

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

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

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

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

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

14 (a) Specific listing;

15 (b) Category;

16 (c) Except as otherwise provided in sub. (5), a type of collateral defined in chs.  
17 401 to 411;

18 (d) Quantity;

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

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

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

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

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

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

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

13 (a) A commercial tort claim; or

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

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

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

20 (b) An agricultural lien;

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

22 (d) A consignment;

23 (e) A security interest arising under s. 402.401, 402.505, 402.711 (3) or 411.508

24 (5), as provided in s. 409.110; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 2. Fixtures in s. 409.334;

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

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

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

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

\*\*\*NOTE: [new 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)

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

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

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

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

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

## 16 SUBCHAPTER II

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

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

1           **(2) APPLICABLE CONSUMER LAWS AND OTHER LAW.** A transaction subject to this  
 2 chapter is subject to chs. 138, 421 to 427 and 429 and s. 182.025 and to any applicable  
 3 rule of law which establishes a different rule for consumers and \*\*\*\* [insert  
 4 reference to (i) any other statute or rule that regulates the rates, charges,  
 5 agreements and practices for loans, credit sales or other extensions of credit and (ii)  
 6 any consumer-protection statute or rule].

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

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

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

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

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

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

20           **409.203 Attachment and enforceability of security interest; proceeds;**  
 21 **supporting obligations; formal requisites.** (1) **ATTACHMENT.** A security interest

1 attaches to collateral when it becomes enforceable against the debtor with respect  
2 to the collateral, unless an agreement expressly postpones the time of attachment.

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

6 (a) Value has been given;

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

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

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

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

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

18 4. The collateral is deposit accounts, electronic chattel paper, investment  
19 property or letter-of-credit rights, and the secured party has control under s.  
20 409.104, 409.105, 409.106 or 409.107 pursuant to the debtor's security agreement.

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

\*\*\*NOTE: This subsection is current s.409.203 (2), Wis. stats.–a nonuniform amendment to the UCC. I believe that it should it be included in this draft. If so, should it be modified to fit with new ch. 409? The same language in the financing statement provisions is deleted because the new article 9 does not require even one signature for financing statements.

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

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

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

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

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

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

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

20           **(6) PROCEEDS AND SUPPORTING OBLIGATIONS.** The attachment of a security  
21 interest in collateral gives the secured party the rights to proceeds provided by s.



1 409.315 and is also attachment of a security interest in a supporting obligation for  
2 the collateral.

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

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

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

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

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

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

21 (b) A commercial tort claim.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7           (a) The security or other financial asset:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 1. To charge back uncollected collateral; or

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

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

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

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

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

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

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

- 17           1. Pay the debtor the balance on deposit in the deposit account; or  
18           2. Transfer the balance on deposit into a deposit account in the debtor's name;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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





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

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

5           **409.303 Law governing perfection and priority of security interests in**

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

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

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

21           **409.304 Law governing perfection and priority of security interests in**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **(3) WHEN PERFECTION GOVERNED BY LAW OF JURISDICTION WHERE DEBTOR LOCATED.**

8 The local law of the jurisdiction in which the debtor is located governs:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **(7) CONTINUATION OF LOCATION: CHANGE IN STATUS OF REGISTERED ORGANIZATION.**  
11 A registered organization continues to be located in the jurisdiction specified by sub.  
12 (5) or (6) notwithstanding:

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

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

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

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

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

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

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

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

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

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

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

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



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

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

\*\*\*NOTE: What Wisconsin statutes conflicting with sub. (5) need to be amended?

4           **409.309 Security interest perfected upon attachment.** The following  
5 security interests are perfected when they attach:

6           **(1)** A purchase-money security interest in consumer goods, except as otherwise  
7 provided in s. 409.311 (2) with respect to consumer goods that are subject to a statute  
8 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?

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

12           **(3)** A sale of a payment intangible;

13           **(4)** A sale of a promissory note;

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

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

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

19           **(8)** A security interest of an issuer or nominated person arising under s.  
20 405.118;

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

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

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

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

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

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

11 (14) A master lease entered into by the state under s. 16.76 (4).

\*\*\*NOTE: Subsection (14) is current s.409.302 (3) (e), renumbered and amended from 409.302 (1) (i), Wis. stats., by 1999 Wisconsin Act 9. Should it be included?

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

12 (15) The mobile home security interest provisions under subch. V of ch. 101.

\*\*\*NOTE: Subsection (15) is current s.409.302 (3) (f)that was created by 1999 Wisconsin Act 9. Should it be included?

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)

13 **409.310 When filing required to perfect security interest or**  
14 **agricultural lien; security interests and agricultural liens to which filing**  
15 **provisions do not apply. (1) GENERAL RULE: PERFECTION BY FILING. Except as**

1 otherwise provided in sub. (2) and s. 409.312 (2), a financing statement must be filed  
2 to perfect all security interests and agricultural liens.

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

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

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

7 (c) In property subject to a statute, regulation or treaty described in s. 409.311  
8 (1);

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

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

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

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

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

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

19 (j) That is perfected under s. 409.316.

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

24 **409.311 Perfection of security interests in property subject to certain**  
25 **statutes, regulations and treaties.** (1) SECURITY INTEREST SUBJECT TO OTHER LAW.

1 Except as otherwise provided in sub. (4), the filing of a financing statement is not  
2 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?

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

6 (b) The following vehicle title statutes: ss. 342.19, 342.20, 342.284 and 342.285

7 [list any certificate-of-title statute covering automobiles, trailers, mobile homes,  
8 boats, farm tractors or the like, which provides for a security interest to be indicated  
9 on the certificate as a condition or result of perfection, and any non-Uniform

10 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?

11 (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”. I believe that this list should be included. Should any others be included? Should the additional language be reinserted?

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

16 (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? Should it be set forth in paragraph (d) or combined into paragraph (b)?

1           (2) COMPLIANCE WITH OTHER LAW. Compliance with the requirements of a  
2 statute, regulation or treaty described in sub. (1) for obtaining priority over the rights  
3 of a lien creditor is equivalent to the filing of a financing statement under this  
4 chapter. Except as otherwise provided in sub. (4) and ss. 409.313 and 409.316 (4) and  
5 (5) for goods covered by a certificate of title, a security interest in property subject  
6 to a statute, regulation or treaty described in sub. (4) may be perfected only by  
7 compliance with those requirements, and a security interest so perfected remains  
8 perfected notwithstanding a change in the use or transfer of possession of the  
9 collateral.

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

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

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

19           **409.312 Perfection of security interests in chattel paper, deposit**  
20 **accounts, documents, goods covered by documents, instruments,**  
21 **investment property, letter-of-credit rights and money; perfection by**  
22 **permissive filing; temporary perfection without filing or transfer of**

1 **possession. (1) PERFECTION BY FILING PERMITTED.** A security interest in chattel  
2 paper, negotiable documents, instruments or investment property may be perfected  
3 by filing.

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

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

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

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

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

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

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

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

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

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

23 (c) Filing as to the goods.

24 **(5) TEMPORARY PERFECTION: NEW VALUE.** A security interest in certificated  
25 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 (4) 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.

\*\*\*NOTE: [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) SUB. (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 security**  
5 **interest or agricultural lien.** (1) CONFLICTING SECURITY INTERESTS AND RIGHTS OF  
6 LIEN CREDITORS. A security interest or agricultural lien is subordinate to the rights  
7 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 to the extent that  
17 the security interest secures an advance made more than 45 days after the person  
18 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 **409.324 Priority of purchase-money security interests.** (1) GENERAL  
20 RULE: PURCHASE-MONEY PRIORITY. Except as otherwise provided in sub. (7), a perfected

1 purchase–money security interest in goods other than inventory or livestock has  
2 priority over a conflicting security interest in the same goods, and, except as  
3 otherwise provided in s. 409.327, a perfected security interest in its identifiable  
4 proceeds also has priority, if the purchase–money security interest is perfected when  
5 the debtor receives possession of the collateral or within 20 days thereafter.

6 (2) INVENTORY PURCHASE–MONEY PRIORITY. Subject to sub. (3) and except as  
7 otherwise provided in sub. (7), a perfected purchase–money security interest in  
8 inventory has priority over a conflicting security interest in the same inventory, has  
9 priority over a conflicting security interest in chattel paper or an instrument  
10 constituting proceeds of the inventory and in proceeds of the chattel paper, if so  
11 provided in s. 409.330, and, except as otherwise provided in s. 409.327, also has  
12 priority in identifiable cash proceeds of the inventory to the extent the identifiable  
13 cash proceeds are received on or before the delivery of the inventory to a buyer, if:

14 (a) The purchase–money security interest is perfected when the debtor receives  
15 possession of the inventory;

16 (b) The purchase–money secured party sends an authenticated notification to  
17 the holder of the conflicting security interest;

18 (c) The holder of the conflicting security interest receives the notification within  
19 5 years before the debtor receives possession of the inventory; and

\*\*\*\*NOTE: Current s. 409.312 (3) (c), Wis. stats., which is carried over to par. (c) in  
this draft does not include “within 5 years”. Should “within 5 years” also be deleted in this  
draft?

20 (d) The notification states that the person sending the notification has or  
21 expects to acquire a purchase–money security interest in inventory of the debtor and  
22 describes the inventory.

1           **(3) HOLDERS OF CONFLICTING INVENTORY SECURITY INTERESTS TO BE NOTIFIED.**

2           Subsection (2) (b) to (d) apply only if the holder of the conflicting security interest had  
3           filed a financing statement covering the same types of inventory:

4           (a) If the purchase–money security interest is perfected by filing, before the  
5           date of the filing; or

6           (b) If the purchase–money security interest is temporarily perfected without  
7           filing or possession under s. 409.312 (6), before the beginning of the 20–day period  
8           thereunder.

9           **(4) LIVESTOCK PURCHASE–MONEY PRIORITY.** Subject to sub. (5) and except as  
10          otherwise provided in sub. (7), a perfected purchase–money security interest in  
11          livestock that are farm products has priority over a conflicting security interest in  
12          the same livestock, and, except as otherwise provided in s. 409.327, a perfected  
13          security interest in their identifiable proceeds and identifiable products in their  
14          unmanufactured states also has priority, if:

15          (a) The purchase–money security interest is perfected when the debtor receives  
16          possession of the livestock;

17          (b) The purchase–money secured party sends an authenticated notification to  
18          the holder of the conflicting security interest;

19          (c) The holder of the conflicting security interest receives the notification within  
20          6 months before the debtor receives possession of the livestock; and

21          (d) The notification states that the person sending the notification has or  
22          expects to acquire a purchase–money security interest in livestock of the debtor and  
23          describes the livestock.



1           **(5) HOLDERS OF CONFLICTING LIVESTOCK SECURITY INTERESTS TO BE NOTIFIED.**

2           Subsection (4) (b) to (d) apply only if the holder of the conflicting security interest had  
3           filed a financing statement covering the same types of livestock:

4           (a) If the purchase–money security interest is perfected by filing, before the  
5           date of the filing; or

6           (b) If the purchase–money security interest is temporarily perfected without  
7           filing or possession under s. 409.312 (6), before the beginning of the 20–day period  
8           thereunder.

9           **(6) SOFTWARE PURCHASE–MONEY PRIORITY.** Except as otherwise provided in sub.  
10          (7), a perfected purchase–money security interest in software has priority over a  
11          conflicting security interest in the same collateral, and, except as otherwise provided  
12          in s. 409.327, a perfected security interest in its identifiable proceeds also has  
13          priority, to the extent that the purchase–money security interest in the goods in  
14          which the software was acquired for use has priority in the goods and proceeds of the  
15          goods under this section.

16          **(7) CONFLICTING PURCHASE–MONEY SECURITY INTERESTS.** If more than one security  
17          interest qualifies for priority in the same collateral under sub. (1), (2), (4) or (6):

18          (a) A security interest securing an obligation incurred as all or part of the price  
19          of the collateral has priority over a security interest securing an obligation incurred  
20          for value given to enable the debtor to acquire rights in or the use of collateral; and

21          (b) In all other cases, s. 409.322 (1) applies to the qualifying security interests.

\*\*\*NOTE: [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)

1           **409.325 Priority of security interests in transferred collateral.** (1)

2           SUBORDINATION OF SECURITY INTEREST IN TRANSFERRED COLLATERAL. Except as  
3 otherwise provided in sub. (2), a security interest created by a debtor is subordinate  
4 to a security interest in the same collateral created by another person if:

5           (a) The debtor acquired the collateral subject to the security interest created by  
6 the other person;

7           (b) The security interest created by the other person was perfected when the  
8 debtor acquired the collateral; and

9           (c) There is no period thereafter when the security interest is unperfected.

10           **(2) LIMITATION OF SUB. (1) SUBORDINATION.** Subsection (1) subordinates a security  
11 interest only if the security interest:

12           (a) Otherwise would have priority solely under s. 409.322 (1) or 409.324; or

13           (b) Arose solely under s. 402.711 (3) or 411.508 (5).

14           **409.326 Priority of security interests created by new debtor.** (1)

15           SUBORDINATION OF SECURITY INTEREST CREATED BY NEW DEBTOR. Subject to sub. (2), a  
16 security interest created by a new debtor which is perfected by a filed financing  
17 statement that is effective solely under s. 409.508 in collateral in which a new debtor  
18 has or acquires rights is subordinate to a security interest in the same collateral  
19 which is perfected other than by a filed financing statement that is effective solely  
20 under s. 409.508.

21           **(2) PRIORITY UNDER OTHER PROVISIONS; MULTIPLE ORIGINAL DEBTORS.** The other  
22 provisions of this subchapter determine the priority among conflicting security  
23 interests in the same collateral perfected by filed financing statements that are