**
24 **liable to any person, and a person's liability for a deficiency is not affected, because**
25 **of any act or omission arising out of the secured party's reasonable belief that a**

1 transaction is not a consumer-goods transaction or a consumer transaction or that
2 goods are not consumer goods, if the secured party's belief is based on its reasonable
3 reliance on:

4 (a) A debtor's representation concerning the purpose for which collateral was
5 to be used, acquired or held; or

6 (b) An obligor's representation concerning the purpose for which a secured
7 obligation was incurred.

8 (4) LIMITATION OF LIABILITY FOR STATUTORY DAMAGES. A secured party is not liable
9 to any person under ***s. 409.625 (3) (b) for its failure to comply with ***s. 409.616.

10 (5) LIMITATION OF MULTIPLE LIABILITY FOR STATUTORY DAMAGES. A secured party
11 is not liable under ***s. 409.625 (3) (b) more than once with respect to any one
12 secured obligation.

13 SUBCHAPTER VII

14 TRANSITION

15 **409.702 Savings clause. (1) PRE-EFFECTIVE-DATE TRANSACTIONS OR LIENS.**
16 Except as otherwise provided in this subchapter, this chapter applies to a transaction
17 or lien within its scope, even if the transaction or lien was entered into or created
18 before the effective date of this subsection [revisor inserts date].

19 (2) CONTINUING VALIDITY. Except as otherwise provided in sub. (3) and ss.
20 409.703 to 409.708:

21 (a) Transactions and liens that were not governed by ch. 409, 1999 stats., were
22 validly entered into or created before effective date of this paragraph [revisor
23 inserts date], and would be subject to this chapter if they had been entered into or
24 created on or after the effective date of this paragraph [revisor inserts date], and

1 the rights, duties and interests flowing from those transactions and liens remain
2 valid on and after the effective date of this paragraph [revisor inserts date]; and

3 (b) The transactions and liens may be terminated, completed, consummated
4 and enforced as required or permitted by this chapter or by the law that otherwise
5 would apply if this paragraph had not taken effect.

6 (3) ~~PRE-EFFECTIVE-DATE PROCEEDINGS~~. This chapter does not affect an action,
7 case or proceeding commenced before the effective date of this subsection [revisor
8 inserts date].

9 **409.703 Security interest perfected before effective date. (1) CONTINUING**
10 **PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS SATISFIED.** A security interest
11 that is enforceable immediately before the effective date of this subsection [revisor
12 inserts date], and would have priority over the rights of a person that becomes a lien
13 creditor at that time is a perfected security interest under this chapter if, on the
14 effective date of this subsection [revisor inserts date], the applicable requirements
15 for enforceability and perfection under this chapter are satisfied without further
16 action.

17 (2) **CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS NOT**
18 **SATISFIED.** Except as otherwise provided in ~~***s.~~ 409.705, if, immediately before the
19 effective date of this subsection [revisor inserts date], a security interest is
20 enforceable and would have priority over the rights of a person that becomes a lien
21 creditor at that time, but the applicable requirements for enforceability or perfection
22 under this chapter are not satisfied as of the effective date of this subsection
23 [revisor inserts date], the security interest:

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

1 (b) Remains enforceable on and after one year after the effective date of this
2 paragraph [revisor inserts date], only if the security interest becomes enforceable
3 under ***s. 409.203 before one year after the effective date of this paragraph
4 [revisor inserts date]; and

5 (c) Remains perfected on and after one year after the effective date of this
6 paragraph [revisor inserts date], only if the applicable requirements for perfection
7 under this chapter are satisfied before one year after the effective date of this
8 paragraph [revisor inserts date].

9 **409.704 Security interest unperfected before effective date.** A security
10 interest that is enforceable immediately before the effective date of this section
11 [revisor inserts date], but which would be subordinate to the rights of a person that
12 becomes a lien creditor at that time:

13 (1) Remains an enforceable security interest for one year after the effective date
14 of this paragraph [revisor inserts date];

15 (2) Remains enforceable on and after one year after the effective date of this
16 paragraph [revisor inserts date], if the security interest becomes enforceable
17 under ***s. 409.203 on the effective date of this paragraph [revisor inserts date],
18 or within one year thereafter; and

19 (3) Becomes perfected:

20 1. Without further action, on the effective date of this subdivision [revisor
21 inserts date], if the applicable requirements for perfection under this chapter are
22 satisfied before or at that time; or

23 2. When the applicable requirements for perfection are satisfied if the
24 requirements are satisfied after that time.

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

2 ~~PRE-EFFECTIVE-DATE ACTION; ONE-YEAR PERFECTION PERIOD UNLESS REPERFECTED.~~ If
3 action, other than the filing of a financing statement, is taken before the effective
4 date of this subsection [revisor inserts date], and the action would have resulted
5 in priority of a security interest over the rights of a person that becomes a lien
6 creditor had the security interest become enforceable before the effective date of this
7 subsection [revisor inserts date], the action is effective to perfect a security
8 interest that attaches under this chapter before the effective date of this subsection
9 [revisor inserts date]. An attached security interest becomes unperfected one year
10 after the effective date of this subsection [revisor inserts date], unless the security
11 interest becomes a perfected security interest under this chapter before one year
12 after the effective date of this subsection [revisor inserts date].

13 **(2) ~~PRE-EFFECTIVE-DATE FILING.~~** The filing of a financing statement before the
14 effective date of this subsection [revisor inserts date], is effective to perfect a
15 security interest to the extent the filing would satisfy the applicable requirements
16 for perfection under this chapter.

17 **(3) ~~PRE-EFFECTIVE-DATE FILING IN JURISDICTION FORMERLY GOVERNING PERFECTION.~~**
18 This chapter does not render ineffective an effective financing statement that, before
19 the effective date of this subsection [revisor inserts date], is filed and satisfies the
20 applicable requirements for perfection under the law of the jurisdiction governing
21 perfection as provided in s. 409.103, 1999 stats. However, except as otherwise
22 provided in subs. (4) and (5) and ***s. 409.706, the financing statement ceases to be
23 effective at the earlier of:

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

1 (b) June 30, 2006.

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

11 (5) APPLICATION OF SUB. (3) (B) TO TRANSMITTING UTILITY FINANCING STATEMENT.
12 Subsection (3) (b) applies to a financing statement that, before the effective date of
13 this subsection [revisor inserts date], is filed against a transmitting utility and
14 satisfies the applicable requirements for perfection under the law of the jurisdiction
15 governing perfection as provided in s. 409.103, 1999 stats., only to the extent that
16 subch. III provides that the law of a jurisdiction other than jurisdiction in which the
17 financing statement is filed governs perfection of a security interest in collateral
18 covered by the financing statement.

19 (6) APPLICATION OF SUBCH. V. A financing statement that includes a financing
20 statement filed before the effective date of this subsection [revisor inserts date],
21 and a continuation statement filed on or after the effective date of this subsection
22 [revisor inserts date], is effective only to the extent that it satisfies the requirements
23 of subch. V for an initial financing statement.

24 **409.706 When initial financing statement suffices to continue**
25 **effectiveness of financing statement. (1) INITIAL FINANCING STATEMENT IN LIEU**

1 OF CONTINUATION STATEMENT. The filing of an initial financing statement in the office
2 specified in ***s. 409.501 continues the effectiveness of a financing statement filed
3 before the effective date of this subsection [revisor inserts date], if:

4 (a) The filing of an initial financing statement in that office would be effective
5 to perfect a security interest under this chapter;

6 (b) The pre-effective-date financing statement was filed in an office in another
7 state or another office in this state; and

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

9 (2) PERIOD OF CONTINUED EFFECTIVENESS. The filing of an initial financing
10 statement under sub. (1) continues the effectiveness of the pre-effective-date
11 financing statement:

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

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

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

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

21 (b) Identify the pre-effective-date financing statement by indicating the office
22 in which the financing statement was filed and providing the dates of filing and file
23 numbers, if any, of the financing statement and of the most recent continuation
24 statement filed with respect to the financing statement; and

25 (c) Indicate that the pre-effective-date financing statement remains effective.

1 **409.707 Persons entitled to file initial financing statement or**
2 **continuation statement.** A person may file an initial financing statement or a
3 continuation statement under this subchapter if:

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

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

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

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

9 **409.708 Priority. (1) LAW GOVERNING PRIORITY.** This chapter determines the
10 priority of conflicting claims to collateral. However, if the relative priorities of the
11 claims were established before the effective date of this subsection [revisor inserts
12 date], ch. 409, 1999 stats., determines priority.

13 (2) PRIORITY IF SECURITY INTEREST BECOMES ENFORCEABLE UNDER ***S. 409.203. For
14 purposes of ***s. 409.322 (1), the priority of a security interest that becomes
15 enforceable under ***s. 409.203 dates from the effective date of this subsection
16 [revisor inserts date], if the security interest is perfected under this chapter by the
17 filing of a financing statement before the effective date of this subsection [revisor
18 inserts date], which would not have been effective to perfect the security interest
19 under ch. 409, 1999 stats. This subsection does not apply to conflicting security
20 interests each of which is perfected by the filing of such a financing statement.

21 **SECTION 112.** 411.103 (3) (a) of the statutes is amended to read:

22 411.103 (3) (a) “Account” — s. 409.106 409.102 (1) (b)**.

23 History: 1991 a. 148.

SECTION 113. 411.103 (3) (d) of the statutes is amended to read:

1 411.103 (3) (d) “Chattel paper” — s. 409.105 (1) (b) 409.102 (1) (11)**.

2 **History:** 1991 a. 148.

2 **SECTION 114.** 411.103 (3) (e) of the statutes is amended to read:

3 411.103 (3) (e) “Consumer goods” — s. 409.109 (1) 409.102 (1) (23)***.

4 **History:** 1991 a. 148.

4 **SECTION 115.** 411.103 (3) (f) of the statutes is amended to read:

5 411.103 (3) (f) “Document” — s. 409.105 (1) (f) 409.102 (1) (30)***.

6 **History:** 1991 a. 148.

6 **SECTION 116.** 411.103 (3) (h) of the statutes is amended to read:

7 411.103 (3) (h) “General intangibles intangible” — s. 409.106 409.102 (1)
8 (42)***.

9 **History:** 1991 a. 148.

9 **SECTION 117.** 411.103 (3) (j) of the statutes is amended to read:

10 411.103 (3) (j) “Instrument” — s. 409.105 (1) (i) 409.102 (1) (47)***.

11 **History:** 1991 a. 148.

11 **SECTION 118.** 411.103 (3) (L) of the statutes is amended to read:

12 411.103 (3) (L) “Mortgage” — s. 409.105 (1) (j) 409.102 (1) (55)***.

13 **History:** 1991 a. 148.

13 **SECTION 119.** 411.103 (3) (m) of the statutes is amended to read:

14 411.103 (3) (m) “Pursuant to commitment” — s. 409.105 (1) (k) 409.102 (1)
15 (68)***.

16 **History:** 1991 a. 148.

16 **SECTION 120.** 411.303 (1) and (2) of the statutes are amended to read:

17 411.303 (1) In this section, “creation of a security interest” includes the sale of
18 a lease contract that is subject to ch. 409 under s. ~~409.102 (1) (b)~~ 409.109 (1) (c).

19 (2) Except as provided in ~~subs. sub. (3) and (4)~~ s. 409.407, a provision in a lease
20 agreement that prohibits the voluntary or involuntary transfer, including a transfer
21 by sale, sublease, creation or enforcement of a security interest, or attachment, levy,
22 or other judicial process of an interest of a party under the lease contract or of the
23 lessor’s residual interest in the goods or that makes such a transfer an event of

1 default, gives rise to the rights and remedies provided in sub. (5), but a transfer that
2 is prohibited or is an event of default under the lease agreement is otherwise
3 effective.

4 **SECTION 121.** 411.303 (3) of the statutes is repealed.

5 **SECTION 122.** 411.303 (5) of the statutes is amended to read:

6 411.303 (5) Subject to subs. sub. (3) and ~~(4)~~ s. 409.407:

7 History: 1991 a. 148.

8 **SECTION 123.** 411.307 (2) (intro.) and (a) of the statutes are consolidated,
renumbered 411.307 (2) and amended to read:

9 411.307 (2) Except as provided in ~~subs. sub.~~ sub. (3) and ~~(4)~~ and ss. 411.306 and
10 411.308, a creditor of a lessor takes subject to the lease contract unless ~~any of the~~
11 ~~following occurs:~~

12 (a) ~~The~~ the creditor holds a lien that attached to the goods before the lease
13 contract became enforceable.

14 **SECTION 124.** 411.307 (2) (b) and (c) and (4) of the statutes are repealed.

15 History: 1991 a. 148.

16 **SECTION 125.** 411.307 (3) of the statutes is repealed and recreated to read:

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

19 **SECTION 126.** 411.309 (1) (c) of the statutes is amended to read:

20 411.309 (1) (c) "Fixture filing" means a filing, in the office where a record of a
21 mortgage on real estate would be filed or recorded, of a financing statement covering
22 goods that are or are to become fixtures and conforming to the requirements of s.
23 409.402 (5) 409.502 (1) and (2).

24 History: 1991 a. 148.

SECTION 127. 411.309 (9) of the statutes is amended to read:

1 411.309 (9) Even though the lease agreement does not create a security
2 interest, the interest of a lessor of fixtures, including the lessor's residual interest,
3 is perfected by filing a financing statement as a fixture filing for leased goods that
4 are or are to become fixtures under ch. 409.

History: 1991 a. 148.

5 **SECTION 128.** 421.103 (1) of the statutes is amended to read:

6 421.103 (1) Unless superseded by the particular provisions of chs. 421 to 427,
7 chs. 401 to 411 and the principles of law and equity, including the law relative to
8 capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress,
9 coercion, mistake, bankruptcy, or other validating or invalidating cause supplement
10 chs. 421 to 427.

History: 1971 c. 239; 1979 c. 89, 177; 1991 a. 148, 304, 315; 1995 a. 329.

11 **SECTION 129.** 421.103 (2) of the statutes is amended to read:

12 421.103 (2) Unless terms used in chs. 421 to 427 are defined by particular
13 provisions of chs. 421 to 427, they shall have the meaning given them in chs. 401 to
14 411 and 429, if they are defined in chs. 401 to 411 and 429.

History: 1971 c. 239; 1979 c. 89, 177; 1991 a. 148, 304, 315; 1995 a. 329.

15 **SECTION 130.** 421.103 (3) of the statutes is amended to read:

16 421.103 (3) Unless superseded by the particular provisions of chs. 421 to 427
17 parties to a consumer transaction have all of the obligations, duties, rights and
18 remedies provided in chs. 401 to 411 which apply to the transaction.

History: 1971 c. 239; 1979 c. 89, 177; 1991 a. 148, 304, 315; 1995 a. 329.

19 **SECTION 131.** 421.301 (21) of the statutes is amended to read:

20 421.301 (21) "Goods" [has the meaning given in 409.102 and] includes goods
21 (s. 409.105) not in existence at the time the transaction is entered into and goods
22 which are or are to become fixtures.

History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302.

23 **SECTION 132.** 421.301 (40) of the statutes is amended to read:

1 421.301 (40) “Security interest” means a real property mortgage, deed of trust,
2 seller’s interest in real estate under a land contract, any interest in property which
3 secures payment or performance of an obligation under ch. 409 or any other
4 consensual or confessed lien whether or not recorded.

5 **History:** 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302.

6 **SECTION 133.** 422.413 (2r) (f) of the statutes is amended to read:

7 422.413 (2r) (f) The satisfaction of indebtedness secured by any subordinate
8 security interest in the collateral, subject to the restrictions set forth in s. 409.504
9 (1) (c) [9–610 9–615].

10 **History:** 1971 c. 239; 1973 c. 2; 1979 c. 10; 1983 a. 389; 1985 a. 331; 1993 a. 368; 1995 a. 329; 1997 a. 302.

11 **SECTION 134.** 425.105 (4) of the statutes is amended to read:

12 425.105 (4) With respect to consumer credit transactions in which the creditor
13 has a security interest in, and possession of, instruments or documents (s. 409.105)
14 [9–102] which threaten to decline speedily in value, this section does not restrict the
15 creditor’s rights to dispose of such property pursuant to s. 409.504 [9–610 9–615
16 9–624 9–617 9–618] and the terms of the creditor’s security agreement.

17 **History:** 1971 c. 239; 1975 c. 407, 421; 1991 a. 316.

18 **SECTION 135.** 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 [9–620 9–621 9–624], in which event
22 the merchant shall satisfy the judgment obtained pursuant to sub. (2); or shall
23 dispose of the collateral pursuant to s. 409.504 [9–610 9–615 9–624 9–617 9–618],
24 in which event:

25 **History:** 1971 c. 239; 1975 c. 407, 421.

26 **SECTION 136.** 425.204 (2) of the statutes is amended to read:

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 [9-610 9-615 9-611 9-624 9-617 9-618 9-620
4 9-621 9-623 9-625 9-627], and are not subject to this subchapter.

History: 1971 c. 239; 1991 a. 316.

5 **SECTION 137.** 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

1 forth in s. 409.504 (1) [9–610] 9–615]. In determining such expenses, leased goods
2 shall be considered collateral under s. 409.504 (1). However, a customer is not liable
3 for expenses of holding the collateral or leased goods from the time the merchant
4 takes possession until the merchant perfects the right to possession in the manner
5 provided in this subsection.

History: 1971 c. 239; Sup. Ct. Order, 67 W (2d) 585, 776 (1975); 1975 c. 407, 421, 422; 1979 c. 10; 1981 c. 314 s. 146; 1997 a. 302.

6 **SECTION 138.** 425.208 (6) of the statutes is amended to read:

7 425.208 (6) The creditor shall not dispose of the collateral or enter into a
8 contract for the disposition of the collateral, until the expiration of the period for
9 redemption provided in this section, unless the collateral is perishable or threatens
10 to decline speedily in value. Upon the expiration of such period any disposition of the
11 collateral shall be subject to ss. 409.504, 409.505 and 409.506 [9–610 9–615 9–611
12 9–624 9–617 9–618 9–620 9–621 9–623], except that the customer may be liable for
13 a deficiency only to the extent provided in ss. 425.209 and 425.210.

History: 1971 c. 239; 1979 c. 10, 89; 1983 a. 339; 1991 a. 316; 1997 a. 302.

14 **SECTION 139.** 425.209 (3) of the statutes is amended to read:

15 425.209 (3) If the merchant repossesses or accepts voluntary surrender of
16 goods which were not the subject of the sale but in which the merchant has a security
17 interest to secure a debt arising from a sale of goods or services or a combined sale
18 of goods and services and the amount owing at the time of default was \$1,000 or less,
19 the customer is not personally liable to the merchant for the unpaid balance of the
20 debt arising from the sale, and the merchant's duty to dispose of the collateral is
21 governed by the provisions on disposition of collateral under chs. 401 to 411.

History: 1971 c. 239; 1973 c. 2, 3; 1991 a. 148, 304, 315, 316.

22 **SECTION 140.** 425.209 (4) of the statutes is amended to read:

23 425.209 (4) If the lender takes possession or accepts voluntary surrender of
24 goods in which the lender has a security interest to secure a debt arising from a

1 consumer loan in which the lender is subject to defenses arising from sales (s.
2 422.408) and the amount owing at the time of default of the loan paid to or for the
3 benefit of the customer were \$1,000 or less, the customer is not personally liable to
4 the lender for the unpaid balance of the debt arising from the loan and the lender's
5 duty to dispose of the collateral is governed by the provisions on disposition of
6 collateral under chs. 401 to 411.

History: 1971 c. 239; 1973 c. 2, 3; 1991 a. 148, 304, 315, 316.

7 **SECTION 141.** 429.102 (1) of the statutes is amended to read:

8 429.102 (1) To the extent that s. 218.01 and chs. 411 and 421 to 427 are
9 inconsistent with this chapter, the provisions of this chapter shall apply.

History: 1995 a. 329.

10 **SECTION 142.** 429.102 (2) of the statutes is amended to read:

11 429.102 (2) Unless superseded by the particular provisions of this chapter,
12 parties to a motor vehicle consumer lease have all of the obligations, duties, rights
13 and remedies provided in s. 218.01 and chs. 411 and 421 to 427 that apply to the
14 transaction.

History: 1995 a. 329.

15 **SECTION 143.** 429.301 (2) of the statutes is amended to read:

16 429.301 (2) If a party to a consumer lease recovers damages or penalties under
17 this chapter for an act or omission, the party may not recover any damages or
18 penalties for the same act or omission under s. 218.01 or chs. 411 and 421 to 427.

History: 1995 a. 329.

19 **SECTION 144.** 618.42 (3) (a) of the statutes is amended to read:

20 618.42 (3) (a) *Sales of personal property.* Any insurance on personal property
21 sold on the instalment plan or under a conditional sales contract or equivalent
22 security agreement under chs. 401 to 411 for which a charge is made to the buyer as

1 a part of the consideration in the agreement of sale shall be placed with an insurer
2 authorized to do business in this state.

History: 1971 c. 260; 1979 c. 89; 1979 c. 102 s. 236 (5), (8); 1981 c. 314; 1989 a. 187 s. 29; 1991 a. 148, 304, 315; 1993 a. 213.

3 **SECTION 145.** 700.01 (3) of the statutes is amended to read:

4 700.01 (3) "Instrument of transfer" means an instrument which is effective to
5 transfer an interest in property; it includes but is not limited to a will, a deed, a
6 contract to transfer, a real estate mortgage and an instrument creating a security
7 interest in personal property under ch. 409.

History: 1983 a. 189; 1991 a. 316.

8 **SECTION 146.** 700.24 of the statutes is amended to read:

9 **700.24 Death of a joint tenant; effect of liens.** A real estate mortgage, a
10 security interest under ch. 409, or a lien under s. 72.86 (2), 1985 stats., or s. 71.91 (5)
11 (b), ch. 49 or 779 on or against the interest of a joint tenant does not defeat the right
12 of survivorship in the event of the death of such joint tenant, but the surviving joint
13 tenant or tenants take the interest such deceased joint tenant could have transferred
14 prior to death subject to such mortgage, security interest or statutory lien.

History: 1971 c. 307 s. 118; 1975 c. 39; 1979 c. 32 s. 92 (9); 1987 a. 27 s. 3202 (47) (a); 1987 a. 312 s. 17.

15 **SECTION 147.** 766.60 (5) (b) of the statutes is amended to read:

16 766.60 (5) (b) A real estate mortgage, a security interest under ch. 409 or a lien
17 under s. 71.91 (5) (b) or ch. 49 or 779 on or against the interest of a spouse in
18 survivorship marital property does not defeat the right of survivorship on the death
19 of the spouse. The surviving spouse takes the interest of the deceased spouse subject
20 to the mortgage, security interest or lien.

History: 1983 a. 186; 1985 a. 37; 1987 a. 27 s. 3202 (47) (a); 1987 a. 312 s. 17; 1991 a. 301.

21 **SECTION 148.** 779.48 (2) of the statutes is amended to read:

22 779.48 (2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case
23 the claim remains unpaid for 2 months after the debt is incurred, and a person given

1 a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is
 2 perfected, enforce such lien by sale of the property substantially in conformity with
 3 ss. 409.501 to 409.507 [9-601 to 9-627]and the lien claimant shall have the rights
 4 and duties of a secured party thereunder. When such sections are applied to the
 5 enforcement of such lien the word debtor or equivalent when used therein shall be
 6 deemed to refer to the owner of the property and any other person having an interest
 7 shown by instrument filed as required by law or shown in the records of the
 8 department of transportation, and the word indebtedness or equivalent shall include
 9 all claims upon which such lien is based.

10 **History:** 1977 c. 29 s. 1654 (7) (b); 1979 c. 32 ss. 57, 92 (9); 1979 c. 176; Stats. 1979 s. 779.48; 1983 a. 500 s. 43; 1993 a. 328.

SECTION 149. 779.89 of the statutes is amended to read:

11 **779.89 Attachment and preservation.** All prepaid maintenance liens
 12 attach at the time of the first prepayment and shall be preserved from the time the
 13 lien attaches. It is not necessary to file or record any notice of the lien in order to
 14 preserve or perfect the lien although a customer may file this lien in the manner
 15 prescribed for perfecting liens under ch. 409.

16 **History:** 1977 c. 296; 1979 c. 32 s. 57; Stats. 1979 s. 779.89.

SECTION 150. 779.91 (2) of the statutes is amended to read:

17 **779.91 (2)** Upon discharge of a prepaid maintenance lien, any customer who
 18 filed the lien as permitted in s. 779.89 is subject to the requirements of s. 409.404
 19 [9-513].

20 **History:** 1977 c. 296; 1979 c. 32 ss. 57, 92 (9); Stats. 1979 s. 779.91.

SECTION 151. 779.97 (4) (a) 1. of the statutes is amended to read:

21 **779.97 (4) (a) 1.** With the department of financial institutions, the filing officer
 22 shall cause the notice to be marked, held and indexed in accordance with s. 409.403

1 (4) [9-519] as if the notice were a financing statement within the meaning of chs. 401
2 to 411; or

3 **History:** 1977 c. 29, 418; 1979 c. 89, 177, 223, 312, 355; Stats. 1979 s. 779.97; 1991 a. 39, 148, 304, 315; 1993 a. 70, 172, 214; 1995 a. 27, 201, 417.

3 **SECTION 152.** 779.97 (4) (b) 1. of the statutes is amended to read:

4 779.97 (4) (b) 1. If a refileing of a notice of lien is presented to the department
5 of financial institutions for filing, the filing officer shall cause the refiled notice of
6 federal lien to be marked, held and indexed in accordance with s. 409.403 [9-516 (a)
7 9-515 9-522 9-519 9-525] as if the refileing were a continuation statement within the
8 meaning of chs. 401 to 411, except that the time period in par. (d) shall apply instead
9 of the time period in s. 409.403 (2) and (3) [9-515 9-522].

10 **History:** 1977 c. 29, 418; 1979 c. 89, 177, 223, 312, 355; Stats. 1979 s. 779.97; 1991 a. 39, 148, 304, 315; 1993 a. 70, 172, 214; 1995 a. 27, 201, 417.

10 **SECTION 153.** 779.97 (4) (b) 2. of the statutes is amended to read:

11 779.97 (4) (b) 2. If a certificate of release 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 in accordance with s. 409.404 [9-513] as if the certificate
14 were a termination statement within the meaning of chs. 401 to 411, and the filing
15 officer may remove the notice of federal lien and any related refileing of a notice of lien,
16 certificate of nonattachment, discharge or subordination from the files at any time
17 after receipt of the certificate of release, but the department of financial institutions
18 shall keep the certificate of release or a microfilm or other photographic record or
19 optical disk or electronic record of the certificate of release in a file, separate from
20 those containing currently effective notices of liens, for a period of 30 years after the
21 date of filing of the certificate of release.

22 **History:** 1977 c. 29, 418; 1979 c. 89, 177, 223, 312, 355; Stats. 1979 s. 779.97; 1991 a. 39, 148, 304, 315; 1993 a. 70, 172, 214; 1995 a. 27, 201, 417.

22 **SECTION 154.** 779.97 (4) (b) 3. of the statutes is amended to read:

23 779.97 (4) (b) 3. If a certificate of discharge is presented to the department of
24 financial institutions for filing, the filing officer shall cause the certificate to be

1 marked, held and indexed as if the certificate were a release of collateral within the
2 meaning of chs. 401 to 411.

3 **History:** 1977 c. 29, 418; 1979 c. 89, 177, 223, 312, 355; Stats. 1979 s. 779.97; 1991 a. 39, 148, 304, 315; 1993 a. 70, 172, 214; 1995 a. 27, 201, 417.

3 **SECTION 155.** 779.97 (4) (b) 4. of the statutes is amended to read:

4 779.97 (4) (b) 4. If a certificate of nonattachment or subordination of any lien
5 is presented to the department of financial institutions for filing, the filing officer
6 shall cause the certificate to be marked, held and indexed as if the certificate were
7 an amendment within the meaning of chs. 401 to 411.

8 **History:** 1977 c. 29, 418; 1979 c. 89, 177, 223, 312, 355; Stats. 1979 s. 779.97; 1991 a. 39, 148, 304, 315; 1993 a. 70, 172, 214; 1995 a. 27, 201, 417.

8 **SECTION 156.** 801.05 (7) (c) of the statutes is amended to read:

9 801.05 (7) (c) Following resale of tangible property in this state by the plaintiff
10 under ch. 409.

11 **History:** Sup. Ct. Order, 67 W (2d) 585, 592 (1975); 1975 c. 218; 1977 c. 105, 203, 418; 1979 c. 196; 1979 c. 352 s. 39; 1993 a. 112, 326, 486.

11 **SECTION 157.** 815.18 (2) (i) of the statutes is amended to read:

12 815.18 (2) (i) “Farm products” has the meaning given under s. 409.109 (3)
13 [9–102].

14 **History:** 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 W (2d) 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39.

14 **SECTION 158.** 815.18 (2) (j) of the statutes is amended to read:

15 815.18 (2) (j) “Inventory” has the meaning given under s. 409.109 (4) [9–102].

16 **History:** 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 W (2d) 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39.

16 **SECTION 159.** 818.02 (4) of the statutes is amended to read:

17 818.02 (4) Subsections (1) and (3) do not apply to any security agreement under
18 which the plaintiff claims a purchase money security interest as defined in ch. 409.

19 **History:** Sup. Ct. Order, 67 W (2d) 585, 758 (1975); Stats. 1975 s. 809.02; Sup. Ct. Order, 83 W (2d) xiiiv ((1978); Stats. 1977 s. 818.02; 1979 c. 352; 1983 a. 447; 1985 a. 29; 1989 a. 121; 1993 a. 481, 486; 1995 a. 448.

19 **SECTION 160.** 893.36 (3) (b) of the statutes is amended to read:

20 893.36 (3) (b) “Collateral” has the meaning provided by s. 409.105 (1) (c)
21 [9–102].

History: 1979 c. 221 ss. 837m, 2204 (3) (b); 1983 a. 189 s. 329 (24).

1 **SECTION 161.** 893.36 (3) (c) of the statutes is amended to read:

2 893.36 (3) (c) “Debtor” has the meaning provided by s. 409.105 (1) (d) [9 102].

3 History: 1979 c. 221 ss. 837m, 2204 (33) (b); 1983 a. 189 s. 329 (24).

3 **SECTION 162.** 893.36 (3) (e) of the statutes is amended to read:

4 893.36 (3) (e) “Secured party” has the meaning provided by s. 409.105 (1) (L)
5 [9–102].

6 History: 1979 c. 221 ss. 837m, 2204 (33) (b); 1983 a. 189 s. 329 (24).

6 **SECTION 163.** 893.36 (3) (f) of the statutes is amended to read:

7 893.36 (3) (f) “Security agreement” has the meaning provided by s. 409.105 (1)
8 (m) [9–102].

9 History: 1979 c. 221 ss. 837m, 2204 (33) (b); 1983 a. 189 s. 329 (24).

9 **SECTION 164.** 909.02 (9) of the statutes is amended to read:

10 909.02 (9) COMMERCIAL PAPER AND RELATED DOCUMENTS. Commercial paper,
11 signatures thereon, and documents relating thereto to the extent provided by chs.
12 401 to 411.

13 History: Sup. Ct. Order, 59 W (2d) R1, R340 (1973); Sup. Ct. Order, 67 W (2d) 585, viii (1975); 1975 c. 200; 1979 c. 89; Sup. Ct. Order, 158 W (2d) xxxv (1990); 1991 a. 32, 148, 304, 315.

13 **SECTION 165. Effective date.** This act takes effect on July 1, 2001.

14

(END)