



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0028/R1

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~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

~~As drafted~~  
Jacket for Senate

L.P.S: Delete all  
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NOTES.

Sen. Cat.

1 AN ACT to repeal 402.326 (3), 411.303 (3), 411.307 (2) (b) and (c) and 411.307 (4);  
2 to renumber 402.210 (3), 402.210 (4), 402.210 (5), 402.502 (2) and 411.303 (6),  
3 (7) and (8); to renumber and amend 402.502 (1), 408.110 (5) (b), 408.110 (5)  
4 (c), 408.110 (5) (d), 408.301 (1) (c), 408.510 (3), 411.303 (4) and 411.303 (5); to  
5 consolidate, renumber and amend 411.307 (2) (intro.) and (a); to amend  
6 30.57 (3), 30.57 (5), 30.57 (6), 30.57 (7), 30.57 (8), 30.573 (1), 30.573 (2), 30.576  
7 (1), 50.05 (15) (f), 51.42 (3) (d) 12. f., 59.43 (1) (L), 59.43 (1) (m), 59.43 (1) (n),  
8 59.43 (1) (o), 59.43 (2) (ag) 2., 59.43 (2) (d), 100.201 (2) (d), 100.201 (2) (e) 1.,  
9 101.9213 (2), 101.9213 (4), 101.9213 (5), 101.9213 (6), 101.9213 (7), 101.9215  
10 (1), 101.9215 (2), 101.9218 (1), 101.9222 (5) (b), 109.09 (2) (b) 2., 138.09 (7) (i)  
11 2., 340.01 (56m), 340.01 (56n), 342.19 (2), 342.19 (3), 342.19 (4), 342.19 (5),  
12 342.19 (6), 342.21 (1), 342.21 (2), 342.24, 344.185 (3) (intro.), 401.201 (9),  
13 401.201 (32), 401.201 (37) (a), 402.103 (3) (d), 402.326 (title), 402.326 (2),  
14 402.502 (title), 402.716 (3), 406.102 (1), 406.102 (2), 407.503 (1) (a), 408.103 (6),  
15 408.106 (4) (a) and (b), 408.106 (6), 408.110 (5) (a), 408.302 (1), 408.510 (1),

1 411.103 (3) (a), 411.103 (3) (d), 411.103 (3) (e), 411.103 (3) (f), 411.103 (3) (h),  
2 411.103 (3) (j), 411.103 (3) (L), 411.103 (3) (m), 411.303 (1) and (2), 411.309 (1)  
3 (c), 421.301 (21), 422.413 (2r) (intro.), 422.413 (2r) (f), 425.105 (4), 425.203 (3)  
4 (intro.), 425.204 (2), 425.207 (2), 425.208 (6), 779.48 (2), 779.89, 779.91 (2),  
5 779.97 (4) (a) 1., 779.97 (4) (b) 1., 779.97 (4) (b) 2., 779.97 (4) (b) 3., 779.97 (4)  
6 (b) 4., 779.97 (4) (d), 779.97 (4) (e), 815.18 (2) (i), 815.18 (2) (j), 818.02 (4), 893.36  
7 (3) (b), 893.36 (3) (c), 893.36 (3) (e) and 893.36 (3) (f); **to repeal and recreate**  
8 401.105 (2) (e), chapter 409 and 411.307 (3); and **to create** 402.210 (3), 402.502  
9 (1) (a), 402.502 (2), 405.118, 408.106 (4) (c), 408.110 (5) (b), 408.301 (1) (c) 1. and  
10 2. and 408.510 (3) (a) to (c) of the statutes; **relating to:** revising the Uniform  
11 Commercial Code — Secured Transactions and related statutes and granting  
12 rule-making authority.

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### ***Analysis by the Legislative Reference Bureau***

This 2001 session draft is 1999 LRB-1446/P1 updated to reflect changes to the statutes made in the latter part of the 1999-2000 legislative session.

This bill adopts the Revised Uniform Commercial Code (UCC) Article 9-Secured Transactions, which was approved by the National Conference of Commissioners on Uniform State Laws and by the American Law Institute in 1998 and by the American Bar Association, with the amendments approved by the national conference in 1999 and 2000.

UCC Article 9-Secured Transactions governs transactions that involve the granting of credit secured by personal property of a debtor, allowing the creditor to take the property if the debtor defaults on the debt. The changes that Revised UCC Article 9-Secured Transactions makes include the following, which are discussed in more detail below: 1) the scope of Article 9 is expanded to include kinds of property such as deposit accounts, health care receivables, and commercial tort claims, that were excluded in original Article 9; 2) perfection of a security interest by control is available not only for investment property, but also for deposit accounts and letter-of-credit rights; 3) the location of the debtor rather than the location of the collateral determines where a security interest perfects; 4) a simplified and unified system of filing financing statements in one place in each state to perfect security interests replaces the original filing system that allowed certain local filing; 5) consumers obtain certain rights that were not available in original Article 9, such as

specific disclosure of any deficiency rights that the creditor may have; and 6) new rules for enforcement, such as a requirement that a creditor notify a secondary obligor when repossessing goods that are subject to a security interest.

The UCC has 11 substantive articles. Article 9 provides the rules governing any transaction (other than a finance lease) that couples a debt with a creditor's interest in a debtor's personal property. If the debtor defaults, the creditor may repossess and sell the property (generally called collateral) to satisfy the debt. The creditor's interest is called a "security interest." Article 9 also covers certain kinds of sales that look like a grant of a security interest.

There are two key concepts in the operation of Article 9: "attachment" and "perfection." These terms describe the two key events in the creation of a "security interest." Attachment generally occurs when the security interest is effective between the creditor and the debtor, and that usually happens when their agreement provides that it take place. Perfection occurs when the creditor establishes his or her "priority" in relation to other creditors of the debtor in the same collateral. The creditor with "priority" may use the collateral to satisfy the debtor's obligation when the debtor defaults before other creditors subsequent in priority may do so. Perfection occurs usually when a "financing statement" is filed in the appropriate public record. Generally, the first to file has the first priority, and so on.

Article 9 relies on the public record because it provides the means for creditors to determine whether there is any security interest that precedes theirs — a notice function. The idea is that a subsequent secured creditor cannot complain that his or her grant of credit was made in ignorance of the prior security interests easily found in the public record, and cannot complain of the priority of the prior interests as a result. Every secured creditor has a priority over any unsecured creditor.

Article 9 is more complex than the description in the two prior paragraphs implies. There are substantial exceptions to the above-stated perfection rule, for example. Filing is not the only method for perfection, depending upon the kind of property that is collateral. Possession of collateral by the secured party is an alternative method of perfection for many kinds of collateral. For some kinds of property, control (a defined term) either perfects the interest or provides a better priority than filing does. There are kinds of transactions for which attachment is perfection. Priority is, also, not always a matter of perfecting a security interest first in time.

The following numbered topics highlight Article 9 as revised in 1998:

### **1. Scope**

The 1998 revision expands the "scope" of Article 9. What this means is that the kinds of property in which a security interest can be taken by a creditor under Article 9 increase over those available in Article 9 before revision. Also, certain kinds of transactions that did not come under Article 9 before now come under Article 9. These are some of the kinds of collateral that are included in Revised Article 9 that were not in original Article 9: sales of payment intangibles and promissory notes; security interests created by governmental debtors; health insurance receivables; consignments; and commercial tort claims. Nonpossessory, statutory agricultural

liens come under Article 9 for determination of perfection and priority, generally the same as security interests come under Article 9 for those purposes.

## ***2. Perfection***

Filing a financing statement remains the dominant way to perfect a security interest in most kinds of property. It is clearer in Revised Article 9 that filing a financing statement will perfect a security interest, even if there is another method of perfection. “Control” is the method of perfection for letter-of-credit rights and deposit accounts, as well as for investment property. Control was available only to perfect security interests in investment property under prior Article 9. A creditor has control when the debtor cannot transfer the property without the creditor’s consent. Possession, as an alternative method to filing a financing statement to perfect a security interest, is the only method for perfecting a security interest in money that is not proceeds of sale from property that is subject to a security interest. Automatic perfection for a purchase money security interest is increased from 10 days in prior Article 9 to 20 days in Revised Article 9. Attachment of a purchase money security interest is perfection, at least for the 20-day period. Then another method of perfection is necessary to continue the perfected security interest. However, a purchase money security interest in consumer goods remains perfected automatically for the duration of the security interest.

## ***3. Choice of Law***

In interstate secured transactions, it is necessary to determine which state’s laws apply to perfection, the effect of perfection, and the priority of security interests. The 1998 revisions to Article 9 make two fundamental changes from prior Article 9. In prior Article 9, the basic rule chooses the law of the state in which the collateral is found as the law that governs perfection, effect of perfection, and a creditor’s priority. In Revised Article 9, the new rule chooses the state that is the location of the debtor. Further, if the debtor is an entity created by registration in a state, the location of the debtor is the location in which the entity is created by registration. If an entity is a corporation, for example, the location of the debtor is the state in which the corporate charter is filed or registered. In prior Article 9, the entity that is a debtor is located in the state in which it has its chief executive office.

## ***4. Filing System***

Changes in the filing system in the 1998 revisions to Article 9 include a full commitment to centralized filing — one place in every state in which financing statements are filed. Under Revised Article 9, the only local filing of financing statements occurs in the real estate records for fixtures. “Fixtures” are items of personal property that become physically part of the real estate, and are treated as part of the real estate until severed from it. The bill anticipates that electronic filing of financing statements will replace the filing of paper. Paper filing of financing statements was already disappearing in a number of states in 1998, as Revised Article 9 became available to them. Revised Article 9 definitions and provisions allow the transition from paper to electronic filing without further revision of the law. Revised Article 9 makes filing-office operations more ministerial than old Article 9 did. The office in which the financing statements are filed has no responsibility for the accuracy of information on the statements and is fully absolved from any liability

for the content of any statements received and filed. There is no signature requirement for a financing statement.

### **5. Consumer Transactions**

Revised Article 9 makes a clearer distinction between transactions in which the debtor is a consumer than prior Article 9 did. Enforcement of a security interest that is included in a consumer transaction is handled differently in certain respects in the 1998 revisions to Article 9 than it was before 1998. Examples of consumer provisions are: a consumer cannot waive redemption rights in a financing agreement; a consumer buyer of goods who prepays, in whole or in part, has an enforceable interest in the purchased goods and may obtain the goods as a remedy; a consumer is entitled to disclosure of the amount of any deficiency assessed against him or her, and the method for calculating the deficiency; and, a secured creditor may not accept collateral as partial satisfaction of a consumer obligation, so that choosing strict foreclosure as a remedy means that no deficiency may be assessed against the debtor.

### **6. Default and Enforcement**

Article 9 provisions on default and enforcement deal generally with the procedures for obtaining property in which a creditor has a security interest and selling it to satisfy the debt, when the debtor is in default. Normally, the creditor has the right to repossess the property. Revised Article 9 includes new rules dealing with “secondary” obligors (guarantors), new special rules for some of the new kinds of property that is subject to security interests, new rules for the interests of subordinate creditors with security interests in the same property, and new rules for aspects of enforcement when the debtor is a consumer debtor. These are some of the specific new rules: a secured party (creditor with security interest) is obliged to notify a secondary obligor when there is a default, and a secondary obligor generally cannot waive rights by becoming a secondary obligor; a secured party who repossesses goods and sells them is subject to the usual warranties that are part of any sale; junior secured creditors (subsequent in priority), and lienholders who have filed financing statements, must be notified when a secured party repossesses collateral; and, if a secured party sells collateral at a low price to an insider buyer, the price that should have been obtained for the goods in a commercially reasonable sale, rather than the actual price, is the price that will be used in calculating the deficiency.

For additional information, see the website of the National Conference of Commissioners on Uniform State Laws at [http://www.nccusl.org/uniformact\\_factsheets/uniformacts-fs-ucca9.htm](http://www.nccusl.org/uniformact_factsheets/uniformacts-fs-ucca9.htm); and [http://www.nccusl.org/uniformact\\_summaries/uniformacts-s-uccra9st1999.htm](http://www.nccusl.org/uniformact_summaries/uniformacts-s-uccra9st1999.htm). For the NCCUSL drafting file for the uniform act, see <http://www.law.upenn.edu/bll/ulc/ulc.htm#ucc9>. For more information, see the Legislative Reference Bureau’s drafting file for this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 30.57 (3) of the statutes is amended to read:

2           30.57 (3) Except as provided in sub. (4), a security interest is perfected by the  
3 delivery to the department of the existing certificate of title, if any, an application for  
4 a certificate of title containing the name and address of the secured party, and the  
5 required fee. The security interest is perfected as of the later of the time of its  
6 creation if delivery to the department is completed within 10 days after its creation  
7 and without regard to the limitations expressed in s. 409.301 (2); otherwise, as of the  
8 time of delivery or the time of the attachment of the security interest.

9           **SECTION 2.** 30.57 (5) of the statutes is amended to read:

10          30.57 (5) An unperfected security interest is subordinate to the rights of  
11 persons described in s. ~~409.301~~ 409.317.

12          **SECTION 3.** 30.57 (6) of the statutes is amended to read:

13          30.57 (6) The rules of priority stated in s. ~~409.312~~, and 409.322, the other  
14 sections referred to in that section, and subch. III of ch. 409 shall, to the extent  
15 appropriate, apply to conflicting security interests in a boat of a type for which a  
16 certificate of title is required.

17          **SECTION 4.** 30.57 (7) of the statutes is amended to read:

18          30.57 (7) The rules stated in ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409  
19 governing the rights and duties of secured parties and debtors and the requirements  
20 for, and effect of, disposition of a boat by a secured party, upon default shall, to the  
21 extent appropriate, govern the rights of secured parties and owners with respect to  
22 security interests in boats perfected under this section and ss. 30.572 and 30.573.

23          **SECTION 5.** 30.57 (8) of the statutes is amended to read:

1           30.57 (8) If a boat is subject to a security interest when brought into this state,  
2           s. ~~409.103 (1), (2) and (3)~~ state 409.316 states the rules which determine the validity  
3           and perfection of the security interest in this state.

4           **SECTION 6.** 30.573 (1) of the statutes is amended to read:

5           30.573 (1) ~~A~~ Except as otherwise provided in s. 409.308 (5), a secured party  
6           may assign, absolutely or otherwise, the secured party's security interest in a boat  
7           to a person other than the owner without affecting the interest of the owner or the  
8           validity of the security interest, but any person without notice of the assignment is  
9           protected in dealing with the secured party as the holder of the security interest and  
10          the secured party remains liable for any obligations as a secured party until the  
11          assignee is named as secured party on the certificate of title.

12          **SECTION 7.** 30.573 (2) of the statutes is amended to read:

13          30.573 (2) ~~To~~ Subject to s. 409.308 (5), to perfect an assignment, the assignee  
14          may deliver to the department the certificate of title, the fee required under s. 30.537  
15          (4) (f) and an assignment by the secured party named in the certificate in the form  
16          the department prescribes. Upon receipt, the department shall name the assignee  
17          as a secured party on the certificate and issue a new certificate.

18          **SECTION 8.** 30.576 (1) of the statutes is amended to read:

19          30.576 (1) Except as provided in sub. (2) and subject to s. 409.311 (4), the  
20          method provided in ss. 30.57 to 30.575 of perfecting and giving notice of security  
21          interests subject to those sections is exclusive. Security interests subject to ss. 30.57  
22          to 30.575 are exempt from the provisions of law that otherwise require or relate to  
23          the filing of instruments creating or evidencing security interests.

24          **SECTION 9.** 50.05 (15) (f) of the statutes is amended to read:

1           50.05 (15) (f) The receiver shall, within 60 days after termination of the  
2 receivership, file a notice of any lien created under this subsection. No action on a  
3 lien created under this subsection may be brought more than 2 years after the date  
4 of filing. If the lien is on real property, the notice shall be filed with the clerk of circuit  
5 court of the county in which the facility is located and entered on the judgment and  
6 lien docket kept under s. 779.07. If the lien is on personal property, notice of the lien  
7 shall be filed with the department of financial institutions in the same manner, form,  
8 and place as financing statements are filed under subch. V of ch. 409 regarding  
9 debtors who are located in this state. The department of financial institutions shall  
10 place file the notice of the lien on personal property in the same file as financing  
11 statements are filed under ~~ss. 409.401 and 409.402~~ subch. V of ch. 409. The notice  
12 shall specify the name of the person against whom the lien is claimed, the name of  
13 the receiver, the dates of the petition for receivership and the termination of  
14 receivership, a description of the property involved and the amount claimed. No lien  
15 shall exist under this section against any person, on any property, or for any amount  
16 not specified in the notice filed under this paragraph. To the extent applicable, ch.  
17 846 controls the foreclosure of liens under this subsection that attach to real  
18 property.

19           **SECTION 10.** 51.42 (3) (d) 12. f. of the statutes is amended to read:

20           51.42 (3) (d) 12. f. The receiver shall, within 60 days after termination of the  
21 receivership, file a notice of any lien created under this subdivision. No action on a  
22 lien created under this subdivision may be brought more than 2 years after the date  
23 of filing. If the lien is on real property, the notice shall be filed with the clerk of circuit  
24 court for the county in which the county department of community programs or  
25 related program is located and entered on the judgment and lien docket kept under



1 s. 779.07. If the lien is on personal property, notice of the lien shall be filed with the  
2 department of financial institutions in the same manner, form, and place as  
3 financing statements are filed under subch. V of ch. 409 regarding debtors who are  
4 located in this state. The department of financial institutions shall ~~place~~ file the  
5 notice of the lien on personal property in the same file as financing statements are  
6 filed under ~~ss. 409.401 and 409.402~~ subch. V of ch. 409. The notice shall specify the  
7 name of the county department of community programs or related program against  
8 which the lien is claimed, the name of the receiver, the dates of the petition for  
9 receivership and the termination of receivership, a description of the property  
10 involved and the amount claimed. No lien may exist under this subdivision against  
11 any person, on any property or for any amount not specified in the notice filed under  
12 this subd. 12. f. To the extent applicable, ch. 846 controls the foreclosure of liens  
13 under this subdivision that attach to real property.

14 **SECTION 11.** 59.43 (1) (L) of the statutes is amended to read:

15 59.43 (1) (L) File all documents pertaining to security interests ~~in personal~~  
16 ~~property, crops or fixtures,~~ as defined in s. 401.201 (37) (a), that are required or  
17 authorized by law to be filed with the register. Except as otherwise prescribed by the  
18 department of financial institutions under ~~ss. 409.403 to 409.406~~ subch. V of ch. 409,  
19 these documents shall be executed on white or light colored sheets of paper, 8 or 8.5  
20 inches wide and 5, 7, 10.5, or 14 inches long. Whenever there is offered for filing any  
21 document that varies more than one-eighth of an inch from the approved size, or that  
22 is not on a standard form prescribed by ch. 409 or by the department of financial  
23 institutions, then in addition to the regular filing fee an additional filing fee shall be  
24 charged by the register of deeds, as prescribed by sub. (2). No assignment, release,  
25 or other instrument shall be offered for filing that is executed or endorsed on any

1 other document, but each shall be a separate and distinct document, except those  
2 assignments or notices that are printed or written on and immediately following the  
3 original agreement or financing statement, offered for filing at the same time, shall  
4 be considered as one document. All of these documents shall be legibly written, and  
5 shall have the names of the debtor and secured party plainly printed or typed on the  
6 document and shall provide a space for filing data of the register of deeds on the  
7 outside of the document.

8 **SECTION 12.** 59.43 (1) (m) of the statutes is amended to read:

9 59.43 (1) (m) ~~Keep~~ Except as otherwise provided in subchs. V and VII of ch. 409,  
10 keep these chattel documents in consecutive numerical arrangement, for the  
11 inspection of all persons, endorsing on each document the document number and the  
12 date and time of reception.

13 **SECTION 13.** 59.43 (1) (n) of the statutes is amended to read:

14 59.43 (1) (n) Upon the filing of a financing statement or other document  
15 evidencing the creation of a security interest ~~in personal property or fixtures or in~~  
16 ~~erops growing or to be grown,~~ as defined in s. 401.201 (37) (a), required to be filed or  
17 recorded with the register under s. 409.501 (1) (a), enter the name of each debtor  
18 alphabetically in indices, of which each page shall be divided into columns which  
19 shall contain the following information: number of the document, date and time of  
20 filing, name and address of debtor, name and address of secured party, name of the  
21 document, the amount if any, shown in the document, brief description of property,  
22 and the last column set aside for the entry of assignments, continuation statements,  
23 termination statements, foreclosure affidavits, extensions and releases pertaining  
24 to such financing statements or chattel security documents. If the financing

1 statement evidences the creation of a security interest in fixtures, it also shall be  
2 entered in the tract index if one is kept in the county.

3 **SECTION 14.** 59.43 (1) (o) of the statutes is amended to read:

4 59.43 (1) (o) ~~Upon~~ Except as otherwise provided in subch. V of ch. 409, upon  
5 the filing of an assignment, continuation statement, termination statement,  
6 foreclosure affidavit, extension or release pertaining to a filed financing statement  
7 or other chattel security document, enter the document number and the date and  
8 time of filing in the appropriate column of the indices referred to in par. (n) and on  
9 the same line as that on which the entry of the filed financing statement or other  
10 chattel security document appears.

11 **SECTION 15.** 59.43 (2) (ag) 2. of the statutes is amended to read:

12 59.43 (2) (ag) 2. In the event of conflict in the statutes regarding recording fees,  
13 subd. 1. shall control, except that subch. V of ch. 409 and s. 409.710 shall control this  
14 section.

15 **SECTION 16.** 59.43 (2) (d) of the statutes is amended to read:

16 59.43 (2) (d) For performing functions under s. ~~409.407 (1) and (2) (a) and (b)~~  
17 409.523, the register shall charge the fees stated provided in s. 409.407 (2) (a) or (b)  
18 409.525, retain the portion of the fees prescribed under s. 409.525, and submit the  
19 portion of the fees not retained to the state. A financing statement and an  
20 assignment or notice of assignment of the security interest, offered for filing at the  
21 same time, shall be considered as only one document for the purpose of this  
22 paragraph. Whenever there is offered for filing any document that is not on a  
23 standard form prescribed by ch. 409 or by the department of financial institutions  
24 or that varies more than 0.125 inch from the approved size as prescribed by sub. (1),  
25 the appropriate fee ~~specified in ss. 409.403 to 409.406~~ provided in s. 409.525 or an

1 additional filing fee of one-half the regular fee, whichever is applicable, shall be  
2 charged by the register.

3 **SECTION 17.** 100.201 (2) (d) of the statutes is amended to read:

4 100.201 (2) (d) Make or underwrite loans to a retailer or become bound in any  
5 manner for the financial obligation of any retailer except that a wholesaler may lend  
6 money to a retailer for the purchase of equipment for the storage, transportation, and  
7 display of selected dairy products, provided the loan is for not more than 90% of the  
8 purchase price, bears at least a 5% annual interest rate, is payable in equal monthly  
9 ~~instalments~~ installments over a period of not more than 48 months, and is secured  
10 by a security interest created by a security agreement specifying all payments by the  
11 retailer and duly filed by the wholesaler within 10 days after the making or  
12 underwriting of said loan, as provided in ~~ss. 409.401 and 409.402~~ subch. V of ch. 409  
13 regarding debtors who are located in this state.

14 **SECTION 18.** 100.201 (2) (c) 1. of the statutes is amended to read:

15 100.201 (2) (e) 1. The wholesaler, under a bill of sale or security agreement  
16 describing the property sold and specifying the price and terms of sale duly filed by  
17 the wholesaler under ~~ss. 409.401 and 409.402~~ subch. V of ch. 409 within 10 days after  
18 delivery of the equipment described therein, may sell equipment for the storage,  
19 transportation, and display of selected dairy products to the retailer but the selling  
20 price shall be not less than the cost to the wholesaler, less 10% per year depreciation,  
21 plus transportation and installation costs, plus at least 6%, but in no event shall it  
22 be less than \$100 per unit. In filing bills of sale under this section, the filing officer  
23 shall follow the procedure under ~~s. 409.403~~ subch. V of ch. 409 regarding debtors who  
24 are located in this state insofar as applicable. If the wholesaler makes the sale under

1 a security agreement, the terms of sale shall be no more favorable to the retailer than  
2 those under sub. (2) (d). Failure by any wholesaler to enforce the wholesaler's  
3 security interest under this paragraph or sub. (2) (d) if a retailer is in default for more  
4 than 90 days shall constitute prima facie evidence of a violation of this section. No  
5 wholesaler shall renegotiate a security agreement which is in default.

6 **SECTION 19.** 101.9213 (2) of the statutes is amended to read:

7 101.9213 (2) Except as provided in sub. (3), a security interest is perfected by  
8 the delivery to the department of the existing certificate of title, if any, an application  
9 for a certificate of title containing the name and address of the secured party, and the  
10 required fee. The security interest is perfected as of the later of the time of its  
11 ~~creation if such delivery is completed within 10 days after the time that the security~~  
12 ~~interest is created, and without regard to the limitations expressed in s. 409.301 (2).~~  
13 ~~If the delivery is not completed within 10 days after the time that the security~~  
14 ~~interest is created, the security interest is perfected as of the time of such delivery~~  
15 or the time of the attachment of the security interest.

16 **SECTION 20.** 101.9213 (4) of the statutes is amended to read:

17 101.9213 (4) An unperfected security interest is subordinate to the rights of  
18 persons described in s. ~~409.301~~ 409.317.

19 **SECTION 21.** 101.9213 (5) of the statutes is amended to read:

20 101.9213 (5) The rules of priority stated in s. ~~409.312~~, and 409.322, the other  
21 sections therein referred to, and subch. III of ch. 409 shall, to the extent appropriate,  
22 apply to conflicting security interests in a manufactured home of a type for which a  
23 certificate of title is required, or in a previously certificated manufactured home, as  
24 defined in s. 101.9222 (1). A security interest perfected under this section or under

1 s. 101.9222 (4) or (5) is a security interest perfected otherwise than by filing for  
2 purposes of s. ~~409.312~~ 409.322.

3 **SECTION 22.** 101.9213 (6) of the statutes is amended to read:

4 101.9213 (6) The rules stated in ss. ~~409.501 to 409.507~~ subch. VI of ch. 409  
5 governing the rights and duties of secured parties and debtors and the requirements  
6 for, and effect of, disposition of a manufactured home by a secured party, upon default  
7 shall, to the extent appropriate, govern the rights of secured parties and owners with  
8 respect to security interests in manufactured homes perfected under ss. 101.9202 to  
9 101.9218.

10 **SECTION 23.** 101.9213 (7) of the statutes is amended to read:

11 101.9213 (7) If a manufactured home is subject to a security interest when  
12 brought into this state, s. ~~409.103 (1), (2) and (3)~~ 409.316 states the rules that apply  
13 to determine the validity and perfection of the security interest in this state.

14 **SECTION 24.** 101.9215 (1) of the statutes is amended to read:

15 101.9215 (1) ~~A~~ Except as otherwise provided in s. 409.308 (5), a secured party  
16 may assign, absolutely or otherwise, the party's security interest in the  
17 manufactured home to a person other than the owner without affecting the interest  
18 of the owner or the validity of the security interest, but any person without notice of  
19 the assignment is protected in dealing with the secured party as the holder of the  
20 security interest and the secured party remains liable for any obligations as a  
21 secured party until the assignee is named as secured party on the certificate.

22 **SECTION 25.** 101.9215 (2) of the statutes is amended to read:

23 101.9215 (2) The Subject to s. 409.308 (5), the assignee may but need not, to  
24 perfect the assignment, have the certificate of title endorsed or issued with the  
25 assignee named as secured party, upon delivering to the department the certificate

1 and an assignment by the secured party named in the certificate in the form that the  
2 department prescribes.

3 **SECTION 26.** 101.9218 (1) of the statutes is amended to read:

4 101.9218 (1) METHOD OF PERFECTING EXCLUSIVE. ~~Except Subject to s. 409.311 (4)~~  
5 and except as provided in sub. (2), the method provided in ss. 101.921 to 101.9217  
6 of perfecting and giving notice of security interests subject to ss. 101.921 to 101.9217  
7 is exclusive. Security interests subject to ss. 101.921 to 101.9217 are exempt from  
8 the provisions of law that otherwise require or relate to the filing of instruments  
9 creating or evidencing security interests.

10 **SECTION 27.** 101.9222 (5) (b) of the statutes is amended to read:

11 101.9222 (5) (b) If a security interest in a previously certificated manufactured  
12 home was created, but was unperfected, under any other applicable law of this state  
13 on July 1, 2000, it may be perfected under par. (a), ~~but such perfection dates only from~~  
14 ~~the date of the department's receipt of the certificate.~~

15 **SECTION 28.** 109.09 (2) (b) 2. of the statutes is amended to read:

16 109.09 (2) (b) 2. A lien under par. (a) upon personal property takes effect when  
17 the department of workforce development or employee files a notice of the lien ~~with~~  
18 ~~the department of financial institutions in the same manner, form, and place as~~  
19 financing statements are filed under subch. V of ch. 409 regarding debtors who are  
20 located in this state, pays the same fee specified provided in s. 409.403 (5) (b) to the  
21 ~~department of financial institutions 409.525 for filing financing statements, and~~  
22 serves a copy of the notice on the employer by personal service in the same manner  
23 as a summons is served under s. 801.11 or by certified mail with a return receipt  
24 requested. The department of financial institutions shall place the notice of the lien

1 in the same file as financing statements are filed under ~~ss. 409.401 and 409.402~~  
2 subch. V of ch. 409.

3 **SECTION 29.** 138.09 (7) (i) 2. of the statutes is amended to read:

4 138.09 (7) (i) 2. An amount sufficient to cover the fee for filing the termination  
5 statement required by s. ~~409.404~~ 409.513 on loans secured by merchandise other  
6 than a motor vehicle, a manufactured home, or a boat; and

7 **SECTION 30.** 340.01 (56m) of the statutes is amended to read:

8 340.01 (56m) “Secured party” ~~means a secured party as defined~~ has the  
9 meaning given in s. 409.105 (1) (L) 409.102 (1) (rs).

10 **SECTION 31.** 340.01 (56n) of the statutes is amended to read:

11 340.01 (56n) “Security agreement” ~~means a security agreement as defined~~ has  
12 the meaning given in s. 409.105 (1) (m) 409.102 (1) (s).

13 **SECTION 32.** 342.19 (2) of the statutes is amended to read:

14 342.19 (2) Except as provided in sub. (2m), a security interest is perfected by  
15 the delivery to the department of the existing certificate of title, if any, an application  
16 for a certificate of title containing the name and address of the secured party, and the  
17 required fee. It is perfected as of the later of the time of its creation ~~if such delivery~~  
18 ~~is completed within 10 days thereafter, and without regard to the limitations~~  
19 ~~expressed in s. 409.301 (2); otherwise, as of the time of such delivery~~ or the time of  
20 the attachment of the security interest.

21 **SECTION 33.** 342.19 (3) of the statutes is amended to read:

22 342.19 (3) An unperfected security interest is subordinate to the rights of  
23 persons described in s. ~~409.301~~ ss. 409.317 and 409.323.

24 **SECTION 34.** 342.19 (4) of the statutes is amended to read:



1           342.19 (4) The rules of priority stated in s. 409.312, and 409.322, the other  
2 sections therein referred to, and subch. III of ch. 409 shall, to the extent appropriate,  
3 apply to conflicting security interests in a vehicle of a type for which a certificate of  
4 title is required. A security interest perfected under this section is a security interest  
5 perfected otherwise than by filing for purposes of s. 409.312 subch. III of ch. 409.

6           **SECTION 35.** 342.19 (5) of the statutes is amended to read:

7           342.19 (5) The rules stated in ~~ss. 409.501 to 409.507~~ subch. VI of ch. 409  
8 governing the rights and duties of secured parties and debtors and the requirements  
9 for, and effect of, disposition of a vehicle by a secured party, upon default shall, to the  
10 extent appropriate, govern the rights of secured parties and owners with respect to  
11 security interests in vehicles perfected under this chapter.

12           **SECTION 36.** 342.19 (6) of the statutes is amended to read:

13           342.19 (6) If a vehicle is subject to a security interest when brought into this  
14 state, s. ~~409.103 (1), (2) and (3)~~ state 409.316 states the rules which apply to  
15 determine the validity and perfection of the security interest in this state.

16           **SECTION 37.** 342.21 (1) of the statutes is amended to read:

17           342.21 (1) ~~A~~ Except as otherwise provided in s. 409.308 (5), a secured party  
18 may assign, absolutely or otherwise, the party's security interest in the vehicle to a  
19 person other than the owner without affecting the interest of the owner or the  
20 validity of the security interest, but any person without notice of the assignment is  
21 protected in dealing with the secured party as the holder of the security interest and  
22 the secured party remains liable for any obligations as a secured party until the  
23 assignee is named as secured party on the certificate.

24           **SECTION 38.** 342.21 (2) of the statutes is amended to read:

1           342.21 (2) The Subject to s. 409.308 (5), the assignee may but need not, to  
2 perfect the assignment, have the certificate of title endorsed or issued with the  
3 assignee named as secured party, upon delivering to the department the certificate  
4 and an assignment by the secured party named in the certificate in the form the  
5 department prescribes.

6           **SECTION 39.** 342.24 of the statutes is amended to read:

7           **342.24 Method of perfecting exclusive.** The Subject to s. 409.311 (4), the  
8 method provided in this chapter of perfecting and giving notice of security interests  
9 subject to this chapter is exclusive. Security interests subject to this chapter are  
10 hereby exempted from the provisions of law which otherwise require or relate to the  
11 filing of instruments creating or evidencing security interests.

12           **SECTION 40.** 344.185 (3) (intro.) of the statutes is amended to read:

13           344.185 (3) (intro.) Notwithstanding ss. 409.501 to 409.507 subch. VI of ch. 409  
14 and ch. 425:

15           **SECTION 41.** 401.105 (2) (e) of the statutes is repealed and recreated to read:

16           401.105 (2) (e) Sections 409.301 to 409.307 on law governing perfection, the  
17 effect of perfection or nonperfection, and the priority of security interests and  
18 agricultural liens.

19           **SECTION 42.** 401.201 (9) of the statutes is amended to read:

20           401.201 (9) “Buyer in ordinary course of business” means a person ~~who~~ that  
21 buys goods in good faith ~~and,~~ without knowledge that the sale ~~to the person is in~~  
22 violation of ~~violates~~ the ownership rights or security interest of a 3rd party of another  
23 person in the goods buys, and in the ordinary course from a person, other than a  
24 pawnbroker, in the business of selling goods of that kind ~~but does not include a~~  
25 ~~pawnbroker. All persons who sell minerals or the like (including oil and gas) at~~

1 ~~wellhead or minehead shall be deemed to be persons. A person buys goods in the~~  
2 ~~ordinary course if the sale to the person comports with the usual or customary~~  
3 ~~practices in the kind of business in which the seller is engaged or with the seller's own~~  
4 ~~usual or customary practices. A person that sells oil, gas, or other minerals at the~~  
5 ~~wellhead or minehead is a person in the business of selling goods of that kind.~~  
6 ~~"Buying" A buyer in ordinary course of business may be buy for cash or, by exchange~~  
7 ~~of other property, or on secured or unsecured credit, and includes receiving may~~  
8 ~~acquire goods or documents of title under a preexisting contract for sale but does not~~  
9 ~~include a transfer in bulk or as security for or in total or partial satisfaction of a~~  
10 ~~money debt. Only a buyer that takes possession of the goods or has a right to recover~~  
11 ~~the goods from the seller under ch. 402 may be a buyer in ordinary course of business.~~  
12 ~~A person that acquires goods in a transfer in bulk or as security for or in total or~~  
13 ~~partial satisfaction of a money debt is not a buyer in ordinary course of business.~~

14 **SECTION 43.** 401.201 (32) of the statutes is amended to read:

15 401.201 (32) "Purchase" includes taking by sale, discount, negotiation,  
16 mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary  
17 transaction creating an interest in property.

18 **SECTION 44.** 401.201 (37) (a) of the statutes is amended to read:

19 401.201 (37) (a) "Security interest" means an interest in personal property or  
20 fixtures that which secures payment or performance of an obligation. ~~The retention~~  
21 ~~or reservation of title by a seller of goods notwithstanding shipment or delivery to the~~  
22 ~~buyer is limited in effect to a reservation of a "security interest".~~ The term also  
23 includes any interest of a consignor and a buyer of accounts or, chattel paper, a  
24 payment intangible, or a promissory note in a transaction that is subject to ch. 409.  
25 The special property interest of a buyer of goods on identification of ~~such~~ those goods

1 to a contract for sale under s. 402.401 is not a “security interest”, but a buyer may  
2 also acquire a “security interest” by complying with ch. 409. ~~Unless a lease or~~  
3 ~~consignment is intended as security, reservation of title thereunder is not a “security~~  
4 ~~interest” but a consignment is in any event subject to s. 402.326~~ Except as otherwise  
5 provided in s. 402.505, the right of a seller or lessor of goods under ch. 402 or 411 to  
6 retain or acquire possession of the goods is not a security interest, but a seller or  
7 lessor may also acquire a security interest by complying with ch. 409. The retention  
8 or reservation of title by a seller of goods notwithstanding shipment or delivery to the  
9 buyer under s. 402.401 is limited in effect to a reservation of a security interest.

10 **SECTION 45.** 402.103 (3) (d) of the statutes is amended to read:

11 402.103 (3) (d) “Consumer goods” — s. ~~409.109~~ 409.102.

12 **SECTION 46.** 402.210 (3) of the statutes is renumbered 402.210 (4).

13 **SECTION 47.** 402.210 (3) of the statutes is created to read:

14 402.210 (3) The creation, attachment, perfection, or enforcement of a security  
15 interest in the seller’s interest under a contract is not a transfer that materially  
16 changes the duty of or increases materially the burden or risk imposed on the buyer  
17 or impairs materially the buyer’s chance of obtaining return performance within the  
18 purview of sub. (2) unless, and then only to the extent that, enforcement actually  
19 results in a delegation of material performance of the seller. Even in that event, the  
20 creation, attachment, perfection, and enforcement of the security interest remain  
21 effective, but:

22 (a) The seller is liable to the buyer for damages caused by the delegation to the  
23 extent that the damages could not reasonably be prevented by the buyer; and

1 (b) A court having jurisdiction may grant other appropriate relief, including  
2 cancellation of the contract for sale or an injunction against enforcement of the  
3 security interest or consummation of the enforcement.

4 **SECTION 48.** 402.210 (4) of the statutes is renumbered 402.210 (5).

5 **SECTION 49.** 402.210 (5) of the statutes is renumbered 402.210 (6).

6 **SECTION 50.** 402.326 (title) of the statutes is amended to read:

7 **402.326 (title) Sale on approval and sale or return; consignment sales**  
8 **and rights of creditors.**

9 **SECTION 51.** 402.326 (2) of the statutes is amended to read:

10 402.326 (2) ~~Except as provided in sub. (3),~~ goods Goods held on approval are  
11 not subject to the claims of the buyer's creditors until acceptance; goods held on sale  
12 or return are subject to such claims while in the buyer's possession.

13 **SECTION 52.** 402.326 (3) of the statutes is repealed.

14 **SECTION 53.** 402.502 (title) of the statutes is amended to read:

15 **402.502 (title) Buyer's right to goods on seller's repudiation, failure to**  
16 **deliver, or insolvency.**

17 **SECTION 54.** 402.502 (1) of the statutes is renumbered 402.502 (1) (intro.) and  
18 amended to read:

19 402.502 (1) (intro.) Subject to ~~sub. subs. (2) and (3)~~ and even though the goods  
20 have not been shipped a buyer who has paid a part or all of the price of goods in which  
21 the buyer has a special property under s. 402.501 may on making and keeping good  
22 a tender of any unpaid portion of their price recover them from the seller if:

23 (b) In all cases, the seller becomes insolvent within 10 days after receipt of the  
24 first instalment installment on their price.

25 **SECTION 55.** 402.502 (1) (a) of the statutes is created to read:

1           402.502 (1) (a) In the case of goods bought for personal, family, or household  
2 purposes, the seller repudiates or fails to deliver as required by the contract; or

3           **SECTION 56.** 402.502 (2) of the statutes is renumbered 402.502 (3).

4           **SECTION 57.** 402.502 (2) of the statutes is created to read:

5           402.502 (2) The buyer's right to recover the goods under sub. (1) (a) vests upon  
6 acquisition of a special property, even if the seller had not then repudiated or failed  
7 to deliver.

8           **SECTION 58.** 402.716 (3) of the statutes is amended to read:

9           402.716 (3) The buyer has a right of replevin for goods identified to the contract  
10 if after reasonable effort the buyer is unable to effect cover for such goods or the  
11 circumstances reasonably indicate that such effort will be unavailing or if the goods  
12 have been shipped under reservation and satisfaction of the security interest in them  
13 has been made or tendered. In the case of goods bought for personal, family, or  
14 household purposes, the buyer's right of replevin vests upon acquisition of a special  
15 property, even if the seller had not then repudiated or failed to deliver.

16           **SECTION 59.** 405.118 of the statutes is created to read:

17           **405.118 Security interest of issuer or nominated person.** (1) An issuer  
18 or nominated person has a security interest in a document presented under a letter  
19 of credit to the extent that the issuer or nominated person honors or gives value for  
20 the presentation.

21           (2) So long as and to the extent that an issuer or nominated person has not been  
22 reimbursed or has not otherwise recovered the value given with respect to a security  
23 interest in a document under sub. (1), the security interest continues and is subject  
24 to ch. 409, but:

1 (a) A security agreement is not necessary to make the security interest  
2 enforceable under s. 409.203 (2) (c);

3 (b) If the document is presented in a medium other than a written or other  
4 tangible medium, the security interest is perfected; and

5 (c) If the document is presented in a written or other tangible medium and is  
6 not a certificated security, chattel paper, a document of title, an instrument, or a  
7 letter of credit, the security interest is perfected and has priority over a conflicting  
8 security interest in the document so long as the debtor does not have possession of  
9 the document.

10 **SECTION 60.** 406.102 (1) of the statutes is amended to read:

11 406.102 (1) A “bulk transfer” is any transfer in bulk and not in the ordinary  
12 course of the transferor’s business of a major part in value of the inventory (~~s.~~  
13 ~~409.109~~), as defined in s. 409.102 (1) (Ls), of an enterprise subject to this chapter.

14 **SECTION 61.** 406.102 (2) of the statutes is amended to read:

15 406.102 (2) A transfer of a substantial part of the equipment (~~s. 409.109~~), as  
16 defined in s. 409.102 (1) (i), of such an enterprise is a bulk transfer if it is made in  
17 connection with a bulk transfer of inventory, but not otherwise.

18 **SECTION 62.** 407.503 (1) (a) of the statutes is amended to read:

19 407.503 (1) (a) Delivered or entrusted them or any document of title covering  
20 them to the bailor or the bailor’s nominee with actual or apparent authority to ship,  
21 store, or sell or with power to obtain delivery under s. 407.403 or with power of  
22 disposition under ~~ss. s. 402.403 or 409.307~~ 409.320 or other statute or rule of law; nor

23 **SECTION 63.** 408.103 (6) of the statutes is amended to read:

24 408.103 (6) A commodity contract, as defined in s. ~~409.115 (1) (b)~~ 409.102 (1)  
25 (dm), is not a security or a financial asset.

1           **SECTION 64.** 408.106 (4) (a) and (b) of the statutes are amended to read:

2           408.106 (4) (a) The purchaser becomes the entitlement holder; or

3           (b) The securities intermediary has agreed that it will comply with entitlement  
4 orders originated by the purchaser without further consent by the entitlement  
5 holder; or

6           **SECTION 65.** 408.106 (4) (c) of the statutes is created to read:

7           408.106 (4) (c) Another person has control of the security entitlement on behalf  
8 of the purchaser or, having previously acquired control of the security entitlement,  
9 acknowledges that it has control on behalf of the purchaser.

10          **SECTION 66.** 408.106 (6) of the statutes is amended to read:

11          408.106 (6) A purchaser who has satisfied the requirements of sub. (3) (b) or  
12 (4) (b) has control even if the registered owner in the case of sub. (3) (b) or the  
13 entitlement holder in the case of sub. (4) (b) retains the right to make substitutions  
14 for the uncertificated security or security entitlement, to originate instructions or  
15 entitlement orders to the issuer or securities intermediary, or otherwise to deal with  
16 the uncertificated security or security entitlement.

17          **SECTION 67.** 408.110 (5) (a) of the statutes is amended to read:

18          408.110 (5) (a) If an agreement between the securities intermediary and its  
19 entitlement holder specifies that it is governed by the law of a particular jurisdiction  
20 governing the securities account expressly provides that a particular jurisdiction is  
21 the securities intermediary's jurisdiction for purposes of this subchapter, this  
22 chapter, or chs. 401 to 411, that jurisdiction is the securities intermediary's  
23 jurisdiction.

24          **SECTION 68.** 408.110 (5) (b) of the statutes is renumbered 408.110 (5) (c) and  
25 amended to read:



1           408.110 (5) (c) If neither par. (a) nor par. (b) applies and an agreement between  
2 the securities intermediary and its entitlement holder ~~does not specify the governing~~  
3 ~~law as provided in par. (a), but~~ governing the securities account expressly specifies  
4 provides that the securities account is maintained at an office in a particular  
5 jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

6           **SECTION 69.** 408.110 (5) (b) of the statutes is created to read:

7           408.110 (5) (b) If par. (a) does not apply and an agreement between the  
8 securities intermediary and its entitlement holder governing the securities account  
9 expressly provides that the agreement is governed by the law of a particular  
10 jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

11           **SECTION 70.** 408.110 (5) (c) of the statutes is renumbered 408.110 (5) (d) and  
12 amended to read:

13           408.110 (5) (d) ~~If an agreement between the securities intermediary and its~~  
14 ~~entitlement holder does not specify a jurisdiction as provided in par. (a) or (b) none~~  
15 ~~of pars. (a) to (c) applies,~~ the securities intermediary's jurisdiction is the jurisdiction  
16 in which is located the office, identified in an account statement as the office serving  
17 the entitlement holder's account, is located.

18           **SECTION 71.** 408.110 (5) (d) of the statutes is renumbered 408.110 (5) (e) and  
19 amended to read:

20           408.110 (5) (e) ~~If an agreement between the securities intermediary and its~~  
21 ~~entitlement holder does not specify a jurisdiction as provided in par. (a) or (b) and an~~  
22 ~~account statement does not identify an office serving the entitlement holder's~~  
23 ~~account as provided in par. (c) none of pars. (a) to (d) applies,~~ the securities  
24 intermediary's jurisdiction is the jurisdiction in which is located the chief executive  
25 office of the securities intermediary is located.

1           **SECTION 72.** 408.301 (1) (c) of the statutes is renumbered 408.301 (1) (c) (intro.)  
2 and amended to read:

3           408.301 (1) (c) (intro.) A securities intermediary acting on behalf of the  
4 purchaser acquires possession of the security certificate, only if the certificate is in  
5 registered form and has been specially is:

6           3. Specially endorsed to the purchaser by an effective endorsement and has not  
7 been endorsed to the securities intermediary or in blank.

8           **SECTION 73.** 408.301 (1) (c) 1. and 2. of the statutes are created to read:

9           408.301 (1) (c) 1. Registered in the name of the purchaser;

10          2. Payable to the order of the purchaser; or

11          **SECTION 74.** 408.302 (1) of the statutes is amended to read:

12          408.302 (1) Except as otherwise provided in subs. (2) and (3), ~~upon delivery a~~  
13 ~~purchaser~~ of a certificated or uncertificated security ~~to a purchaser, the purchaser~~  
14 acquires all rights in the security that the transferor had or had power to transfer.

15          **SECTION 75.** 408.510 (1) of the statutes is amended to read:

16          408.510 (1) ~~An~~ In a case not covered by the priority rules in ch. 409 or the rules  
17 stated in sub. (3), an action based on an adverse claim to a financial asset or security  
18 entitlement, whether framed in conversion, replevin, constructive trust, equitable  
19 lien, or other theory, may not be asserted against a person who purchases a security  
20 entitlement, or an interest therein, from an entitlement holder if the purchaser gives  
21 value, does not have notice of the adverse claim, and obtains control.

22          **SECTION 76.** 408.510 (3) of the statutes is renumbered 408.510 (3) (intro.) and  
23 amended to read:

24          408.510 (3) (intro.) In a case not covered by the priority rules in ch. 409, a  
25 purchaser for value of a security entitlement, or an interest therein, who obtains

1 control has priority over a purchaser of a security entitlement, or an interest therein,  
2 who does not obtain control. Purchasers Except as otherwise provided in sub. (4),  
3 purchasers who have control rank ~~equally, except that a~~ according to priority in time  
4 of:

5 (4) A securities intermediary as purchaser has priority over a conflicting  
6 purchaser who has control unless otherwise agreed by the securities intermediary.

7 **SECTION 77.** 408.510 (3) (a) to (c) of the statutes are created to read:

8 408.510 (3) (a) The purchaser's becoming the person for whom the securities  
9 account, in which the security entitlement is carried, is maintained, if the purchaser  
10 obtained control under s. 408.106 (4) (a);

11 (b) The securities intermediary's agreement to comply with the purchaser's  
12 entitlement orders with respect to security entitlements carried or to be carried in  
13 the securities account in which the security entitlement is carried, if the purchaser  
14 obtained control under s. 408.106 (4) (b); or

15 (c) If the purchaser obtained control through another person under s. 408.106  
16 (4) (c), the time on which priority would be based under this subsection if the other  
17 person were the secured party.

18 **SECTION 78.** Chapter 409 of the statutes is repealed and recreated to read:

19 **CHAPTER 409**

20 **UNIFORM COMMERCIAL CODE —**

21 **SECURED TRANSACTIONS**

22 **SUBCHAPTER I**

23 **GENERAL PROVISIONS**

24 **409.101 Short title.** This chapter may be cited as uniform commercial code  
25 — secured transactions.

1           **409.102 Definitions and index of definitions. (1) CHAPTER 409 DEFINITIONS.**

2           In this chapter:

3           (a) “Accession” means goods that are physically united with other goods in such  
4           a manner that the identity of the original goods is not lost.

5           (ag) “Account”, except as used in “account for”, means a right to payment of a  
6           monetary obligation, whether or not earned by performance; for property that has  
7           been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services  
8           rendered or to be rendered; for a policy of insurance issued or to be issued; for a  
9           secondary obligation incurred or to be incurred; for energy provided or to be provided;  
10          for the use or hire of a vessel under a charter or other contract; arising out of the use  
11          of a credit or charge card or information contained on or for use with the card; or as  
12          winnings in a lottery or other game of chance operated or sponsored by a state,  
13          governmental unit of a state, or person licensed or authorized to operate the game  
14          by a state or governmental unit of a state. The term includes health-care-insurance  
15          receivables. The term does not include rights to payment evidenced by chattel paper  
16          or an instrument; commercial tort claims; deposit accounts; investment property;  
17          letter-of-credit rights or letters of credit; or rights to payment for money or funds  
18          advanced or sold, other than rights arising out of the use of a credit or charge card  
19          or information contained on or for use with the card.

20          (am) “Account debtor” means a person obligated on an account, chattel paper,  
21          or general intangible. The term does not include persons obligated to pay a  
22          negotiable instrument, even if the instrument constitutes part of chattel paper.

23          (as) “Accounting”, except as used in “accounting for”, means a record:

24           1. Authenticated by a secured party;

1           2. Indicating the aggregate unpaid secured obligations as of a date not more  
2 than 35 days earlier or 35 days later than the date of the record; and

3           3. Identifying the components of the obligations in reasonable detail.

4           (b) “Agricultural lien” means an interest, other than a security interest, in farm  
5 products:

6           1. Which secures payment or performance of an obligation for:

7           a. Goods or services furnished in connection with a debtor’s farming operation;

8           or

9           b. Rent on real property leased by a debtor in connection with its farming  
10 operation;

11          2. Which is created by statute in favor of a person that:

12          a. In the ordinary course of its business furnished goods or services to a debtor  
13 in connection with a debtor’s farming operation; or

14          b. Leased real property to a debtor in connection with the debtor’s farming  
15 operation; and

16          3. Whose effectiveness does not depend on the person’s possession of the  
17 personal property.

18          (bcm) “Applicant” means a person at whose request or for whose account a  
19 letter of credit is issued. The term includes a person who requests an issuer to issue  
20 a letter of credit on behalf of another if the person making the request undertakes  
21 an obligation to reimburse the issuer.

22          (bg) “As-extracted collateral” means:

23          1. Oil, gas, or other minerals that are subject to a security interest that is  
24 created by a debtor having an interest in the minerals before extraction and which  
25 attaches to the minerals as extracted; or

1           2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or  
2 other minerals in which the debtor had an interest before extraction.

3           (bm) “Authenticate” means:

4           1. To sign; or

5           2. To execute or otherwise adopt a symbol, or encrypt or similarly process a  
6 record in whole or in part, with the present intent of the authenticating person to  
7 identify the person and adopt or accept a record.

8           (bs) “Bank” means an organization that is engaged in the business of banking.  
9 The term includes savings banks, savings and loan associations, credit unions, and  
10 trust companies.

11           (btm) “Beneficiary” means a person who under the terms of a letter of credit is  
12 entitled to have its complying presentation honored. The term includes a person to  
13 whom drawing rights have been transferred under a transferable letter of credit.

14           (c) “Cash proceeds” means proceeds that are money, checks, deposit accounts,  
15 or the like.

16           (cg) “Certificate of title” means a certificate of title with respect to which a  
17 statute provides for the security interest in question to be indicated on the certificate  
18 as a condition or result of the security interest’s obtaining priority over the rights of  
19 a lien creditor with respect to the collateral.

20           (cm) “Chattel paper” means a record or records that evidence both a monetary  
21 obligation and a security interest in specific goods, a security interest in specific  
22 goods and software used in the goods, a security interest in specific goods and license  
23 of software used in the goods, a lease of specific goods, or a lease of specific goods and  
24 license of software used in the goods. The term does not include charters or other  
25 contracts involving the use or hire of a vessel. The term does not include records that

1 evidence a right to payment arising out of the use of a credit or charge card or  
2 information contained on or for use with the card. If a transaction is evidenced by  
3 records that include an instrument or series of instruments, the group of records  
4 taken together constitutes chattel paper. In this paragraph, “monetary obligation”  
5 means a monetary obligation secured by the goods or owned under a lease of the  
6 goods and includes a monetary obligation with respect to software used in the goods.

7 (cs) “Collateral” means the property subject to a security interest or  
8 agricultural lien. The term includes:

- 9 1. Proceeds to which a security interest attaches;
- 10 2. Accounts, chattel paper, payment intangibles, and promissory notes that  
11 have been sold; and
- 12 3. Goods that are the subject of a consignment.

13 (d) “Commercial tort claim” means a claim arising in tort with respect to which:

- 14 1. The claimant is an organization; or
- 15 2. The claimant is an individual and the claim:
  - 16 a. Arose in the course of the claimant’s business or profession; and
  - 17 b. Does not include damages arising out of personal injury to or the death of  
18 an individual.

19 (dg) “Commodity account” means an account maintained by a commodity  
20 intermediary in which a commodity contract is carried for a commodity customer.

21 (dm) “Commodity contract” means a commodity futures contract, an option on  
22 a commodity futures contract, a commodity option, or another contract if the contract  
23 or option is:

- 24 1. Traded on or subject to the rules of a board of trade that has been designated  
25 as a contract market for such a contract pursuant to federal commodities laws; or

1           2. Traded on a foreign commodity board of trade, exchange, or market, and is  
2 carried on the books of a commodity intermediary for a commodity customer.

3           (ds) “Commodity customer” means a person for which a commodity  
4 intermediary carries a commodity contract on its books.

5           (e) “Commodity intermediary” means a person that:

6           1. Is registered as a futures commission merchant under federal commodities  
7 law; or

8           2. In the ordinary course of its business provides clearance or settlement  
9 services for a board of trade that has been designated as a contract market pursuant  
10 to federal commodities law.

11          (eg) “Communicate” means:

12          1. To send a written or other tangible record;

13          2. To transmit a record by any means agreed upon by the persons sending and  
14 receiving the record; or

15          3. In the case of transmission of a record to or by a filing office, to transmit a  
16 record by any means prescribed by filing-office rule.

17          (em) “Consignee” means a merchant to which goods are delivered in a  
18 consignment.

19          (es) “Consignment” means a transaction, regardless of its form, in which a  
20 person delivers goods to a merchant for the purpose of sale and:

21          1. The merchant:

22           a. Deals in goods of that kind under a name other than the name of the person  
23 making delivery;

24           b. Is not an auctioneer; and



1           c. Is not generally known by its creditors to be substantially engaged in selling  
2 the goods of others;

3           2. With respect to each delivery, the aggregate value of the goods is \$1,000 or  
4 more at the time of delivery;

5           3. The goods are not consumer goods immediately before delivery; and

6           4. The transaction does not create a security interest that secures an obligation.

7           (f) “Consignor” means a person that delivers goods to a consignee in a  
8 consignment.

9           (fg) “Consumer debtor” means a debtor in a consumer transaction.

10          (fm) “Consumer goods” means goods that are used or bought for use primarily  
11 for personal, family, or household purposes.

12          (fs) “Consumer-goods transaction” means a consumer transaction in which:

13           1. An individual incurs an obligation primarily for personal, family, or  
14 household purposes; and

15           2. A security interest in consumer goods secures the obligation.

16          (g) “Consumer obligor” means an obligor who is an individual and who incurred  
17 the obligation as part of a transaction entered into primarily for personal, family, or  
18 household purposes.

19          (gg) “Consumer transaction” means a transaction in which an individual incurs  
20 an obligation primarily for personal, family, or household purposes; a security  
21 interest secures the obligation; and the collateral is held or acquired primarily for  
22 personal, family, or household purposes. The term includes consumer-goods  
23 transactions.

24          (gm) “Continuation statement” means an amendment of a financing statement  
25 which:

1           1. Identifies, by its file number, the initial financing statement to which it  
2 relates; and

3           2. Indicates that it is a continuation statement for, or that it is filed to continue  
4 the effectiveness of, the identified financing statement.

5           (gs) “Debtor” means:

6           1. A person having an interest, other than a security interest or other lien, in  
7 the collateral, whether or not the person is an obligor;

8           2. A seller of accounts, chattel paper, payment intangibles, or promissory notes;  
9 or

10          3. A consignee.

11          (h) “Deposit account” means a demand, time, savings, passbook, or similar  
12 account maintained with a bank. The term does not include investment property or  
13 accounts evidenced by an instrument.

14          (hg) “Document” means a document of title or a receipt of the type described  
15 in s. 407.201 (2).

16          (hm) “Electronic chattel paper” means chattel paper evidenced by a record or  
17 records consisting of information stored in an electronic medium.

18          (hs) “Encumbrance” means a right, other than an ownership interest, in real  
19 property. The term includes mortgages and other liens on real property.

20          (i) “Equipment” means goods other than inventory, farm products, or consumer  
21 goods.

22          (ig) “Farm products” means goods, other than standing timber, with respect to  
23 which the debtor is engaged in a farming operation and which are:

24           1. Crops grown, growing, or to be grown, including:

25           a. Crops produced on trees, vines, and bushes; and

- 1           b. Aquatic goods produced in aquacultural operations;
- 2           2. Livestock, born or unborn, including aquatic goods produced in aquacultural
- 3 operations;
- 4           3. Supplies used or produced in a farming operation; or
- 5           4. Products of crops or livestock in their unmanufactured states.
- 6           (im) “Farming operation” means raising, cultivating, propagating, fattening,
- 7 grazing, or any other farming, livestock, or aquacultural operation.
- 8           (is) “File number” means the number assigned to an initial financing statement
- 9 pursuant to s. 409.519 (1).
- 10          (j) “Filing office” means an office designated in s. 409.501 as the place to file a
- 11 financing statement.
- 12          (jg) “Filing-office rule” means a rule promulgated pursuant to s. 409.526.
- 13          (jm) “Financing statement” means a record or records composed of an initial
- 14 financing statement and any filed record relating to the initial financing statement.
- 15          (js) “Fixture filing” means the filing of a financing statement covering goods
- 16 that are or are to become fixtures and satisfying s. 409.502 (1) and (2). The term
- 17 includes the filing of a financing statement covering goods of a transmitting utility
- 18 which are or are to become fixtures.
- 19          (k) “Fixtures” means goods that have become so related to particular real
- 20 property that an interest in them arises under real property law.
- 21          (kg) “General intangible” means any personal property, including things in
- 22 action, other than accounts, chattel paper, commercial tort claims, deposit accounts,
- 23 documents, goods, instruments, investment property, letter-of-credit rights, letters
- 24 of credit, money, and oil, gas, or other minerals before extraction. The term includes
- 25 payment intangibles and software.

1           (km) “Good faith” means honesty in fact and the observance of reasonable  
2 commercial standards of fair dealing.

3           (ks) “Goods” means all things that are movable when a security interest  
4 attaches. The term includes fixtures; standing timber that is to be cut and removed  
5 under a conveyance or contract for sale; the unborn young of animals; crops grown,  
6 growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and  
7 manufactured homes. The term also includes a computer program embedded in  
8 goods and any supporting information provided in connection with a transaction  
9 relating to the program if the program is associated with the goods in such a manner  
10 that it customarily is considered part of the goods, or by becoming the owner of the  
11 goods, a person acquires a right to use the program in connection with the goods. The  
12 term does not include a computer program embedded in goods that consist solely of  
13 the medium in which the program is embedded. The term also does not include  
14 accounts, chattel paper, commercial tort claims, deposit accounts, documents,  
15 general intangibles, instruments, investment property, letter-of-credit rights,  
16 letters of credit, money, or oil, gas, or other minerals before extraction.

17           (L) “Governmental unit” means a subdivision, agency, department, county,  
18 parish, municipality, or other unit of the government of the United States, a state,  
19 or a foreign country. The term includes an organization having a separate corporate  
20 existence if the organization is eligible to issue debt on which interest is exempt from  
21 income taxation under the laws of the United States.

22           (Lg) “Health-care-insurance receivable” means an interest in or claim under  
23 a policy of insurance which is a right to payment of a monetary obligation for  
24 health-care goods or services provided.

1           (Lm) “Instrument” means a negotiable instrument or any other writing that  
2 evidences a right to the payment of a monetary obligation, is not itself a security  
3 agreement or lease, and is of a type that in ordinary course of business is transferred  
4 by delivery with any necessary endorsement or assignment. The term does not  
5 include investment property; letters of credit; or writings that evidence a right to  
6 payment arising out of the use of a credit or charge card or information contained on  
7 or for use with the card.

8           (Ls) “Inventory” means goods, other than farm products, which:

- 9           1. Are leased by a person as lessor;
- 10          2. Are held by a person for sale or lease or to be furnished under a contract of  
11 service;
- 12          3. Are furnished by a person under a contract of service; or
- 13          4. Consist of raw materials, work in process, or materials used or consumed in  
14 a business.

15           (m) “Investment property” means a security, whether certificated or  
16 uncertificated, security entitlement, securities account, commodity contract, or  
17 commodity account.

18           (mcm) “Issuer” means a bank or other person that issues a letter of credit, but  
19 does not include an individual who makes an engagement for personal, family, or  
20 household purposes.

21           (mg) “Jurisdiction of organization”, with respect to a registered organization,  
22 means the jurisdiction under whose law the organization is organized.

23           (mkm) “Letter of credit” means a definite undertaking that satisfies the  
24 requirements of s. 405.104 by an issuer to a beneficiary at the request or for the  
25 account of an applicant or, in the case of a financial institution, to itself or for its own

1 account, to honor a documentary presentation by payment or delivery of an item of  
2 value.

3 (mm) “Letter-of-credit right” means a right to payment or performance under  
4 a letter of credit, whether or not the beneficiary has demanded or is at the time  
5 entitled to demand payment or performance. The term does not include the right of  
6 a beneficiary to demand payment or performance under a letter of credit.

7 (ms) “Lien creditor” means:

- 8 1. A creditor that has acquired a lien on the property involved by attachment,  
9 levy, or the like;
- 10 2. An assignee for benefit of creditors from the time of assignment;
- 11 3. A trustee in bankruptcy from the date of the filing of the petition; or
- 12 4. A receiver in equity from the time of appointment.

13 (n) “Manufactured home” means a structure, transportable in one or more  
14 sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet  
15 or more in length, or, when erected on site, is 320 or more square feet, and which is  
16 built on a permanent chassis and designed to be used as a dwelling with or without  
17 a permanent foundation when connected to the required utilities, and includes the  
18 plumbing, heating, air-conditioning, and electrical systems contained therein. The  
19 term includes any structure that meets all of the requirements of this paragraph  
20 except the size requirements and with respect to which the manufacturer voluntarily  
21 files a certification required by the U.S. secretary of housing and urban development  
22 and complies with the standards established under title 42 of the U.S. code.

23 (ng) “Manufactured-home transaction” means a secured transaction:

- 24 1. That creates a purchase-money security interest in a manufactured home,  
25 other than a manufactured home held as inventory; or

1           2. In which a manufactured home, other than a manufactured home held as  
2 inventory, is the primary collateral.

3           (nm) “Mortgage” means a consensual interest in real property, including  
4 fixtures, which secures payment or performance of an obligation.

5           (ns) “New debtor” means a person that becomes bound as debtor under s.  
6 409.203 (4) by a security agreement previously entered into by another person.

7           (o) “New value” means money; money’s worth in property, services, or new  
8 credit; or release by a transferee of an interest in property previously transferred to  
9 the transferee. The term does not include an obligation substituted for another  
10 obligation.

11           (odm) “Nominated person” means a person whom the issuer:

12           1. Designates or authorizes to pay, accept, negotiate, or otherwise give value  
13 under a letter of credit; and

14           2. Undertakes by agreement or custom and practice to reimburse.

15           (og) “Noncash proceeds” means proceeds other than cash proceeds.

16           (om) “Obligor” means a person that, with respect to an obligation secured by  
17 a security interest in or an agricultural lien on the collateral, owes payment or other  
18 performance of the obligation; has provided property other than the collateral to  
19 secure payment or other performance of the obligation; or is otherwise accountable  
20 in whole or in part for payment or other performance of the obligation. The term does  
21 not include issuers or nominated persons under a letter of credit.

22           (os) “Original debtor”, except as used in s. 409.310 (3), means a person that, as  
23 debtor, entered into a security agreement to which a new debtor has become bound  
24 under s. 409.203 (4).

1 (p) “Payment intangible” means a general intangible under which the account  
2 debtor’s principal obligation is a monetary obligation.

3 (pg) “Person related to”, with respect to an individual, means:

4 1. The spouse of the individual;

5 2. A brother, brother-in-law, sister, or sister-in-law of the individual;

6 3. An ancestor or lineal descendant of the individual or the individual’s spouse;

7 or

8 4. Any other relative, by blood or marriage, of the individual or the individual’s  
9 spouse who shares the same home with the individual.

10 (pm) “Person related to”, with respect to an organization, means:

11 1. A person directly or indirectly controlling, controlled by, or under common  
12 control with the organization;

13 2. An officer or director of, or a person performing similar functions with respect  
14 to, the organization;

15 3. An officer or director of, or a person performing similar functions with respect  
16 to, a person described in subd. 1.;

17 4. The spouse of an individual described in subd. 1., 2., or 3.; or

18 5. An individual who is related by blood or marriage to an individual described  
19 in subd. 1., 2., 3., or 4. and shares the same home with the individual.

20 (ps) “Proceeds”, except as used in s. 409.609 (2), means the following property:

21 1. Whatever is acquired upon the sale, lease, license, exchange, or other  
22 disposition of collateral;

23 2. Whatever is collected on, or distributed on account of, collateral;

24 3. Rights arising out of collateral;



1           4. To the extent of the value of collateral, claims arising out of the loss,  
2 nonconformity, or interference with the use of, defects or infringement of rights in,  
3 or damage to, the collateral; or

4           5. To the extent of the value of collateral and to the extent payable to the debtor  
5 or the secured party, insurance payable by reason of the loss or nonconformity of,  
6 defects or infringement of rights in, or damage to, the collateral.

7           (ptm) “Proceeds of a letter of credit” means the cash, check, accepted draft, or  
8 other item of value paid or delivered upon honor or giving of value by the issuer or  
9 any nominated person under the letter of credit. The term does not include a  
10 beneficiary’s drawing rights or documents presented by the beneficiary.

11           (q) “Promissory note” means an instrument that evidences a promise to pay a  
12 monetary obligation, does not evidence an order to pay, and does not contain an  
13 acknowledgment by a bank that the bank has received for deposit a sum of money  
14 or funds.

15           (qg) “Proposal” means a record authenticated by a secured party which  
16 includes the terms on which the secured party is willing to accept collateral in full  
17 or partial satisfaction of the obligation it secures pursuant to ss. 409.620, 409.621,  
18 and 409.622.

19           (qm) “Public–finance transaction” means a secured transaction in connection  
20 with which:

- 21           1. Debt securities are issued;
- 22           2. All or a portion of the securities issued have an initial stated maturity of at  
23           least 20 years; and

1           3. The debtor, obligor, secured party, account debtor or other person obligated  
2 on collateral, assignor or assignee of a secured obligation, or assignor or assignee of  
3 a security interest is a state or a governmental unit of a state.

4           (qs) “Pursuant to commitment”, with respect to an advance made or other value  
5 given by a secured party, means pursuant to the secured party’s obligation, whether  
6 or not a subsequent event of default or other event not within the secured party’s  
7 control has relieved or may relieve the secured party from its obligation.

8           (r) “Record”, except as used in “for record”, “of record”, “record or legal title”, and  
9 “record owner”, means information that is inscribed on a tangible medium or which  
10 is stored in an electronic or other medium and is retrievable in perceivable form.

11           (rg) “Registered organization” means an organization organized solely under  
12 the law of a single state or the United States and as to which the state or the United  
13 States must maintain a public record showing the organization to have been  
14 organized.

15           (rm) “Secondary obligor” means an obligor to the extent that:

- 16           1. The obligor’s obligation is secondary; or  
17           2. The obligor has a right of recourse with respect to an obligation secured by  
18 collateral against the debtor, another obligor, or property of either.

19           (rs) “Secured party” means:

- 20           1. A person in whose favor a security interest is created or provided for under  
21 a security agreement, whether or not any obligation to be secured is outstanding;  
22           2. A person that holds an agricultural lien;  
23           3. A consignor;  
24           4. A person to which accounts, chattel paper, payment intangibles, or  
25 promissory notes have been sold;

1           5. A trustee, indenture trustee, agent, collateral agent, or other representative  
2 in whose favor a security interest or agricultural lien is created or provided for; or

3           6. A person that holds a security interest arising under s. 402.401, 402.505,  
4 402.711 (3), 404.210, 405.118, or 411.508 (5).

5           (s) “Security agreement” means an agreement that creates or provides for a  
6 security interest.

7           (sg) “Send”, in connection with a record or notification, means:

8           1. To deposit in the mail, deliver for transmission, or transmit by any other  
9 usual means of communication, with postage or cost of transmission provided for,  
10 addressed to any address reasonable under the circumstances; or

11           2. To cause the record or notification to be received within the time that it would  
12 have been received if properly sent under subd. 1.

13           (sm) “Software” means a computer program and any supporting information  
14 provided in connection with a transaction relating to the program. The term does not  
15 include a computer program that is included in the definition of goods.

16           (ss) “State” means a state of the United States, the District of Columbia, Puerto  
17 Rico, the United States Virgin Islands, or any territory or insular possession subject  
18 to the jurisdiction of the United States.

19           (t) “Supporting obligation” means a letter-of-credit right or secondary  
20 obligation that supports the payment or performance of an account, chattel paper,  
21 a document, a general intangible, an instrument, or investment property.

22           (tg) “Tangible chattel paper” means chattel paper evidenced by a record or  
23 records consisting of information that is inscribed on a tangible medium.

24           (tm) “Termination statement” means an amendment of a financing statement  
25 which:

1           1. Identifies, by its file number, the initial financing statement to which it  
2 relates; and

3           2. Indicates either that it is a termination statement or that the identified  
4 financing statement is no longer effective.

5           (ts) “Transmitting utility” means a person primarily engaged in the business  
6 of:

7           1. Operating a railroad, subway, street railway, or trolley bus;

8           2. Transmitting communications electrically, electromagnetically, or by light;

9           3. Transmitting goods by pipeline or sewer; or

10          4. Transmitting or producing and transmitting electricity, steam, gas, or water.

11          (2) DEFINITIONS IN OTHER CHAPTERS. The following definitions in other chapters  
12 apply to this chapter:

13          (b) “Broker” — s. 408.102.

14          (bm) “Certificated security” — s. 408.102.

15          (c) “Check” — s. 403.104.

16          (cm) “Clearing corporation” — s. 408.102.

17          (d) “Contract for sale” — s. 402.106.

18          (dm) “Customer” — s. 404.104.

19          (e) “Entitlement holder” — s. 408.102.

20          (em) “Financial asset” — s. 408.102.

21          (f) “Holder in due course” — s. 403.302.

22          (g) “Issuer” (with respect to a security) — s. 408.201.

23          (gm) “Lease” — s. 411.103.

24          (h) “Lease agreement” — s. 411.103.

25          (hm) “Lease contract” — s. 411.103.

- 1 (i) “Leasehold interest” — s. 411.103.
- 2 (im) “Lessee” — s. 411.103.
- 3 (j) “Lessee in ordinary course of business” — s. 411.103.
- 4 (jm) “Lessor” — s. 411.103.
- 5 (k) “Lessor’s residual interest” — s. 411.103.
- 6 (L) “Merchant” — s. 402.104.
- 7 (Lm) “Negotiable instrument” — s. 403.104.
- 8 (mm) “Note” — s. 403.104.
- 9 (nm) “Prove” — s. 403.103.
- 10 (o) “Sale” — s. 402.106.
- 11 (om) “Securities account” — s. 408.501.
- 12 (p) “Securities intermediary” — s. 408.102.
- 13 (pm) “Security” — s. 408.102.
- 14 (q) “Security certificate” — s. 408.102.
- 15 (qm) “Security entitlement” — s. 408.102.
- 16 (r) “Uncertificated security” — s. 408.102.

17 (3) CHAPTER 401 DEFINITIONS AND PRINCIPLES. Chapter 401 contains general  
18 definitions and principles of construction and interpretation applicable throughout  
19 this chapter.

20 **409.103 Purchase-money security interest; application of payments;**  
21 **burden of establishing.** (1) DEFINITIONS. In this section:

22 (a) “Purchase-money collateral” means goods or software that secures a  
23 purchase-money obligation incurred with respect to that collateral.

1           (b) “Purchase–money obligation” means an obligation of an obligor incurred as  
2 all or part of the price of the collateral or for value given to enable the debtor to  
3 acquire rights in or the use of the collateral if the value is in fact so used.

4           **(2) PURCHASE–MONEY SECURITY INTEREST IN GOODS.** A security interest in goods  
5 is a purchase–money security interest:

6           (a) To the extent that the goods are purchase–money collateral with respect to  
7 that security interest;

8           (b) If the security interest is in inventory that is or was purchase–money  
9 collateral, also to the extent that the security interest secures a purchase–money  
10 obligation incurred with respect to other inventory in which the secured party holds  
11 or held a purchase–money security interest; and

12           (c) Also to the extent that the security interest secures a purchase–money  
13 obligation incurred with respect to software in which the secured party holds or held  
14 a purchase–money security interest.

15           **(3) PURCHASE–MONEY SECURITY INTEREST IN SOFTWARE.** A security interest in  
16 software is a purchase–money security interest to the extent that the security  
17 interest also secures a purchase–money obligation incurred with respect to goods in  
18 which the secured party holds or held a purchase–money security interest if:

19           (a) The debtor acquired its interest in the software in an integrated transaction  
20 in which it acquired an interest in the goods; and

21           (b) The debtor acquired its interest in the software for the principal purpose  
22 of using the software in the goods.

23           **(4) CONSIGNOR’S INVENTORY PURCHASE–MONEY SECURITY INTEREST.** The security  
24 interest of a consignor in goods that are the subject of a consignment is a  
25 purchase–money security interest in inventory.

1           **(5) APPLICATION OF PAYMENT IN NONCONSUMER-GOODS TRANSACTION.** In a  
2 transaction other than a consumer-goods transaction, if the extent to which a  
3 security interest is a purchase-money security interest depends on the application  
4 of a payment to a particular obligation, the payment must be applied:

5           (a) In accordance with any reasonable method of application to which the  
6 parties agree;

7           (b) In the absence of the parties' agreement to a reasonable method, in  
8 accordance with any intention of the obligor manifested at or before the time of  
9 payment; or

10           (c) In the absence of an agreement to a reasonable method and a timely  
11 manifestation of the obligor's intention, in the following order:

12           1. To obligations that are not secured; and

13           2. If more than one obligation is secured, to obligations secured by  
14 purchase-money security interests in the order in which those obligations were  
15 incurred.

16           **(6) NO LOSS OF STATUS OF PURCHASE-MONEY SECURITY INTEREST IN**  
17 **NONCONSUMER-GOODS TRANSACTION.** In a transaction other than a consumer-goods  
18 transaction, a purchase-money security interest does not lose its status as such, even  
19 if:

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

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

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

1           **(7) BURDEN OF PROOF IN NONCONSUMER-GOODS TRANSACTION.** In a transaction  
2 other than a consumer-goods transaction, a secured party claiming a  
3 purchase-money security interest has the burden of establishing the extent to which  
4 the security interest is a purchase-money security interest.

5           **(8) NONCONSUMER-GOODS TRANSACTIONS; NO INFERENCE.** The limitation of the  
6 rules in subs. (5) to (7) to transactions other than consumer-goods transactions is  
7 intended to leave to the court the determination of the proper rules in  
8 consumer-goods transactions. The court may not infer from that limitation the  
9 nature of the proper rule in consumer-goods transactions and may continue to apply  
10 established approaches.

11           **409.104 Control of deposit account. (1) REQUIREMENTS FOR CONTROL.** A  
12 secured party has control of a deposit account if:

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

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

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

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

23           **409.105 Control of electronic chattel paper.** A secured party has control  
24 of electronic chattel paper if the record or records comprising the chattel paper are  
25 created, stored, and assigned in such a manner that:



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

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

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

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

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

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

13           **409.106 Control of investment property. (1) CONTROL UNDER S. 408.106.** A  
14 person has control of a certificated security, uncertificated security, or security  
15 entitlement as provided in s. 408.106.

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

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

20           (b) The commodity customer, secured party, and commodity intermediary have  
21 agreed that the commodity intermediary will apply any value distributed on account  
22 of the commodity contract as directed by the secured party without further consent  
23 by the commodity customer.

24           (3) EFFECT OF CONTROL OF SECURITIES ACCOUNT OR COMMODITY ACCOUNT. A secured  
25 party having control of all security entitlements or commodity contracts carried in

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

3 **409.107 Control of letter-of-credit right.** A secured party has control of  
4 a letter-of-credit right to the extent of any right to payment or performance by the  
5 issuer or any nominated person if the issuer or nominated person has consented to  
6 an assignment of proceeds of the letter of credit under ch. 405 or otherwise applicable  
7 law or practice.

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

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

14 (a) Specific listing;

15 (b) Category;

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

18 (d) Quantity;

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

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

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