

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

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

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

7 (7) BURDEN OF PROOF IN NON-CONSUMER-GOODS TRANSACTION. In a transaction  
8 other than a consumer-goods transaction, a secured party claiming a  
9 purchase-money security interest has the burden of establishing the extent to which  
10 the security interest is a purchase-money security interest.

11 (8) NON-CONSUMER-GOODS TRANSACTIONS; NO INFERENCE. The limitation of the  
12 rules in subs. (5) to (7) to transactions other than consumer-goods transactions is  
13 intended to leave to the court the determination of the proper rules in  
14 consumer-goods transactions. The court may not infer from that limitation the  
15 nature of the proper rule in consumer-goods transactions and may continue to apply  
16 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? .

[new omitted see 9-103 and 9-324] 409.114 – ANNOT.

Legislative Council Note, 1973: Sub. (1) (c) was amended by the Special Committee to delete the words "within 5 years" which appear after "notification" in the official text. Under s. 409.403 (2), as amended by this proposal, the effectiveness of a filed financing statement lapses at the end of 5 years unless a continuation statement is filed prior to lapse. For this reason the official text requires that a new notice be made under this section and s. 409.312 (3) (c) every 5 years even though holders of conflicting security interests received notice when the financing statement was originally filed and will have constructive notice upon the filing of a continuation statement. The Special Committee felt this requirement of new notice every 5 years to be both unreasonable and unnecessary. (Bill 177-S)

17 **409.104 Control of deposit account. (1) REQUIREMENTS FOR CONTROL. A**  
18 secured party has control of a deposit account if:

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

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

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

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

10 **409.105 Control of electronic chattel paper.** A secured party has control  
11 of electronic chattel paper if the record or records comprising the chattel paper are  
12 created, stored and assigned in such a manner that:

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

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

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

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

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

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

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

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

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

8           (b) The commodity customer, secured party and commodity intermediary have  
9 agreed that the commodity intermediary will apply any value distributed on account  
10 of the commodity contract as directed by the secured party without further consent  
11 by the commodity customer.

12           (3) EFFECT OF CONTROL OF SECURITIES ACCOUNT OR COMMODITY ACCOUNT. A secured  
13 party having control of all security entitlements or commodity contracts carried in  
14 a securities account or commodity account has control over the securities account or  
15 commodity account.

16           **409.107 Control of letter-of-credit right.** A secured party has control of  
17 a letter-of-credit right to the extent of any right to payment or performance by the  
18 issuer or any nominated person if the issuer or nominated person has consented to  
19 an assignment of proceeds of the letter of credit under s. 405.114 (3) or otherwise  
20 applicable law or practice.

21           **409.108 Sufficiency of description.** (1) SUFFICIENCY OF DESCRIPTION. Except  
22 as otherwise provided in subs. (3) to (5), a description of personal or real property is  
23 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 stat.]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?

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

4           (a) Specific listing;

5           (b) Category;

6           (c) Except as otherwise provided in sub. (5), a type of collateral defined in chs.  
7 401 to 411;

8           (d) Quantity;

9           (e) Computational or allocational formula or procedure; or

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

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

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

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

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

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

3           (a) A commercial tort claim; or

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

6           **409.109 Scope. (1) GENERAL SCOPE OF CHAPTER.** Except as otherwise provided  
7 in subs. (3) and (4), this chapter applies to:

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

10          (b) An agricultural lien;

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

12          (d) A consignment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 2. Fixtures in s. 409.334;

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

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

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

17 (m) An assignment of a deposit account in a consumer transaction, but ss.  
18 409.315 and 409.322 apply with respect to proceeds and priorities in proceeds.

[ncw 9-109] 409.104 – ANNOT.

Legislative Council Note, 1973: Sub. (2) is amended to make it clear that contractual landlord's liens are not exempt from coverage by ch. 409. Wisconsin has abolished the common law landlord's lien, distress for rent. See s. 704.11, Wis. Stats. (Bill 177-S)

19 **409.110 Security interests arising under ch. 402 or 411.** A security  
20 interest arising under s. 402.401, 402.505, 402.711 (3) or 411.508 (5) is subject to this  
21 chapter. However, until the debtor obtains possession of the goods:



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

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

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

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

10           **409.202 Title to collateral immaterial.** Except as otherwise provided with  
11 respect to consignments or sales of accounts, chattel paper, payment intangibles or  
12 promissory notes, the provisions of this chapter with regard to rights and obligations  
13 apply whether title to collateral is in the secured party or the debtor.

14           **409.203 Attachment and enforceability of security interest; proceeds;  
15 supporting obligations; formal requisites.** (1) **ATTACHMENT.** A security interest  
16 attaches to collateral when it becomes enforceable against the debtor with respect  
17 to the collateral, unless an agreement expressly postpones the time of attachment.

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

21           (a) Value has been given;

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

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

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

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

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

9           4. The collateral is deposit accounts, electronic chattel paper, investment  
10 property or letter-of-credit rights, and the secured party has control under s.  
11 409.104, 409.105, 409.106 or 409.107 pursuant to the debtor’s security agreement.

12           **(2m) SIGNATURE OF ONLY ONE SPOUSE.** A security agreement signed by one  
13 spouse is signed by the debtor under this section if that spouse acting alone has the  
14 right under s. 766.51 to manage and control the collateral, unless a marital property  
15 agreement or court decree which is binding on the secured party under s. 766.55 (4m)  
16 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 in this draft? If so, should it be modified  
to fit with new ch. 409?

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

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

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

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

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

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

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

13           **(6) PROCEEDS AND SUPPORTING OBLIGATIONS.** The attachment of a security  
14 interest in collateral gives the secured party the rights to proceeds provided by s.  
15 409.315 and is also attachment of a security interest in a supporting obligation for  
16 the collateral.

17           **(7) LIEN SECURING RIGHT TO PAYMENT.** The attachment of a security interest in  
18 a right to payment or performance secured by a security interest or other lien on  
19 personal or real property is also attachment of a security interest in the security  
20 interest, mortgage or other lien.

21           **(8) SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT.** The attachment of  
22 a security interest in a securities account is also attachment of a security interest in  
23 the security entitlements carried in the securities account.

1           **(9) COMMODITY CONTRACTS CARRIED IN COMMODITY ACCOUNT.** The attachment of  
 2 a security interest in a commodity account is also attachment of a security interest  
 3 in the commodity contracts carried in the commodity account.

4           **409.204 After-acquired property; future advances. (1) AFTER-ACQUIRED**  
 5 **COLLATERAL.** Except as otherwise provided in sub. (2), a security agreement may  
 6 create or provide for a security interest in after-acquired collateral.

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

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

12           (b) A commercial tort claim.

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

17           **409.205 Use or disposition of collateral permissible. (1) WHEN SECURITY**  
 18 **INTEREST NOT INVALID OR FRAUDULENT.** A security interest is not invalid or fraudulent  
 19 against creditors solely because:

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

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

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

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

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

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

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

6 **409.206 Security interest arising in purchase or delivery of financial**  
7 **asset. (1) SECURITY INTEREST WHEN PERSON BUYS THROUGH SECURITIES INTERMEDIARY.**  
8 A security interest in favor of a securities intermediary attaches to a person's  
9 security entitlement if:

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

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

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

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

21 (a) The security or other financial asset:  
22 1. In the ordinary course of business is transferred by delivery with any  
23 necessary endorsement or assignment; and  
24 2. Is delivered under an agreement between persons in the business of dealing  
25 with such securities or financial assets; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13           1. To charge back uncollected collateral; or

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

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

18           **409.208 Additional duties of secured party having control of collateral.**

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

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

24           (a) A secured party having control of a deposit account under s. 409.104 (1) (b)  
25 shall send to the bank with which the deposit account is maintained an

1 authenticated statement that releases the bank from any further obligation to  
2 comply with instructions originated by the secured party;

3 (b) A secured party having control of a deposit account under s. 409.104 (1) (c)  
4 shall:

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

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

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

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

11 2. If the debtor designates a custodian that is the designated custodian with  
12 which the authoritative copy of the electronic chattel paper is maintained for the  
13 secured party, communicate to the custodian an authenticated record releasing the  
14 designated custodian from any further obligation to comply with instructions  
15 originated by the secured party and instructing the custodian to comply with  
16 instructions originated by the debtor; and

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

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

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

5 **409.209 Duties of secured party if account debtor has been notified of**  
6 **assignment.** (1) APPLICABILITY OF SECTION. Except as otherwise provided in sub. (3),  
7 this section applies if:

- 8 (a) There is no outstanding secured obligation; and  
9 (b) The secured party is not committed to make advances, incur obligations or  
10 otherwise give value.

11 (2) DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR. Within 10  
12 days after receiving an authenticated demand by the debtor, a secured party shall  
13 send to an account debtor that has received notification of an assignment to the  
14 secured party as assignee under s. 409.406 (1) an authenticated record that releases  
15 the account debtor from any further obligation to the secured party.

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

18 **409.210 Request for accounting; request regarding list of collateral or**  
19 **statement of account.** (1) DEFINITIONS. In this section:

- 20 (a) “Request” means a record of a type described in par. (b), (c) or (d).  
21 (b) “Request for an accounting” means a record authenticated by a debtor  
22 requesting that the recipient provide an accounting of the unpaid obligations secured  
23 by collateral and reasonably identifying the transaction or relationship that is the  
24 subject of the request.

1 (c) "Request regarding a list of collateral" means a record authenticated by a  
2 debtor requesting that the recipient approve or correct a list of what the debtor  
3 believes to be the collateral securing an obligation and reasonably identifying the  
4 transaction or relationship that is the subject of the request.

5 (d) "Request regarding a statement of account" means a record authenticated  
6 by a debtor requesting that the recipient approve or correct a statement indicating  
7 what the debtor believes to be the aggregate amount of unpaid obligations secured  
8 by collateral as of a specified date and reasonably identifying the transaction or  
9 relationship that is the subject of the request.

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

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

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

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

23 (4) REQUEST REGARDING LIST OF COLLATERAL; NO INTEREST CLAIMED. A person that  
24 receives a request regarding a list of collateral, claims no interest in the collateral  
25 when it receives the request, and claimed an interest in the collateral at an earlier

1 time shall comply with the request within 14 days after receipt by sending to the  
2 debtor an authenticated record:

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

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

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

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

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

15 (6) CHARGES FOR RESPONSES. A debtor is entitled without charge to one response  
16 to a request under this section during any 6-month period. The secured party may  
17 require payment of a charge not exceeding \$25 for each additional response.

18 SUBCHAPTER III

19 PERFECTION AND PRIORITY

20 **409.301 Law governing perfection and priority of security interests.**

21 Except as otherwise provided in ss. 409.303 to 409.306, the following rules determine  
22 the law governing perfection, the effect of perfection or nonperfection, and the  
23 priority of a security interest in collateral:

1           (1) Except as otherwise provided in this section, while a debtor is located in a  
2 jurisdiction, the local law of that jurisdiction governs perfection; the effect of  
3 perfection or nonperfection and the priority of a security interest in collateral.

4           (2) While collateral is located in a jurisdiction, the local law of that jurisdiction  
5 governs perfection, the effect of perfection or nonperfection and the priority of a  
6 possessory security interest in that collateral.

7           (3) Except as otherwise provided in sub. (4), while negotiable documents,  
8 goods, instruments, money or tangible chattel paper is located in a jurisdiction, the  
9 local law of that jurisdiction governs:

10           (a) Perfection of a security interest in the goods by filing a fixture filing;

11           (b) Perfection of a security interest in timber to be cut; and

12           (c) The effect of perfection or nonperfection and the priority of a nonpossessory  
13 security interest in the collateral.

14           (4) The local law of the jurisdiction in which the wellhead or minehead is  
15 located governs perfection, the effect of perfection or nonperfection and the priority  
16 of a security interest in as-extracted collateral.

17           **409.302 Law governing perfection and priority of agricultural liens.**

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

21           **409.303 Law governing perfection and priority of security interests in**  
22 **goods covered by a certificate of title.** (1) **APPLICABILITY OF SECTION.** This section  
23 applies to goods covered by a certificate of title, even if there is no other relationship  
24 between the jurisdiction under whose certificate of title the goods are covered and the  
25 goods or the debtor.

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

7           (3) APPLICABLE LAW. The local law of the jurisdiction under whose certificate of  
8 title the goods are covered governs perfection, the effect of perfection or  
9 nonperfection and the priority of a security interest in goods covered by a certificate  
10 of title from the time the goods become covered by the certificate of title until the  
11 goods cease to be covered by the certificate of title.

12           **409.304 Law governing perfection and priority of security interests in**  
13 **deposit accounts.** (1) LAW OF BANK'S JURISDICTION GOVERNS. The local law of a bank's  
14 jurisdiction governs perfection, the effect of perfection or nonperfection and the  
15 priority of a security interest in a deposit account maintained with that bank.

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

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

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

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

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

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

10 **409.305 Law governing perfection and priority of security interests in**  
11 **investment property.** (1) GOVERNING LAW: GENERAL RULES. Except as otherwise  
12 provided in sub. (3), the following rules apply:

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

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

19 (c) The local law of the securities intermediary's jurisdiction as specified in s.  
20 408.110 (e) governs perfection, the effect of perfection or nonperfection and the  
21 priority of a security interest in a security entitlement or securities account.

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

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

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

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

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

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

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

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

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

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

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

5 **409.306 Law governing perfection and priority of security interests in**  
6 **letter-of-credit rights.** (1) GOVERNING LAW: ISSUERS OR NOMINATED PERSON'S  
7 JURISDICTION. Subject to sub. (3), the local law of the issuer's jurisdiction or a  
8 nominated person's jurisdiction governs perfection, the effect of perfection or  
9 nonperfection and the priority of a security interest in a letter-of-credit right if the  
10 issuer's jurisdiction or nominated person's jurisdiction is a state.

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

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

17 **409.307 Location of debtor.** (1) PLACE OF BUSINESS. In this section, "place of  
18 business" means a place where a debtor conducts its affairs.

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

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

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

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

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

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

13 (5) LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER STATE LAW. A  
14 registered organization that is organized under the law of a state is located in that  
15 state.

16 (6) LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER FEDERAL LAW; BANK  
17 BRANCHES AND AGENCIES. Except as otherwise provided in sub. (9), a registered  
18 organization that is organized under the law of the United States and a branch or  
19 agency of a bank that is not organized under the law of the United States or a state  
20 are located:

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

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

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

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

3 A registered organization continues to be located in the jurisdiction specified by sub.

4 (5) or (6) notwithstanding:

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

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

9 (8) LOCATION OF UNITED STATES. The United States is located in the District of  
10 Columbia.

11 (9) LOCATION OF FOREIGN BANK BRANCH OR AGENCY IF LICENSED IN ONLY ONE STATE.  
12 A branch or agency of a bank that is not organized under the law of the United States  
13 or a state is located in the state in which the branch or agency is licensed, if all  
14 branches and agencies of the bank are licensed in only one state.

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

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

20 **409.308 When security interest or agricultural lien is perfected;**  
21 **continuity of perfection.** (1) PERFECTION OF SECURITY INTEREST. Except as  
22 otherwise provided in this section and s. 409.309, a security interest is perfected if  
23 it has attached and all of the applicable requirements for perfection in ss. 409.310  
24 to 409.316 have been satisfied. A security interest is perfected when it attaches if  
25 the applicable requirements are satisfied before the security interest attaches.

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

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

9           **(4) SUPPORTING OBLIGATION.** Perfection of a security interest in collateral also  
10 perfects a security interest in a supporting obligation for the collateral.

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

14           **(6) SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT:** Perfection of a  
15 security interest in a securities account also perfects a security interest in the  
16 security entitlements carried in the securities account.

17           **(7) COMMODITY CONTRACT CARRIED IN COMMODITY ACCOUNT.** Perfection of a  
18 security interest in a commodity account also perfects a security interest in the  
19 commodity contracts carried in the commodity account.

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

22           **409.309 Security interest perfected upon attachment.** The following  
23 security interests are perfected when they attach:

1           (1) A purchase-money security interest in consumer goods, except as otherwise  
2 provided in s. 409.311 (2) with respect to consumer goods that are subject to a statute  
3 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?

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

7           (3) A sale of a payment intangible;

8           (4) A sale of a promissory note;

9           (5) A security interest created by the assignment of a health-care-insurance  
10 receivable to the provider of the health-care goods or services;

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

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

14          (8) A security interest of an issuer or nominated person arising under s.  
15 405.118;

16          (9) A security interest arising in the delivery of a financial asset under s.  
17 409.206 (3);

18          (10) A security interest in investment property created by a broker or securities  
19 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?

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

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

5           (13) A security interest created by an assignment of a beneficial interest in a  
6 decedent's estate; and

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

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

[new 9-309 (old sub. (1)) 9-310(old subs. (1) and (2)) 9-311 (old subs. (3) and (4))  
409.302 – ANNOT.

Legislative Council Note, 1973: The language of sub. (3) (intro.) has been changed from that contained in the official text in order to conform more closely to the stylistic approach of present s. 409.302 (3) without making a substantive change. Filing under the vehicle title statutes specified in sub. (3) (b) is the exclusive method of perfection with respect to mobile homes and certain other vehicles. Sub. (3) (b) is a restatement of present s. 409.302 (5). Sub. (3) (d) is not contained in the official text. It is a restatement of present s. 409.302 (3) (intro.) and (b). The provisions of sub. (5) are incorporated into s. 409.302 (3) (b). (Bill 177-S)

9           **409.310 When filing required to perfect security interest or**  
10 **agricultural lien; security interests and agricultural liens to which filing**  
11 **provisions do not apply. (1) GENERAL RULE: PERFECTION BY FILING.** Except as  
12 otherwise provided in sub. (2) and s. 409.312 (2), a financing statement must be filed  
13 to perfect all security interests and agricultural liens.

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

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

17           (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. 409.311  
2 (1);

3 (d) In goods in possession of a bailee which is perfected under s. 409.312 (4) (a)  
4 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 similar 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 interest  
8 perfected by compliance with the requirements prescribed by a statute, regulation  
9 or treaty described in sub. (1) are governed by the statute, regulation or treaty. In  
10 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 a  
8 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. 409.104,  
2 409.105, 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 by  
11 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.

[new 9-315] 409.306 – ANNOT.

Legislative Council Note, 1973: The official text amended sub. (3) so as to provide that the security interest in proceeds continues to be perfected if a filed financing statement covered the original collateral and the proceeds are collateral in which a security interest could be perfected by a filing in the office where the financing statement was filed. In addition, if the property constituting the proceeds was acquired with cash proceeds obtained through the sale of the original collateral, the security interest would cover these acquired proceeds only if they were a type of property described in the financing statement. The Special Committee rejected the proposed change and decided to retain present sub. (3) but amended sub. (3) to reflect the intent of new s. 409.203 (3) which provides that a security agreement gives the secured party the rights to proceeds under s. 409.306 unless otherwise agreed. Sub. (3), as amended, makes it clear that perfection of a security interest in the original collateral constitutes perfection of the security interest in proceeds unless coverage of proceeds is disclaimed in the security agreement under s. 409.203 (3). An exception to the rule of sub. (3) is provided in sub. (3m).

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:**

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

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

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

6 (2) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW  
7 JURISDICTION. If a security interest described in sub. (1) becomes perfected under the  
8 law of the other jurisdiction before the earliest time or event described in that  
9 subsection, it remains perfected thereafter. If the security interest does not become  
10 perfected under the law of the other jurisdiction before the earliest time or event, it  
11 becomes unperfected and is deemed never to have been perfected as against a  
12 purchaser of the collateral for value.

13 (3) POSSESSORY SECURITY INTEREST IN COLLATERAL MOVED TO NEW JURISDICTION.  
14 A possessory security interest in collateral, other than goods covered by a certificate  
15 of title and as-extracted collateral consisting of goods, remains continuously  
16 perfected if:

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

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

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

22 (4) GOODS COVERED BY CERTIFICATE OF TITLE FROM THIS STATE. Except as otherwise  
23 provided in sub. (5), a security interest in goods covered by a certificate of title which  
24 is perfected by any method under the law of another jurisdiction when the goods  
25 become covered by a certificate of title from this state remains perfected until the

1 security interest would have become unperfected under the law of the other  
2 jurisdiction had the goods not become so covered.

3 (5) WHEN SUB. (4) SECURITY INTERESTS BECOMES UNPERFECTED AGAINST PURCHASERS.  
4 A security interest described in sub. (4) becomes unperfected as against a purchaser  
5 of the goods for value and is deemed never to have been perfected as against a  
6 purchaser of the goods for value if the applicable requirements for perfection under  
7 s. 409.311 (2) or 409.313 are not satisfied before the earlier of:

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

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

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

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

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

22 (7) SUR. (6) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW  
23 JURISDICTION. If a security interest described in sub. (6) becomes perfected under the  
24 law of the other jurisdiction before the earlier of the time or the end of the period  
25 described in that subsection, it remains perfected thereafter. If the security interest

1 does not become perfected under the law of the other jurisdiction before the earlier  
2 of that time or the end of that period, it becomes unperfected and is deemed never  
3 to have been perfected as against a purchaser of the collateral for value.

4 **409.317 Interests that take priority over or take free of unperfected**  
5 **security interest or agricultural lien.** (1) CONFLICTING SECURITY INTERESTS AND  
6 RIGHTS OF LIEN CREDITORS. An unperfected security interest or agricultural lien is  
7 subordinate to the rights of:

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

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

12 (2) BUYERS THAT RECEIVE DELIVERY. Except as otherwise provided in sub. (5), a  
13 buyer, other than a secured party, of tangible chattel paper, documents, goods,  
14 instruments or a security certificate takes free of a security interest or agricultural  
15 lien if the buyer gives value and receives delivery of the collateral without knowledge  
16 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."

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

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

6           (5) PURCHASE-MONEY SECURITY INTEREST. Except as otherwise provided in ss.  
7 409.320 and 409.321, if a person files a financing statement with respect to a  
8 purchase-money security interest before or within 20 days after the debtor receives  
9 delivery of the collateral, the security interest takes priority over the rights of a  
10 buyer, lessee or lien creditor which arise between the time the security interest  
11 attaches and the time of filing.

12           **409.318 No interest retained in right to payment that is sold; rights and**  
13 **title of seller of account or chattel paper with respect to creditors and**  
14 **purchasers. (1) SELLER RETAINS NO INTEREST.** A debtor that has sold an account,  
15 chattel paper, payment intangible or promissory note does not retain a legal or  
16 equitable interest in the collateral sold.

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

22           **409.319 Rights and title of consignee with respect to creditors and**  
23 **purchasers. (1) CONSIGNEE HAS CONSIGNOR'S RIGHTS.** Except as otherwise provided  
24 in sub. (2), for purposes of determining the rights of creditors of, and purchasers for  
25 value of goods from, a consignee, while the goods are in the possession of the

1 consignee, the consignee is deemed to have rights and title to the goods identical to  
2 those the consignor had or had power to transfer.

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

8 **409.320 Buyer of goods. (1) BUYER IN ORDINARY COURSE OF BUSINESS.** Except  
9 as otherwise provided in sub. (5), a buyer in ordinary course of business, other than  
10 a person buying farm products from a person engaged in farming operations, takes  
11 free of a security interest created by the buyer's seller, even if the security interest  
12 is perfected and the buyer knows of its existence.

13 (2) **BUYER OF CONSUMER GOODS.** Except as otherwise provided in sub. (5), a buyer  
14 of goods from a person who used or bought the goods for use primarily for personal,  
15 family or household purposes takes free of a security interest, even if perfected, if the  
16 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.

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

21 (3) **EFFECTIVENESS OF FILING FOR SUB. (2).** To the extent that it affects the priority  
22 of a security interest over a buyer of goods under sub. (2), the period of effectiveness

1 of a filing made in the jurisdiction in which the seller is located is governed by s.  
2 409.316 (1) and (2).

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

6 (5) POSSESSORY SECURITY INTEREST NOT AFFECTED. Subsections (1) and (2) do not  
7 affect a security interest in goods in the possession of the secured party under s.  
8 409.313.

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

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

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

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

6           (a) Conflicting perfected security interests and agricultural liens rank  
7 according to priority in time of filing or perfection. Priority dates from the earlier of  
8 the time a filing covering the collateral is first made or the security interest or  
9 agricultural lien is first perfected, if there is no period thereafter when there is  
10 neither filing nor perfection.

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

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

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

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

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

22           **(3) SPECIAL PRIORITY RULES: PROCEEDS AND SUPPORTING OBLIGATIONS.** Except as  
23 otherwise provided in sub. (6), a security interest in collateral which qualifies for  
24 priority over a conflicting security interest under s. 409.327, 409.328, 409.329,  
25 409.330 or 409.331 also has priority over a conflicting security interest in:

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

2 (b) Proceeds of the collateral if:

3 1. The security interest in proceeds is perfected;

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

5 3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds  
6 are cash proceeds, proceeds of the same type as the collateral or an account relating  
7 to the collateral.

8 (4) FIRST-TO-FILE PRIORITY RULE FOR CERTAIN COLLATERAL. Subject to sub. (5) and  
9 except as otherwise provided in sub. (6), if a security interest in chattel paper, deposit  
10 accounts, negotiable documents, instruments, investment property or  
11 letter-of-credit rights is perfected by a method other than filing, conflicting  
12 perfected security interests in proceeds of the collateral rank according to priority in  
13 time of filing.

14 (5) APPLICABILITY OF SUB. (4). Subsection (4) applies only if the proceeds of the  
15 collateral are not cash proceeds, chattel paper, negotiable documents, instruments,  
16 investment property or letter-of-credit rights.

17 (6) LIMITATIONS ON SUBS. (1) TO (5). Subsections (1) to (5) are subject to:

18 (a) Subsection (7) and the other provisions of this subchapter;

19 (b) Section 404.210 with respect to a security interest of a collecting bank;

20 (c) Section 405.118 with respect to a security interest of an issuer or nominated  
21 person; and

22 (d) Section 409.110 with respect to a security interest arising under ch. 402 or  
23 411.

1           **(7) PRIORITY UNDER AGRICULTURAL LIEN STATUTE.** A perfected agricultural lien on  
2 collateral has priority over a conflicting security interest in or agricultural lien on  
3 the same collateral if the statute creating the agricultural lien so provides.

4           **409.323 Future advances. (1) WHEN PRIORITY BASED ON TIME OF ADVANCE.**  
5 Except as otherwise provided in sub. (3), for purposes of determining the priority of  
6 a perfected security interest under s. 409.322 (1) (a), perfection of the security  
7 interest dates from the time an advance is made to the extent that the security  
8 interest secures an advance that:

9           (a) Is made while the security interest is perfected only:

- 10           1. Under s. 409.309 when it attaches; or  
11           2. Temporarily under s. 409.312 (5), (6) or (7); and

12           (b) Is not made pursuant to a commitment entered into before or while the  
13 security interest is perfected by a method other than under s. 409.309 or 409.312 (5),  
14 (6) or (7).

15           **(2) LIEN CREDITOR.** Except as otherwise provided in sub. (3), a security interest  
16 is subordinate to the rights of a person that becomes a lien creditor while the security  
17 interest is perfected only to the extent that it secures advances made more than 45  
18 days after the person becomes a lien creditor unless the advance is made:

19           (a) Without knowledge of the lien; or

20           (b) Pursuant to a commitment entered into without knowledge of the lien.

21           **(3) BUYER OF RECEIVABLES.** Subsections (1) and (2) do not apply to a security  
22 interest held by a secured party that is a buyer of accounts, chattel paper, payment  
23 intangibles or promissory notes or a consignor.

1           (4) BUYER OF GOODS. Except as otherwise provided in sub. (5), a buyer of goods  
2 other than a buyer in ordinary course of business takes free of a security interest to  
3 the extent that it secures advances made after the earlier of:

- 4           (a) The time the secured party acquires knowledge of the buyer's purchase; or  
5           (b) Forty-five days after the purchase.

      \*\*\*\*NOTE: Current s. 409.307 is nonuniform in that it does not include 9-307 (3).  
That subsection reads: "(3) A buyer other than a buyer in ordinary course of business  
(subsection (1) of this section) takes free of a security interest to the extent that it secures  
future advances made after the secured party acquires knowledge of the purchase, or  
more than 45 days after the purchase, whichever first occurs, unless made pursuant to  
a commitment entered into without knowledge of the purchase and before the expiration  
of the 45 day period." The conversion table lists 9-307 (3) as the source for part of 9-323.  
Should any part of new s. 409.323 be changed or eliminated to carry forth the deletion of  
this subsection?

6           (5) ADVANCES MADE PURSUANT TO COMMITMENT: PRIORITY OF BUYER OF GOODS.  
7 Subsection (4) does not apply if the advance is made pursuant to a commitment  
8 entered into without knowledge of the buyer's purchase and before the expiration of  
9 the 45-day period.

10          (6) LESSEE OF GOODS. Except as otherwise provided in sub. (7), a lessee of goods,  
11 other than a lessee in ordinary course of business, takes the leasehold interest free  
12 of a security interest to the extent that it secures advances made after the earlier of:

- 13          (a) The time the secured party acquires knowledge of the lease; or  
14          (b) Forty-five days after the lease contract becomes enforceable.

15          (7) ADVANCES MADE PURSUANT TO COMMITMENT: PRIORITY OF LESSEE OF GOODS.  
16 Subsection (6) does not apply if the advance is made pursuant to a commitment  
17 entered into without knowledge of the lease and before the expiration of the 45-day  
18 period.

19           APPENDIX II

20           409.324 Priority of purchase-money security interests.

1 [MODEL SECTION [9-324A]. PRIORITY OF PRODUCTION-MONEY  
2 SECURITY INTERESTS AND AGRICULTURAL LIENS. (1) Except as otherwise  
3 provided in subs. (3) to (5), if the requirements of sub. (2) are satisfied, a perfected  
4 production-money security interest in production-money crops has priority over a  
5 conflicting security interest in the same crops and, except as otherwise provided in  
6 s. 409.327, also has priority in their identifiable proceeds.

7 (2) A production-money security interest has priority under sub. (1) if:

8 (a) The production-money security interest is perfected by filing when the  
9 production-money secured party first gives new value to enable the debtor to  
10 produce the crops;

11 (b) The production-money secured party sends an authenticated notification to  
12 the holder of the conflicting security interest not less than 10 or more than 30 days  
13 before the production-money secured party first gives new value to enable the debtor  
14 to produce the crops if the holder had filed a financing statement covering the crops  
15 before the date of the filing made by the production-money secured party; and

16 (c) The notification states that the production-money secured party has or  
17 expects to acquire a production-money security interest in the debtor's crops and  
18 provides a description of the crops.

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

22 (4) To the extent that a person holding a perfected security interest in  
23 production-money crops that are the subject of a production-money security interest  
24 gives new value to enable the debtor to produce the production-money crops and the