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SECTION 1. 409.103 of the statutes is amended to read:

409.103 Perfection of security interests in multiple state transactions.

(1) DOCUMENTS, INSTRUMENTS AND ORDINARY GOODS. (a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in sub. (2), mobile goods described in sub. (3), and minerals described in sub. (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by ss. 409.301 to 409.318 to perfect the security interest:

1. If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of 4 months after the collateral is brought into this

state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

2. If the action is taken before the expiration of the period specified in subd. 1., the security interest continues perfected thereafter;

3. For the purpose of priority over a buyer of consumer goods (s. 409.307 (2)), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subds. 1. and 2.

(2) CERTIFICATE OF TITLE. (a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until 4 months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in par. (d), a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to sub. (1) (d).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are

removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) ACCOUNTS, GENERAL INTANGIBLES AND MOBILE GOODS. (a) This subsection applies to accounts, other than an account described in sub. (5) on minerals, and general intangibles, other than uncertificated securities, and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in sub. (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected

by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at the debtor's place of business if the debtor has one, at the debtor's chief executive office if the debtor has more than one place of business, otherwise at the debtor's residence. If, however, the debtor is a foreign air carrier under the federal aviation act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of 4 months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) CHATTEL PAPER. The rules stated for goods in sub. (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in sub. (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) MINERALS. Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) INVESTMENT PROPERTY. (a) This subsection applies to investment property.

(b) Except as otherwise provided in par. (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in par. (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in s. 408.110 (4).

(d) Except as otherwise provided in par. (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in s. 408.110 (5).

(e) Except as otherwise provided in par. (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

1. If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

2. If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subd. 1., but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

3. If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subd. 1. or 2., the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

4. If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subd. 1. or 2. and an account statement does not identify an office serving the commodity customer's account as provided in subd. 3., the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.

History: 1973 c. 215; 1985 a. 237; 1991 a. 316; 1997 a. 297.

SECTION 2. 409.105 (1) (e) of the statutes is amended to read:

409.105 (1) (e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit.

History: 1973 c. 215; 1983 a. 189; 1985 a. 187, 237; 1991 a. 221, 316; 1995 a. 27; 1997 a. 297.

SECTION 3. 409.114 (1) of the statutes is amended to read:

409.114 (1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this chapter by s. 402.326 (3) (c) has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the

property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if:

(a) The consignor complies with the filing provision on sales with respect to consignments (s. 402.326 (3) (c)) before the consignee receives possession of the goods; and

(b) The consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and

(c) The holder of the security interest receives the notification before the consignee receives possession of the goods; and

(d) The notification states that the consignor expects to deliver goods on consignment to the consignee, describing the goods by item or type.

History: 1973 c. 215; 1981 c. 390 s. 252.

SECTION 4. 409.114 (1) (c) of the statutes is amended to read:

409.114 (1) (c) The holder of the security interest receives the notification before the consignee receives possession of the goods; and

History: 1973 c. 215; 1981 c. 390 s. 252.

SECTION 5. 409.201 of the statutes is amended to read:

409.201 General validity of security interest. Except as otherwise provided by chs. 401 to 411 a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this chapter validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail instalment sales, or the like, or under chs. 421 to 427 and 429, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.

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

SECTION 6. 409.203 of the statutes is amended to read:

409.203 Attachment and enforceability of security interest; proceeds; formal requisites. (1) Subject to s. 404.210 on the security interest of a collecting bank, ss. 409.115 and 409.116 on security interests in investment property, and s. 409.113 on a security interest arising under ch. 402 or 411, a security interest is not enforceable against the debtor or 3rd parties with respect to the collateral and does not attach unless:

(a) The collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers timber to be cut, a description of the land concerned;

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

(b) Value has been given; and

(c) The debtor has rights in the collateral.

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

(3) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in sub. (1) have taken place unless explicit agreement postpones the time of attaching.

(4) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds under s. 409.306.

(5) A transaction, although subject to this chapter, is also subject to chs. 138, 421 to 427 and 429 and s. 182.025, or any other similar statute which may be applicable to the particular transaction, and in the case of conflict between this chapter and any such statute, such statute controls. Failure to comply with any applicable statute has only the effect which is specified therein.

History: 1971 c. 239; 1973 c. 3, 215; 1985 a. 37, 237; 1991 a. 148; 1995 a. 329, 449; 1997 a. 265, 297; s. 13.93 (2) (c).

SECTION 7. 409.203 (2) of the statutes is amended to read:

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

History: 1971 c. 239; 1973 c. 3, 215; 1985 a. 37, 237; 1991 a. 148; 1995 a. 329, 449; 1997 a. 265, 297; s. 13.93 (2) (c).

SECTION 8. 409.203 (5) of the statutes is amended to read:

409.203 (5) A transaction, although subject to this chapter, is also subject to chs. 138, 421 to 427 and 429 and s. 182.025, or any other similar statute which may be applicable to the particular transaction, and in the case of conflict between this chapter and any such statute, such statute controls. Failure to comply with any applicable statute has only the effect which is specified therein.

History: 1971 c. 239; 1973 c. 3, 215; 1985 a. 37, 237; 1991 a. 148; 1995 a. 329, 449; 1997 a. 265, 297; s. 13.93 (2) (c).

SECTION 9. 409.301 (2) of the statutes is amended to read:

409.301 (2) If the secured party files with respect to a purchase money security interest before or within 20 days after the debtor receives possession of the collateral, the secured party takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

History: 1973 c. 215, 1977 c. 298; 1991 a. 316; 1997 a. 297.

SECTION 10. 409.302 (1) (d) of the statutes is amended to read:

409.302 (1) (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;

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 11. 409.302 (1) (g) of the statutes is amended to read:

409.302 (1) (g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 12. 409.302 (1) (h) of the statutes is amended to read:

409.302 (1) (h) A security interest in investment property which is perfected without filing under s. 409.115 or 409.116; or

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 13. 409.302 (1) (i) of the statutes is amended to read:

409.302 (1) (i) A security interest created by a master lease entered into by the state under s. 16.76 (4).

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 14. 409.302 (3) (intro.) of the statutes is amended to read:

409.302 (3) (intro.) The filing provisions of this chapter are not necessary or effective to perfect a security interest in property subject to:

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 15. 409.302 (3) (b) of the statutes is amended to read:

409.302 (3) (b) The following vehicle title statutes: ss. 342.19, 342.20, 342.284 and 342.285; 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; or

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 16. 409.302 (3) (bm) of the statutes is amended to read:

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

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 17. 409.302 (3) (d) of the statutes is amended to read:

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

History: 1973 c. 215; 1985 a. 187, 237; 1989 a. 31; 1991 a. 39, 148, 316; 1995 a. 449; 1997 a. 297.

SECTION 18. 409.306 (3) of the statutes is amended to read:

409.306 (3) (a) Subject to sub. (3m), the security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected 10 days after receipt of the proceeds by the debtor unless:

1. A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds;

2. A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds;

3. The original collateral was investment property and the proceeds are identifiable cash proceeds; or

4. The security interest in the proceeds is perfected before the expiration of the 10-day period.

(b) Except as provided in this section, a security interest in proceeds may be perfected only by the methods or under the circumstances permitted in this chapter for original collateral of the same type.

History: 1973 c. 215; 1985 a. 37 s. 187; 1997 a. 297.

SECTION 19. 409.306 (3m) of the statutes is amended to read:

409.306 (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.

History: 1973 c. 215; 1985 a. 37 s. 187; 1997 a. 297.

SECTION 20. 409.307 (2) of the statutes is amended to read:

409.307 (2) In the case of consumer goods having an original purchase price not in excess of \$500, a buyer takes free of a security interest even though perfected if the buyer buys without knowledge of the security interest, for value and for the buyer's personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

History: 1973 c. 215; 1983 a. 192; 1991 a. 316.

SECTION 21. 409.312 (3) of the statutes is amended to read:

409.312 (3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory before the date of the filing made by the purchase money secured party, or before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession (s. 409.304 (5)); and

(c) The holder of the conflicting security interest receives the notification before the debtor receives possession of the inventory; and

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

History: 1973 c. 215; 1977 c. 298; 1985 a. 237; 1995 a. 225, 449; 1997 a. 297.

SECTION 22. 409.312 (3) (c) of the statutes is amended to read:

409.312 (3) (c) The holder of the conflicting security interest receives the notification before the debtor receives possession of the inventory; and

History: 1973 c. 215; 1977 c. 298; 1985 a. 237; 1995 a. 225, 449; 1997 a. 297.

SECTION 23. 409.313 (4) of the statutes is amended to read:

409.313 (4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within 10 days thereafter, and the debtor has an interest of record in the real estate; or

(b) The security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any

conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate; or

(c) The fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this chapter; or

(d) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this chapter.

History: 1973 c. 215; 1977 c. 447 s. 210; 1983 a. 189; 1991 a. 316.

SECTION 24. 409.313 (4) (a) of the statutes is amended to read:

409.313 (4) (a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within 10 days thereafter, and the debtor has an interest of record in the real estate; or

History: 1973 c. 215; 1977 c. 447 s. 210; 1983 a. 189; 1991 a. 316.

SECTION 25. 409.313 (9) of the statutes is amended to read:

409.313 (9) The priority provisions of this section do not apply to security interests in vehicles for which certificates of title are required under ch. 342 and which are subject to s. 409.302 (3) (b).

History: 1973 c. 215; 1977 c. 447 s. 210; 1983 a. 189; 1991 a. 316.

SECTION 26. 409.401 (1) of the statutes is amended to read:

409.401 (1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of

farm products by a farmer, or consumer goods, then in the office of the register of deeds in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the register of deeds in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the register of deeds in the county where the land is located;

(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to s. 409.103 (5), or when the financing statement is filed as a fixture filing (s. 409.313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded;

(c) In all other cases, with the department.

History: 1973 c. 215; 1975 c. 41; 1995 a. 27.

SECTION 27. 409.401 (1) (a) of the statutes is amended to read:

409.401 (1) (a) When the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the register of deeds in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the register of deeds in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the register of deeds in the county where the land is located;

History: 1973 c. 215; 1975 c. 41; 1995 a. 27.

SECTION 28. 409.401 (1) (c) of the statutes is amended to read:

409.401 (1) (c) In all other cases, with the department.

History: 1973 c. 215; 1975 c. 41; 1995 a. 27.

SECTION 29. 409.401 (3) of the statutes is amended to read:

409.401 (3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

History: 1973 c. 215; 1975 c. 41; 1995 a. 27.

SECTION 30. 409.402 (1) of the statutes is amended to read:

409.402 (1) (a) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(b) When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to s. 409.103 (5), or when the financing statement is filed as a fixture filing (s. 409.313) and the collateral is goods which are or are to become fixtures, the statement must also comply with sub. (5). In each county, the register of deeds shall enter evidence of financing statements covering fixtures on all indices kept by the register of deeds regarding the transfer of real estate. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. An accurate reproduction of the security agreement or the financing statement, certified to be a true copy by the secured party, public officer or notary public, or a carbon copy bearing signatures appearing by carbon impression, may be filed.

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 31. 409.402 (1) (b) of the statutes is amended to read:

409.402 (1) (b) When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to s. 409.103 (5), or

when the financing statement is filed as a fixture filing (s. 409.313) and the collateral is goods which are or are to become fixtures, the statement must also comply with sub. (5). In each county, the register of deeds shall enter evidence of financing statements covering fixtures on all indices kept by the register of deeds regarding the transfer of real estate. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. An accurate reproduction of the security agreement or the financing statement, certified to be a true copy by the secured party, public officer or notary public, or a carbon copy bearing signatures appearing by carbon impression, may be filed.

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 32. 409.402 (3) of the statutes is amended to read:

409.402 (3) A form substantially as follows is sufficient to comply with sub. (1):

Name of debtor (or assignor)

Address

Name of secured party (or assignee)

Address

1. This financing statement covers the following types (or items) of property:

(Describe)

2. The above goods are to become fixtures on (Legal Description of Real Estate) and this financing statement is to be filed in the real estate records.

3. (If products of collateral are claimed) Products of the collateral are also covered.

Signature of Debtor (or Assignor)

Signature of Secured Party (or Assignee)

(use whichever is applicable)

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 33. 409.402 (3m) of the statutes is amended to read:

409.402 (3m) The department shall prescribe by rule standard forms for filing a financing statement, continuation statement, termination statement, statement of assignment or statement of release. A filing officer may refuse to accept statements not on the required form or not containing information required under sub. (1).

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 34. 409.402 (4) of the statutes is amended to read:

409.402 (4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment which changes only the name or the address of either party need be signed only by the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this chapter, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 35. 409.402 (5) of the statutes is amended to read:

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.

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 36. 409.402 (7) of the statutes is amended to read:

409.402 (7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, limited liability company or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes the debtor's name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 37. 409.402 (9) of the statutes is amended to read:

409.402 (9) A financing statement signed by one spouse is signed by the debtor under this section if that spouse acting alone has the right under s. 766.51 to manage and control the collateral, unless a marital property agreement or court decree which is binding on the secured party under s. 766.55 (4m) or 766.56 (2) (c) provides otherwise.

History: 1973 c. 215; 1977 c. 29, 418; 1985 a. 37; 1991 a. 316; 1993 a. 112; 1995 a. 27, 225; 1997 a. 265.

SECTION 38. 409.403 (3) of the statutes is amended to read:

409.403 (3) A continuation statement may be filed by the secured party within 6 months prior to the expiration of the 5-year period specified in sub. (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the

secured party of record and complying with s. 409.405 (2), including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for 5 years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in sub. (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if the officer has retained a microfilm or other photographic record or an optical disk or electronic copy. In other cases a lapsed statement may not be destroyed until after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if the officer physically destroys the financing statements of a period more than 5 years past, those which have been continued by a continuation statement or which are still effective under sub. (6) shall be retained.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 418; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269, 316; 1993 a. 452; 1995 a. 27, 417.

SECTION 39. 409.403 (4) of the statutes is amended to read:

409.403 (4) Except as provided in sub. (7), a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof, or an optical disk or electronic copy thereof, for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 418; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269, 316; 1993 a. 452; 1995 a. 27, 417.

SECTION 40. 409.403 (5) of the statutes is amended to read:

409.403 (5) (a) *Fees for filing with the office of the register of deeds.* 1. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement is \$8 if the statement is on the standard form prescribed by the department and is \$16 if the statement is not on the standard form or if additional pages are attached to the standard form. The fee for filing an original financing statement subject to s. 409.402 (5) is \$10 if the statement is on the standard form and is \$20 if the statement is not on the standard form or if additional pages are attached to the standard form.

1m. There is no fee for processing the termination statement.

2. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an amendment or a continuation statement is \$5 if the amendment or statement is on the standard form prescribed by the department and is \$10 if the amendment or statement is not on the standard form or if additional pages are attached to the standard form.

3. A register of deeds shall forward \$3 to the department for each original financing statement filed with the office of the register of deeds under subd. 1. and for each amendment and each continuation statement filed with the office of the register of deeds under subd. 2.

(b) *Fees for filing with the department of financial institutions.* 1. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement is \$8 if the statement is on the standard form prescribed by the department and is \$16 if the statement is not on the standard form or if additional pages are attached to the standard form.

1m. There is no fee for processing the termination statement.

2. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an amendment or a continuation statement is \$5 if the amendment or statement is on the standard form prescribed by the department and is \$10 if the amendment or statement is not on the standard form or if additional pages are attached to the standard form.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 418; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269, 316; 1993 a. 452; 1995 a. 27, 417.

SECTION 41. 409.403 (7) of the statutes is amended to read:

409.403 (7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to s. 409.103 (5), or is filed as a fixture filing, the filing officer shall index it under the names of the debtor in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 418; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269, 316; 1993 a. 452; 1995 a. 27, 417.

SECTION 42. 409.403 (8) of the statutes is amended to read:

409.403 (8) A separate amendment, continuation statement, termination statement, statement of assignment or statement of release shall be filed for each original financing statement to be affected.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 418; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269, 316; 1993 a. 452; 1995 a. 27, 417.

SECTION 43. 409.404 of the statutes is amended to read:

409.404 Termination statement. (1) (a) *Requirement for filing termination statement with the office of the register of deeds.* If a financing statement covering consumer goods is filed on or after July 1, 1974, then within one month or within 10 days following written demand by the debtor after there is no outstanding secured

obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with s. 409.405 (2), including payment of the required fee.

(b) *Requirement for filing termination statement with the department of financial institutions.* Except as provided in par. (c), if a financing statement is filed with the department, then within one month or within 10 days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with the department a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with s. 409.405 (2), including payment of the required fee.

(c) *Exceptions to requirement for filing termination statement with the department of financial institutions.* No termination statement needs to be filed with the department pursuant to par. (b) if:

1. The effectiveness of the financing statement or continuation statement has lapsed prior to the time when a termination statement is required to be filed under par. (b).

2. The financing statement states that a continuing business relationship exists between the debtor and the secured party.

3. The financing statement was filed prior to January 1, 1978.

(d) *Failure to file a termination statement.* If the affected secured party fails to file a termination statement as required by this subsection, or to send such a termination statement within 10 days after receipt of the debtor's written demand the secured party is liable to the debtor for \$500, and in addition is liable for any loss caused to the debtor by such failure and for reasonable attorney fees and court costs incurred by the debtor due to such failure.

(2) On presentation to the filing officer of a termination statement the officer must note it in the index. If the officer has received the termination statement in duplicate, the officer shall return one copy of the termination statement to the secured party stamped to show the time of receipt. If the filing officer has a microfilm, other photographic record or optical disk or electronic copy of the financing statement, and of any related continuation statement, statement of assignment and statement of release, the officer may remove the originals from the files at any time after receipt of the termination statement, or if the officer has no such record, the officer may remove them from the files at any time after one year after receipt of the termination statement.

(3) (a) *Fees for filing a termination statement with the office of the register of deeds.* There is no fee for a termination statement that is filed with the office of the register of deeds and there is no fee for indexing any name in connection with the termination process.

(b) *Fees for filing a termination statement with the department of financial institutions.* There is no fee for a termination statement which is filed with the department and there is no fee for indexing any name in connection with the termination process.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 247; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269; 1995 a. 27; 1997 a. 27.

SECTION 44. 409.404 (1) (b) of the statutes is amended to read:

409.404 (1) (b) *Requirement for filing termination statement with the department of financial institutions.* Except as provided in par. (c), if a financing statement is filed with the department, then within one month or within 10 days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with the department a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with s. 409.405 (2), including payment of the required fee.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 247; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269; 1995 a. 27; 1997 a. 27.

SECTION 45. 409.404 (1) (c) of the statutes is amended to read:

409.404 (1) (c) *Exceptions to requirement for filing termination statement with the department of financial institutions.* No termination statement needs to be filed with the department pursuant to par. (b) if:

1. The effectiveness of the financing statement or continuation statement has lapsed prior to the time when a termination statement is required to be filed under par. (b).

2. The financing statement states that a continuing business relationship exists between the debtor and the secured party.

3. The financing statement was filed prior to January 1, 1978.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 247; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269; 1995 a. 27; 1997 a. 27.

SECTION 46. 409.404 (2) of the statutes is amended to read:

409.404 (2) On presentation to the filing officer of a termination statement the officer must note it in the index. If the officer has received the termination statement in duplicate, the officer shall return one copy of the termination statement to the secured party stamped to show the time of receipt. If the filing officer has a microfilm, other photographic record or optical disk or electronic copy of the financing statement, and of any related continuation statement, statement of assignment and statement of release, the officer may remove the originals from the files at any time after receipt of the termination statement, or if the officer has no such record, the officer may remove them from the files at any time after one year after receipt of the termination statement.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 247; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269; 1995 a. 27; 1997 a. 27.

SECTION 47. 409.404 (3) (b) of the statutes is amended to read:

409.404 (3) (b) *Fees for filing a termination statement with the department of financial institutions.* There is no fee for a termination statement which is filed with the department and there is no fee for indexing any name in connection with the termination process.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29, 247; 1985 a. 29; 1989 a. 123; 1991 a. 39, 269; 1995 a. 27; 1997 a. 27.

SECTION 48. 409.405 (1) of the statutes is amended to read:

409.405 (1) An original financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in s. 409.403 (4). The fee for filing, indexing and stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement so indicating an assignment is \$8 if the statement is on the standard form prescribed by the department and is \$16 if the statement is not on the standard form or if additional pages are attached to the standard form. The fee for filing an original financing statement indicating an assignment and subject to s. 409.402 (5) is \$10 if the statement is on the standard form and is \$20 if the statement is not on the standard form or if additional pages are attached to the standard form. A register of deeds shall forward \$3 to the department for each original financing statement indicating an assignment of a security interest that is filed with the office of the register of deeds.

History: 1971 c. 125 s. 524; 1973 c. 215, 333; 1977 c. 29; 1979 c. 89; 1985 a. 29; 1989 a. 123; 1991 a. 148, 269, 304, 315; 1993 a. 452; 1995 a. 27.

SECTION 49. 409.405 (1m) of the statutes is amended to read:

409.405 (1m) There is no fee for processing the termination statement.

History: 1971 c. 125 s. 524; 1973 c. 215, 333; 1977 c. 29; 1979 c. 89; 1985 a. 29; 1989 a. 123; 1991 a. 148, 269, 304, 315; 1993 a. 452; 1995 a. 27.

SECTION 50. 409.405 (2) of the statutes is amended to read:

409.405 (2) A secured party may assign of record all or part of his or her rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the

name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. The officer shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like, including oil and gas, or accounts subject to s. 409.103 (5), the officer shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, the officer shall index the assignment of the financing statement under the name of the assignee. The fee for filing, indexing and furnishing filing data about such a separate statement of assignment is \$5 if the statement is on the standard form prescribed by the department and is \$10 if the statement is not on the standard form or if additional pages are attached to the standard form. A register of deeds shall forward \$3 to the department for each statement of assignment filed with the office of the register of deeds. Notwithstanding this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing under s. 409.402 (6) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than chs. 401 to 411.

History: 1971 c. 125 s. 524; 1973 c. 215, 333; 1977 c. 29; 1979 c. 89; 1985 a. 29; 1989 a. 123; 1991 a. 148, 269, 304, 315; 1993 a. 452; 1995 a. 27.

SECTION 51. 409.406 of the statutes is amended to read:

409.406 Release of collateral; duties of filing officer; fees. A secured party of record may by his or her signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is

sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with s. 409.405 (2), including payment of the required fee. Upon presentation of such a statement of release to the filing officer, the officer shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The fee for filing and noting such a statement of release is \$5 if the statement is on the standard form prescribed by the department and is \$10 if the statement is not on the standard form or if additional pages are attached to the standard form. A register of deeds shall forward \$3 to the department for each statement of release filed with the office of the register of deeds.

History: 1971 c. 125 s. 524; 1973 c. 215; 1977 c. 29; 1985 a. 29; 1989 a. 123; 1991 a. 260; 1993 a. 452; 1995 a. 27.

SECTION 52. 409.407 (2) of the statutes is amended to read:

409.407 (2) ORAL REQUEST FOR INFORMATION FROM FILING OFFICER; ISSUANCE OF CERTIFICATE; FEES. (a) Upon the oral request of any person, the filing officer shall disclose orally at the time of the request or as soon thereafter as possible any presently effective statement naming a particular debtor and if there is such a statement, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The fee for the information is \$10. Upon the request for a copy of a statement, the filing officer shall furnish copies for a fee of \$1 per page.

(b) Upon request of any person, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated therein, any presently

effective statement naming a particular debtor and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The fee for such a certificate is \$10. Upon request the filing officer shall furnish a certificate and copies of any filed statement for a fee of \$1 for each page of the copied statement.

(c) For providing any service under par. (a) or (b) in an expeditious manner, the department may charge and collect an expedited service fee of \$25 in addition to any fee required under par. (a) or (b). Only one expedited service fee may be charged for multiple identical certificates if the certificates are requested at the same time and issued at the same time.

History: 1971 c. 125; 1973 c. 215; 1977 c. 444; 1979 c. 103; 1981 c. 20; 1985 a. 29; 1989 a. 123; 1991 a. 269, 316; 1995 a. 27; 1995 a. 225 s. 549.

SECTION 53. 409.407 (2) (c) of the statutes is amended to read:

409.407 (2) (c) For providing any service under par. (a) or (b) in an expeditious manner, the department may charge and collect an expedited service fee of \$25 in addition to any fee required under par. (a) or (b). Only one expedited service fee may be charged for multiple identical certificates if the certificates are requested at the same time and issued at the same time.

History: 1971 c. 125; 1973 c. 215; 1977 c. 444; 1979 c. 103; 1981 c. 20; 1985 a. 29; 1989 a. 123; 1991 a. 269, 316; 1995 a. 27; 1995 a. 225 s. 549.

SECTION 54. 409.407 (3) of the statutes is amended to read:

409.407 (3) LIABILITY OF FILING OFFICER. No filing officer nor any of the filing officer's employes or agents shall be subject to personal liability by reason of any error or omission in the performance of any duty under ch. 409 except in case of misconduct as defined in s. 946.12.

History: 1971 c. 125; 1973 c. 215; 1977 c. 444; 1979 c. 103; 1981 c. 20; 1985 a. 29; 1989 a. 123; 1991 a. 269, 316; 1995 a. 27; 1995 a. 225 s. 549.

SECTION 55. 409.409 of the statutes is amended to read:

409.409 Storage of records. Whenever in this chapter a filing officer is required to mark, index or file any financing statement, termination statement,

continuation statement, statement of assignment or statement of release, the officer may destroy the original statement after a microfilm or other photographic copy or an optical disk or electronic copy has been prepared and filed for retention.

History: 1973 c. 215; 1991 a. 39; 1995 a. 27.

SECTION 56. 409.410 of the statutes is amended to read:

409.410 Statewide lien system. (1) The department and the office of each register of deeds in this state shall establish and maintain at least one computer terminal allowing the direct entry into permanent computer storage and the direct retrieval from permanent computer storage of information under sub. (2).

(2) Beginning 30 days after notification by the department, each filing officer shall enter all information contained in all financing statements, amendments, termination statements, continuation statements, statements of assignment and statements of release submitted for filing, indexing or marking under ss. 409.401 to 409.408, including the date and time of filing these statements or amendments, into permanent computer storage by means of a computer terminal established and maintained under sub. (1).

(3) The department shall establish and maintain computer and any other services necessary to support the uniform commercial code statewide lien system under this section but may not maintain a central filing system, as defined in 7 USC 1631 (c) (2), for farm products, as defined in 7 USC 1631 (c) (5).

History: 1985 a. 29; 1995 a. 27; 1997 a. 27.

SECTION 57. 409.504 (3) of the statutes is amended to read:

409.504 (3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be

commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, if the debtor has not signed after default a statement renouncing or modifying the debtor's right to notification of sale and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations the secured party may buy at private sale.

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

SECTION 58. 409.505 (1) of the statutes is amended to read:

409.505 (1) If the debtor has paid 60 per cent of the cash price in the case of a purchase money security interest in consumer goods or 60 per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying the debtor's rights under ss. 409.501 to 409.507 a secured party who has taken possession of collateral must dispose of it under s. 409.504 and if the secured party fails to do so within 90 days after the secured party takes possession the debtor at the debtor's option may recover in conversion or under s. 409.507 (1) on secured party's liability. In this subsection "cash price" means the seller's price in dollars for the sale of the goods and the transfer of unqualified title

thereto upon the concurrent payment of such price in cash or the equivalent thereof;
“loan” refers to the principal and does not include interest or service charges.

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

SECTION 59. 409.505 (2) of the statutes is amended to read:

409.505 (2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor if the debtor has not signed after default a statement renouncing or modifying the debtor’s rights under this subsection and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state. If the debtor or other person entitled to receive notification objects in writing within 21 days from the receipt of the notification or if any other secured party objects in writing within 21 days after the secured party obtains possession the secured party must dispose of the collateral under s. 409.504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor’s obligation.

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

SECTION 60. 409.507 of the statutes is amended to read:

409.507 Secured party’s liability for failure to comply with default provisions. (1) If it is established that the secured party is not proceeding in accordance with ss. 409.501 to 409.507 disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with ss. 409.501 to 409.507. If the collateral

is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus 10 per cent of the principal amount of the debt or the time price differential plus 10 per cent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or at the price current in such market at the time of the sale or if the secured party has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold, the secured party has sold in a commercially reasonable manner. The principles stated in the 2 preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

History: 1991 a. 316.

SECTION 61. 409.507 (1) of the statutes is amended to read:

409.507 (1) If it is established that the secured party is not proceeding in accordance with ss. 409.501 to 409.507 disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with ss. 409.501 to 409.507. If the collateral

is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus 10 per cent of the principal amount of the debt or the time price differential plus 10 per cent of the cash price.

History: 1991 a. 316.