

1	(h) “Lease agreement”	s. 411.103.
2	(hm) “Lease contract”	s. 411.103.
3	(i) “Leasehold interest”	s. 411.103.
4	(im) “Lessee”	s. 411.103.
5	(j) “Lessee in ordinary course of business”	s. 411.103.
6	(jm) “Lessor”	s. 411.103.
7	(k) “Lessor’s residual interest”	s. 411.103.
8	(km) “Letter of credit”	s. 405.102.
9	(L) “Merchant”	s. 402.104.
10	(Lm) “Negotiable instrument”	s. 403.104.
11	(m) “Nominated person”	s. 405.102.
12	(mm) “Note”	s. 403.104.
13	(n) “Proceeds of a letter of credit”	s. 405.114.
14	(nm) “Prove”	s. 403.103.
15	(o) “Sale”	s. 402.106.
16	(om) “Securities account”	s. 408.501.
17	(p) “Securities intermediary”	s. 408.102.
18	(pm) “Security”	s. 408.102.
19	(q) “Security certificate”	s. 408.102.
20	(qm) “Security entitlement”	s. 408.102.
21	(r) “Uncertificated security”	s. 408.102.

22 **(3)** CHAPTER 401 DEFINITIONS AND PRINCIPLES. Chapter 401 contains general
23 definitions and principles of construction and interpretation applicable throughout
24 this chapter.

25 APPENDIX II

1 MODEL PROVISIONS FOR PRODUCTION-MONEY PRIORITY

2 Legislative Note: States that enact these model provisions should add the
3 following definitions to ***s. 409.102 (1) following the definition of "proceeds":

4 (64A) "Production-money crops" means crops that secure a production-money
5 obligation incurred with respect to the production of those crops.

6 (64B) "Production-money obligation" means an obligation of an obligor
7 incurred for new value given to enable the debtor to produce crops if the value is in
8 fact used for the production of the crops.

9 (64C) "Production of crops" includes tilling and otherwise preparing land for
10 growing, planting, cultivating, fertilizing, irrigating, harvesting and gathering
11 crops, and protecting them from damage or disease.

12 APPENDIX II

13 [MODEL SECTION [9-103A]. PRODUCTION-MONEY CROPS;
14 PRODUCTION-MONEY OBLIGATION; PRODUCTION-MONEY SECURITY
15 INTEREST; BURDEN OF ESTABLISHING. (1) A security interest in crops is a
16 production-money security interest to the extent that the crops are
17 production-money crops.

18 (2) If the extent to which a security interest is a production-money security
19 interest depends on the application of a payment to a particular obligation, the
20 payment must be applied:

21 (a) In accordance with any reasonable method of application to which the
22 parties agree;

23 (b) In the absence of the parties' agreement to a reasonable method, in
24 accordance with any intention of the obligor manifested at or before the time of
25 payment; or

1 (c) In the absence of an agreement to a reasonable method and a timely
2 manifestation of the obligor's intention, in the following order:

3 1. To obligations that are not secured; and

4 2. If more than one obligation is secured, to obligations secured by
5 production-money security interests in the order in which those obligations were
6 incurred.

7 (3) A production-money security interest does not lose its status as such, even
8 if:

9 (a) The production-money crops also secure an obligation that is not a
10 production-money obligation;

11 (b) Collateral that is not production-money crops also secures the
12 production-money obligation; or

13 (c) The production-money obligation has been renewed, refinanced or
14 restructured.

15 (4) A secured party claiming a production-money security interest has the
16 burden of establishing the extent to which the security interest is a
17 production-money security interest.

18 **409.103 Purchase-money security interest; application of payments;
19 burden of establishing. (1) DEFINITIONS. In this section:**

20 (a) "Purchase-money collateral" means goods or software that secures a
21 purchase-money obligation incurred with respect to that collateral.

22 (b) "Purchase-money obligation" means an obligation of an obligor incurred as
23 all or part of the price of the collateral or for value given to enable the debtor to
24 acquire rights in or the use of the collateral if the value is in fact so used.

1 **(2) PURCHASE-MONEY SECURITY INTEREST IN GOODS.** A security interest in goods
2 is a purchase-money security interest:

3 (a) To the extent that the goods are purchase-money collateral with respect to
4 that security interest;

5 (b) If the security interest is in inventory that is or was purchase-money
6 collateral, also to the extent that the security interest secures a purchase-money
7 obligation incurred with respect to other inventory in which the secured party holds
8 or held a purchase-money security interest; and

9 (c) Also to the extent that the security interest secures a purchase-money
10 obligation incurred with respect to software in which the secured party holds or held
11 a purchase-money security interest.

12 **(3) PURCHASE-MONEY SECURITY INTEREST IN SOFTWARE.** A security interest in
13 software is a purchase-money security interest to the extent that the security
14 interest also secures a purchase-money obligation incurred with respect to goods in
15 which the secured party holds or held a purchase-money security interest if:

16 (a) The debtor acquired its interest in the software in an integrated transaction
17 in which it acquired an interest in the goods; and

18 (b) The debtor acquired its interest in the software for the principal purpose of
19 using the software in the goods.

20 **(4) CONSIGNOR'S INVENTORY PURCHASE-MONEY SECURITY INTEREST.** The security
21 interest of a consignor in goods that are the subject of a consignment is a
22 purchase-money security interest in inventory.

23 **(5) APPLICATION OF PAYMENT IN NON-CONSUMER-GOODS TRANSACTION.** In a
24 transaction other than a consumer-goods transaction, if the extent to which a

1 security interest is a purchase-money security interest depends on the application
2 of a payment to a particular obligation, the payment must be applied:

3 (a) In accordance with any reasonable method of application to which the
4 parties agree;

5 (b) In the absence of the parties' agreement to a reasonable method, in
6 accordance with any intention of the obligor manifested at or before the time of
7 payment; or

8 (c) In the absence of an agreement to a reasonable method and a timely
9 manifestation of the obligor's intention, in the following order:

10 1. To obligations that are not secured; and

11 2. If more than one obligation is secured, to obligations secured by
12 purchase-money security interests in the order in which those obligations were
13 incurred.

14 **(6) NO LOSS OF STATUS OF PURCHASE-MONEY SECURITY INTEREST IN**
15 **NON-CONSUMER-GOODS TRANSACTION.** In a transaction other than a consumer-goods
16 transaction, a purchase-money security interest does not lose its status as such, even
17 if:

18 (a) The purchase-money collateral also secures an obligation that is not a
19 purchase-money obligation;

20 (b) Collateral that is not purchase-money collateral also secures the
21 purchase-money obligation; or

22 (c) The purchase-money obligation has been renewed, refinanced, consolidated
23 or restructured.

24 **(7) BURDEN OF PROOF IN NON-CONSUMER-GOODS TRANSACTION.** In a transaction
25 other than a consumer-goods transaction, a secured party claiming a

1 purchase-money security interest has the burden of establishing the extent to which
2 the security interest is a purchase-money security interest.

3 (8) NON-CONSUMER-GOODS TRANSACTIONS; NO INFERENCE. The limitation of the
4 rules in subs. (5) to (7) to transactions other than consumer-goods transactions is
5 intended to leave to the court the determination of the proper rules in
6 consumer-goods transactions. The court may not infer from that limitation the
7 nature of the proper rule in consumer-goods transactions and may continue to apply
8 established approaches.

****NOTE: New Article 5 of the UCC amends this section. Should this section be
amended in this draft or included in the bill creating the new article 5?

9 **409.104 Control of deposit account. (1) REQUIREMENTS FOR CONTROL.** A
10 secured party has control of a deposit account if:

11 (a) The secured party is the bank with which the deposit account is maintained;

12 (b) The debtor, secured party and bank have agreed in an authenticated record
13 that the bank will comply with instructions originated by the secured party directing
14 disposition of the funds in the account without further consent by the debtor; or

15 (c) The secured party becomes the bank's customer with respect to the deposit
16 account.

17 (2) DEBTOR'S RIGHT TO DIRECT DISPOSITION. A secured party that has satisfied
18 sub. (1) has control, even if the debtor retains the right to direct the disposition of
19 funds from the deposit account.

20 **409.105 Control of electronic chattel paper.** A secured party has control
21 of electronic chattel paper if the record or records comprising the chattel paper are
22 created, stored and assigned in such a manner that:

1 (1) A single authoritative copy of the record or records exists which is unique,
2 identifiable and, except as otherwise provided in subs. (4) to (6), unalterable;

3 (2) The authoritative copy identifies the secured party as the assignee of the
4 record or records;

5 (3) The authoritative copy is communicated to and maintained by the secured
6 party or its designated custodian;

7 (4) Copies or revisions that add or change an identified assignee of the
8 authoritative copy can be made only with the participation of the secured party;

9 (5) Each copy of the authoritative copy and any copy of a copy is readily
10 identifiable as a copy that is not the authoritative copy; and

11 (6) Any revision of the authoritative copy is readily identifiable as an
12 authorized or unauthorized revision.

13 **409.106 Control of investment property.** (1) CONTROL UNDER S. 408.106. A
14 person has control of a certificated security, uncertificated security or security
15 entitlement as provided in s. 408.106.

16 (2) CONTROL OF COMMODITY CONTRACT. A secured party has control of a
17 commodity contract if:

18 (a) The secured party is the commodity intermediary with which the commodity
19 contract is carried; or

20 (b) The commodity customer, secured party and commodity intermediary have
21 agreed that the commodity intermediary will apply any value distributed on account
22 of the commodity contract as directed by the secured party without further consent
23 by the commodity customer.

24 (3) EFFECT OF CONTROL OF SECURITIES ACCOUNT OR COMMODITY ACCOUNT. A secured
25 party having control of all security entitlements or commodity contracts carried in

1 a securities account or commodity account has control over the securities account or
2 commodity account.

3 **409.107 Control of letter-of-credit right.** A secured party has control of
4 a letter-of-credit right to the extent of any right to payment or performance by the
5 issuer or any nominated person if the issuer or nominated person has consented to
6 an assignment of proceeds of the letter of credit under s. 405.114 (c) or otherwise
7 applicable law or practice.

8 **409.108 Sufficiency of description. (1) SUFFICIENCY OF DESCRIPTION.** Except
9 as otherwise provided in subs. (3) to (5), a description of personal or real property is
10 sufficient, whether or not it is specific, if it reasonably identifies what is described.

****NOTE: Current s. 409.402 (5), Wis. stats., is a nonuniform provision. It omits all bracketed language [for record] [sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the laws of this state.]and the last sentence (If a debtor does not have an interest of record in the real estate, the financing statement must show the name of the record owner.) and substitutes legal description for description. "409.402(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to s. 409.103 (5), or a financing statement filed as a fixture filing (s. 409.313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed in the real estate records, and the financing statement must contain a legal description of the real estate.". The conversion table gives 9-402 (5) as a source for new 9-502. Should any of the nonuniform changes be included in this draft?

11 **(2) EXAMPLES OF REASONABLE IDENTIFICATION.** Except as otherwise provided in
12 sub. (4), a description of collateral reasonably identifies the collateral if it identifies
13 the collateral by:

- 14 (a) Specific listing;
- 15 (b) Category;
- 16 (c) Except as otherwise provided in sub. (5), a type of collateral defined in chs.
17 401 to 411;
- 18 (d) Quantity;
- 19 (e) Computational or allocational formula or procedure; or

1 (f) Except as otherwise provided in sub. (3), any other method, if the identity of
2 the collateral is objectively determinable.

3 (3) SUPERGENERIC DESCRIPTION NOT SUFFICIENT. A description of collateral as “all
4 the debtor’s assets” or “all the debtor’s personal property” or using words of similar
5 import does not reasonably identify the collateral.

6 (4) INVESTMENT PROPERTY. Except as otherwise provided in sub. (5), a
7 description of a security entitlement, securities account or commodity account is
8 sufficient if it describes:

9 (a) The collateral by those terms or as investment property; or

10 (b) The underlying financial asset or commodity contract.

11 (5) WHEN DESCRIPTION BY TYPE INSUFFICIENT. A description only by type of
12 collateral defined in chs. 401 to 411 is an insufficient description of:

13 (a) A commercial tort claim; or

14 (b) In a consumer transaction, consumer goods, a security entitlement, a
15 securities account or a commodity account.

16 **409.109 Scope. (1) GENERAL SCOPE OF CHAPTER.** Except as otherwise provided
17 in subs. (3) and (4), this chapter applies to:

18 (a) A transaction, regardless of its form, that creates a security interest in
19 personal property or fixtures by contract;

20 (b) An agricultural lien;

21 (c) A sale of accounts, chattel paper, payment intangibles or promissory notes;

22 (d) A consignment;

23 (e) A security interest arising under s. 402.401, 402.505, 402.711 (3) or 411.508
24 (5), as provided in ***s. 409.110; and

25 (f) A security interest arising under s. 404.210 or 405.118.

1 **(2) SECURITY INTEREST IN SECURED OBLIGATION.** The application of this chapter
2 to a security interest in a secured obligation is not affected by the fact that the
3 obligation is itself secured by a transaction or interest to which this chapter does not
4 apply.

5 **(3) EXTENT TO WHICH CHAPTER DOES NOT APPLY.** This chapter does not apply to
6 the extent that:

7 (a) A statute, regulation or treaty of the United States preempts this chapter;

8 (b) Another statute of this state expressly governs the creation, perfection,
9 priority or enforcement of a security interest created by this state or a governmental
10 unit of this state;

11 (c) A statute of another state, a foreign country or a governmental unit of
12 another state or a foreign country, other than a statute generally applicable to
13 security interests, expressly governs creation, perfection, priority or enforcement of
14 a security interest created by the state, country or governmental unit; or

15 (d) The rights of a transferee beneficiary or nominated person under a letter of
16 credit are independent and superior under s. 405.114.

17 **(4) INAPPLICABILITY OF CHAPTER.** This chapter does not apply to:

18 (a) A landlord's lien, other than an agricultural lien;

19 (b) A lien, other than an agricultural lien, given by statute or other rule of law
20 for services or materials, but ***s. 409.333 applies with respect to priority of the lien;

21 (c) An assignment of a claim for wages, salary or other compensation of an
22 employe;

23 (d) A sale of accounts, chattel paper, payment intangibles or promissory notes
24 as part of a sale of the business out of which they arose;

1 (e) An assignment of accounts, chattel paper, payment intangibles or
2 promissory notes which is for the purpose of collection only;

3 (f) An assignment of a right to payment under a contract to an assignee that is
4 also obligated to perform under the contract;

5 (g) An assignment of a single account, payment intangible or promissory note
6 to an assignee in full or partial satisfaction of a preexisting indebtedness;

7 (h) A transfer of an interest in or an assignment of a claim under a policy of
8 insurance, other than an assignment by or to a health-care provider of a
9 health-care-insurance receivable and any subsequent assignment of the right to
10 payment, but ss. 409.315 and 409.322 apply with respect to proceeds and priorities
11 in proceeds;

12 (i) An assignment of a right represented by a judgment, other than a judgment
13 taken on a right to payment that was collateral;

14 (j) A right of recoupment or set-off, but:

15 1. Section 409.340 applies with respect to the effectiveness of rights of
16 recoupment or set-off against deposit accounts; and

17 2. Section 409.404 applies with respect to defenses or claims of an account
18 debtor;

19 (k) The creation or transfer of an interest in or lien on real property, including
20 a lease or rents thereunder, except to the extent that provision is made for:

21 1. Liens on real property in ss. 409.203 and 409.308;

22 2. Fixtures in ***s. 409.334;

23 3. Fixture filings in ss. 409.501, 409.502, 409.512, 409.516 and 409.519; and

24 4. Security agreements covering personal and real property in ***s. 409.604;

1 (L) An assignment of a claim arising in tort, other than a commercial tort claim,
2 but ss. 409.315 and 409.322 apply with respect to proceeds and priorities in proceeds;
3 or

4 (m) An assignment of a deposit account in a consumer transaction, but ss.
5 409.315 and 409.322 apply with respect to proceeds and priorities in proceeds.

6 **409.110 Security interests arising under ch. 402 or 411.** A security
7 interest arising under s. 402.401, 402.505, 402.711 (3) or 411.508 (5) is subject to this
8 chapter. However, until the debtor obtains possession of the goods:

9 (1) The security interest is enforceable, even if ***s. 409.203 (2) (c) has not been
10 satisfied;

11 (2) Filing is not required to perfect the security interest;

12 (3) The rights of the secured party after default by the debtor are governed by
13 ch. 402 or 411; and

14 (4) The security interest has priority over a conflicting security interest created
15 by the debtor.

16 SUBCHAPTER II

17 EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF 18 SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

19 **409.201 General effectiveness of security agreement.** (1) GENERAL
20 EFFECTIVENESS. Except as otherwise provided in chs. 401 to 411, a security agreement
21 is effective according to its terms between the parties, against purchasers of the
22 collateral and against creditors.

23 (2) APPLICABLE CONSUMER LAWS AND OTHER LAW. A transaction subject to this
24 chapter is subject to chs. 138, 421 to 427 and 429 and s. 182.025 and to any applicable
25 rule of law which establishes a different rule for consumers and **** [insert reference

1 to (i) any other statute or rule that regulates the rates, charges, agreements and
2 practices for loans, credit sales or other extensions of credit and (ii) any
3 consumer-protection statute or rule].

****NOTE: This draft adds “chs. 138, 421 to 427 and 429 and s. 182.025 and
to”, which has been included in current s. 409.203 (5), Wis. stats. The
sources table gives new 9-201 as coming from 9-203 (4) (current s.
409.203 (5), Wis. stats.) Current s. 409.201, Wis. stats. includes “chs. 421
to 427 and 429” Which list of cross references should be included in this
subsection? Should any other statute be cross-referenced in this
subsection?

4 (3) OTHER APPLICABLE LAW CONTROLS. In case of conflict between this chapter
5 and a rule of law, statute or rule described in sub. (2), the rule of law, statute or rule
6 controls. Failure to comply with a statute or rule described in sub. (2) has only the
7 effect the statute or rule specifies.

8 (4) FURTHER DEFERENCE TO OTHER APPLICABLE LAW. This chapter does not:

9 (a) Validate any rate, charge, agreement or practice that violates a rule of law,
10 statute or rule described in sub. (2); or

11 (b) Extend the application of the rule of law, statute or rule to a transaction not
12 otherwise subject to it.

13 **409.202 Title to collateral immaterial.** Except as otherwise provided with
14 respect to consignments or sales of accounts, chattel paper, payment intangibles or
15 promissory notes, the provisions of this chapter with regard to rights and obligations
16 apply whether title to collateral is in the secured party or the debtor.

17 **409.203 Attachment and enforceability of security interest; proceeds;
18 supporting obligations; formal requisites. (1) ATTACHMENT.** A security interest
19 attaches to collateral when it becomes enforceable against the debtor with respect
20 to the collateral, unless an agreement expressly postpones the time of attachment.

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1 **(2) ENFORCEABILITY.** Except as otherwise provided in subs. (3) to (9), a security
2 interest is enforceable against the debtor and third parties with respect to the
3 collateral only if :

4 (a) Value has been given;

5 (b) The debtor has rights in the collateral or the power to transfer rights in the
6 collateral to a secured party; and

7 (c) One of the following conditions is met:

8 1. The debtor has authenticated a security agreement that provides a
9 description of the collateral and, if the security interest covers timber to be cut, a
10 description of the land concerned;

11 2. The collateral is not a certificated security and is in the possession of the
12 secured party under ***s. 409.313 pursuant to the debtor’s security agreement;

13 3. The collateral is a certificated security in registered form and the security
14 certificate has been delivered to the secured party under s. 408.301 pursuant to the
15 debtor’s security agreement; or

16 4. The collateral is deposit accounts, electronic chattel paper, investment
17 property or letter-of-credit rights, and the secured party has control under ***s.
18 409.104, 409.105, 409.106 or 409.107 pursuant to the debtor’s security agreement.

19 **(2m) SIGNATURE OF ONLY ONE SPOUSE.** A security agreement signed by one
20 spouse is signed by the debtor under this section if that spouse acting alone has the
21 right under s. 766.51 to manage and control the collateral, unless a marital property
22 agreement or court decree which is binding on the secured party under s. 766.55 (4m)
23 or 766.56 (2) (c) provides otherwise.

****NOTE: This subsection is current s.409.203 (2), Wis. stats.–a nonuniform amendment to the UCC. Should it be included? If so, should it be modified to fit with new ch. 409?

1 (3) OTHER UCC PROVISIONS. Subsection (2) is subject to s. 404.210 on the
2 security interest of a collecting bank, s. 405.118 on the security interest of a
3 letter-of-credit issuer or nominated person, ***s. 409.110 on a security interest
4 arising under ch. 402 or 411, and ***s. 409.206 on security interests in investment
5 property.

6 (4) WHEN PERSON BECOMES BOUND BY ANOTHER PERSON'S SECURITY AGREEMENT. A
7 person becomes bound as debtor by a security agreement entered into by another
8 person if, by operation of law other than this chapter or by contract:

9 (a) The security agreement becomes effective to create a security interest in the
10 person's property; or

11 (b) The person becomes generally obligated for the obligations of the other
12 person, including the obligation secured under the security agreement, and acquires
13 or succeeds to all or substantially all of the assets of the other person.

14 (5) EFFECT OF NEW DEBTOR BECOMING BOUND. If a new debtor becomes bound as
15 debtor by a security agreement entered into by another person:

16 (a) The agreement satisfies sub. (2) (c) with respect to existing or after-acquired
17 property of the new debtor to the extent the property is described in the agreement;
18 and

19 (b) Another agreement is not necessary to make a security interest in the
20 property enforceable.

21 (6) PROCEEDS AND SUPPORTING OBLIGATIONS. The attachment of a security
22 interest in collateral gives the secured party the rights to proceeds provided by ***s.
23 409.315 and is also attachment of a security interest in a supporting obligation for
24 the collateral.

1 (7) LIEN SECURING RIGHT TO PAYMENT. The attachment of a security interest in
2 a right to payment or performance secured by a security interest or other lien on
3 personal or real property is also attachment of a security interest in the security
4 interest, mortgage or other lien.

5 (8) SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT. The attachment of
6 a security interest in a securities account is also attachment of a security interest in
7 the security entitlements carried in the securities account.

8 (9) COMMODITY CONTRACTS CARRIED IN COMMODITY ACCOUNT. The attachment of
9 a security interest in a commodity account is also attachment of a security interest
10 in the commodity contracts carried in the commodity account.

11 **409.204 After-acquired property; future advances. (1) AFTER-ACQUIRED**
12 **COLLATERAL.** Except as otherwise provided in sub. (2), a security agreement may
13 create or provide for a security interest in after-acquired collateral.

14 (2) WHEN AFTER-ACQUIRED PROPERTY CLAUSE NOT EFFECTIVE. A security interest
15 does not attach under a term constituting an after-acquired property clause to:

16 (a) Consumer goods, other than an accession when given as additional security,
17 unless the debtor acquires rights in them within 10 days after the secured party gives
18 value; or

19 (b) A commercial tort claim.

20 (3) FUTURE ADVANCES AND OTHER VALUE. A security agreement may provide that
21 collateral secures, or that accounts, chattel paper, payment intangibles or
22 promissory notes are sold in connection with, future advances or other value,
23 whether or not the advances or value are given pursuant to commitment.

1 **409.205 Use or disposition of collateral permissible. (1)** WHEN SECURITY
2 INTEREST NOT INVALID OR FRAUDULENT. A security interest is not invalid or fraudulent
3 against creditors solely because:

4 (a) The debtor has the right or ability to:

5 1. Use, commingle or dispose of all or part of the collateral, including returned
6 or repossessed goods;

7 2. Collect, compromise, enforce or otherwise deal with collateral;

8 3. Accept the return of collateral or make repossessions; or

9 4. Use, commingle or dispose of proceeds; or

10 (b) The secured party fails to require the debtor to account for proceeds or
11 replace collateral.

12 **(2) REQUIREMENTS OF POSSESSION NOT RELAXED.** This section does not relax the
13 requirements of possession if attachment, perfection or enforcement of a security
14 interest depends upon possession of the collateral by the secured party.

15 **409.206 Security interest arising in purchase or delivery of financial**
16 **asset. (1)** SECURITY INTEREST WHEN PERSON BUYS THROUGH SECURITIES INTERMEDIARY.
17 A security interest in favor of a securities intermediary attaches to a person's
18 security entitlement if:

19 (a) The person buys a financial asset through the securities intermediary in a
20 transaction in which the person is obligated to pay the purchase price to the
21 securities intermediary at the time of the purchase; and

22 (b) The securities intermediary credits the financial asset to the buyer's
23 securities account before the buyer pays the securities intermediary.

1 (2) SECURITY INTEREST SECURES OBLIGATION TO PAY FOR FINANCIAL ASSET. The
2 security interest described in sub. (1) secures the person's obligation to pay for the
3 financial asset.

4 (3) SECURITY INTEREST IN PAYMENT AGAINST DELIVERY TRANSACTION. A security
5 interest in favor of a person that delivers a certificated security or other financial
6 asset represented by a writing attaches to the security or other financial asset if:

7 (a) The security or other financial asset:

8 1. In the ordinary course of business is transferred by delivery with any
9 necessary endorsement or assignment; and

10 2. Is delivered under an agreement between persons in the business of dealing
11 with such securities or financial assets; and

12 (b) The agreement calls for delivery against payment.

13 (4) SECURITY INTEREST SECURES OBLIGATION TO PAY FOR DELIVERY. The security
14 interest described in sub. (3) secures the obligation to make payment for the delivery.

15 **409.207 Rights and duties of secured party having possession or**
16 **control of collateral.** (1) DUTY OF CARE WHEN SECURED PARTY IN POSSESSION. Except
17 as otherwise provided in sub. (4), a secured party shall use reasonable care in the
18 custody and preservation of collateral in the secured party's possession. In the case
19 of chattel paper or an instrument, reasonable care includes taking necessary steps
20 to preserve rights against prior parties unless otherwise agreed.

21 (2) EXPENSES, RISKS, DUTIES, AND RIGHTS WHEN SECURED PARTY IN POSSESSION.
22 Except as otherwise provided in sub. (4), if a secured party has possession of
23 collateral:

1 (a) Reasonable expenses, including the cost of insurance and payment of taxes
2 or other charges, incurred in the custody, preservation, use or operation of the
3 collateral are chargeable to the debtor and are secured by the collateral;

4 (b) The risk of accidental loss or damage is on the debtor to the extent of a
5 deficiency in any effective insurance coverage;

6 (c) The secured party shall keep the collateral identifiable, but fungible
7 collateral may be commingled; and

8 (d) The secured party may use or operate the collateral:

9 1. For the purpose of preserving the collateral or its value;

10 2. As permitted by an order of a court having competent jurisdiction; or

11 3. Except in the case of consumer goods, in the manner and to the extent agreed
12 by the debtor.

13 **(3) DUTIES AND RIGHTS WHEN SECURED PARTY IN POSSESSION OR CONTROL.** Except
14 as otherwise provided in sub. (4), a secured party having possession of collateral or
15 control of collateral under ***s. 409.104, 409.105, 409.106 or 409.107:

16 (a) May hold as additional security any proceeds, except money or funds,
17 received from the collateral;

18 (b) Shall apply money or funds received from the collateral to reduce the
19 secured obligation, unless remitted to the debtor; and

20 (c) May create a security interest in the collateral.

21 **(4) BUYER OF CERTAIN RIGHTS TO PAYMENT.** If the secured party is a buyer of
22 accounts, chattel paper, payment intangibles or promissory notes or a consignor:

23 (a) Subsection (1) does not apply unless the secured party is entitled under an
24 agreement:

25 1. To charge back uncollected collateral; or

1 2. Otherwise to full or limited recourse against the debtor or a secondary obligor
2 based on the nonpayment or other default of an account debtor or other obligor on
3 the collateral; and

4 (b) Subsections (1) and (2) do not apply.

5 **409.208 Additional duties of secured party having control of collateral.**

6 **(1) APPLICABILITY OF SECTION.** This section applies to cases in which there is no
7 outstanding secured obligation and the secured party is not committed to make
8 advances, incur obligations or otherwise give value.

9 **(2) DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR.** Within 10
10 days after receiving an authenticated demand by the debtor:

11 (a) A secured party having control of a deposit account under ***s. 409.104 (1)
12 (b) shall send to the bank with which the deposit account is maintained an
13 authenticated statement that releases the bank from any further obligation to
14 comply with instructions originated by the secured party;

15 (b) A secured party having control of a deposit account under ***s. 409.104 (1)

16 (c) shall:

17 1. Pay the debtor the balance on deposit in the deposit account; or

18 2. Transfer the balance on deposit into a deposit account in the debtor's name;

19 (c) A secured party, other than a buyer, having control of electronic chattel paper
20 under ***s. 409.105 shall:

21 1. Communicate the authoritative copy of the electronic chattel paper to the
22 debtor or its designated custodian;

23 2. If the debtor designates a custodian that is the designated custodian with
24 which the authoritative copy of the electronic chattel paper is maintained for the
25 secured party, communicate to the custodian an authenticated record releasing the

1 designated custodian from any further obligation to comply with instructions
2 originated by the secured party and instructing the custodian to comply with
3 instructions originated by the debtor; and

4 3. Take appropriate action to enable the debtor or its designated custodian to
5 make copies of or revisions to the authoritative copy which add or change an
6 identified assignee of the authoritative copy without the consent of the secured party;

7 (d) A secured party having control of investment property under s. 408.106 (d)
8 (2) or 409.106 (2) shall send to the securities intermediary or commodity
9 intermediary with which the security entitlement or commodity contract is
10 maintained an authenticated record that releases the securities intermediary or
11 commodity intermediary from any further obligation to comply with entitlement
12 orders or directions originated by the secured party; and

13 (e) A secured party having control of a letter-of-credit right under ***s. 409.107
14 shall send to each person having an unfulfilled obligation to pay or deliver proceeds
15 of the letter of credit to the secured party an authenticated release from any further
16 obligation to pay or deliver proceeds of the letter of credit to the secured party.

17 **409.209 Duties of secured party if account debtor has been notified of**
18 **assignment. (1) APPLICABILITY OF SECTION.** Except as otherwise provided in sub. (3),
19 this section applies if:

20 (a) There is no outstanding secured obligation; and

21 (b) The secured party is not committed to make advances, incur obligations or
22 otherwise give value.

23 **(2) DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR.** Within 10
24 days after receiving an authenticated demand by the debtor, a secured party shall
25 send to an account debtor that has received notification of an assignment to the

1 secured party as assignee under ***s. 409.406 (1) an authenticated record that
2 releases the account debtor from any further obligation to the secured party.

3 (3) INAPPLICABILITY TO SALES. This section does not apply to an assignment
4 constituting the sale of an account, chattel paper or payment intangible.

5 **409.210 Request for accounting; request regarding list of collateral or**
6 **statement of account. (1) DEFINITIONS. In this section:**

7 (a) “Request” means a record of a type described in par. (b), (c) or (d).

8 (b) “Request for an accounting” means a record authenticated by a debtor
9 requesting that the recipient provide an accounting of the unpaid obligations secured
10 by collateral and reasonably identifying the transaction or relationship that is the
11 subject of the request.

12 (c) “Request regarding a list of collateral” means a record authenticated by a
13 debtor requesting that the recipient approve or correct a list of what the debtor
14 believes to be the collateral securing an obligation and reasonably identifying the
15 transaction or relationship that is the subject of the request.

16 (d) “Request regarding a statement of account” means a record authenticated
17 by a debtor requesting that the recipient approve or correct a statement indicating
18 what the debtor believes to be the aggregate amount of unpaid obligations secured
19 by collateral as of a specified date and reasonably identifying the transaction or
20 relationship that is the subject of the request.

21 (2) DUTY TO RESPOND TO REQUESTS. Subject to subs. (3) to (6), a secured party,
22 other than a buyer of accounts, chattel paper, payment intangibles or promissory
23 notes or a consignor, shall comply with a request within 14 days after receipt:

24 (a) In the case of a request for an accounting, by authenticating and sending to
25 the debtor an accounting; and

1 (b) In the case of a request regarding a list of collateral or a request regarding
2 a statement of account, by authenticating and sending to the debtor an approval or
3 correction.

4 (3) REQUEST REGARDING LIST OF COLLATERAL; STATEMENT CONCERNING TYPE OF
5 COLLATERAL. A secured party that claims a security interest in all of a particular type
6 of collateral owned by the debtor may comply with a request regarding a list of
7 collateral by sending to the debtor an authenticated record including a statement to
8 that effect within 14 days after receipt.

9 (4) REQUEST REGARDING LIST OF COLLATERAL; NO INTEREST CLAIMED. A person that
10 receives a request regarding a list of collateral, claims no interest in the collateral
11 when it receives the request, and claimed an interest in the collateral at an earlier
12 time shall comply with the request within 14 days after receipt by sending to the
13 debtor an authenticated record:

14 (a) Disclaiming any interest in the collateral; and

15 (b) If known to the recipient, providing the name and mailing address of any
16 assignee of or successor to the recipient's security interest in the collateral.

17 (5) REQUEST FOR ACCOUNTING OR REGARDING STATEMENT OF ACCOUNT; NO INTEREST
18 IN OBLIGATION CLAIMED. A person that receives a request for an accounting or a request
19 regarding a statement of account, claims no interest in the obligations when it
20 receives the request, and claimed an interest in the obligations at an earlier time
21 shall comply with the request within 14 days after receipt by sending to the debtor
22 an authenticated record:

23 (a) Disclaiming any interest in the obligations; and

24 (b) If known to the recipient, providing the name and mailing address of any
25 assignee of or successor to the recipient's interest in the obligations.

1 **409.302 Law governing perfection and priority of agricultural liens.**

2 While farm products are located in a jurisdiction, the local law of that jurisdiction
3 governs perfection, the effect of perfection or nonperfection, and the priority of an
4 agricultural lien on the farm products.

5 **409.303 Law governing perfection and priority of security interests in**
6 **goods covered by a certificate of title. (1) APPLICABILITY OF SECTION.** This section
7 applies to goods covered by a certificate of title, even if there is no other relationship
8 between the jurisdiction under whose certificate of title the goods are covered and the
9 goods or the debtor.

10 **(2) WHEN GOODS COVERED BY CERTIFICATE OF TITLE.** Goods become covered by a
11 certificate of title when a valid application for the certificate of title and the
12 applicable fee are delivered to the appropriate authority. Goods cease to be covered
13 by a certificate of title at the earlier of the time the certificate of title ceases to be
14 effective under the law of the issuing jurisdiction or the time the goods become
15 covered subsequently by a certificate of title issued by another jurisdiction.

16 **(3) APPLICABLE LAW.** The local law of the jurisdiction under whose certificate of
17 title the goods are covered governs perfection, the effect of perfection or
18 nonperfection, and the priority of a security interest in goods covered by a certificate
19 of title from the time the goods become covered by the certificate of title until the
20 goods cease to be covered by the certificate of title.

21 **409.304 Law governing perfection and priority of security interests in**
22 **deposit accounts. (1) LAW OF BANK'S JURISDICTION GOVERNS.** The local law of a bank's
23 jurisdiction governs perfection, the effect of perfection or nonperfection, and the
24 priority of a security interest in a deposit account maintained with that bank.

1 (2) BANK'S JURISDICTION. The following rules determine a bank's jurisdiction for
2 purposes of this subchapter:

3 (a) If an agreement between the bank and the debtor governing the deposit
4 account expressly provides that a particular jurisdiction is the bank's jurisdiction for
5 purposes of this subchapter, this chapter, or chs. 401 to 411, that jurisdiction is the
6 bank's jurisdiction.

7 (b) If par. (a) does not apply and an agreement between the bank and its
8 customer governing the deposit account expressly provides that the agreement is
9 governed by the law of a particular jurisdiction, that jurisdiction is the bank's
10 jurisdiction.

11 (c) If neither par. (a) nor par. (b) applies and an agreement between the bank
12 and its customer governing the deposit account expressly provides that the deposit
13 account is maintained at an office in a particular jurisdiction, that jurisdiction is the
14 bank's jurisdiction.

15 (d) If none of pars. (a) to (c) applies, the bank's jurisdiction is the jurisdiction
16 in which the office identified in an account statement as the office serving the
17 customer's account is located.

18 (e) If none of pars. (a) to (d) applies, the bank's jurisdiction is the jurisdiction
19 in which the chief executive office of the bank is located.

20 **409.305 Law governing perfection and priority of security interests in**
21 **investment property. (1) GOVERNING LAW: GENERAL RULES.** Except as otherwise
22 provided in sub. (3), the following rules apply:

23 (a) While a security certificate is located in a jurisdiction, the local law of that
24 jurisdiction governs perfection, the effect of perfection or nonperfection, and the
25 priority of a security interest in the certificated security represented thereby.

1 (b) The local law of the issuer's jurisdiction as specified in s. 408.110 (d) governs
2 perfection, the effect of perfection or nonperfection, and the priority of a security
3 interest in an uncertificated security.

4 (c) The local law of the securities intermediary's jurisdiction as specified in s.
5 408.110 (e) governs perfection, the effect of perfection or nonperfection, and the
6 priority of a security interest in a security entitlement or securities account.

7 (d) The local law of the commodity intermediary's jurisdiction governs
8 perfection, the effect of perfection or nonperfection, and the priority of a security
9 interest in a commodity contract or commodity account.

10 **(2) COMMODITY INTERMEDIARY'S JURISDICTION.** The following rules determine a
11 commodity intermediary's jurisdiction for purposes of this subchapter:

12 (a) If an agreement between the commodity intermediary and commodity
13 customer governing the commodity account expressly provides that a particular
14 jurisdiction is the commodity intermediary's jurisdiction for purposes of this
15 subchapter, this chapter, or chs. 401 to 411, that jurisdiction is the commodity
16 intermediary's jurisdiction.

17 (b) If par. (a) does not apply and an agreement between the commodity
18 intermediary and commodity customer governing the commodity account expressly
19 provides that the agreement is governed by the law of a particular jurisdiction, that
20 jurisdiction is the commodity intermediary's jurisdiction.

21 (c) If neither par. (a) nor par. (b) applies and an agreement between the
22 commodity intermediary and commodity customer governing the commodity
23 account expressly provides that the commodity account is maintained at an office in
24 a particular jurisdiction, that jurisdiction is the commodity intermediary's
25 jurisdiction.

1 (d) If none of pars. (a) to (c) applies, the commodity intermediary's jurisdiction
2 is the jurisdiction in which the office identified in an account statement as the office
3 serving the commodity customer's account is located.

4 (e) If none of pars. (a) to (d) applies, the commodity intermediary's jurisdiction
5 is the jurisdiction in which the chief executive office of the commodity intermediary
6 is located.

7 (3) WHEN PERFECTION GOVERNED BY LAW OF JURISDICTION WHERE DEBTOR LOCATED.
8 The local law of the jurisdiction in which the debtor is located governs:

9 (a) Perfection of a security interest in investment property by filing;

10 (b) Automatic perfection of a security interest in investment property created
11 by a broker or securities intermediary; and

12 (c) Automatic perfection of a security interest in a commodity contract or
13 commodity account created by a commodity intermediary.

14 **409.306 Law governing perfection and priority of security interests in**
15 **letter-of-credit rights. (1) GOVERNING LAW: ISSUERS OR NOMINATED PERSON'S**
16 **JURISDICTION.** Subject to sub. (3), the local law of the issuer's jurisdiction or a
17 nominated person's jurisdiction governs perfection, the effect of perfection or
18 nonperfection, and the priority of a security interest in a letter-of-credit right if the
19 issuer's jurisdiction or nominated person's jurisdiction is a state.

20 (2) ISSUER'S OR NOMINATED PERSON'S JURISDICTION. For purposes of this
21 subchapter, an issuer's jurisdiction or nominated person's jurisdiction is the
22 jurisdiction whose law governs the liability of the issuer or nominated person with
23 respect to the letter-of-credit right as provided in s. 405.116.

24 (3) WHEN SECTION NOT APPLICABLE. This section does not apply to a security
25 interest that is perfected only under ***s. 409.308 (4).

1 **409.307 Location of debtor. (1) PLACE OF BUSINESS.** In this section, “place of
2 business” means a place where a debtor conducts its affairs.

3 **(2) DEBTOR'S LOCATION: GENERAL RULES.** Except as otherwise provided in this
4 section, the following rules determine a debtor's location:

5 (a) An debtor who is an individual is located at the individual's principal
6 residence.

7 (b) A debtor that is an organization and has only one place of business is located
8 at its place of business.

9 (c) A debtor that is an organization and has more than one place of business
10 is located at its chief executive office.

11 **(3) LIMITATION OF APPLICABILITY OF SUB. (2).** Subsection (2) applies only if a
12 debtor's residence, place of business or chief executive office, as applicable, is located
13 in a jurisdiction whose law generally requires information concerning the existence
14 of a nonpossessory security interest to be made generally available in a filing,
15 recording or registration system as a condition or result of the security interest's
16 obtaining priority over the rights of a lien creditor with respect to the collateral. If
17 sub. (2) does not apply, the debtor is located in the District of Columbia.

18 **(4) CONTINUATION OF LOCATION: CESSATION OF EXISTENCE.** A person that ceases
19 to exist, have a residence or have a place of business continues to be located in the
20 jurisdiction specified by subs. (2) and (3).

21 **(5) LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER STATE LAW.** A
22 registcred organization that is organized under the law of a state is located in that
23 state.

24 **(6) LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER FEDERAL LAW; BANK**
25 **BRANCHES AND AGENCIES.** Except as otherwise provided in sub. (9), a registered

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1 organization that is organized under the law of the United States and a branch or
2 agency of a bank that is not organized under the law of the United States or a state
3 are located:

4 (a) In the state that the law of the United States designates, if the law
5 designates a state of location;

6 (b) In the state that the registered organization, branch or agency designates,
7 if the law of the United States authorizes the registered organization, branch or
8 agency to designate its state of location; or

9 (c) In the District of Columbia, if neither par. (a) nor par. (b) applies.

10 **(7) CONTINUATION OF LOCATION: CHANGE IN STATUS OF REGISTERED ORGANIZATION.**

11 A registered organization continues to be located in the jurisdiction specified by sub.
12 (5) or (6) notwithstanding:

13 (a) The suspension, revocation, forfeiture or lapse of the registered
14 organization's status as such in its jurisdiction of organization; or

15 (b) The dissolution, winding up or cancellation of the existence of the registered
16 organization.

17 **(8) LOCATION OF UNITED STATES.** The United States is located in the District of
18 Columbia.

19 **(9) LOCATION OF FOREIGN BANK BRANCH OR AGENCY IF LICENSED IN ONLY ONE STATE.**

20 A branch or agency of a bank that is not organized under the law of the United States
21 or a state is located in the state in which the branch or agency is licensed, if all
22 branches and agencies of the bank are licensed in only one state.

23 **(10) LOCATION OF FOREIGN AIR CARRIER.** A foreign air carrier under the Federal
24 Aviation Act of 1958, as amended, is located at the designated office of the agent upon
25 which service of process may be made on behalf of the carrier.

1 (11) SECTION APPLIES ONLY TO THIS SUBCHAPTER. This section applies only for
2 purposes of this subchapter.

3 **409.308 When security interest or agricultural lien is perfected;**
4 **continuity of perfection.** (1) PERFECTION OF SECURITY INTEREST. Except as
5 otherwise provided in this section and ***s. 409.309, a security interest is perfected
6 if it has attached and all of the applicable requirements for perfection in ss. 409.310
7 to 409.316 have been satisfied. A security interest is perfected when it attaches if
8 the applicable requirements are satisfied before the security interest attaches.

9 (2) PERFECTION OF AGRICULTURAL LIEN. An agricultural lien is perfected if it has
10 become effective and all of the applicable requirements for perfection in ***s. 409.310
11 have been satisfied. An agricultural lien is perfected when it becomes effective if the
12 applicable requirements are satisfied before the agricultural lien becomes effective.

13 (3) CONTINUOUS PERFECTION; PERFECTION BY DIFFERENT METHODS. A security
14 interest or agricultural lien is perfected continuously if it is originally perfected by
15 one method under this chapter and is later perfected by another method under this
16 chapter, without an intermediate period when it was unperfected.

17 (4) SUPPORTING OBLIGATION. Perfection of a security interest in collateral also
18 perfects a security interest in a supporting obligation for the collateral.

19 (5) LIEN SECURING RIGHT TO PAYMENT. Perfection of a security interest in a right
20 to payment or performance also perfects a security interest in a security interest,
21 mortgage, or other lien on personal or real property securing the right.

22 (6) SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT. Perfection of a
23 security interest in a securities account also perfects a security interest in the
24 security entitlements carried in the securities account.

1 (7) COMMODITY CONTRACT CARRIED IN COMMODITY ACCOUNT. Perfection of a
2 security interest in a commodity account also perfects a security interest in the
3 commodity contracts carried in the commodity account.

4 Legislative Note: Any statute conflicting with sub. (5) must be made expressly
5 subject to that subsection.

6 **409.309 Security interest perfected upon attachment.** The following
7 security interests are perfected when they attach:

8 (1) A purchase–money security interest in consumer goods, except as otherwise
9 provided in ***s. 409.311 (2) with respect to consumer goods that are subject to a
10 statute or treaty described in ***s. 409.311 (1);

 ***NOTE: This subsection carries over current s. 409.302 (1)(d), Wis. stats., a
nonuniform provision. It reads: “(d) A purchase money security interest in consumer
goods; but fixture filing is required for priority over conflicting interests in fixtures to the
extent provided in s. 409.313;”. Should new s. 409.309 (1) be modified to include any of
the current Wisconsin law?

11 (2) An assignment of accounts or payment intangibles which does not by itself
12 or in conjunction with other assignments to the same assignee transfer a significant
13 part of the assignor’s outstanding accounts or payment intangibles;

14 (3) A sale of a payment intangible;

15 (4) A sale of a promissory note;

16 (5) A security interest created by the assignment of a health–care–insurance
17 receivable to the provider of the health–care goods or services;

18 (6) A security interest arising under s. 402.401, 402.505, 402.711 (3) or 411.508
19 (5), until the debtor obtains possession of the collateral;

20 (7) A security interest of a collecting bank arising under s. 404.210;

21 (8) A security interest of an issuer or nominated person arising under s.
22 405.118;

1 (9) A security interest arising in the delivery of a financial asset under ***s.
2 409.206 (3);

3 (10) A security interest in investment property created by a broker or securities
4 intermediary;

 ***NOTE: This subsection carries over current s. 409.302 (1)(h), Wis. stats., a
nonuniform provision. It reads: “(h) A security interest in investment property which is
perfected without filing under s. 409.115 or 409.116; or”. Should new s. 409.309 (10) be
modified to include any of the current Wisconsin law?

5 (11) A security interest in a commodity contract or a commodity account created
6 by a commodity intermediary;

7 (12) An assignment for the benefit of all creditors of the transferor and
8 subsequent transfers by the assignee thereunder;

9 (13) A security interest created by an assignment of a beneficial interest in a
10 decedent’s estate; and

11 (14) A security interest created by a master lease entered into by the state
12 under s. 16.76 (4).

 ***NOTE: Subsection (14) is current s. 409.302 (1) (i), Wis. stats. Should it be
included?

13 **409.310 When filing required to perfect security interest or**
14 **agricultural lien; security interests and agricultural liens to which filing**
15 **provisions do not apply. (1) GENERAL RULE: PERFECTION BY FILING.** Except as
16 otherwise provided in sub. (2) and ***s. 409.312 (2), a financing statement must be
17 filed to perfect all security interests and agricultural liens.

18 (2) EXCEPTIONS. FILING NOT NECESSARY. The filing of a financing statement is
19 not necessary to perfect a security interest:

20 (a) That is perfected under ***s. 409.308 (4), (5), (6) or (7);

21 (b) That is perfected under ***s. 409.309 when it attaches;

1 (c) In property subject to a statute, regulation or treaty described in ***s.
2 409.311 (1);

3 (d) In goods in possession of a bailee which is perfected under ***s. 409.312 (4)
4 (a) or (b);

5 (e) In certificated securities, documents, goods or instruments which is
6 perfected without filing or possession under ***s. 409.312 (5), (6) or (7);

7 (f) In collateral in the secured party's possession under ***s. 409.313;

8 (g) In a certificated security which is perfected by delivery of the security
9 certificate to the secured party under ***s. 409.313;

10 (h) In deposit accounts, electronic chattel paper, investment property or
11 letter-of-credit rights which is perfected by control under ***s. 409.314;

12 (i) In proceeds which is perfected under ***s. 409.315; or

13 (j) That is perfected under ***s. 409.316.

14 (3) ASSIGNMENT OF PERFECTED SECURITY INTEREST. If a secured party assigns a
15 perfected security interest or agricultural lien, a filing under this chapter is not
16 required to continue the perfected status of the security interest against creditors of
17 and transferees from the original debtor.

18 **409.311 Perfection of security interests in property subject to certain**
19 **statutes, regulations and treaties. (1) SECURITY INTEREST SUBJECT TO OTHER LAW.**
20 Except as otherwise provided in sub. (4), the filing of a financing statement is not
21 necessary or effective to perfect a security interest in property subject to:

***NOTE: Current s. 409.302 (3) (intro.), Wis. stats., substitutes "provisions of this chapter are" for "of a financing statement otherwise required by this [article] is" in the previous version of 9-302 (3) (intro.). Does this subsection need to be amended in a similiar fashion?

1 (a) A statute, regulation or treaty of the United States whose requirements for
2 a security interest's obtaining priority over the rights of a lien creditor with respect
3 to the property preempt ***s. 409.310 (1);

4 (b) The following vehicle title statutes: ss. 342.19, 342.20, 342.284 and 342.285
5 [list any certificate-of-title statute covering automobiles, trailers, mobile homes,
6 boats, farm tractors or the like, which provides for a security interest to be indicated
7 on the certificate as a condition or result of perfection, and any non-Uniform
8 Commercial Code central filing statute]; or

****NOTE: Current s. 409.302 (3) (b), Wis. stats., inserts "The following
vehicle title statutes: ss. 342.19, 342.20, 342.284 and 342.285". Should
this list be included? Should any others be included?

9 (bm) The following boat title statutes: ss. 30.57, 30.572 and 30.573; or

****NOTE: Current s. 409.302 (3) (bm), Wis. stats., inserts this
nonuniform language regarding boats and also includes "; but during any
period in which collateral is inventory held for sale by a person who is in
the business of selling goods of that kind, the filing provisions of ss.
409.401 to 409.408 apply to a security interest in that collateral created
by that person as debtor". Should this list be included? Should any others
be included? Should the additional language be reinserted?

10 (c) A certificate-of-title statute of another jurisdiction which provides for a
11 security interest to be indicated on the certificate as a condition or result of the
12 security interest's obtaining priority over the rights of a lien creditor with respect to
13 the property.

14 (d) Sections 182.025 and 190.11 and other statutes providing for central filing.

****NOTE: This is current s. 409.302 (3) (d), Wis. stats., a nonuniform provision.
Should it be included in this draft?

15 (2) COMPLIANCE WITH OTHER LAW. Compliance with the requirements of a
16 statute, regulation or treaty described in sub. (1) for obtaining priority over the rights
17 of a lien creditor is equivalent to the filing of a financing statement under this
18 chapter. Except as otherwise provided in sub. (4) and ss. 409.313 and 409.316 (4) and

1 (5) for goods covered by a certificate of title, a security interest in property subject
2 to a statute, regulation or treaty described in sub. (4) may be perfected only by
3 compliance with those requirements, and a security interest so perfected remains
4 perfected notwithstanding a change in the use or transfer of possession of the
5 collateral.

6 (3) DURATION AND RENEWAL OF PERFECTION. Except as otherwise provided in sub.
7 (4) and ***s. 409.316 (4) and (5), duration and renewal of perfection of a security
8 interest perfected by compliance with the requirements prescribed by a statute,
9 regulation or treaty described in sub. (1) are governed by the statute, regulation or
10 treaty. In other respects, the security interest is subject to this chapter.

11 (4) INAPPLICABILITY TO CERTAIN INVENTORY. During any period in which collateral
12 is inventory held for sale or lease by a person or leased by that person as lessor and
13 that person is in the business of selling or leasing goods of that kind, this section does
14 not apply to a security interest in that collateral created by that person as debtor.

15 Legislative Note: This chapter contemplates that perfection of a security
16 interest in goods covered by a certificate of title occurs upon receipt by appropriate
17 state officials of a properly tendered application for a certificate of title on which the
18 security interest is to be indicated, without a relation back to an earlier time. States
19 whose certificate-of-title statutes provide for perfection at a different time or
20 contain a relation-back provision should amend the statutes accordingly.

21 **409.312 Perfection of security interests in chattel paper, deposit**
22 **accounts, documents, goods covered by documents, instruments,**
23 **investment property, letter-of-credit rights and money; perfection by**
24 **permissive filing; temporary perfection without filing or transfer of**
25 **possession. (1) PERFECTION BY FILING PERMITTED.** A security interest in chattel

1 paper, negotiable documents, instruments, or investment property may be perfected
2 by filing.

3 (2) CONTROL OR POSSESSION OF CERTAIN COLLATERAL. Except as otherwise
4 provided in ***s. 409.315 (3) and (4) for proceeds:

5 (a) A security interest in a deposit account may be perfected only by control
6 under ***s. 409.314;

7 (b) And except as otherwise provided in ***s. 409.308 (4), a security interest in
8 a letter-of-credit right may be perfected only by control under ***s. 409.314; and

9 (c) A security interest in money may be perfected only by the secured party's
10 taking possession under ***s. 409.313.

11 (3) GOODS COVERED BY NEGOTIABLE DOCUMENT. While goods are in the possession
12 of a bailee that has issued a negotiable document covering the goods:

13 (a) A security interest in the goods may be perfected by perfecting a security
14 interest in the document; and

15 (b) A security interest perfected in the document has priority over any security
16 interest that becomes perfected in the goods by another method during that time.

17 (4) GOODS COVERED BY NONNEGOTIABLE DOCUMENT. While goods are in the
18 possession of a bailee that has issued a nonnegotiable document covering the goods,
19 a security interest in the goods may be perfected by:

20 (a) Issuance of a document in the name of the secured party;

21 (b) The bailee's receipt of notification of the secured party's interest; or

22 (c) Filing as to the goods.

23 (5) TEMPORARY PERFECTION: NEW VALUE. A security interest in certificated
24 securities, negotiable documents or instruments is perfected without filing or the

1 taking of possession for a period of 20 days from the time it attaches to the extent that
2 it arises for new value given under an authenticated security agreement.

3 (6) TEMPORARY PERFECTION: GOODS OR DOCUMENTS MADE AVAILABLE TO DEBTOR. A
4 perfected security interest in a negotiable document or goods in possession of a
5 bailee, other than one that has issued a negotiable document for the goods, remains
6 perfected for 20 days without filing if the secured party makes available to the debtor
7 the goods or documents representing the goods for the purpose of:

8 (a) Ultimate sale or exchange; or

9 (b) Loading, unloading, storing, shipping, transshipping, manufacturing,
10 processing or otherwise dealing with them in a manner preliminary to their sale or
11 exchange.

12 (7) TEMPORARY PERFECTION: DELIVERY OF SECURITY CERTIFICATE OR INSTRUMENT TO
13 DEBTOR. A perfected security interest in a certificated security or instrument remains
14 perfected for 20 days without filing if the secured party delivers the security
15 certificate or instrument to the debtor for the purpose of:

16 (a) Ultimate sale or exchange; or

17 (b) Presentation, collection, enforcement, renewal or registration of transfer.

18 (8) EXPIRATION OF TEMPORARY PERFECTION. After the 20-day period specified in
19 sub. (5), (6) or (7) expires, perfection depends upon compliance with this chapter.

20 **409.313 When possession by or delivery to secured party perfects**
21 **security interest without filing. (1) PERFECTION BY POSSESSION OR DELIVERY.**
22 Except as otherwise provided in sub. (2), a secured party may perfect a security
23 interest in negotiable documents, goods, instruments, money or tangible chattel
24 paper by taking possession of the collateral. A secured party may perfect a security

1 interest in certificated securities by taking delivery of the certificated securities
2 under s. 408.301.

3 (2) GOODS COVERED BY CERTIFICATE OF TITLE. With respect to goods covered by
4 a certificate of title issued by this state, a secured party may perfect a security
5 interest in the goods by taking possession of the goods only in the circumstances
6 described in ***s. 409.316 (4).

7 (3) COLLATERAL IN POSSESSION OF PERSON OTHER THAN DEBTOR. With respect to
8 collateral other than certificated securities and goods covered by a document, a
9 secured party takes possession of collateral in the possession of a person other than
10 the debtor, the secured party, or a lessee of the collateral from the debtor in the
11 ordinary course of the debtor's business, when:

12 (a) The person in possession authenticates a record acknowledging that it holds
13 possession of the collateral for the secured party's benefit; or

14 (b) The person takes possession of the collateral after having authenticated a
15 record acknowledging that it will hold possession of collateral for the secured party's
16 benefit.

17 (4) TIME OF PERFECTION BY POSSESSION; CONTINUATION OF PERFECTION. If
18 perfection of a security interest depends upon possession of the collateral by a
19 secured party, perfection occurs no earlier than the time the secured party takes
20 possession and continues only while the secured party retains possession.

21 (5) TIME OF PERFECTION BY DELIVERY; CONTINUATION OF PERFECTION. A security
22 interest in a certificated security in registered form is perfected by delivery when
23 delivery of the certificated security occurs under s. 408.301 and remains perfected
24 by delivery until the debtor obtains possession of the security certificate.

1 (6) ACKNOWLEDGMENT NOT REQUIRED. A person in possession of collateral is not
2 required to acknowledge that it holds possession for a secured party's benefit.

3 (7) EFFECTIVENESS OF ACKNOWLEDGMENT; NO DUTIES OR CONFIRMATION. If a person
4 acknowledges that it holds possession for the secured party's benefit:

5 (a) The acknowledgment is effective under sub. (3) or s. 408.301 (a), even if the
6 acknowledgment violates the rights of a debtor; and

7 (b) Unless the person otherwise agrees or law other than this chapter otherwise
8 provides, the person does not owe any duty to the secured party and is not required
9 to confirm the acknowledgment to another person.

10 (8) SECURED PARTY'S DELIVERY TO PERSON OTHER THAN DEBTOR. A secured party
11 having possession of collateral does not relinquish possession by delivering the
12 collateral to a person other than the debtor or a lessee of the collateral from the debtor
13 in the ordinary course of the debtor's business if the person was instructed before the
14 delivery or is instructed contemporaneously with the delivery:

15 (a) To hold possession of the collateral for the secured party's benefit; or

16 (b) To redeliver the collateral to the secured party.

17 (9) EFFECT OF DELIVERY UNDER SUB. (8); NO DUTIES OR CONFIRMATION. A secured
18 party does not relinquish possession, even if a delivery under sub. (8) violates the
19 rights of a debtor. A person to which collateral is delivered under sub. (8) does not
20 owe any duty to the secured party and is not required to confirm the delivery to
21 another person unless the person otherwise agrees or law other than this chapter
22 otherwise provides.

23 **409.314 Perfection by control.** (1) PERFECTION BY CONTROL. A security
24 interest in investment property, deposit accounts, letter-of-credit rights or

1 electronic chattel paper may be perfected by control of the collateral under ***s.
2 409.104, 409.105, 409.106 or 409.107.

3 (2) SPECIFIED COLLATERAL: TIME OF PERFECTION BY CONTROL; CONTINUATION OF
4 PERFECTION. A security interest in deposit accounts, electronic chattel paper or
5 letter-of-credit rights is perfected by control under ***s. 409.104, 409.105 or 409.107
6 when the secured party obtains control and remains perfected by control only while
7 the secured party retains control.

8 (3) INVESTMENT PROPERTY: TIME OF PERFECTION BY CONTROL; CONTINUATION OF
9 PERFECTION. A security interest in investment property is perfected by control under
10 ***s. 409.106 from the time the secured party obtains control and remains perfected
11 by control until:

12 (a) The secured party does not have control; and

13 (b) One of the following occurs:

14 1. If the collateral is a certificated security, the debtor has or acquires
15 possession of the security certificate;

16 2. If the collateral is an uncertificated security, the issuer has registered or
17 registers the debtor as the registered owner; or

18 3. If the collateral is a security entitlement, the debtor is or becomes the
19 entitlement holder.

20 **409.315 Secured party's rights on disposition of collateral and in**
21 **proceeds. (1) DISPOSITION OF COLLATERAL: CONTINUATION OF SECURITY INTEREST OR**
22 **AGRICULTURAL LIEN; PROCEEDS. Except as otherwise provided in this chapter and in s.**
23 **402.403 (2):**

24 (a) A security interest or agricultural lien continues in collateral
25 notwithstanding sale, lease, license, exchange or other disposition thereof unless the

1 secured party authorized the disposition free of the security interest or agricultural
2 lien; and

3 (b) A security interest attaches to any identifiable proceeds of collateral.

4 (2) WHEN COMMINGLED PROCEEDS IDENTIFIABLE. Proceeds that are commingled
5 with other property are identifiable proceeds:

6 (a) If the proceeds are goods, to the extent provided by ***s. 409.336; and

7 (b) If the proceeds are not goods, to the extent that the secured party identifies
8 the proceeds by a method of tracing, including application of equitable principles,
9 that is permitted under law other than this chapter with respect to commingled
10 property of the type involved.

11 (3) PERFECTION OF SECURITY INTEREST IN PROCEEDS. A security interest in
12 proceeds is a perfected security interest if the security interest in the original
13 collateral was perfected.

****NOTE: Current s. 409.306 (3) (a), Wis. stats., includes a nonuniform provision
“Subject to sub. (3m)” at the beginning. See the note following subsection that this
provision is referencing.

14 (4) CONTINUATION OF PERFECTION. A perfected security interest in proceeds
15 becomes unperfected on the 21st day after the security interest attaches to the
16 proceeds unless:

17 (a) The following conditions are satisfied:

18 1. A filed financing statement covers the original collateral;

19 2. The proceeds are collateral in which a security interest may be perfected by
20 filing in the office in which the financing statement has been filed; and

21 3. The proceeds are not acquired with cash proceeds;

22 (b) The proceeds are identifiable cash proceeds; or

1 (c) The security interest in the proceeds is perfected other than under sub. (3)
2 when the security interest attaches to the proceeds or within 20 days thereafter.

***NOTE: Should current s. 409.306 (3m), Wis. stats., a nonuniform provision, be included in this section or elsewhere in this draft? (The conversion table lists 9-306 as the source of 9-315.) It reads: "(3m) If proceeds are acquired with cash proceeds from the sale of the original collateral or the sale of noncash proceeds of the original collateral and are of a type of property not described in the original financing statement, a buyer for value of such noncash proceeds who buys without knowledge of the fact that the property was purchased with cash proceeds of the original collateral and before filing of the financing statement describing such noncash proceeds, takes free of the original security interest in such proceeds."

3 (5) WHEN PERFECTED SECURITY INTEREST IN PROCEEDS BECOMES UNPERFECTED. If
4 a filed financing statement covers the original collateral, a security interest in
5 proceeds which remains perfected under sub. (4) (a) becomes unperfected at the later
6 of:

7 (a) When the effectiveness of the filed financing statement lapses under ***s.
8 409.515 or is terminated under ***s. 409.513; or

9 (b) The 21st day after the security interest attaches to the proceeds.

10 **409.316 Continued perfection of security interest following change in**
11 **governing law. (1) GENERAL RULE: EFFECT ON PERFECTION OF CHANGE IN GOVERNING**
12 **LAW.** A security interest perfected pursuant to the law of the jurisdiction designated
13 in ***s. 409.301 (1) or 409.305 (3) remains perfected until the earliest of:

14 (a) The time perfection would have ceased under the law of that jurisdiction;

15 (b) The expiration of 4 months after a change of the debtor's location to another
16 jurisdiction; or

17 (c) The expiration of one year after a transfer of collateral to a person that
18 thereby becomes a debtor and is located in another jurisdiction.

19 (2) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW
20 JURISDICTION. If a security interest described in sub. (1) becomes perfected under the

1 law of the other jurisdiction before the earliest time or event described in that
2 subsection, it remains perfected thereafter. If the security interest does not become
3 perfected under the law of the other jurisdiction before the earliest time or event, it
4 becomes unperfected and is deemed never to have been perfected as against a
5 purchaser of the collateral for value.

6 **(3) POSSESSORY SECURITY INTEREST IN COLLATERAL MOVED TO NEW JURISDICTION.**

7 A possessory security interest in collateral, other than goods covered by a certificate
8 of title and as-extracted collateral consisting of goods, remains continuously
9 perfected if:

10 (a) The collateral is located in one jurisdiction and subject to a security interest
11 perfected under the law of that jurisdiction;

12 (b) Thereafter the collateral is brought into another jurisdiction; and

13 (c) Upon entry into the other jurisdiction, the security interest is perfected
14 under the law of the other jurisdiction.

15 **(4) GOODS COVERED BY CERTIFICATE OF TITLE FROM THIS STATE.** Except as otherwise
16 provided in sub. (5), a security interest in goods covered by a certificate of title which
17 is perfected by any method under the law of another jurisdiction when the goods
18 become covered by a certificate of title from this state remains perfected until the
19 security interest would have become unperfected under the law of the other
20 jurisdiction had the goods not become so covered.

21 **(5) WHEN SUB. (4) SECURITY INTERESTS BECOMES UNPERFECTED AGAINST PURCHASERS.**

22 A security interest described in sub. (4) becomes unperfected as against a purchaser
23 of the goods for value and is deemed never to have been perfected as against a
24 purchaser of the goods for value if the applicable requirements for perfection under

25 ***s. 409.311 (2) or 409.313 are not satisfied before the earlier of:

1 (a) The time the security interest would have become unperfected under the law
2 of the other jurisdiction had the goods not become covered by a certificate of title from
3 this state; or

4 (b) The expiration of 4 months after the goods had become so covered.

5 (6) CHANGE IN JURISDICTION OF BANK, ISSUER, NOMINATED PERSON, SECURITIES
6 INTERMEDIARY, OR COMMODITY INTERMEDIARY. A security interest in deposit accounts,
7 letter-of-credit rights or investment property which is perfected under the law of the
8 bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the
9 securities intermediary's jurisdiction or the commodity intermediary's jurisdiction,
10 as applicable, remains perfected until the earlier of:

11 (a) The time the security interest would have become unperfected under the law
12 of that jurisdiction; or

13 (b) The expiration of 4 months after a change of the applicable jurisdiction to
14 another jurisdiction.

15 (7) SUB. (6) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW
16 JURISDICTION. If a security interest described in sub. (6) becomes perfected under the
17 law of the other jurisdiction before the earlier of the time or the end of the period
18 described in that subsection, it remains perfected thereafter. If the security interest
19 does not become perfected under the law of the other jurisdiction before the earlier
20 of that time or the end of that period, it becomes unperfected and is deemed never
21 to have been perfected as against a purchaser of the collateral for value.

22 **409.317 Interests that take priority over or take free of unperfected**
23 **security interest or agricultural lien. (1) CONFLICTING SECURITY INTERESTS AND**
24 **RIGHTS OF LIEN CREDITORS.** An unperfected security interest or agricultural lien is
25 subordinate to the rights of:

1 (a) A person entitled to priority under ***s. 409.322; and

2 (b) Except as otherwise provided in sub. (5), a person that becomes a lien
3 creditor before the earlier of the time the security interest or agricultural lien is
4 perfected or a financing statement covering the collateral is filed.

5 (2) BUYERS THAT RECEIVE DELIVERY. Except as otherwise provided in sub. (5), a
6 buyer, other than a secured party, of tangible chattel paper, documents, goods,
7 instruments or a security certificate takes free of a security interest or agricultural
8 lien if the buyer gives value and receives delivery of the collateral without knowledge
9 of the security interest or agricultural lien and before it is perfected.

****NOTE: Should current s. 409.306 (3m), Wis. stats., a nonuniform provision, be included here or elsewhere in this draft? (The conversion table lists 9-306 as the source of 9-315, but this section and subsection (3m) both use "takes free".) Subsection (3m) reads: "(3m) If proceeds are acquired with cash proceeds from the sale of the original collateral or the sale of noncash proceeds of the original collateral and are of a type of property not described in the original financing statement, a buyer for value of such noncash proceeds who buys without knowledge of the fact that the property was purchased with cash proceeds of the original collateral and before filing of the financing statement describing such noncash proceeds, takes free of the original security interest in such proceeds."

10 (3) LESSEES THAT RECEIVE DELIVERY. Except as otherwise provided in sub. (5),
11 a lessee of goods takes free of a security interest or agricultural lien if the lessee gives
12 value and receives delivery of the collateral without knowledge of the security
13 interest or agricultural lien and before it is perfected.

14 (4) LICENSEES AND BUYERS OF CERTAIN COLLATERAL. A licensee of a general
15 intangible or a buyer, other than a secured party, of accounts, electronic chattel
16 paper, general intangibles or investment property other than a certificated security
17 takes free of a security interest if the licensee or buyer gives value without knowledge
18 of the security interest and before it is perfected.

19 (5) PURCHASE-MONEY SECURITY INTEREST. Except as otherwise provided in ss.
20 409.320 and 409.321, if a person files a financing statement with respect to a

1 purchase–money security interest before or within 20 days after the debtor receives
2 delivery of the collateral, the security interest takes priority over the rights of a
3 buyer, lessee or lien creditor which arise between the time the security interest
4 attaches and the time of filing.

5 **409.318 No interest retained in right to payment that is sold; rights and**
6 **title of seller of account or chattel paper with respect to creditors and**
7 **purchasers. (1) SELLER RETAINS NO INTEREST.** A debtor that has sold an account,
8 chattel paper, payment intangible or promissory note does not retain a legal or
9 equitable interest in the collateral sold.

10 **(2) DEEMED RIGHTS OF DEBTOR IF BUYER'S SECURITY INTEREST UNPERFECTED.** For
11 purposes of determining the rights of creditors of, and purchasers for value of an
12 account or chattel paper from, a debtor that has sold an account or chattel paper,
13 while the buyer's security interest is unperfected, the debtor is deemed to have rights
14 and title to the account or chattel paper identical to those the debtor sold.

15 **409.319 Rights and title of consignee with respect to creditors and**
16 **purchasers. (1) CONSIGNEE HAS CONSIGNOR'S RIGHTS.** Except as otherwise provided
17 in sub. (2), for purposes of determining the rights of creditors of, and purchasers for
18 value of goods from, a consignee, while the goods are in the possession of the
19 consignee, the consignee is deemed to have rights and title to the goods identical to
20 those the consignor had or had power to transfer.

21 **(2) APPLICABILITY OF OTHER LAW.** For purposes of determining the rights of a
22 creditor of a consignee, law other than this chapter determines the rights and title
23 of a consignee while goods are in the consignee's possession if, under this subchapter,
24 a perfected security interest held by the consignor would have priority over the rights
25 of the creditor.

1 **409.320 Buyer of goods. (1) BUYER IN ORDINARY COURSE OF BUSINESS.** Except
2 as otherwise provided in sub. (5), a buyer in ordinary course of business, other than
3 a person buying farm products from a person engaged in farming operations, takes
4 free of a security interest created by the buyer's seller, even if the security interest
5 is perfected and the buyer knows of its existence.

6 **(2) BUYER OF CONSUMER GOODS.** Except as otherwise provided in sub. (5), a buyer
7 of goods from a person who used or bought the goods for use primarily for personal,
8 family or household purposes takes free of a security interest, even if perfected, if the
9 buyer buys:

 ***NOTE: Current s. 409.307 (2), Wis. stats., inserts "having an original purchase
price not in excess of \$500" after "consumer goods". Should this nonuniform amendment
be continued in this draft by inserting the language after "purposes" or otherwise? The
conversion table gives 9-307 (1) and (2) as the source for new 9-320.

- 10 (a) Without knowledge of the security interest;
- 11 (b) For value;
- 12 (c) Primarily for the buyer's personal, family or household purposes; and
- 13 (d) Before the filing of a financing statement covering the goods.

14 **(3) EFFECTIVENESS OF FILING FOR SUB. (2).** To the extent that it affects the priority
15 of a security interest over a buyer of goods under sub. (2), the period of effectiveness
16 of a filing made in the jurisdiction in which the seller is located is governed by ***s.
17 409.316 (1) and (2).

18 **(4) BUYER IN ORDINARY COURSE OF BUSINESS AT WELLHEAD OR MINEHEAD.** A buyer
19 in ordinary course of business buying oil, gas or other minerals at the wellhead or
20 minehead or after extraction takes free of an interest arising out of an encumbrance.

21 **(5) POSSESSORY SECURITY INTEREST NOT AFFECTED.** Subsections (1) and (2) do not
22 affect a security interest in goods in the possession of the secured party under ***s.
23 409.313.

1 **409.321 Licensee of general intangible and lessee of goods in ordinary**
2 **course of business. (1) LICENSEE IN ORDINARY COURSE OF BUSINESS.** In this section,
3 “licensee in ordinary course of business” means a person that becomes a licensee of
4 a general intangible in good faith, without knowledge that the license violates the
5 rights of another person in the general intangible, and in the ordinary course from
6 a person in the business of licensing general intangibles of that kind. A person
7 becomes a licensee in the ordinary course if the license to the person comports with
8 the usual or customary practices in the kind of business in which the licensor is
9 engaged or with the licensor’s own usual or customary practices.

10 **(2) RIGHTS OF LICENSEE IN ORDINARY COURSE OF BUSINESS.** A licensee in ordinary
11 course of business takes its rights under a nonexclusive license free of a security
12 interest in the general intangible created by the licensor, even if the security interest
13 is perfected and the licensee knows of its existence.

14 **(3) RIGHTS OF LESSEE IN ORDINARY COURSE OF BUSINESS.** A lessee in ordinary
15 course of business takes its leasehold interest free of a security interest in the goods
16 created by the lessor, even if the security interest is perfected and the lessee knows
17 of its existence.

18 **409.322 Priorities among conflicting security interests in and**
19 **agricultural liens on same collateral. (1) GENERAL PRIORITY RULES.** Except as
20 otherwise provided in this section, priority among conflicting security interests and
21 agricultural liens in the same collateral is determined according to the following
22 rules:

23 (a) Conflicting perfected security interests and agricultural liens rank
24 according to priority in time of filing or perfection. Priority dates from the earlier of
25 the time a filing covering the collateral is first made or the security interest or

1 agricultural lien is first perfected, if there is no period thereafter when there is
2 neither filing nor perfection.

3 (b) A perfected security interest or agricultural lien has priority over a
4 conflicting unperfected security interest or agricultural lien.

5 (c) The first security interest or agricultural lien to attach or become effective
6 has priority if conflicting security interests and agricultural liens are unperfected.

7 **(2) TIME OF PERFECTION: PROCEEDS AND SUPPORTING OBLIGATIONS.** For the
8 purposes sub. (1) (a):

9 (a) The time of filing or perfection as to a security interest in collateral is also
10 the time of filing or perfection as to a security interest in proceeds; and

11 (b) The time of filing or perfection as to a security interest in collateral
12 supported by a supporting obligation is also the time of filing or perfection as to a
13 security interest in the supporting obligation.

14 **(3) SPECIAL PRIORITY RULES: PROCEEDS AND SUPPORTING OBLIGATIONS.** Except as
15 otherwise provided in sub. (6), a security interest in collateral which qualifies for
16 priority over a conflicting security interest under ***s. 409.327, 409.328, 409.329,
17 409.330 or 409.331 also has priority over a conflicting security interest in:

18 (a) Any supporting obligation for the collateral; and

19 (b) Proceeds of the collateral if:

20 1. The security interest in proceeds is perfected;

21 2. The proceeds are cash proceeds or of the same type as the collateral; and

22 3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds
23 are cash proceeds, proceeds of the same type as the collateral, or an account relating
24 to the collateral.