

1 other than the secured party, a person related to the secured party or a secondary  
2 obligor would have brought.

3 (2) NON-CONSUMER TRANSACTIONS; NO INFERENCE. The limitation of the rules in  
4 sub. (1) to transactions other than consumer transactions is intended to leave to the  
5 court the determination of the proper rules in consumer transactions. The court may  
6 not infer from that limitation the nature of the proper rule in consumer transactions  
7 and may continue to apply established approaches.

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

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

18 (a) In the usual manner on any recognized market;

19 (b) At the price current in any recognized market at the time of the disposition;

20 or

21 (c) Otherwise in conformity with reasonable commercial practices among  
22 dealers in the type of property that was the subject of the disposition.

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

25 (a) In a judicial proceeding;

1 (b) By a bona fide creditors' committee;

2 (c) By a representative of creditors; or

3 (d) By an assignee for the benefit of creditors.

4 (4) APPROVAL UNDER SUB. (3) NOT NECESSARY; ABSENCE OF APPROVAL HAS NO EFFECT.

5 Approval under sub. (3) need not be obtained, and lack of approval does not mean  
6 that the collection, enforcement, disposition or acceptance is not commercially  
7 reasonable.

8 **409.628 Nonliability and limitation on liability of secured party;**  
9 **liability of secondary obligor. (1) LIMITATION OF LIABILITY TO DEBTOR OR OBLIGOR.**

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

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

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

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

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

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

21 2. The identity of the person; and

22 3. How to communicate with the person; or

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

25 1. That the person is a debtor; and

1           2. The identity of the person.

2           **(3) LIMITATION OF LIABILITY IF REASONABLE BELIEF THAT TRANSACTION NOT A**  
3 **CONSUMER-GOODS TRANSACTION OR CONSUMER TRANSACTION.** A secured party is not  
4 liable to any person, and a person’s liability for a deficiency is not affected, because  
5 of any act or omission arising out of the secured party’s reasonable belief that a  
6 transaction is not a consumer-goods transaction or a consumer transaction or that  
7 goods are not consumer goods, if the secured party’s belief is based on its reasonable  
8 reliance on:

9           (a) A debtor’s representation concerning the purpose for which collateral was  
10 to be used, acquired or held; or

11           (b) An obligor’s representation concerning the purpose for which a secured  
12 obligation was incurred.

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

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

18   **SUBCHAPTER VII**  
19   **TRANSITION**

20           **409.702 Savings clause. (1) PRE-EFFECTIVE-DATE TRANSACTIONS OR LIENS.**  
21 Except as otherwise provided in this subchapter, 1999 Wisconsin Act .... (this act)  
22 applies to a transaction or lien within its scope, even if the transaction or lien was  
23 entered into or created before the effective date of this subsection .... [revisor inserts  
24 date].

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

3           (a) Transactions and liens that were not governed by ch. 409, 1999 stats., were  
4 validly entered into or created before effective date of this paragraph .... [revisor  
5 inserts date], and would be subject to 1999 Wisconsin Act .... (this act) if they had  
6 been entered into or created on or after the effective date of this paragraph .... [revisor  
7 inserts date], and the rights, duties and interests flowing from those transactions  
8 and liens remain valid on and after the effective date of this paragraph .... [revisor  
9 inserts date]; and

10           (b) The transactions and liens may be terminated, completed, consummated  
11 and enforced as required or permitted by 1999 Wisconsin Act .... (this act) or by the  
12 law that otherwise would apply if this paragraph had not taken effect.

13           **(3) PRE-EFFECTIVE-DATE PROCEEDINGS.** 1999 Wisconsin Act .... (this act) does not  
14 affect an action, case or proceeding commenced before the effective date of this  
15 subsection .... [revisor inserts date].

16           **409.703 Security interest perfected before effective date. (1)**  
17 CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS SATISFIED. A  
18 security interest that is enforceable immediately before the effective date of this  
19 subsection .... [revisor inserts date], and would have priority over the rights of a  
20 person that becomes a lien creditor at that time is a perfected security interest under  
21 1999 Wisconsin Act .... (this act) if, on the effective date of this subsection .... [revisor  
22 inserts date], the applicable requirements for enforceability and perfection under  
23 1999 Wisconsin Act .... (this act) are satisfied without further action.

24           **(2) CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS NOT**  
25 SATISFIED. Except as otherwise provided in s. 409.705, if, immediately before the

1 effective date of this subsection .... [revisor inserts date], a security interest is  
2 enforceable and would have priority over the rights of a person that becomes a lien  
3 creditor at that time, but the applicable requirements for enforceability or perfection  
4 under 1999 Wisconsin Act .... (this act) are not satisfied as of the effective date of this  
5 subsection .... [revisor inserts date], the security interest:

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

8 (b) Remains enforceable on and after one year after the effective date of this  
9 paragraph .... [revisor inserts date], only if the security interest becomes enforceable  
10 under s. 409.203 before one year after the effective date of this paragraph .... [revisor  
11 inserts date]; and

12 (c) Remains perfected on and after one year after the effective date of this  
13 paragraph .... [revisor inserts date], only if the applicable requirements for perfection  
14 under 1999 Wisconsin Act .... (this act) are satisfied before one year after the effective  
15 date of this paragraph .... [revisor inserts date].

16 **409.704 Security interest unperfected before effective date.** A security  
17 interest that is enforceable immediately before the effective date of this section ....  
18 [revisor inserts date], but which would be subordinate to the rights of a person that  
19 becomes a lien creditor at that time:

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

22 (2) Remains enforceable on and after one year after the effective date of this  
23 paragraph .... [revisor inserts date], if the security interest becomes enforceable  
24 under s. 409.203 on the effective date of this paragraph .... [revisor inserts date], or  
25 within one year thereafter; and

1           **(3)** Becomes perfected:

2           1. Without further action, on the effective date of this subdivision .... [revisor  
3 inserts date], if the applicable requirements for perfection under 1999 Wisconsin Act  
4 .... (this act) are satisfied before or at that time; or

5           2. When the applicable requirements for perfection are satisfied if the  
6 requirements are satisfied after that time.

7           **409.705 Effectiveness of action taken before effective date. (1)**

8           ~~PRE-EFFECTIVE-DATE ACTION; ONE-YEAR PERFECTION PERIOD UNLESS REPERFECTED.~~ If  
9 action, other than the filing of a financing statement, is taken before the effective  
10 date of this subsection .... [revisor inserts date], and the action would have resulted  
11 in priority of a security interest over the rights of a person that becomes a lien  
12 creditor had the security interest become enforceable before the effective date of this  
13 subsection .... [revisor inserts date], the action is effective to perfect a security  
14 interest that attaches under 1999 Wisconsin Act .... (this act) before the effective date  
15 of this subsection .... [revisor inserts date]. An attached security interest becomes  
16 unperfected one year after the effective date of this subsection .... [revisor inserts  
17 date], unless the security interest becomes a perfected security interest under 1999  
18 Wisconsin Act .... (this act) before one year after the effective date of this subsection  
19 .... [revisor inserts date].

20           **(2) PRE-EFFECTIVE-DATE FILING.** The filing of a financing statement before the  
21 effective date of this subsection .... [revisor inserts date], is effective to perfect a  
22 security interest to the extent the filing would satisfy the applicable requirements  
23 for perfection under 1999 Wisconsin Act .... (this act).

24           **(3) PRE-EFFECTIVE-DATE FILING IN JURISDICTION FORMERLY GOVERNING PERFECTION.**  
25           1999 Wisconsin Act .... (this act) does not render ineffective an effective financing

1 statement that, before the effective date of this subsection .... [revisor inserts date],  
2 is filed and satisfies the applicable requirements for perfection under the law of the  
3 jurisdiction governing perfection as provided in s. 409.103, 1999 stats. However,  
4 except as otherwise provided in subs. (4) and (5) and s. 409.706, the financing  
5 statement ceases to be effective at the earlier of:

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

8 (b) June 30, 2006.

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

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

1           **(6) APPLICATION OF SUBCH. V.** A financing statement that includes a financing  
 2 statement filed before the effective date of this subsection .... [revisor inserts date],  
 3 and a continuation statement filed on or after the effective date of this subsection ....  
 4 [revisor inserts date], is effective only to the extent that it satisfies the requirements  
 5 of subch. V for an initial financing statement.

6           **409.706 When initial financing statement suffices to continue**  
 7 **effectiveness of financing statement. (1) INITIAL FINANCING STATEMENT IN LIEU**  
 8 **OF CONTINUATION STATEMENT.** The filing of an initial financing statement in the office  
 9 specified in s. 409.501 continues the effectiveness of a financing statement filed  
 10 before the effective date of this subsection .... [revisor inserts date], if:

11           (a) The filing of an initial financing statement in that office would be effective  
 12 to perfect a security interest under 1999 Wisconsin Act .... (this act);

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

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

16           **(2) PERIOD OF CONTINUED EFFECTIVENESS.** The filing of an initial financing  
 17 statement under sub. (1) continues the effectiveness of the pre-effective-date  
 18 financing statement:

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

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



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

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

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

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

9           **409.707 Persons entitled to file initial financing statement or**  
10 **continuation statement.** A person may file an initial financing statement or a  
11 continuation statement under this subchapter if:

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

13           **(2)** The filing is necessary under this subchapter:

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

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

17           **409.708 Priority. (1) LAW GOVERNING PRIORITY.** 1999 Wisconsin Act .... (this act)  
18 determines the priority of conflicting claims to collateral. However, if the relative  
19 priorities of the claims were established before the effective date of this subsection  
20 .... [revisor inserts date], ch. 409, 1999 stats., determines priority.

21           **(2) PRIORITY IF SECURITY INTEREST BECOMES ENFORCEABLE UNDER S. 409.203.** For  
22 purposes of s. 409.322 (1), the priority of a security interest that becomes enforceable  
23 under s. 409.203 dates from the effective date of this subsection .... [revisor inserts  
24 date], if the security interest is perfected under 1999 Wisconsin Act .... (this act) by  
25 the filing of a financing statement before the effective date of this subsection ....

1 [revisor inserts date], which would not have been effective to perfect the security  
2 interest under ch. 409, 1999 stats. This subsection does not apply to conflicting  
3 security interests each of which is perfected by the filing of such a financing  
4 statement.

\*\*\*NOTE: The UCC 9 Enactment guide states:

5 Special Transitional Provision for Maintaining and Searching Local Filing  
6 Office Records. After Revised Article 9's effective date, a jurisdiction that has dual  
7 filing or other local filing under former Article 9 will need to provide for the continued  
8 maintenance of, and access to, financing statements and related records that were  
9 filed in the jurisdiction's local filing offices before Revised Article 9's effective date.  
10 The following is an example of such a provision. Like the provision dealing with  
11 revenue loss, this provision should be drafted as a special, noncodified transitional  
12 provision of the enacting bill rather than as a nonuniform addition to the transition  
13 provisions in Part 7 of Revised Article 9. But, unlike the provision dealing with  
14 revenue loss, this provision, or one like it, is necessary in every dual filing jurisdiction  
15 and in every other jurisdiction that has local filing unrelated to real property under  
16 its former Article 9.

17  
18 **409.709 Special transitional provision for maintaining and searching**  
19 **local filing office records. (1) DEFINITIONS.** In this section:

20 (a) "Former–Ch. 409 records":

21 1. Means:

22 a. Financing statements and other records that have been filed in a local–filing  
23 office before July 1, 2001, and that are, or upon processing and indexing will be,  
24 reflected in the index maintained, as of June 30, 2001, by the local–filing office for

1 financing statements and other records filed in the local-filing office before July 1,  
2 2001; and

3 b. The index as of June 30, 2001.

4 2. Does not include records presented to a local-filing office for filing after June  
5 30, 2001, whether or not the records relate to financing statements filed in the  
6 local-filing office before July 1, 2001.

7 (b) “Local-filing office” means a filing office, other than the department of  
8 financial institutions, that is designated as the proper place to file a financing  
9 statement under s. 409.401(1), 1999 stats., with respect to a record that covers a type  
10 of collateral as to which the filing office is designated in that subsection as the proper  
11 place to file.

12 (2) PROHIBITION OF FILING AFTER JUNE 30, 2001. A local-filing office shall not accept  
13 for filing a record presented after June 30, 2001, whether or not the record relates  
14 to a financing statement filed in the local-filing office before July 1, 2001.

15 (3) MAINTENANCE OF RECORDS. Until July 1, 2008, each local-filing office must  
16 maintain all former-ch. 409 records in accordance with ch. 409, 1999 stats. A  
17 former-ch. 409 record that is not reflected on the index maintained at June 30, 2001,  
18 by the local-filing office must be processed and indexed, and reflected on the index  
19 as of June 30, 2001, as soon as practicable but in any event no later than July 30,  
20 2001.

21 (4) INFORMATION REQUESTS. Until at least June 30, 2008, each local-filing office  
22 must respond to requests for information with respect to former-ch. 409 records  
23 relating to a debtor [and issue certificates], in accordance with ch. 409, 1999 stats.  
24 The fees charged for responding to requests for information relating to a debtor [and  
25 issuing certificates] with respect to former-ch. 409 records must be the fees in effect

1 under ch. 409, 1999 stats. on June 30, 2001, unless a different fee is later set by the  
2 local filing office. However, the different fee must not exceed \$\_\_ for responding to  
3 a request for information relating to a debtor [or \$\_\_ for issuing a certificate].

4 (5) DESTRUCTION OF RECORDS. After June 30, 2008, each local-filing office may  
5 remove and destroy, in accordance with any then applicable record retention law of  
6 this state, all former-ch. 409 records, including the related index.

7 (6) EXCLUSION. This section does not apply, with respect to financing statements  
8 and other records, to a filing office in which mortgages or records of mortgages on real  
9 property are required to be filed or recorded, if:

10 (a) The collateral is timber to be cut or as-extracted collateral; or

11 (b) The record is or relates to a financing statement filed as a fixture filing and  
12 the collateral is goods that are or are to become fixtures.

13  
\*\*\*\*NOTE: The UCC 9 Enactment guide states:

## 14 **Part II – Related Statutory Amendments to be Considered**

15 Revised Article 9 makes some changes from former Article 9 that may require  
16 other statutes in the jurisdiction, other than the Uniform Commercial Code, to be  
17 amended so as to be consistent with Revised Article 9. Moreover, because former  
18 Article 9 has been in effect in almost all Uniform Commercial Code jurisdictions for  
19 a number of years, other statutory provisions in the jurisdiction, other than the  
20 Uniform Commercial Code, may directly or indirectly refer to provisions of former  
21 Article 9. In connection with the enactment of Revised Article 9, these statutory  
22 provisions may have to be modified to refer to Revised Article 9. The following is a  
23 list of the types of statutes in the jurisdiction that the legislature may wish to

1 consider amending to conform to Revised Article 9. Some suggestions of amendatory  
2 language are also provided.

3 Statutes Inconsistent with Section 9–308(e). Section 9–308(e) provides the  
4 following:

5 Perfection of a security interest in a right to payment or performance also  
6 perfects a security interest in a security interest, mortgage, or other lien on personal  
7 or real property securing the right.

8 Accordingly, a statute dealing with the transferability of, for example, an  
9 interest in a motor vehicle or other titled good or in a real property interest may need  
10 to be amended if the statute requires recording or other action for the transfer of a  
11 security interest in the motor vehicle or real property interest in connection with the  
12 transfer of the obligation secured by the security interest. The amendment should  
13 provide that such a recording or other transfer would not be required as a condition  
14 to perfection of the security interest where the right to payment or performance  
15 secured by the security interest is transferred and Section 9–308(e) applies. The  
16 following is an example of such an amendment:

17 Except as provided in Section 9–308(e) of [Article 9 of the Uniform Commercial  
18 Code], a transfer of any promissory note or other obligation secured by an interest  
19 in [the subject property] shall not be effective as against any purchaser of or lien  
20 creditor unless such transfer is properly recorded in .... [emphasis added]

21 Statutes Inconsistent with Section 9–311(b) or other Certificate of Title  
22 Provisions in Revised Article 9. Section 9–311(b) provides that compliance with the  
23 perfection requirements under a certificate-of-title statute is equivalent to  
24 perfection by filing a financing statement under Revised Article 9. The Legislative  
25 Note to Section 9–311(b) instructs the legislature to make two changes to the

1 jurisdiction's certificate-of-title statute, if required. The first change is to amend the  
2 certificate-of-title statute to provide that perfection occurs upon receipt by the  
3 appropriate State official of a properly tendered application for a certificate of title  
4 on which the security interest is to be indicated. Some certificate-of-title statutes  
5 currently provide that perfection does not occur until the certificate of title is actually  
6 issued. The second change is to remove any provision under which perfection relates  
7 back to an earlier time, such as attachment of the security interest. A "relation back"  
8 provision may be inconsistent with the federal Bankruptcy Code and may create a  
9 trap for the unwary. See Official Comment 5 to Section 9-311.

10 More generally, the legislature should review its certificate-of-title statutes to  
11 determine whether there are in those statutes other inconsistencies with the  
12 treatment of titled goods under Revised Article 9 that would need to be eliminated.  
13 See Sections 9-303, 9-311 and 9-316(d) and (e) as well as Official Comment 6 to  
14 Section 9-303. For example, the enacting jurisdiction's certificate-of-title statute  
15 might contain a provision dealing with loss of perfection of a secured party's security  
16 interest when goods titled in another jurisdiction and subject to the security interest  
17 perfected under the certificate of title laws of the other jurisdiction are brought into  
18 the enacting jurisdiction and are titled in the enacting jurisdiction. That provision  
19 might not be consistent with Sections 9-316(d) and (e). If so, the provision should  
20 be amended to be consistent or should be deleted in deference to the overlapping  
21 provisions contained in Revised Article 9. Early coordination with the jurisdiction's  
22 legal staff administering the certificate of title scheme for a particular type of titled  
23 goods is, of course, encouraged.

24 Statutes Inconsistent with Section 9-334(i). Section 9-334(i) provides that a  
25 perfected security interest in crops growing on real property prevails over a

1 conflicting real estate mortgage, other real estate encumbrance or other real estate  
2 interest. If a statute of the jurisdiction provides otherwise, the statute should be  
3 listed in Section 9-334(j) or the statute should be amended to be subject to Section  
4 9-334(i).

5 Statutes Inconsistent with Section 9-406. If the legislature decides not to list  
6 statutes conflicting with Sections 9-406(d) and (f) in Section 9-406(j) and not to rely  
7 upon the general language of Sections 9-406(d) and (f) to prevail over those statutes,  
8 the legislature should amend statutes in conflict with Sections 9-406(d) and (f) to  
9 give Sections 9-406(d) and (f) superiority. If the legislature decides to use the  
10 suggested language for Section 9-406 set forth above and the legislature also decides  
11 to exclude from Section 9-406, or one or more subsections thereof, a particular type  
12 of assignment prohibited by another statute of the jurisdiction, that statute should  
13 be amended so that it states that it prevails over Section 9-406 or its relevant  
14 subsections.

15 Statutes Inconsistent with Section 9-408. If the legislature decides not to list  
16 statutes conflicting with Sections 9-408(a) and (c) in Section 9-408(e) and not to rely  
17 upon the general language of Sections 9-408(a) and (c) to prevail over those statutes,  
18 the legislature should amend statutes in conflict with Sections 9-408(a) and (c) so  
19 that they are subject to Sections 9-408(a) and (c).

20 Agricultural Lien Statutes Inconsistent with Revised Article 9. Revised Article  
21 9 includes within its scope an agricultural lien as defined in Section 9-102(a)(5).  
22 That definition requires that the agricultural lien be, among other things, both  
23 statutory and nonpossessory. Revised Article 9 then provides some rules for the  
24 creation, perfection and priority of an agricultural lien. Generally, the holder of an  
25 agricultural lien must file a financing statement to perfect the lien, and the lien is,

1 but for Section 9-322(g), subject to the general "first to file or perfect" priority rule  
2 contained in Section 9-322(a). Revised Article 9, however, does not address proceeds  
3 in the context of an agricultural lien. The legislature may wish to review its  
4 agricultural lien statutes to remove any inconsistencies in those statutes with the  
5 treatment of agricultural liens under Revised Article 9. In addition, if the legislature  
6 elects to enact the product-money security interest provisions in Appendix II, any  
7 similar production-money security interest statute of the jurisdiction should be  
8 repealed.

9 Statutes Dealing with the Place of Filing of non-UCC Liens by Reference to  
10 Former Article 9. Statutes in the jurisdiction may provide for various non-UCC liens  
11 to be recorded by reference to provisions of former Article 9. These non-UCC liens  
12 might include, for example, the liens of lien creditors (.e.g., attachment liens and  
13 judgment liens), state tax liens or environmental liens.

14 It will usually not be sufficient for these statutes to be amended merely to refer  
15 to the filing requirements of Revised Article. That is because Revised Article 9 makes  
16 two relevant but significant changes in the filing rules. First, it provides for  
17 perfection by filing in a single location for all assets, including goods, in which a  
18 security interest may be perfected by filing. Second, Revised Article 9 provides for  
19 the filing to be made where the debtor is located. Under Section 9-307, the debtor's  
20 location may be determined to be in another jurisdiction. Accordingly, if these  
21 non-UCC lien recording statutes are amended merely to refer to Revised Article 9  
22 instead of former Article 9, the jurisdiction may be requiring recording of these  
23 non-UCC liens in another jurisdiction instead of its own jurisdiction.

24 An example may be helpful in understanding this issue. Let's say that State  
25 X has a statute that provides that State X tax liens on a taxpayer's goods located in



1 State X are to be recorded in the office where a financing statement would be filed  
2 to perfect against the taxpayer a security interest in the goods under Article 9.  
3 Debtor is a corporation organized under the laws of State Y. If no change were made  
4 to State X's statute, then, upon Revised Article 9 becoming effective, State X tax liens  
5 would need to be filed in State Y. This is because, under Section 9-301 of Revised  
6 Article 9, perfection by filing is to be made by a filing where the debtor is located and,  
7 under Section 9-307 of Revised Article 9, that type of debtor is located in State Y, not  
8 State X. State X, of course, would prefer to require its tax lien filings on goods located  
9 in State X to continue to be made in State X.

10 To address this issue, we recommend that the non-UCC lien recording statutes  
11 be amended to refer to Revised Article 9 but to add words such as "as if the debtor  
12 were located in this State." In our example, that would mean that the statute would  
13 be amended to provide that State X tax liens on a taxpayer's goods located in State  
14 X are recorded in the office where a financing statement would be filed to perfect  
15 against the taxpayer a security interest in the goods under Revised Article 9 as if  
16 the debtor were located in State X. In this way, the recordings would be made in the  
17 jurisdiction's own central filing office for the recording of financing statements even  
18 if under Section 9-307 the debtor were located in another jurisdiction.

19 Statutes Otherwise Cross-referencing Former Article 9. Other statutes in the  
20 jurisdiction should be examined to determine whether they refer to provisions of  
21 former Article 9. If so, they should be amended to refer to the corresponding  
22 provisions of Revised Article 9. For example, a consumer protection statute of the  
23 jurisdiction may refer to the rules governing the enforcement of a security interest  
24 by reference to the rules in "Part 5 of Article 9." This reference should be changed  
25 to "Part 6 of Article 9." Most, if not all, jurisdictions publish their statutes in

1 electronic form or arrange for them to be so published. An electronic search for the  
2 appropriate terminology (e.g. "Uniform Commercial Code") should identify those  
3 provisions outside of the Uniform Commercial Code that refer to the Uniform  
4 Commercial Code.

5 Statutes Assuming the Scope of or Definitions in Former Article 9. The  
6 legislature should consider whether provisions of other laws affected by the  
7 expansion of the scope of Revised Article 9 from that in former Article 9, or the change  
8 in definitions in Revised Article 9 from those in former Article 9, will necessitate  
9 changes in other statutes of the jurisdiction. For example, a statute in the  
10 jurisdiction may address the assignment of certain payment rights (e.g.  
11 health-care-insurance receivables or commercial tort claims) that are not within the  
12 scope of former Article 9 but are within the scope of Revised Article 9. A statute of  
13 the jurisdiction might also use former Article 9 terms (e.g. accounts) which have  
14 different meanings under Revised Article 9 than under former Article 9.  
15 Amendments to these statutes should be considered so that the statutes, as  
16 amended, are consistent with or are subject to Revised Article 9. Indeed, in some  
17 cases the best solution would be to repeal the statute if the matters addressed in the  
18 statute would be fully addressed in Revised Article 9.

19 **Part III – Non-Codified Special Transitional Provisions to be**  
20 **Considered**

21 Special Transitional Provisions Generally. Revised Article 9 contains in Part  
22 7 its own effective date and transition provisions. If, however, the Revised Article  
23 9 legislation in the jurisdiction includes not only Revised Article 9 but also  
24 amendments to other statutes of the jurisdiction, other than the Uniform  
25 Commercial Code, to conform to Revised Article 9, the legislation may need to

1 provide in a separate section for those conforming amendments to become effective  
2 when Revised Article 9 becomes effective. In addition, a special transitional  
3 provision may be advisable if the place of recording for non-UCC liens is being  
4 changed. For example, if a non-UCC lien is currently required to be recorded in a  
5 local filing office in a dual filing jurisdiction but, upon the effectiveness of Revised  
6 Article 9, the lien will be required to be recorded in a central filing office, a special  
7 transitional provision to protect existing non-UCC liens recorded in the local filing  
8 office may be necessary. The following is a sample special transitional provision for  
9 the legislature to consider when Revised Article 9 is combined with other non-UCC  
10 statutory amendments in a single legislative bill:

11 This Act takes effect on July 1, 2001, and applies to any transaction or lien as  
12 provided in the transition provisions of Part 7 of [cite section of legislation containing  
13 Revised Article 9] of this Act. A lien, other than a security interest, that is perfected  
14 on July 1, 2001, by compliance with a statute of this State which referred to the  
15 provisions of former Article 9 of [the Uniform Commercial Code] for the perfection  
16 of the lien shall continue to be perfected and to be entitled to priority upon the same  
17 terms as those set forth in the transition provisions of Part 7 of [cite section of  
18 legislation containing Revised Article 9], as if the lien were a security interest.

19 Special Transitional Provisions Dealing with Concerns About Loss of Revenue  
20 on Local Filings. We discussed in Part I of this paper the concern that local filing  
21 offices may lose revenue to the extent that, under Revised Article 9, filings are no  
22 longer made in a local filing office. As mentioned, generally the jurisdictions affected  
23 are those that have enacted either the Second Alternative Subsection (1) or the Third  
24 Alternative Subsection (1) of Section 9-401 of former Article 9 or some other  
25 alternative other than the First Alternative Subsection (1) of Section 9-401.

1           By far the best approach is for the jurisdiction to adopt the uniform Official  
2 Text. A substantial effort should be made to obtain the support for that approach.  
3 Only as a last resort, if absolutely necessary to prevent the legislation from being  
4 blocked completely, should any of the following alternatives be explored.  
5 Nevertheless, we discuss here alternatives in order to provide assistance to those  
6 jurisdictions it is necessary to consider other alternatives to ensure prompt  
7 enactment of Revised Article 9.

8           One method of dealing with the revenue loss issue is to provide, for a limited  
9 time period (e.g., five years), that a specified portion (in dollars or as a percentage)  
10 of the central filing office's filing revenues derived from financing statements  
11 communicated to that office in writing (i.e., paper filings but not electronic filings)  
12 be distributed to the local filing offices (perhaps on a diminishing basis over the five  
13 years) in proportion to the filing volumes experienced by the local filing offices for  
14 the lost types of filings during, for example, calendar year 1998. In order that this  
15 revenue-sharing not come completely at the expense of the central filing office, this  
16 provision could be accompanied by an increase in the filing fee charged by the central  
17 filing office for the same five-year period. The following is an illustration of a  
18 provision providing for the revenue distribution approach to the local filing revenue  
19 loss issue assuming, in this illustration, that the specific dollar amount of the filing  
20 fee charged by the central filing office has been doubled, for the five-year period  
21 commencing on the effective date of Revised Article 9, from the amount of the filing  
22 fee charged under former Article 9:

23           The [Secretary of State or other office identified in Section 9–501(a)(2)] shall  
24 distribute to the [filing offices] of the counties of this State an amount equal to the  
25 fees collected by the [Secretary of State or other office identified in Section

1 9–501(a)(2)] for filing and indexing financing statements communicated to the office  
2 of the [Secretary of State or other office identified in Section 9–501(a)(2)] in writing  
3 under subsection (a) of Section 9–525 of [Revised Article 9] (i) for the period of July  
4 1, 2001, to June 30, 2002, multiplied by 50%, (ii) for the period of July 1, 2002, to June  
5 30, 2003, multiplied by 40%, (iii) for the period of July 1, 2003, to June 30, 2004,  
6 multiplied by 30%, (iv) for the period of July 1, 2004, to June 30, 2005, multiplied by  
7 20%, and (v) for the period of July 1, 2005, to June 30, 2006, multiplied by 10%. The  
8 [Secretary of State or other office identified in Section 9–501(a)(2)] shall make such  
9 distributions on the basis that the [filing office] of each county shall receive a share  
10 of the aggregate amount so distributed equal, as nearly as may be, to the percentage  
11 that the fees collected by the [filing office] of the county under Part 4 of [former  
12 Article 9] for the calendar year 1998 bore to the total of the fees collected by the [filing  
13 offices] of all counties under Part 4 of [former Article 9] for the calendar year 1998.  
14 The percentage allocations among the [filing offices] of the counties shall be based  
15 upon the fee collection information for calendar year 1998 for each county provided  
16 to the [Secretary of State or other office identified in Section 9–501(a)(2)] on or prior  
17 to April 30, 2001, by the association of county [filing officers] of this State. Such  
18 amounts may be distributed by the [Secretary of State or other office identified in  
19 Section 9–501(a)(2)] from time to time as the [Secretary of State or other office  
20 identified in Section 9–501(a)(2)] may so determine, but no less frequently than  
21 annually and commencing no later than September 30, 2002.

22 Such a provision should be drafted as a special, noncodified transitional  
23 provision of the enacting bill rather than as a nonuniform addition to the transition  
24 provisions in Part 7 of Revised Article 9.

1           Limiting the base for local filing office sharing of central filing office revenue  
2 to the fees collected by the central filing office for financing statements  
3 communicated to the central filing office in writing rather than electronically is  
4 particularly appropriate in cases where the local filing offices are not currently  
5 accepting filings electronically, and will be spared the expense of becoming capable  
6 of doing so, but where the central filing office does or plans to accept financing  
7 statements electronically. Since over time the volume of filings communicated to the  
8 central filing office in writing would then be likely to decrease as the volume of  
9 electronic filings increases, the share of the central filing office revenues allocable to  
10 the local filing offices would decrease until an agreed "sunset" date when all sharing  
11 of central filing office filing revenues with local filing offices would cease.

12           Another, but much less preferred, method for dealing with the revenue loss  
13 issue might involve the statewide filing office designating local filing offices (or those  
14 that wish to be so designated) to be branches of the statewide office for the purpose  
15 of receiving filings and forwarding them into the central database presumably  
16 maintained by the central filing office. This method would inevitably increase costs  
17 to users, entail administrative inefficiencies and hinder national uniformity.

18           Moreover, to pursue this method for dealing with the revenue loss issue, several  
19 matters would need to be addressed by the legislature. First, the filing fees generally  
20 would need to be adjusted so that, if a branch office were to charge a filing fee for a  
21 filing that could also, as an alternative, be made in the central filing office, the  
22 revenue retained by the branch office would still be meaningful. Second, the branch  
23 office computer system would need to be integrated with the central filing office  
24 computer system so that filings may be received by the branch office and entered into  
25 the central filing office data base promptly and seamlessly. Third, it would be

1 necessary to consider whether the approach could be accomplished by  
2 administrative rule without a nonuniform amendment to Part 5 of Revised Article  
3 9. In all events negotiating the details of this arrangement would require time,  
4 requires special expertise and might itself delay enactment of Revised Article 9.

5 Given these matters to be addressed, we doubt that this method is practical,  
6 except possibly for the few jurisdictions that already have such a system in place  
7 under former Article 9. We do not recommend the creation of such a system if it does  
8 not already exist in the jurisdiction.

9 Accordingly, we come back to the revenue-sharing method, as set forth above,  
10 for addressing the revenue loss issue. Should that method be insufficient or not  
11 acceptable, it is suggested that the task force co-chairs be contacted for assistance.  
12

13 **SECTION 69.** 411.103 (3) (a) of the statutes is amended to read:

14 411.103 (3) (a) “Account” — s. ~~409.106~~ 409.102 (1) (ag).

15 **History:** 1991 a. 148.

16 **SECTION 70.** 411.103 (3) (d) of the statutes is amended to read:

17 411.103 (3) (d) “Chattel paper” — s. ~~409.105 (1) (b)~~ 409.102 (1) (cm).

18 **History:** 1991 a. 148.

19 **SECTION 71.** 411.103 (3) (e) of the statutes is amended to read:

20 411.103 (3) (e) “Consumer goods” — s. ~~409.109 (1)~~ 409.102 (1) (fm).

21 **History:** 1991 a. 148.

22 **SECTION 72.** 411.103 (3) (f) of the statutes is amended to read:

23 411.103 (3) (f) “Document” — s. ~~409.105 (1) (f)~~ 409.102 (1) (hg).

**History:** 1991 a. 148.

**SECTION 73.** 411.103 (3) (h) of the statutes is amended to read:

411.103 (3) (h) “General intangibles intangible” — s. ~~409.106~~ 409.102 (1) (ks).

**History:** 1991 a. 148.

**SECTION 74.** 411.103 (3) (j) of the statutes is amended to read:

1           411.103 (3) (j) “Instrument” — s. ~~409.105 (1) (i)~~ 409.102 (1) (Lm).

History: 1991 a. 148.

2           **SECTION 75.** 411.103 (3) (L) of the statutes is amended to read:

3           411.103 (3) (L) “Mortgage” — s. ~~409.105 (1) (j)~~ 409.102 (1) (nm).

History: 1991 a. 148.

4           **SECTION 76.** 411.103 (3) (m) of the statutes is amended to read:

5           411.103 (3) (m) “Pursuant to commitment” — s. ~~409.105 (1) (k)~~ 409.102 (1) (qs).

History: 1991 a. 148.

6           **SECTION 77.** 411.303 (1) and (2) of the statutes are amended to read:

7           411.303 (1) In this section, “creation of a security interest” includes the sale of  
8 a lease contract that is subject to ch. 409 under s. ~~409.102 (1) (b)~~ 409.109 (1) (c).

9           (2) Except as provided in ~~subs. sub. (3) and (4)~~ s. 409.407, a provision in a lease  
10 agreement that prohibits the voluntary or involuntary transfer, including a transfer  
11 by sale, sublease, creation or enforcement of a security interest, or attachment, levy,  
12 or other judicial process of an interest of a party under the lease contract or of the  
13 lessor’s residual interest in the goods or that makes such a transfer an event of  
14 default, gives rise to the rights and remedies provided in sub. (5), but a transfer that  
15 is prohibited or is an event of default under the lease agreement is otherwise  
16 effective.

17           **SECTION 78.** 411.303 (3) of the statutes is repealed.

18           **SECTION 79.** 411.303 (5) of the statutes is amended to read:

19           411.303 (5) Subject to ~~subs. sub. (3) and (4)~~ s. 409.407:

History: 1991 a. 148.

20           **SECTION 80.** 411.307 (2) (intro.) and (a) of the statutes are consolidated,  
21 renumbered 411.307 (2) and amended to read:



1           411.307 (2) Except as provided in ~~subs.~~ sub. (3) and (4) and ss. 411.306 and  
2           411.308, a creditor of a lessor takes subject to the lease contract unless ~~any of the~~  
3           following occurs:

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

6           **SECTION 81.** 411.307 (2) (b) and (c) and (4) of the statutes are repealed.

7           ~~History:~~ 1991 a. 148.

7           **SECTION 82.** 411.307 (3) of the statutes is repealed and recreated to read:

8           411.307 (3) Except as otherwise provided in ss. 409.317, 409.321 and 409.323,  
9           a lessee takes a leasehold interest subject to a security interest held by a creditor of  
10          the lessor.

11          **SECTION 83.** 411.309 (1) (c) of the statutes is amended to read:

12          411.309 (1) (c) “Fixture filing” means a filing, in the office where a record of a  
13          mortgage on real estate would be filed or recorded, of a financing statement covering  
14          goods that are or are to become fixtures and conforming to the requirements of s.  
15          ~~409.402 (5)~~ 409.502 (1) and (2).

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

16          **SECTION 84.** 421.103 (2) of the statutes is amended to read:

17          421.103 (2) Unless terms used in chs. 421 to 427 are defined by particular  
18          provisions of chs. 421 to 427, they shall have the meaning given them in chs. 401 to  
19          411 and 429, if they are defined in chs. 401 to 411 and 429.

          \*\*\*\*\*NOTE:Are any of the definitions in chs. 421 to 427 so affected by the new  
          definitions in new article 9 that they need to be amended?

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

20          **SECTION 85.** 421.103 (3) of the statutes is amended to read:

21          421.103 (3) Unless superseded by the particular provisions of chs. 421 to 427  
22          parties to a consumer transaction have all of the obligations, duties, rights and  
23          remedies provided in chs. 401 to 411 which apply to the transaction.

\*\*\*NOTE: Are any of the provisions in chs. 421 to 427 so affected by the new provisions in new article 9 that they need to be amended?

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

1       **SECTION 86.** 421.301 (21) of the statutes is amended to read:

2           421.301 (21) “Goods” has the meaning given in s. 409.102 (1) and includes  
3 goods (~~s. 409.105~~) not in existence at the time the transaction is entered into and  
4 goods which are or are to become fixtures.

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

5       **SECTION 87.** 421.301 (40) of the statutes is amended to read:

6           421.301 (40) “Security interest” means a real property mortgage, deed of trust,  
7 seller’s interest in real estate under a land contract, any interest in property which  
8 secures payment or performance of an obligation under ch. 409 or any other  
9 consensual or confessed lien whether or not recorded.

\*\*\*NOTE: Should the cross reference be made more specific?

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

10       **SECTION 88.** 422.413 (2r) (f) of the statutes is amended to read:

11           422.413 (2r) (f) The satisfaction of indebtedness secured by any subordinate  
12 security interest in the collateral, subject to the restrictions set forth in s. 409.504  
13 (1) (c) [9-610 9-615].

\*\*\*NOTE: What cross references should be substituted in this draft?

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

14       **SECTION 89.** 425.105 (4) of the statutes is amended to read:

15           425.105 (4) With respect to consumer credit transactions in which the creditor  
16 has a security interest in, and possession of, instruments or documents (~~s. 409.105~~)  
17 as defined in s. 409.102 (1) which threaten to decline speedily in value, this section  
18 does not restrict the creditor’s rights to dispose of such property pursuant to s.  
19 409.504 [9-610 9-615 9-624 9-617 9-618] and the terms of the creditor’s security  
20 agreement.

\*\*\*NOTE: What cross references should be substituted in this draft?

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

1 **SECTION 90.** 425.203 (3) (intro.) of the statutes is amended to read:

2 425.203 (3) (intro.) Following recovery of collateral pursuant to a judgment  
3 under sub. (2), the merchant may either retain the collateral in full satisfaction of  
4 the customer's obligation pursuant to s. 409.505 [9-620 9-621 9-624], in which  
5 event the merchant shall satisfy the judgment obtained pursuant to sub. (2); or shall  
6 dispose of the collateral pursuant to s. 409.504 [9-610 9-615 9-624 9-617 9-618],  
7 in which event:

\*\*\*NOTE: What cross references should be substituted in this draft?

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

8 **SECTION 91.** 425.204 (2) of the statutes is amended to read:

9 425.204 (2) The rights and obligations of the merchant and customer with  
10 respect to collateral voluntarily surrendered as defined in this section shall be  
11 governed by ss. 409.504 to 409.507 [9-610 9-615 9-611 9-624 9-617 9-618 9-620  
12 9-621 9-623 9-625 9-627], and are not subject to this subchapter.

\*\*\*NOTE: What cross references should be substituted in this draft?

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

13 **SECTION 92.** 425.207 (2) of the statutes is amended to read:

14 425.207 (2) A merchant who reasonably believes that a customer has  
15 abandoned collateral or goods subject to a consumer lease may take possession of  
16 such collateral or leased goods and preserve it. However, the customer may recover  
17 such collateral or leased goods upon request unless at the time of request the  
18 customer has surrendered the collateral or leased goods, or judgment for the  
19 merchant has been entered in a proceeding for recovery of collateral or leased goods  
20 under s. 425.205 or in a judgment described in s. 425.203 (2). A merchant taking

1 possession of collateral or leased goods pursuant to this section shall promptly send  
2 notification to the customer's last known address of such action and of the  
3 customer's right to recover such collateral or leased goods under this section. If the  
4 collateral or leased goods are recovered by the customer pursuant to this section, it  
5 shall be returned to the customer at the location where the merchant took possession  
6 of such collateral or leased goods pursuant to this section or, at the option of the  
7 merchant, at such other location designated by the customer; and any expense  
8 incurred by the merchant in taking possession of, holding and returning the  
9 collateral or leased goods to the customer shall be borne by the merchant. If after  
10 taking possession of collateral or leased goods pursuant to this subsection, the  
11 merchant perfects the right to possession through a surrender by the customer or a  
12 judgment under s. 425.203 (2) or 425.205, the customer is liable for the expenses set  
13 forth in s. 409.504 (1) [9-610 9-615]. In determining such expenses, leased goods  
14 shall be considered collateral under s. 409.504 (1) [9-610 9-615]. However, a  
15 customer is not liable for expenses of holding the collateral or leased goods from the  
16 time the merchant takes possession until the merchant perfects the right to  
17 possession in the manner provided in this subsection.

\*\*\*\*NOTE: What cross references should be substituted in this draft?

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

18 **SECTION 93.** 425.208 (6) of the statutes is amended to read:

19 425.208 (6) The creditor shall not dispose of the collateral or enter into a  
20 contract for the disposition of the collateral, until the expiration of the period for  
21 redemption provided in this section, unless the collateral is perishable or threatens  
22 to decline speedily in value. Upon the expiration of such period any disposition of the  
23 collateral shall be subject to ss. 409.504, 409.505 and 409.506 [9-610 9-615 9-611

1 9-624 9-617 9-618 9-620 9-621 9-623], except that the customer may be liable for  
2 a deficiency only to the extent provided in ss. 425.209 and 425.210.

\*\*\*NOTE: What cross references should be substituted in this draft?

History: 1971 c. 239; 1979 c. 10, 89; 1983 a. 389; 1991 a. 316; 1997 a. 302.

3 SECTION 94. 425.209 (3) of the statutes is amended to read:

4 425.209 (3) If the merchant repossesses or accepts voluntary surrender of  
5 goods which were not the subject of the sale but in which the merchant has a security  
6 interest to secure a debt arising from a sale of goods or services or a combined sale  
7 of goods and services and the amount owing at the time of default was \$1,000 or less,  
8 the customer is not personally liable to the merchant for the unpaid balance of the  
9 debt arising from the sale, and the merchant’s duty to dispose of the collateral is  
10 governed by the provisions on disposition of collateral under chs. 401 to 411.

\*\*\*NOTE: Should the cross reference be made more specific?

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

11 SECTION 95. 425.209 (4) of the statutes is amended to read:

12 425.209 (4) If the lender takes possession or accepts voluntary surrender of  
13 goods in which the lender has a security interest to secure a debt arising from a  
14 consumer loan in which the lender is subject to defenses arising from sales (s.  
15 422.408) and the amount owing at the time of default of the loan paid to or for the  
16 benefit of the customer were \$1,000 or less, the customer is not personally liable to  
17 the lender for the unpaid balance of the debt arising from the loan and the lender’s  
18 duty to dispose of the collateral is governed by the provisions on disposition of  
19 collateral under chs. 401 to 411.

\*\*\*NOTE: Should the cross reference be made more specific?

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

20 SECTION 96. 429.102 (1) of the statutes is amended to read:

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

\*\*\*NOTE: Should the cross reference be made more specific?

History: 1995 a. 329.

History: 1995 a. 329.

3           **SECTION 97.** 618.42 (3) (a) of the statutes is amended to read:

4           618.42 (3) (a) *Sales of personal property.* Any insurance on personal property  
5 sold on the instalment plan or under a conditional sales contract or equivalent  
6 security agreement under chs. 401 to 411 for which a charge is made to the buyer as  
7 a part of the consideration in the agreement of sale shall be placed with an insurer  
8 authorized to do business in this state.

\*\*\*NOTE: Should the cross reference be made more specific?

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

9           **SECTION 98.** 700.01 (3) of the statutes is amended to read:

10           700.01 (3) “Instrument of transfer” means an instrument which is effective to  
11 transfer an interest in property; it includes but is not limited to a will, a deed, a  
12 contract to transfer, a real estate mortgage and an instrument creating a security  
13 interest in personal property under ch. 409.

\*\*\*NOTE: Should the cross referencce bc made more specific?

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

14           **SECTION 99.** 700.24 of the statutes, as affected by 1999 Wisconsin Act 9, is  
15 amended to read:

16           **700.24 Death of a joint tenant; effect of liens.** A real estate mortgage, a  
17 security interest under ch. 409, or a lien under s. 72.86 (2), 1985 stats., or s. 71.91 (5)  
18 (b), ch. 49 or 779 or the rules promulgated under s. 46.286 (7) on or against the  
19 interest of a joint tenant does not defeat the right of survivorship in the event of the  
20 death of such joint tenant, but the surviving joint tenant or tenants take the interest

1 such deceased joint tenant could have transferred prior to death subject to such  
2 mortgage, security interest or statutory lien.

\*\*\*NOTE: Should the cross reference be made more specific?

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

3 **SECTION 100.** 766.60 (5) (b) of the statutes is amended to read:

4 766.60 (5) (b) A real estate mortgage, a security interest under ch. 409 or a lien  
5 under s. 71.91 (5) (b) or ch. 49 or 779 on or against the interest of a spouse in  
6 survivorship marital property does not defeat the right of survivorship on the death  
7 of the spouse. The surviving spouse takes the interest of the deceased spouse subject  
8 to the mortgage, security interest or lien.

\*\*\*NOTE: Should the cross reference be made more specific?

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

9 **SECTION 101.** 779.48 (2) of the statutes is amended to read:

10 779.48 (2) Every person given a lien by ss. 779.41 and 779.43 (3) may in case  
11 the claim remains unpaid for 2 months after the debt is incurred, and a person given  
12 a lien under s. 779.47 (2) may if the claim remains unpaid 90 days after the lien is  
13 perfected, enforce such lien by sale of the property substantially in conformity with  
14 ss. ~~409.501 to 409.507~~ 409.601 to 409.627 and the lien claimant shall have the rights  
15 and duties of a secured party thereunder. When such sections are applied to the  
16 enforcement of such lien the word debtor or equivalent when used therein shall be  
17 deemed to refer to the owner of the property and any other person having an interest  
18 shown by instrument filed as required by law or shown in the records of the  
19 department of transportation, and the word indebtedness or equivalent shall include  
20 all claims upon which such lien is based.

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

21 **SECTION 102.** 779.89 of the statutes is amended to read:

1           **779.89 Attachment and preservation.** All prepaid maintenance liens  
2 attach at the time of the first prepayment and shall be preserved from the time the  
3 lien attaches. It is not necessary to file or record any notice of the lien in order to  
4 preserve or perfect the lien although a customer may file this lien in the manner  
5 prescribed for perfecting liens under ch. 409.

\*\*\*NOTE: Should the cross reference to ch.409 be made more specific?

**History:** 1977 c. 296; 1979 c. 32 s. 57; Stats. 1979 c. 770.80.

6           **SECTION 103.** 779.91 (2) of the statutes is amended to read:

7           **779.91 (2)** Upon discharge of a prepaid maintenance lien, any customer who  
8 filed the lien as permitted in s. 779.89 is subject to the requirements of s. ~~409.404~~  
9 409.513.

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

10           **SECTION 104.** 779.97 (4) (a) 1. of the statutes is amended to read:

11           **779.97 (4) (a) 1.** With the department of financial institutions, the filing officer  
12 shall cause the notice to be marked, held and indexed in accordance with s. ~~409.403~~  
13 ~~(4) 409.519~~ as if the notice were a financing statement within the meaning of chs. 401  
14 to 411; or

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

15           **SECTION 105.** 779.97 (4) (b) 1. of the statutes is amended to read:

16           **779.97 (4) (b) 1.** If a refileing of a notice of lien is presented to the department  
17 of financial institutions for filing, the filing officer shall cause the refiled notice of  
18 federal lien to be marked, held and indexed in accordance with s. 409.403 [9-516 (a)  
19 9-515 9-522 9-519 9-525] as if the refileing were a continuation statement within  
20 the meaning of chs. 401 to 411, except that the time period in par. (d) shall apply  
21 instead of the time period in s. 409.403 (2) and (3) [9-515 9-522].

\*\*\*NOTE: What cross references should be substituted in this draft?

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



1           **SECTION 106.** 779.97 (4) (b) 2. of the statutes is amended to read:

2           779.97 (4) (b) 2. If a certificate of release is presented to the department of  
3 financial institutions for filing, the filing officer shall cause the certificate to be  
4 marked, held and indexed in accordance with s. ~~409.404~~ 409.513 as if the certificate  
5 were a termination statement within the meaning of chs. 401 to 411, and the filing  
6 officer may remove the notice of federal lien and any related refile of a notice of lien,  
7 certificate of nonattachment, discharge or subordination from the files at any time  
8 after receipt of the certificate of release, but the department of financial institutions  
9 shall keep the certificate of release or a microfilm or other photographic record or  
10 optical disk or electronic record of the certificate of release in a file, separate from  
11 those containing currently effective notices of liens, for a period of 30 years after the  
12 date of filing of the certificate of release.

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

14           **SECTION 107.** 779.97 (4) (b) 3. of the statutes is amended to read:

15           779.97 (4) (b) 3. If a certificate of discharge is presented to the department of  
16 financial institutions for filing, the filing officer shall cause the certificate to be  
17 marked, held and indexed as if the certificate were a release of collateral within the  
18 meaning of chs. 401 to 411.

\*\*\*NOTE: Should the cross reference be made more specific?

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

20           **SECTION 108.** 779.97 (4) (b) 4. of the statutes is amended to read:

21           779.97 (4) (b) 4. If a certificate of nonattachment or subordination of any lien  
22 is presented to the department of financial institutions for filing, the filing officer  
shall cause the certificate to be marked, held and indexed as if the certificate were  
an amendment within the meaning of chs. 401 to 411.

\*\*\*NOTE: Should the cross reference be made more specific?

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

1           **SECTION 109.** 801.05 (7) (c) of the statutes is amended to read:  
2           801.05 (7) (c) Following resale of tangible property in this state by the plaintiff  
3           under ch. 409.

\*\*\*\*NOTE: Should the cross reference to ch.409 be made more specific?

4           **History:** Sup. Ct. Order, 67 W (2d) 585, 592 (1975); 1975 c. 218; 1977 c. 105, 203, 418; 1979 c. 196; 1979 c. 352 s. 39; 1993 a. 112, 326, 486.  
4           **SECTION 110.** 815.18 (2) (i) of the statutes is amended to read:

5           815.18 (2) (i) “Farm products” has the meaning given under s. ~~409.109 (3)~~  
6           409.102 (1).

7           **History:** 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 W (2d) 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39.  
7           **SECTION 111.** 815.18 (2) (j) of the statutes is amended to read:

8           815.18 (2) (j) “Inventory” has the meaning given under s. ~~409.109 (4)~~ 409.102  
9           (1).

10           **History:** 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 W (2d) 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39.  
10           **SECTION 112.** 818.02 (4) of the statutes is amended to read:

11           818.02 (4) Subsections (1) and (3) do not apply to any security agreement under  
12           which the plaintiff claims a purchase money security interest as defined in ch. 409.

\*\*\*\*NOTE: Should the cross reference to ch.409 be made more specific?

13           **History:** Sup. Ct. Order, 67 W (2d) 585, 758 (1975); Stats. 1975 s. 809.02; Sup. Ct. Order, 83 W (2d) xiiiv ((1978); Stats. 1977 s. 818.02; 1979 c. 352; 1983 a. 447; 1985 a. 29; 1989 a. 121; 1993 a. 481, 486; 1995 a. 448.  
13           **SECTION 113.** 893.36 (3) (b) of the statutes is amended to read:

14           893.36 (3) (b) “Collateral” has the meaning provided by s. ~~409.105 (1) (e)~~  
15           409.102 (1).

16           **History:** 1979 c. 221 ss. 837m, 2204 (33) (b); 1983 a. 189 s. 329 (24).  
16           **SECTION 114.** 893.36 (3) (c) of the statutes is amended to read:

17           893.36 (3) (c) “Debtor” has the meaning provided by s. ~~409.105 (1) (d)~~ 409.102  
18           (1).

19           **History:** 1979 c. 221 ss. 837m, 2204 (33) (b); 1983 a. 189 s. 329 (24).  
19           **SECTION 115.** 893.36 (3) (e) of the statutes is amended to read:

