

UCC 9 additions?

**THESE STATUTES HAVE REFERENCES TO SECURITY AGREEMENT,
SECURITY INTEREST, AND SECURED PARTY. LRB-1446/P4 HAS
STATUTES THAT HAVE REFERENCES TO SECURED TRANSACTION
AS WELL AS ALL STATUTES THAT CROSS REFERENCE CH. 409 OR
SECTIONS IN THAT CHAPTER OR IN THE UCC**

SECTION 1. 16.76 (4) (e) of the statutes is amended to read:

16.76 (4) (e) The department may grant the lessor a perfected **security interest** in goods leased or to be leased under each master lease. The department shall record and preserve evidence of the **security interest** in its offices at all times during which the master lease is in effect.

****NOTE: Should this draft amend or cross reference this statute?

History: 1973 c. 333; 1977 c. 196 s. 130 (3); 1979 c. 34; 1983 a. 27; 1985 a. 29; 1987 a. 119, 142; 1989 a. 31; 1991 a. 39; 1993 a. 496; 1995 a. 27.

SECTION 2. 18.56 (2) of the statutes is amended to read:

18.56 (2) There shall be a mortgage lien upon or **security interest** in the income and property of each revenue-producing enterprise or program to the holders of the related bonds and to the holders of the coupons of the bonds. The note or other instrument evidencing the **security interest** of a bondholder in a loan made or purchased with revenue obligation bonds shall constitute a statutory lien on the revenue obligations. No physical delivery, recordation or other action is required to perfect the **security interest**. The revenue-producing enterprise or program shall remain subject to the lien until provision for payment in full of the principal and interest of the bonds has been made. Any holder of such bonds or attached coupons may either at law or in equity protect and enforce the lien and compel performance of all duties required by this section. If there is any default in the payment of the

principal or interest of any of such bonds, any court having jurisdiction of the action may appoint a receiver to administer the revenue-producing enterprise or program on behalf of the state and the bondholders, with power to charge and collect rates sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the revenue-producing enterprise or program, and to apply the income and revenues thereof in conformity with this subchapter and the authorizing resolution, or the court may declare the whole amount of the bonds due and payable, if such relief is requested, and may order and direct the sale of the revenue-producing enterprise or program. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the revenue-producing enterprise or program. The legislature may provide for additions, extensions and improvements to a revenue-producing enterprise or program to be financed by additional issues of bonds as provided by this section. Such additional issues of bonds shall be subordinate to all prior related issues of bonds which may have been made under this section, unless the legislature, in the statute authorizing the initial issue of bonds, permits the issue of additional bonds on a parity therewith.

****NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 29; 1979 c. 34, 155; 1989 a. 31, 46.

SECTION 3. 18.56 (10) of the statutes is amended to read:

18.56 (10) The authorizing resolution may set apart bonds the par value of which are equal to the principal amount of any **secured** obligation or charge subject to which a revenue-producing enterprise or program is to be purchased or acquired, and shall set aside in a sinking fund from the income of the revenue-producing enterprise or program, a sum sufficient to comply with the

requirements of the instrument creating the **security**, or if the instrument does not make any provision therefor, the resolution shall fix and determine the amount which shall be set aside into such fund from month to month for interest on the **secured** obligation or charge, and a fixed amount or proportion not exceeding a stated sum, which shall be not less than one percent of the principal, to be set aside into the fund to pay the principal of the **secured** obligation or charge. Any balance in the fund after satisfying the **secured** obligations or charge, shall be transferred to the redemption fund. Bonds set aside for the **secured** obligation or charge may, from time to time, be issued to an amount sufficient with the amount then in the sinking fund, to pay and retire the **secured** obligation or charge or any portion thereof. The bonds may be issued in exchange for or satisfaction of the **secured** obligation or charge, or may be sold in the manner provided in this subchapter, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the holder. The commission and the owners of any revenue-producing enterprise or program acquired or purchased may, upon such terms and conditions as are satisfactory, contract that bonds to provide for the discharge of the **secured** obligation or charge, or for the whole purchase price shall be deposited with a trustee or depository and released from the deposit from time to time on such terms and conditions as are necessary to secure the payment of the **secured** obligation or charge.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 29; 1979 c. 34, 155; 1989 a. 31, 46.

SECTION 4. 29.934 (1) of the statutes is amended to read:

29.934 (1) (a) All wild animals, carcasses or plants that are confiscated by the department and all confiscated vehicles, boats or objects shall, if not destroyed as

authorized by law, be sold at the highest price obtainable, by the department, or by an agent on commission under supervision of the department. The net proceeds of sales under this subsection, after deducting the expense of seizure and sale and any commissions and any amounts owing to holders of **security interests** under par. (c) or (d), shall be remitted to the department. The remittance shall be accompanied by a report of the sales, supported by vouchers for expenses and commissions, and shall be filed with the department.

(b) Of the remittance from the sales of confiscated vehicles, boats or objects, 18% shall be paid into the conservation fund to reimburse it for expenses incurred in seizure and sale, and the remaining 82% shall be paid into the common school fund.

(c) 1. In the case of the sale of a confiscated motor vehicle, the department shall make a reasonable effort, within 10 days after seizure, to ascertain if a **security interest** in the seized motor vehicle exists. The department shall, within 10 days after obtaining actual or constructive notice of any **security interest** in the seized motor vehicle, give the **secured party** notice of the time and place when there is to be any proceeding before a court pertaining to the confiscation of the motor vehicle. Constructive notice shall be limited to **security interests** perfected by filing.

2. The time of sale of the confiscated motor vehicle shall be within 20 days after judgment of confiscation as provided in s. 29.931 (2). The department shall give each **secured party** discovered in accordance with subd. 1. at least 10 days' notice of the time and place of sale of the motor vehicle.

3. If the holder of a **security interest** in the confiscated motor vehicle, perfected by filing, proves to the court, or after judgment of confiscation, to the department, that the violation that led to the confiscation was not with the knowledge, consent or connivance of the holder of the **security interest** or with that of some person employed or trusted by the holder of the **security interest**, the amount due under the **security agreement**, together with any other deductions authorized under par. (a), shall be deducted from the proceeds of the sale of the confiscated motor vehicle and the amount due shall be paid to the one entitled. If a sufficient amount does not remain for the full payment of the amount due under the **security agreement** after making the other deductions authorized under par. (a), the amount remaining shall be paid to the one entitled.

(d) The provisions of s. 973.075 (1) (b) 2m. and (5) apply to boats and vehicles, other than motor vehicles, under this subsection.

NOTE: NOTE: Par. (d) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

(e) This subsection does not apply to a deer killed, or so injured that it must be killed, by a collision with a motor vehicle on a highway. For purposes of this subsection, "deer" does not include farm-raised deer.

***NOTE: Should this draft amend or cross reference this statute?

History: 1975 c. 97, 199; 1981 c. 98 s. 3; 1993 a. 169; 1995 a. 79, 126, 225; 1997 a. 35; 1997 a. 248 ss. 113 to 115; Stats. 1997 s. 29.934; 1997 a. 285 s. 1; s. 13.93 (2) (c).
History: 1975 c. 97, 199; 1981 c. 98 s. 3; 1993 a. 169; 1995 a. 79, 126, 225; 1997 a. 35; 1997 a. 248 ss. 113 to 115; Stats. 1997 s. 29.934; 1997 a. 285 s. 1; s. 13.93 (2) (c).

SECTION 5. 30.531 (3) (c) of the statutes is amended to read:

30.531 (3) (c) *Boats purchased by nonresidents.* A nonresident who purchases a boat in this state and who intends to title and register the boat in another state is not required to apply for a certificate of title under this chapter. A nonresident who purchases a boat in this state may apply for a certificate of title under this chapter.

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 397; 1991 a. 39, 269; 1997 a. 198.

SECTION 6. 30.537 (4) of the statutes is amended to read:

30.537 (4) TITLE FEES. The department shall require that:

(a) The owner of the boat pay a \$5 fee to file an application for the first certificate of title.

(b) The owner of the boat pay a \$5 fee for a certificate of title after a transfer.

(c) The owner of the boat pay a \$5 fee for a replacement certificate of title.

(d) The owner of a boat pay a single \$5 fee for the original notation and subsequent release of a **security interest** on a certificate of title.

(e) A person who has perfected a **security interest** and who is notified under s. 30.571 pay a \$2 fee for each notification.

(f) An assignee of a **security interest** pay a \$2 fee to be named a **secured party** on a certificate of title.

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 397; 1989 a. 128; 1991 a. 39.

SECTION 7. 30.537 (5) of the statutes is amended to read:

30.537 (5) FEE RESTRICTION. The department shall not charge any fee for services under this section except as specified in subs. (3) and (4).

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 397; 1989 a. 128; 1991 a. 39.

SECTION 8. 30.541 of the statutes is amended to read:

30.541 Transfers of boat titles. (1) OWNERS. If an owner transfers an interest in a boat, other than by the creation of a **security interest**, the owner shall, at the time of the delivery of the boat, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of origin and deliver the certificate of origin and the certificate of title to the transferee. The

transferee shall make application for a new certificate of title as provided under s. 30.549 (2) and shall include in the application the certificate of origin.

(2) DEALERS. If a dealer acquires a new or used boat and holds it for resale the dealer need not send the certificate of title or application for original certificate to the department. Upon transferring the boat to another person the dealer shall immediately give such person on a form prescribed by the department a receipt for all title, registration, **security interest** and sales tax moneys paid to the dealer for transmittal to the department when required. The dealer shall promptly execute the assignment and warranty of title, showing the name and address of the transferee and of any **secured party** holding a **security interest** created or reserved at the time of the resale, in the spaces provided therefor on the certificate of origin or the certificate of title, and shall, within 7 business days following the sale or transfer, deliver the certificate of origin and the certificate of title or application for certificate of title to the transferee.

(3) INVOLUNTARY TRANSFERS. (a) If the interest of an owner in a boat passes to another other than by voluntary transfer, the transferee shall, except as provided in par. (b), promptly mail or deliver to the department the last certificate of title, if available, and the documents required by the department to legally effect such transfer, and an application for a new certificate in the form the department prescribes.

(b) If the interest of the owner is terminated or the boat is sold under a **security agreement** by a **secured party**, the transferee shall promptly mail or deliver to the department the last certificate of title, an application for a new certificate in the form the department prescribes, and an affidavit made by or on

behalf of the **secured party** that the boat was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the **security agreement**.

(c) A person holding a certificate of title whose interest in the boat has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or **secured party**.

(d) 1. In all cases of the transfer of a boat owned by a decedent, except under subd. 2., ward, trustee or bankrupt, if the department receives all of the following the department shall accept the following as sufficient evidence of the transfer of ownership:

a. Evidence satisfactory to the department of the issuance of the letters of administration, letters testamentary, letters of guardianship, letters of trust or appointment of a trustee in bankruptcy.

b. Title executed by the administrator, executor, guardian or trustee.

c. Evidence concerning payment of sales or use taxes required under s. 77.61 (1) or evidence that the transfer is exempt from sales or use taxes.

2. a. The department shall transfer the decedent's interest in a boat to his or her surviving spouse upon receipt of the title executed by the surviving spouse and an affidavit signed by the spouse that includes the date of death of the decedent; the approximate value and description of the boat; and a statement that the spouse is

personally liable for the decedent's debts and charges to the extent of the value of the boat, subject to s. 859.25.

b. The transfer shall not affect any lien on the boat.

c. Except as provided in subd. 2. d., no more than 5 boats may be transferred under this subdivision.

d. The limit in subd. 2. c. does not apply if the surviving spouse proceeds under s. 867.03 (1g) and the total value of the decedent's solely owned property in the state, including boats transferred under this subdivision, does not exceed \$10,000.

3. Upon compliance with this paragraph, neither the secretary nor the department shall bear any liability or responsibility for the transfer of a boat in accordance with this paragraph.

(4) NEW CERTIFICATES ISSUED. (a) The department, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by law, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

(b) The department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner.

(c) The department shall file and retain for 5 years a record of every surrendered certificate of title, the file to be maintained so as to permit the tracing of title of the boat designated therein.

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 397; 1989 a. 56, 128; 1991 a. 269; 1997 a. 27.

SECTION 9. 30.549 of the statutes is amended to read:

30.549 Transfer of ownership of boats with a certificate of title, certificate of number or registration. (1) DUTY OF SELLER. (a) If the owner of a boat transfers all or any part of the owner's interest in the boat, other than by the creation of a **security interest**, the owner shall give the current certificate of number card or the registration card to the new owner and shall deliver the current certificate of title, if the boat is required to be titled, to the new owner as provided under s. 30.541 (1). If the owner does not possess a current certificate of number or registration or a current title, the owner shall provide to the department any documentation or information the department determines to be necessary to effect the transfer of ownership.

(b) When the owner of a boat that is voluntarily registered pursuant to s. 30.52 (1) (b) 1m. transfers all or any part of the owner's interest in the boat, other than by the creation of a **security interest**, the owner shall send written notification of the transfer to the department within 15 days after the date of transfer.

(2) DUTY OF PURCHASER. (a) Transfer of the ownership of a boat terminates the certificate of title and the certificate of number or registration for the boat except in the case of a transfer of a part interest which does not affect the transferor's right to operate the boat. The transferee shall make application for a new certificate of title and a new certificate of number or registration within 10 days after the date of purchase as prescribed by the department. Upon receipt of the application accompanied by the required fee, the department shall issue a new certificate of title and a new certificate of number card or registration card for the boat.

(b) The purchaser of a boat that is voluntarily registered pursuant to s. 30.52 (1) (b) 1m. need not register the boat upon transfer of ownership.

(c) Notwithstanding s. 30.52 (5) (a) 2. or (b) 2., the department may not issue new certification stickers or decals or new registration stickers or decals if the fee specified under s. 30.52 (3) (h) rather than the appropriate fee specified under s. 30.52 (3) (b) to (g) is paid. The department shall not award a new identification number to the boat unless compliance with federal numbering regulations requires otherwise.

***NOTE: Should this draft amend or cross reference this statute?

History: 1979 c. 275; 1983 a. 27; 1987 a. 397 s. 5; Stats. 1987 s. 30.549; 1991 a. 39; 1997 a. 198.

SECTION 10. 30.57 of the statutes is amended to read:

30.57 Perfection of security interests. (1) Except as provided in sub. (2), a **security interest** in a boat of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or **secured parties** of the boat unless perfected as provided in this section and ss. 30.572 and 30.573.

(2) Sections 30.57 to 30.576 do not apply to any of the following:

- (a) A lien given by statute to a supplier of services or materials for a boat.
- (b) A lien given by statute to the United States, this state or a political subdivision of this state.

(c) A **security interest** governed by **ch. 409** that is created by a manufacturer or dealer who holds the boat for sale.

(3) Except as provided in sub. (4), a **security interest** is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the **secured party**, and the required fee. The **security interest** is perfected as of the time of its creation if delivery to the department is completed within 10 days after its creation and

without regard to the limitations expressed in **s. 409.301** (2); otherwise, as of the time of delivery.

(4) If a **secured party** whose name and address is contained on the certificate of title for a boat acquires a new or additional **security interest** in the boat, the new or additional **security interest** is perfected at the time of its attachment under **s. 409.203**.

(5) An unperfected **security interest** is subordinate to the rights of persons described in **s. 409.301**.

(6) The rules of priority stated in **s. 409.312**, and the other sections referred to in that section, shall, to the extent appropriate, apply to conflicting **security interests** in a boat of a type for which a certificate of title is required.

(7) The rules stated in **ss. 409.501 to 409.507** governing the rights and duties of **secured parties** and debtors and the requirements for, and effect of, disposition of a boat by a **secured party**, upon default shall, to the extent appropriate, govern the rights of **secured parties** and owners with respect to **security interests** in boats perfected under this section and **ss. 30.572 and 30.573**.

(8) If a boat is subject to a **security interest** when brought into this state, **s. 409.103** (1), (2) and (3) state the rules which determine the validity and perfection of the **security interest** in this state.

****NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 11. 30.571 of the statutes is amended to read:

30.571 Notification of person who has perfected security interest.

If the department receives information from another state that a boat that is titled in this state is being titled in the other state and the information does not show that a perfected **security interest**, as shown by the records of the department, has been satisfied, the department shall notify the person who has perfected the **security interest**. The person shall pay the department the fee under s. 30.537 (4) (e) for each notification.

****NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 12. 30.572 of the statutes is amended to read:

30.572 Duties on creation of security interest. (1) Subsections (2) to (4) apply if an owner creates a **security interest** in a boat of a type for which a certificate of title is required, unless the name and address of the **secured party** already appears on the certificate of title for the boat.

(2) At the time that the **security interest** is created, the owner shall complete, in the space provided on the certificate of title or on a separate form prescribed by the department, an application to name the **secured party** on the certificate, showing the name and address of the **secured party**. The owner shall deliver the certificate, application and the fee required under s. 30.537 (4) (d) to the **secured party**.

(3) Within 10 days after receipt, the **secured party** shall deliver the certificate, application and fee to the department.

(4) Upon receipt of the certificate of title, application and fee, the department shall issue to the owner a new certificate containing the name and address of the new **secured party**. The department shall deliver to the new **secured party** and

to the register of deeds for the county in which the debtor resides, memoranda, in a form prescribed by the department, of the notation of the **security interest** upon the certificate. The department shall deliver to the **secured party** and to the register of deeds additional memoranda of any assignment, termination or release of the **security interest**.

(5) A register of deeds may maintain a file of all memoranda received from the department under sub. (4). A filing, however, is not required for a perfection, assignment or release of a **security interest**, which is effective upon compliance with ss. 30.57 (3), 30.573 and 30.574.

***NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 13. 30.573 of the statutes is amended to read:

30.573 Assignment of security interest. (1) A **secured party** may assign, absolutely or otherwise, the **secured party's security interest** in a boat to a person other than the owner without affecting the interest of the owner or the validity of the **security interest**, but any person without notice of the assignment is protected in dealing with the **secured party** as the holder of the **security interest** and the **secured party** remains liable for any obligations as a **secured party** until the assignee is named as **secured party** on the certificate of title.

(2) To perfect an assignment, the assignee may deliver to the department the certificate of title, the fee required under s. 30.537 (4) (f) and an assignment by the **secured party** named in the certificate in the form the department prescribes. Upon receipt, the department shall name the assignee as a **secured party** on the certificate and issue a new certificate.

***NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 14. 30.574 of the statutes is amended to read:

30.574 Release of security interest. (1) Within one month, or within 10 days following written demand by the debtor, after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, **secured** by the **security interest** in a boat under any **security agreement** perfected under ss. 30.57, 30.572 and 30.573 between the owner and the **secured party**, the **secured party** shall execute and deliver to the owner a release of the **security interest** in the form and manner prescribed by the department and a notice to the owner stating in no less than 10-point boldface type the owner's obligation under sub. (2). If the **secured party** fails to execute and deliver the release and notice of obligation as required by this subsection, the **secured party** is liable to the owner for \$25 and for any loss caused to the owner by the failure.

(2) Within 5 days after receipt of the release and notice of obligation, the owner, other than a dealer holding the boat for resale, shall mail or deliver the certificate and release to the department. The department shall release the **secured party's** rights on the certificate and issue a new certificate.

***NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 15. 30.575 of the statutes is amended to read:

30.575 secured party's and owner's duties. (1) A **secured party** named in a certificate of title shall, upon written request of the owner or of another **secured party** named on the certificate, disclose any pertinent information about

the **secured party's security agreement** and the indebtedness **secured** by it.

(2) An owner shall promptly deliver the certificate of title to any **secured party** who is named on it or who has a **security interest** in the boat described in it under any applicable prior law of this state, upon receipt of a notice from the **secured party** that the **secured party's security interest** is to be assigned, extended or perfected.

(3) A **secured party** who fails to disclose information under sub. (1) shall be liable to the owner for any loss caused by the failure to disclose.

(4) An owner who fails to deliver the certificate of title to a **secured party** requesting it under sub. (2) shall be liable to the **secured party** for any loss caused to the **secured party** by the failure to deliver.

****NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 16. 30.576 of the statutes is amended to read:

30.576 Method of perfecting exclusive. (1) Except as provided in sub. (2), the method provided in ss. 30.57 to 30.575 of perfecting and giving notice of **security interests** subject to those sections is exclusive. **security interests** subject to ss. 30.57 to 30.575 are exempt from the provisions of law that otherwise require or relate to the filing of instruments creating or evidencing **security interests**.

(2) Subsection (1) does not affect the validity of a **security interest** perfected before January 1, 1992.

****NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 17. 30.577 of the statutes is amended to read:

30.577 Suspension or revocation of certificate of title. (1) The department shall suspend or revoke a certificate of title for a boat if it finds any of the following:

(a) The certificate of title was fraudulently procured, erroneously issued or prohibited by law.

(b) The boat has been scrapped, dismantled or destroyed.

(c) A transfer of title is set aside by a court by order or judgment.

(2) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a **security interest** noted on it.

(3) When the department suspends or revokes a certificate of title, the owner or person in possession of the certificate shall, within 5 days after receiving notice of the suspension or revocation, mail or deliver the certificate to the department.

(4) The department may seize and impound a certificate of title that is suspended or revoked.

***NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 39.

SECTION 18. 50.05 (9) (b) of the statutes is amended to read:

50.05 (9) (b) If the receiver is in possession of real estate or goods subject to a lease, mortgage or **security interest** which the receiver is permitted to avoid under par. (a), and if the real estate or goods are necessary for the continued operation of the facility under this section, the receiver may apply to the court to set a reasonable rental, price or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known owners of the property involved at least 10 days prior to the hearing. Payment by the receiver of

the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease or mortgage involved by any person who received such notice, but the payment does not relieve the owner or operator of the facility of any liability for the difference between the amount paid by the receiver and the amount due under the original lease or mortgage involved.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 112; 1979 c. 32 s. 92 (9); 1979 c. 34; 1981 c. 121; 1983 a. 27 s. 2202 (20); 1985 a. 29 s. 3200 (23) (b), (c); 1987 a. 27; 1989 a. 31; 1993 a. 112, 453; 1995 a. 27, 224, 227; 1997 a. 27, 35.

SECTION 19. 59.43 (1) (n) of the statutes is amended to read:

59.43 (1) (n) Upon the filing of a financing statement or other document evidencing the creation of a **security interest** in personal property or fixtures or in crops growing or to be grown, enter the name of each debtor alphabetically in indices, of which each page shall be divided into columns which shall contain the following information: number of the document, date and time of filing, name and address of debtor, name and address of **secured party**, name of the document, the amount if any, shown in the document, brief description of property, and the last column set aside for the entry of assignments, continuation statements, termination statements, foreclosure affidavits, extensions and releases pertaining to such financing statements or chattel **security** documents. If the financing statement evidences the creation of a **security interest** in fixtures, it also shall be entered in the tract index if one is kept in the county.

***NOTE: Should this draft amend or cross reference this statute?

History: 1995 a. 201 ss. 326, 327, 335, 338 to 353, 355, 361, 367, 369, 375, 377 to 380, 382 to 384; 1995 a. 225 ss. 159, 160, 162; 1995 a. 227; 1997 a. 27, 35, 79, 140, 252, 282, 303, 304.

SECTION 20. 59.43 (4) (a) of the statutes is amended to read:

59.43 (4) (a) Except as provided in par. (b), upon the request of the register of deeds, any county, by board resolution, may authorize the register of deeds to

photograph, microfilm or record on optical disks or in electronic format records of deeds, mortgages or other instruments relating to real property or may authorize the register of deeds to record on optical disks or in electronic format instruments relating to **security interests** in accordance with the requirements of s. 16.61 (7) or 59.52 (14) and to store the original records within the county at a place designated by the board. The storage place for the original records shall be reasonably safe and shall provide for the preservation of the records authorized to be stored under this paragraph. The register of deeds shall keep a photograph, microfilm or optical disk or electronic copy of such records in conveniently accessible files in his or her office and shall provide for examination of such reproduction or examination of a copy generated from an optical disk or electronic file in enlarged, easily readable form upon request. Compliance with this paragraph satisfies the requirement of sub. (1) (a) that the register of deeds shall keep such records in his or her office. The register of deeds may make certified copies reproduced from an authorized photograph, from a copy generated from optical disk or electronic storage or from the original records.

***NOTE: Should this draft amend or cross reference this statute?

History: 1995 a. 201 ss. 326, 327, 335, 338 to 353, 355, 361, 367, 369, 375, 377 to 380, 382 to 384; 1995 a. 225 ss. 159, 160, 162; 1995 a. 227; 1997 a. 27, 35, 79, 140, 252, 282, 303, 304.

SECTION 21. 66.073 (6) (h) of the statutes is amended to read:

66.073 (6) (h) Acquire, own, hold, use, lease as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a **security interest** in any real or personal property, commodity or service or interest therein subject to s. 182.017 (7).

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204.

SECTION 22. 66.073 (13) (e) of the statutes is amended to read:

66.073 (13) (e) Covenant as to the mortgage or pledge of or the grant of a **security interest** in any real or personal property and all or any part of the revenues from any project or projects or any revenue producing contract or contracts made by the company with any person or public agency to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204.

****NOTE: Should this draft amend or cross reference this statute?

SECTION 23. 66.0735 (5) (e) of the statutes is amended to read:

66.0735 (5) (e) Acquire, own, hold, use, lease as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a **security interest** in any real or personal property, commodity or service.

****NOTE: Should this draft amend or cross reference this statute?

History: 1997 a. 184.

SECTION 24. 93.50 (1) (a) of the statutes is amended to read:

93.50 (1) (a) "Action" means a court action involving a dispute described in sub. (3) (am) 2. to 6. in which at least one party is a farmer or a court action by a creditor against a farmer for payment of a debt; to enforce or foreclose a **security interest**, lien or mortgage; or to repossess or declare a creditor's interest in real property. "Action" includes garnishment, replevin, execution of judgment, involuntary receivership and supplementary creditor's proceedings.

****NOTE: Should this draft amend or cross reference this statute?

History: 1989 a. 31; 1991 a. 39; 1993 a. 249, 250; 1997 a. 27, 252, 264.

SECTION 25. 93.50 (4) (a) of the statutes is amended to read:

93.50 (4) (a) *Disputes for arbitration.* A party to a procurement contract that contains an agreement to submit contract disputes to arbitration wishing to resolve a dispute over the procurement contract or a farmer or creditor wishing to resolve a dispute between them involving the farmer's agricultural property and the

creditor's interest in a mortgage, land contract, lien, **security interest** or judgment affecting the agricultural property, either before an action has been initiated to which they are parties or after entry of a suspension order in an action to which they are parties under sub. (2m), may participate in arbitration under this section in accordance with this subsection and subject to ch. 788.

History: 1989 a. 31; 1991 a. 39; 1993 a. 249, 250; 1997 a. 27, 252, 264.

***NOTE: Should this draft amend or cross reference this statute?

SECTION 26. 93.50 (5) of the statutes is amended to read:

93.50 (5) OTHER CREDITORS; NO DELAY. With respect to mediation or arbitration between parties before an action has been initiated to which they are parties, no agreement to mediate or to arbitrate, or the fact that mediation or arbitration is currently occurring, may have the effect of delaying, postponing or extending any time limits in any legal proceeding commenced to enforce a mortgage, land contract, lien, **security interest** or judgment commenced by a creditor other than the creditor or creditors participating in the mediation or arbitration.

***NOTE: Should this draft amend or cross reference this statute?

History: 1989 a. 31; 1991 a. 39; 1993 a. 249, 250; 1997 a. 27, 252, 264.

SECTION 27. 99.05 (1) of the statutes is amended to read:

99.05 (1) RECEIPTS. Public warehouse keepers, at the time goods are received for storage, shall issue warehouse or storage receipts identifying goods placed in storage and inform storers of all terms and conditions of storage and may, for this purpose, use standard forms which are accepted in the warehousing industry and comply with the requirements of chs. 401 to 411 and this subchapter.

***NOTE: Should this draft amend or cross reference this statute?

History: 1983 a. 500; 1991 a. 148, 304, 315.

SECTION 28. 101.143 (4m) of the statutes is amended to read:

101.143 (4m) ASSIGNMENT OF AWARDS. The filing by a claimant with the department of an assignment of an award under sub. (4) to a person who loans money to the claimant for the purpose of conducting activities required under sub. (3) (c) creates and perfects a lien in favor of the assignee in the proceeds of the award. The lien secures all principal, interest, fees, costs and expenses of the assignee related to the loan. The lien under this subsection has priority over any previously existing or subsequently created lien, assignment, **security interest** or other interest in the proceeds of the award.

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283.

SECTION 29. 125.06 (8) of the statutes is amended to read:

125.06 (8) SALE BY SECURED PARTY. The sale of alcohol beverages by a **secured party** in good faith under the terms of a **security agreement**, if the sale is not for the purpose of avoiding this chapter or ch. 139. The sale must be in the ordinary course of the business of lending money **secured** by a **security interest** in alcohol beverages or warehouse receipts or other evidence of ownership.

***NOTE: Should this draft amend or cross reference this statute?

History: 1981 c. 79, 202; 1983 a. 222, 360, 538; 1985 a. 337; 1987 a. 399; 1989 a. 253; 1991 a. 269; 1993 a. 226; 1995 a. 225.

SECTION 30. 125.14 (3) (a) of the statutes is amended to read:

125.14 (3) (a) *Application.* Prior to sale under sub. (2) (f), the owner of confiscated property may apply to a court of record in the county where the property was seized for an order restoring the property to the owner. After the sale, the owner may apply to the court for a refund of the amount realized on the sale. After the sale, any holder of a **security interest** in the property may apply to the court for a

refund of the sum realized on the sale of property subject to the **security interest**, but not more than the amount due under the **security agreement**.

***NOTE: Should this draft amend or cross reference this statute?

History: 1981 c. 79; 1989 a. 253; 1997 a. 291.

SECTION 31. 125.14 (3) (c) of the statutes is amended to read:

125.14 (3) (c) *Grounds.* Relief shall be granted only after a showing by the applicant that he or she is the true owner or holder of a bona fide **security interest** in the property seized; that the violation which led to the confiscation was not with his or her knowledge, consent or connivance; and, that he or she had no reasonable grounds to believe or suspect that the property would be used in a violation.

***NOTE: Should this draft amend or cross reference this statute?

History: 1981 c. 79; 1989 a. 253; 1997 a. 291.

SECTION 32. 127.12 (2) of the statutes is amended to read:

127.12 (2) A grain dealer may, as a condition to buying grain from or selling grain for a producer or depositor require the producer to provide the grain dealer with a written statement that discloses any liens or **security interests** in the grain, the nature and amount of those liens or **security interests** and the identity of any lien or **security interest** holders. No producer may falsify any information provided to a grain dealer under this subsection, or fraudulently withhold information to obtain a sale of grain.

***NOTE: Should this draft amend or cross reference this statute?

History: 1985 a. 29; 1995 a. 42.

SECTION 33. 138.056 (1) (c) of the statutes is amended to read:

138.056 (1) (c) "Mobile home transaction" means a consumer credit sale, as defined in s. 421.301 (9), of or a consumer loan, as defined in s. 421.301 (12),

secured by a first lien or equivalent **security interest** in a mobile home as defined in s. 218.10 (2).

***NOTE: Should this draft amend or cross reference this statute?

History: 1981 c. 45; 1983 a. 232; 1985 a. 325; 1991 a. 221; 1993 a. 88, 112; 1995 a. 27, 336.

SECTION 34. 138.056 (7) of the statutes is amended to read:

138.056 (7) **PRIORITY.** Any interest accrued or added to the principal of a variable rate loan to implement an interest rate adjustment retains the priority of the original mortgage or equivalent **security interest**.

***NOTE: Should this draft amend or cross reference this statute?

History: 1981 c. 45; 1983 a. 232; 1985 a. 325; 1991 a. 221; 1993 a. 88, 112; 1995 a. 27, 336.

SECTION 35. 218.015 (2) of the statutes is amended to read:

218.015 (2) (a) If a new motor vehicle does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the motor vehicle lessor or any of the manufacturer's authorized motor vehicle dealers and makes the motor vehicle available for repair before the expiration of the warranty or one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the nonconformity shall be repaired.

(b) 1. If after a reasonable attempt to repair the nonconformity is not repaired, the manufacturer shall carry out the requirement under subd. 2. or 3., whichever is appropriate.

2. At the direction of a consumer described under sub. (1) (b) 1., 2. or 3., do one of the following:

a. Accept return of the motor vehicle and replace the motor vehicle with a comparable new motor vehicle and refund any collateral costs.

b. Accept return of the motor vehicle and refund to the consumer and to any holder of a perfected **security interest** in the consumer's motor vehicle, as their

interest may appear, the full purchase price plus any sales tax, finance charge, amount paid by the consumer at the point of sale and collateral costs, less a reasonable allowance for use. Under this subdivision, a reasonable allowance for use may not exceed the amount obtained by multiplying the full purchase price of the motor vehicle by a fraction, the denominator of which is 100,000 or, for a motorcycle, 20,000, and the numerator of which is the number of miles the motor vehicle was driven before the consumer first reported the nonconformity to the motor vehicle dealer.

3. a. With respect to a consumer described in sub. (1) (b) 4., accept return of the motor vehicle, refund to the motor vehicle lessor and to any holder of a perfected **security interest** in the motor vehicle, as their interest may appear, the current value of the written lease and refund to the consumer the amount the consumer paid under the written lease plus any sales tax and collateral costs, less a reasonable allowance for use.

b. Under this subdivision, the current value of the written lease equals the total amount for which that lease obligates the consumer during the period of the lease remaining after its early termination, plus the motor vehicle dealer's early termination costs and the value of the motor vehicle at the lease expiration date if the lease sets forth that value, less the motor vehicle lessor's early termination savings.

c. Under this subdivision, a reasonable allowance for use may not exceed the amount obtained by multiplying the total amount for which the written lease obligates the consumer by a fraction, the denominator of which is 100,000 and the numerator of which is the number of miles the consumer drove the motor vehicle

before first reporting the nonconformity to the manufacturer, motor vehicle lessor or motor vehicle dealer.

(c) To receive a comparable new motor vehicle or a refund due under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer.

(cm) 1. To receive a refund due under par. (b) 3., a consumer described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle having the nonconformity to return that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the consumer. When the manufacturer provides the refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer.

2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the motor vehicle lessor. When the manufacturer provides the refund, the motor vehicle lessor shall provide to the manufacturer the certificate of title and all endorsements necessary to transfer title to the manufacturer.

3. No person may enforce the lease against the consumer after the consumer receives a refund due under par. (b) 3.

(d) No motor vehicle returned by a consumer or motor vehicle lessor in this state under par. (b), or by a consumer or motor vehicle lessor in another state under a similar law of that state, may be sold or leased again in this state unless full disclosure of the reasons for return is made to any prospective buyer or lessee.

(e) The department of revenue shall refund to the manufacturer any sales tax which the manufacturer refunded to the consumer under par. (b) if the manufacturer provides to the department of revenue a written request for a refund along with evidence that the sales tax was paid when the motor vehicle was purchased and that the manufacturer refunded the sales tax to the consumer. The department may not refund any sales tax under this paragraph if it has made a refund in connection with the same motor vehicle under par. (f).

(f) The department of revenue shall refund to a consumer described under sub. (1) (b) 1., 2. or 3. all or part of the sales tax paid by the consumer on the purchase of a new motor vehicle, based on the amount of the refund of the purchase price of the motor vehicle actually received by the consumer, if all of the following apply:

1. The consumer returned the motor vehicle to its manufacturer and received a refund of all or part of the purchase price but not the corresponding amount of sales tax.

2. The consumer bought the new motor vehicle after November 2, 1983.

3. The consumer provides the department of revenue with a written request for a refund of the sales tax along with evidence that the consumer received a certain amount as a refund of the purchase price of the motor vehicle from the manufacturer,

that the sales tax was paid when the motor vehicle was bought new and that the manufacturer did not refund the sales tax to the consumer.

4. The department of revenue has not made a refund under par. (e) in connection with the motor vehicle.

***NOTE: Should this draft amend or cross reference this statute?

History: 1983 a. 48; 1985 a. 205 ss. 1m to 6, 8; 1987 a. 105, 169, 323, 403; 1989 a. 31.

SECTION 36. 241.03 of the statutes is amended to read:

241.03 Croppers' contracts; filing, security interest. (1) No landowner-cropper contract is valid, except between the parties to the contract, unless the contract, subscribed by the parties, describing the premises and containing the entire agreement between the parties, or a copy of the contract, has been filed with the register of deeds of the county where the premises are located. The register of deeds shall file, endorse, enter and index croppers' contracts filed with the register of deeds in substantially the same manner as provided for financing statements covering **security interests** in fixtures.

(2) In case such cropper contract is not filed then, except between the parties thereto, the cropper shall be conclusively presumed to have title and possession to an undivided one-half interest in all crops covered by such contract and the relationship between the landowner and cropper to be that of landlord and tenant.

(3) Such cropper contract is not subject to **ch. 409** unless the contract expressly creates a **security interest**.

***NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 316; 1993 a. 301; 1997 a. 254.

SECTION 37. 242.08 (5) of the statutes is amended to read:

242.08 (5) A transfer is not voidable under s. 242.04 (1) (b) or 242.05 if the transfer results from any of the following:

(a) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law.

(b) Enforcement of a **security interest** in compliance with **ch. 409**.

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 192.

SECTION 38. 292.65 (8) (i) of the statutes is amended to read:

292.65 (8) (i) *Assignment of awards.* The filing by an applicant with the department of an assignment of an award under this section to a person who loans money to the applicant for the purpose of conducting activities required under sub. (4) creates and perfects a lien in favor of the assignee in the proceeds of the award. The lien secures all principal, interest, fees, costs and expenses of the assignee related to the loan. The lien under this paragraph has priority over any previously existing or subsequently created lien, assignment, **security interest** or other interest in the proceeds of the award.

***NOTE: Should this draft amend or cross reference this statute?

History: 1997 a. 27.

SECTION 39. 342.02 of the statutes is amended to read:

342.02 Excepted liens and security interests. This chapter does not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the vehicle.

(2) A lien given by statute to the United States, this state or any political subdivision of this state.

(3) A **security interest** in a vehicle created by a manufacturer or dealer who holds the vehicle for sale, which shall be governed by the applicable provisions of **ch. 409**.

***NOTE: Should this draft amend or cross reference this statute?

SECTION 40. 342.05 (5) of the statutes is amended to read:

342.05 (5) Unless otherwise authorized by rule of the department, a nonresident owner of a vehicle that is not subject to registration in this state may not apply for a certificate of title under this chapter unless the vehicle is subject to a **security interest** or except as provided in s. 342.16 (1) (a). Notwithstanding any other provision of this section, a nonresident may purchase temporary operation plates under s. 341.09 (4). Any temporary operation permit or plate issued under s. 341.09 shall not be considered registration of the vehicle for purposes of this subsection.

***NOTE: Should this draft amend or cross reference this statute?

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1981 c. 150; 1987 a. 100 s. 3; 1993 a. 159.

SECTION 41. 342.10 (4) of the statutes is amended to read:

342.10 (4) Unless the applicant fulfills the requirements of s. 342.12 (3), a distinctive certificate of title shall be issued for a vehicle last previously registered in another jurisdiction the laws of which do not require that **secured parties** be named on a certificate of title to perfect their **security interests**. The certificate shall contain the legend "This vehicle may be subject to an undisclosed **security interest**" and may contain any other information the department prescribes. If no notice of a **security interest** in the vehicle is received by the department within 4 months from the issuance of the distinctive certificate of title, it shall, upon application and surrender of the distinctive certificate, issue a certificate of title in ordinary form.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 79; 1987 a. 349; 1993 a. 63, 159, 491; 1997 a. 27, 191.

SECTION 42. 342.14 (4) of the statutes is amended to read:

342.14 (4) For each assignment of a **security interest** noted upon a certificate of title, \$1 by the assignee.

****NOTE: Should this draft amend or cross reference this statute?

History: 1975 c. 39, 297, 422; 1977 c. 29 ss. 1452, 1654 (7) (a); 1977 c. 418; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1987 a. 110; 1989 a. 31, 137, 359; 1991 a. 309; 1993 a. 159; 1995 a. 27; 1997 a. 27.

SECTION 43. 342.19 of the statutes is amended to read:

342.19 Perfection of security interests. (1) Unless excepted by s. 342.02, a **security interest** in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or **secured parties** of the vehicle unless perfected as provided in this chapter.

(2) Except as provided in sub. (2m), a **security interest** is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the **secured party**, and the required fee. It is perfected as of the time of its creation if such delivery is completed within 10 days thereafter, and without regard to the limitations expressed in s. 409.301 (2); otherwise, as of the time of such delivery.

(2m) If a **secured party** whose name and address is contained on the certificate of title for a vehicle acquires a new or additional **security interest** in the vehicle, such **security interest** is perfected at the time of its attachment under s. 409.203.

(3) An unperfected **security interest** is subordinate to the rights of persons described in s. 409.301.

(4) The rules of priority stated in s. 409.312, and the other sections therein referred to, shall, to the extent appropriate, apply to conflicting **security interests** in a vehicle of a type for which a certificate of title is required, or in a

“previously certificated vehicle” as defined in s. 342.281. A **security interest** perfected under this section or under ss. 342.284 and 342.285 is a **security interest** perfected otherwise than by filing for purposes of **s. 409.312**.

(5) The rules stated in **ss. 409.501 to 409.507** governing the rights and duties of **secured parties** and debtors and the requirements for, and effect of, disposition of a vehicle by a **secured party**, upon default shall, to the extent appropriate, govern the rights of **secured parties** and owners with respect to **security interests** in vehicles perfected under this chapter.

(6) If a vehicle is subject to a **security interest** when brought into this state, **s. 409.103** (1), (2) and (3) state the rules which apply to determine the validity and perfection of the **security interest** in this state.

***NOTE: Should this draft amend or cross reference this statute?

History: 1973 c. 336 s. 79, 1975 c. 286, 422, 1977 c. 29 s. 1654 (7) (a).

SECTION 44. 342.195 of the statutes is amended to read:

342.195 Notification of person who has perfected security interest.

Upon request of a person who has perfected a **security interest** under s. 342.19, as shown by the records of the department, in a vehicle titled in this state, whenever the department receives information from another state that the vehicle is being titled in the other state and the information does not show that the **security interest** has been satisfied, the department shall notify the person. The person shall pay the department a \$2 fee for each notification.

***NOTE: Should this draft amend or cross reference this statute?

History: 1983 a. 155; 1985 a. 202.

SECTION 45. 342.20 of the statutes is amended to read:

342.20 Duties on creation of security interest. If an owner creates a **security interest** in a vehicle, unless the name and address of the **secured party** already is contained on the certificate of title for the vehicle:

(1) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form or in an automated format prescribed by the department, an application to name the **secured party** on the certificate, showing the name and address of the **secured party**, and cause the certificate, application and the required fee to be delivered to the **secured party**.

(2) The **secured party** shall immediately cause the certificate, application and the required fee to be mailed or delivered to the department.

(3) Upon receipt of the certificate of title, application and the required fee, the department shall issue to the owner a new certificate containing the name and address of the new **secured party**. The department shall deliver to such new **secured party** and to the register of deeds of the county of the owner's residence, memoranda, in such form as the department prescribes, evidencing the notation of the **security interest** upon the certificate; and thereafter, upon any assignment, termination or release of the **security interest**, additional memoranda evidencing such action.

(4) The registers of deeds may record, and maintain a file of, all memoranda received from the department under sub. (3). Such recording, however, is not required for perfection, release or assignment of **security interests**, which shall be effective upon compliance with ss. 342.19 (2), 342.21 and 342.22 (1) and (2).

***NOTE: Should this draft amend or cross reference this statute?

History: 1975 c. 286; 1977 c. 29 s. 1654 (7) (a); 1981 c. 20; 1985 a. 202 s. 37; 1993 a. 301; 1995 a. 338; 1997 a. 27.

SECTION 16. 342.21 of the statutes is amended to read:

342.21 Assignment of security interest. (1) A **secured party** may assign, absolutely or otherwise, the party's **security interest** in the vehicle to a person other than the owner without affecting the interest of the owner or the validity of the **security interest**, but any person without notice of the assignment is protected in dealing with the **secured party** as the holder of the **security interest** and the **secured party** remains liable for any obligations as a **secured party** until the assignee is named as **secured party** on the certificate.

(2) The assignee may but need not, to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as **secured party**, upon delivering to the department the certificate and an assignment by the **secured party** named in the certificate in the form the department prescribes.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 29 s. 1654 (7) (a); 1991 a. 316.

SECTION 47. 342.22 of the statutes is amended to read:

342.22 Release of security interest. (1) Within one month or within 10 days following written demand by the debtor after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, **secured** by the **security interest** in a vehicle under any **security agreement** between the owner and the **secured party**, the **secured party** shall execute and deliver to the owner, as the department prescribes, a release of the **security interest** in the form and manner prescribed by the department and a notice to the owner stating in no less than 10-point boldface type the owner's obligation under sub. (2). If the **secured party** fails to execute and deliver the release and notice of the owner's obligation as required by this subsection, the

secured party is liable to the owner for \$25 and for any loss caused to the owner by the failure.

(2) The owner, other than a dealer holding the vehicle for resale, upon receipt of the release and notice of obligation shall promptly cause the certificate and release to be mailed or delivered to the department, which shall release the **secured party's** rights on the certificate and issue a new certificate.

(3) The department may remove information pertaining to a **security interest** perfected under s. 342.19 from its computerized records when the following applicable period of time after the original perfection has elapsed unless the **security interest** is renewed in the same manner as provided in s. 342.19

(2) for perfection of a **security interest**:

- (a) For a mobile home, 20 years.
- (b) For a truck tractor, 8 years.
- (c) For any other vehicle, 10 years.

(4) Removal of information pertaining to a **security interest** from the records of the department under sub. (3) does not affect any **security agreement** between the owner of a vehicle and the holder of **security interest** in the vehicle.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 217, 447; 1985 a. 202; 1997 a. 27.

SECTION 48. 342.23 of the statutes is amended to read:

342.23 secured party's and owner's duties. (1) A **secured party** named in a certificate of title shall, upon written request of the owner or of another **secured party** named on the certificate, disclose any pertinent information as to the party's **security agreement** and the indebtedness **secured** by it.

(2) (a) An owner shall promptly deliver the owner's certificate of title to any **secured party** who is named on it or who has a **security interest** in the vehicle described in it under any other applicable prior law of this state, upon receipt of a notice from such **secured party** that the **security interest** is to be assigned, extended or perfected.

(b) No **secured party** may take possession of any certificate of title except as provided in par. (a). Any person who violates this paragraph may be required to forfeit not more than \$1,000.

(3) Any **secured party** who fails to disclose information pursuant to sub. (1) shall be liable for any loss caused to owner thereby.

(4) Any owner who fails to deliver the certificate of title to a **secured party** requesting it pursuant to sub. (2) (a) shall be liable to such **secured party** for any loss caused to the **secured party** thereby and may be required to forfeit not more than \$200.

***NOTE: Should this draft amend or cross reference this statute?

History: 1971 c. 278; 1991 a. 316; 1993 a. 159.

SECTION 49. 342.24 of the statutes is amended to read:

342.24 Method of perfecting exclusive. The method provided in this chapter of perfecting and giving notice of **security interests** subject to this chapter is exclusive. **security interests** subject to this chapter are hereby exempted from the provisions of law which otherwise require or relate to the filing of instruments creating or evidencing **security interests**.

***NOTE: Should this draft amend or cross reference this statute?

SECTION 50. 344.185 (3) of the statutes is amended to read:

344.185 (3) Notwithstanding ss. **409.501** to **409.507** and ch. 425:

(a) A creditor with a **security interest** in a vehicle which is ordered sold under this section may accelerate the maturity of the **secured** indebtedness, is not required to give notice of default and right to cure, may accept custody of the vehicle and may conduct the sale of the vehicle as provided under sub. (2) (c) without sending notification of the sale to the debtor and may receive proceeds from the sale as provided under sub. (2) (e).

(b) The owner of a vehicle which is ordered sold under this section is deemed in default under the instrument securing the indebtedness but has no right to cure the default or redeem the vehicle once the sale has been ordered, may not receive any proceeds from the sale and remains liable to a **secured party** for any deficiency which remains unsatisfied after the distribution under sub. (2) (e).

***NOTE: Should this draft amend or cross reference this statute?

History: 1981 c. 363.

SECTION 51. 344.185 (3) of the statutes is amended to read:

344.185 (3) Notwithstanding ss. 409.501 to 409.507 and ch. 425:

(a) A creditor with a **security interest** in a vehicle which is ordered sold under this section may accelerate the maturity of the **secured** indebtedness, is not required to give notice of default and right to cure, may accept custody of the vehicle and may conduct the sale of the vehicle as provided under sub. (2) (c) without sending notification of the sale to the debtor and may receive proceeds from the sale as provided under sub. (2) (e).

(b) The owner of a vehicle which is ordered sold under this section is deemed in default under the instrument securing the indebtedness but has no right to cure the default or redeem the vehicle once the sale has been ordered, may not receive any

proceeds from the sale and remains liable to a **secured party** for any deficiency which remains unsatisfied after the distribution under sub. (2) (e).

****NOTE: Should this draft amend or cross reference this statute?

History: 1973 c. 215; 1979 c. 89; 1991 a. 148, 304, 315; 1997 a. 297.

SECTION 52. 401.106 (1) of the statutes is amended to read:

401.106 (1) The remedies provided by chs. 401 to 411 shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in chs. 401 to 411 or by other rule of law.

****NOTE: Should this draft amend or cross reference this statute?

History: 1979 c. 89; 1991 a. 148, 304, 315.

SECTION 53. 401.201 (intro.) of the statutes is amended to read:

401.201 General definitions. (intro.) Subject to additional definitions contained in chs. 402 to 411 which are applicable to specific chapters or parts thereof, and unless the context otherwise requires, in chs. 401 to 411:

****NOTE: Should this draft amend or cross reference this statute?

History: 1973 c. 215; 1979 c. 89; 1983 a. 189; 1985 a. 237; 1991 a. 148, 304, 315, 316; 1995 a. 449.

SECTION 54. 402.326 (3) (c) of the statutes is amended to read:

402.326 (3) (c) Complies with the filing provisions of **ch. 409.**

****NOTE: Should this draft amend or cross reference this statute?

History: 1991 a. 316; 1997 a. 279.

SECTION 55. 402.401 (1) of the statutes is amended to read:

****NOTE: Should this draft amend or cross reference this statute?

SECTION 56. 405.116 (2) of the statutes is amended to read:

405.116 (2) Even though the credit specifically states that it is nontransferable or nonassignable, the beneficiary may assign the beneficiary's right to proceeds before performance of the conditions of the credit. Such an assignment is an

assignment of an account under **ch. 409** and is governed by that chapter except that:

(a) The assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the **security interest** under **ch. 409**; and

(b) The issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

(c) After what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

***NOTE: Should this draft amend or cross reference this statute?

History: 1973 c. 215; 1991 a. 316.

SECTION 57. 407.509 of the statutes is amended to read:

407.509 Receipt or bill: when adequate compliance with commercial contract. The question whether a document is adequate to fulfill the obligations of a contract for sale or the conditions of a credit is governed by chs. 402 and 405.

WAREHOUSE RECEIPTS AND BILLS OF LADING:

MISCELLANEOUS PROVISIONS

***NOTE: Should this draft amend or cross reference this statute?

SECTION 58. 422.413 (2r) of the statutes is amended to read:

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

(a) Any expenses described in sub. (2g) (a) subject to the restriction set forth in sub. (2g) (a).

(b) Any expenses described in sub. (2g) (b) subject to the restriction set forth in sub. (2g) (b).

(c) Any expenses described in sub. (2g) (c) 1., subject to the restrictions set forth in sub. (2g) (c) 1. (intro.), in the order, and subject to the limitations on amounts, set forth in sub. (2g) (c) 1. a. to c., or in sub. (2g) (c) 2., subject to the limitation described in that subdivision.

(d) The satisfaction of indebtedness **secured** by the **security interest** under which the disposition of the collateral is made.

(e) Any expenses described in sub. (2g) (c) 1. in excess of the limitations on amounts set forth in sub. (2g) (c) 1. a. to c., in the order set forth in sub. (2g) (c) 1. a. to c.

(f) The satisfaction of indebtedness **secured** by any subordinate **security interest** in the collateral, subject to the restrictions set forth in **s. 409.504 (1) (c)**.

(g) Payment to the customer.

***NOTE: Should this draft amend or cross reference this statute?

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.

SECTION 59. 425.106 (1) of the statutes is amended to read:

425.106 (1) Except to the extent that the merchant has a valid **security interest** which is permitted by chs. 421 to 427 and 429 or has a lien under ch. 779 in such property, or where the transaction is for medical or legal services and there has been no finance charge actually imposed, the following property of the customer shall be exempt from levy, execution, sale, and other similar process in satisfaction of a judgment for an obligation arising from a consumer credit transaction:

(a) Unpaid earnings to the extent provided in s. 812.34.

(b) Clothing of the customer or his or her dependents, and the following: dining table and chairs, refrigerator, heating stove, cooking stove, radio, beds and bedding, couch and chairs, cooking utensils and kitchenware and household goods as defined in 12 CFR 227.13 (d), 12 CFR 535.1 (g) or 16 CFR 444.1 (i) consisting of furniture, appliances, one television, linens, china, crockery and personal effects including wedding rings, except works of art, electronic entertainment equipment, antiques and jewelry, to the extent a nonpossessory **security interest** in these household goods is prohibited under 12 CFR 227.13 (d), 12 CFR 535.2 (a) (4) or 16 CFR 444.2 (a) (4);

(c) Real property used as the principal residence of the customer or the customer's dependents, to the extent that the fair market value of such property, less all amounts **secured** by mortgages and liens outstanding against it, is \$15,000 or less; and

(d) Earnings or other assets of the customer which are required to be paid by the customer as restitution under s. 973.20.

***NOTE: Should this draft amend or cross reference this statute?

History: 1971 c. 239; 1973 c. 2, 3; 1979 c. 32 s. 92 (9); 1979 c. 89, 177, 221; 1983 a. 36; 1985 a. 37, 256; 1987 a. 398; 1991 a. 316; 1993 a. 80; 1995 a. 329.

SECTION 60. 425.306 (1) of the statutes is amended to read:

425.306 (1) Any charge, practice, term, clause, provision, **security interest** or other action or conduct in violation of chs. 421 to 427, to the extent that the same is in violation of chs. 421 to 427, shall confer no rights or obligations enforceable by action.

***NOTE: Should this draft amend or cross reference this statute?

History: 1971 c. 239; 1979 c. 89.

SECTION 61. 704.05 (5) (c) of the statutes is amended to read:

704.05 (5) (c) *Rights of third persons.* The landlord's lien and power to dispose as provided by this subsection apply to any property left on the premises by the tenant, whether owned by the tenant or by others. That lien has priority over any ownership or **security interest**, and the power to dispose under this subsection applies notwithstanding rights of others existing under any claim of ownership or **security interest**. The tenant or any **secured party** has the right to redeem the property at any time before the landlord has disposed of it or entered into a contract for its disposition by payment of the landlord's charges under par. (a) for removal, storage, disposition and arranging for the sale.

***NOTE: Should this draft amend or cross reference this statute?

History: 1993 a. 374, 486.

SECTION 62. 704.90 (3) (a) of the statutes is amended to read:

704.90 (3) (a) An operator has a lien on all personal property stored in a leased space for rent and other charges related to the personal property, including expenses necessary to the preservation, removal, storage, preparation for sale and sale of the personal property. The lien attaches as of the first day the personal property is stored in the leased space and is superior to any other lien on or **security interest** in the personal property except for a statutory lien or a **security interest** that is perfected by filing prior to the first day the personal property is stored in the leased space, a **security interest** in a vehicle perfected under ch. 342 or a **security interest** in a boat perfected under ch. 30.

***NOTE: Should this draft amend or cross reference this statute?

History: 1987 a. 23; 1991 a. 39; 1995 a. 27.

SECTION 63. 779.41 of the statutes is amended to read:

779.41 Mechanic's liens. (1) Every mechanic and every keeper of a garage or shop, and every employer of a mechanic who transports, makes, alters, repairs or

does any work on personal property at the request of the owner or legal possessor of the personal property, has a lien on the personal property for the just and reasonable charges therefor, including any parts, accessories, materials or supplies furnished in connection therewith and may retain possession of the personal property until the charges are paid. The lien provided by this section is subject to the lien of any **security interest** in the property which is perfected as provided by law prior to the commencement of the work for which a lien is claimed unless the work was done with the express consent of the holder of the **security interest**, but only for charges in excess of \$1,500 except if the personal property is:

(a) A trailer or semitrailer designed for use with a road tractor, for charges in excess of \$4,500.

(b) Road machinery, including mobile cranes and trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment, for charges in excess of \$7,500.

(c) A motor vehicle not included under par. (a) or (b) with a manufacturer's gross weight rating, including, with respect to road tractors, a manufacturer's gross weight rating for the combined carrying capacity of the tractor and trailer, of:

1. More than 10,000 and less than 20,000 pounds, for charges in excess of \$3,000.
2. 20,000 pounds or more but less than 40,000 pounds, for charges in excess of \$6,000.
3. 40,000 pounds or more but less than 60,000 pounds, for charges in excess of \$9,000.
4. 60,000 pounds or more, for charges in excess of \$12,000.

(1m) Annually, on January 1, the department of agriculture, trade and consumer protection shall adjust the dollar amounts identified under sub. (1)(intro.), (a), (b) and (c) 1. to 4. by the annual change in the consumer price index, as determined under s. 16.004 (8) (e) 1., and publish the adjusted figures.

NOTE: NOTE: The department will publish the adjusted mechanic's lien limits in the December 31st issue of the Wisconsin Administrative Register.NOTE:

(1s) (a) Subsection (1), as it applies to a mechanic, mechanic's employer or keeper of a garage or shop, applies to a boat mechanic, boat mechanic's employer, person who tows a boat or keeper of a marina or shop at which boats are repaired, except as follows:

1. The lien provided by this subsection is subject to the lien of any **security interest** in the boat that is perfected as provided by law prior to the commencement of the work for which the lien is claimed unless the work was done with the express consent of the holder of the **security interest**, but only for charges in excess of \$1,200.

2. Within 30 days after the charges for the work become past due, the person claiming a lien under this subsection shall send written notice to the owner of the boat and the holder of the senior lien on the boat informing them that they must take steps to obtain the release of the boat. To reclaim the boat, the owner or the senior lienholder must pay all charges that have a priority over other **security interests** under this subsection and all reasonable storage charges on the boat that have accrued after 60 days from the date that the charges for the work became past due. A reasonable effort to notify the owner and the holder of the senior lien satisfies the notice requirement under this subdivision. Failure to make a reasonable effort to notify the owner and the senior lienholder renders void any lien to which the person may be entitled under this subsection.

(b) A lien under this subsection is in addition to any remedy available under ch. 780.

(2) Every keeper of a garage or repair shop who alters, repairs or does any work on any detached accessory, fitting or part of an automobile, truck, motorcycle, moped, motor bicycle or similar motor vehicle or bicycle at the request of the owner or legal possessor thereof, shall have a lien upon and may retain possession of any such accessory, fitting or part until the charges for such alteration, repairing or other work have been paid. If the detached article becomes attached to such motor vehicle or bicycle while in the possession of the keeper, the keeper has a lien on the motor vehicle or bicycle under sub. (1).

(3) Insofar as the possessory right and lien of the person performing labor and services under this section are released, relinquished and lost by the removal of property upon which a lien has accrued, it is prima facie evidence of intent to defraud if upon the removal of such property, the person removing the property issues any check or other order for the payment of money in payment of the indebtedness **secured** by the lien, and thereafter stops payment on the check or order. This subsection does not apply when a check is stopped because the product is improperly repaired or improperly serviced and the product has been returned to the person performing the labor or services for proper repair or service.

***NOTE: Should this draft amend or cross reference this statute?

History: 1971 c. 333; 1979 c. 32 s. 57; 1979 c. 176, 252; Stats. 1979 s. 779.41; 1983 a. 243; 1987 a. 399; 1995 a. 107, 331; 1997 a. 35.

SECTION 64. 779.47 (3) of the statutes is amended to read:

779.47 (3) PRIORITY. A lien under sub. (2) does not take priority over an existing perfected **security interest**.

***NOTE: Should this draft amend or cross reference this statute?

History: 1993 a. 328.

SECTION 65. 779.48 (2) of the statutes is amended to read:

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

***NOTE: Should this draft amend or cross reference this statute?

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. 300 s. 43; 1993 a. 328.

SECTION 66. 801.05 (7) of the statutes is amended to read:

801.05 (7) DEFICIENCY JUDGMENT ON LOCAL FORECLOSURE OR RESALE. In any action to recover a deficiency judgment upon a mortgage note or conditional sales contract or other **security agreement** executed by the defendant or predecessor to whose obligation the defendant has succeeded and the deficiency is claimed either:

(a) In an action in this state to foreclose upon real property situated in this state; or

(b) Following sale of real property in this state by the plaintiff under ch. 846;
or

(c) Following resale of tangible property in this state by the plaintiff under **ch. 409.**

****NOTE: Should this draft amend or cross reference this statute?

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.

SECTION 67. 893.36 (3) (a) of the statutes is amended to read:

893.36 (3) (a) "Buyer in ordinary course of business" has the meaning provided by s. 401.201 (9).

****NOTE: Should this draft amend or cross reference this statute?

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

SECTION 68. 943.25 of the statutes is amended to read:

943.25 Transfer of encumbered property. (1) Whoever, with intent to defraud, conveys real property which he or she knows is encumbered, without informing the grantee of the existence of the encumbrance is guilty of a Class E felony.

(2) Whoever, with intent to defraud, does any of the following is guilty of a Class E felony:

(a) Conceals, removes or transfers any personal property in which he or she knows another has a **security interest**; or

(b) In violation of the **security agreement**, fails or refuses to pay over to the **secured party** the proceeds from the sale of property subject to a **security interest**.

(3) It is prima facie evidence of an intent to defraud within the meaning of sub. (2) (a) if a person, with knowledge that the **security interest** exists, removes or sells the property without either the consent of the **secured party** or authorization by the **security agreement** and fails within 72 hours after service of written demand for the return of the property either to return it or, in the event that return is not possible, to make full disclosure to the **secured party** of all the information the person has concerning its disposition, location and possession.

(4) In this section “**security interest**” means an interest in property which secures payment or other performance of an obligation; “**security agreement**” means the agreement creating the **security interest**; “**secured party**” means the person designated in the **security agreement** as the person in whose favor there is a **security interest** or, in the case of an assignment of which the debtor has been notified, the assignee.

(5) In prosecutions for violation of sub. (2) arising out of transfers of livestock subject to a **security agreement** in violation of the terms of the **security agreement**, evidence that the debtor who transferred the livestock signed or endorsed any writing arising from the transaction, including a check or draft, which states that the transfer of the livestock is permitted by the **secured party** establishes a rebuttable presumption of intent to defraud.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 173; 1979 c. 144; 1993 a. 486.

SECTION 69. 943.25 (4) of the statutes is amended to read:

943.25 (4) In this section “**security interest**” means an interest in property which secures payment or other performance of an obligation; “**security agreement**” means the agreement creating the **security interest**; “**secured party**” means the person designated in the **security agreement** as the person in whose favor there is a **security interest** or, in the case of an assignment of which the debtor has been notified, the assignee.

***NOTE: Should this draft amend or cross reference this statute?

History: 1977 c. 173; 1979 c. 144; 1993 a. 486.

SECTION 70. 943.60 of the statutes is amended to read:

943.60 Criminal slander of title. (1) Any person who submits for filing, entering or recording any lien, claim of lien, lis pendens, writ of attachment,

financing statement or any other instrument relating to a **security interest** in or title to real or personal property, and who knows or should have known that the contents or any part of the contents of the instrument are false, a sham or frivolous, is guilty of a Class D felony.

(2) This section applies to any person who causes another person to act in the manner specified in sub. (1).

(3) This section does not apply to a register of deeds or other government employe who acts in the course of his or her official duties and files, enters or records any instrument relating to title on behalf of another person.

****NOTE: Should this draft amend or cross reference this statute?

History: 1979 c. 221; 1995 a. 224; 1997 a. 27.