Reprinted
February 25, 2000

ENGROSSED
HOUSE BILL No. 1326

DIGEST OF HB 1326 (Updated February 24, 2000 4:46 PM - DI 84)

Citations Affected: IC 4-22; IC 6-8.1; IC 8-1; IC 9-17; IC 9-31; IC 12-17; IC 20-12; IC 24-5; IC 24-7; IC 26-1; IC 32-1; IC 32-8.

Synopsis: Uniform Commercial Code. Adopts a revised Article 9 of the Uniform Commercial Code concerning secured transactions. Makes conforming amendments.

Effective: July 1, 2001.

Dvorak, Foley
(SENATE SPONSORS — SIMPSON, BRAY, KENLEY)

January 11, 2000, read first time and referred to Committee on Courts and Criminal Code.
January 26, 2000, amended, reported — Do Pass.
February 1, 2000, read second time, amended, ordered engrossed.
February 2, 2000, engrossed.
February 7, 2000, read third time, passed. Yeas 98, nays 0.

SENATE ACTION
February 8, 2000, read first time and referred to Committee on Judiciary.
February 17, 2000, amended, reported favorably—Do Pass.
February 24, 2000, read second time, amended, ordered engrossed.

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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

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ENGROSSED
HOUSE BILL No. 1326

A BILL FOR AN ACT concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-22-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) Subject to subsections (b), (c), and (d), this chapter applies to the addition, amendment, or repeal of a rule in every rulemaking action.

(b) This chapter does not apply to the following agencies:

(1) Any military officer or board.

(2) Any state educational institution (as defined in IC 20-12-0.5-1).

(c) This chapter does not apply to a rulemaking action that results in any of the following rules:

(1) A resolution or directive of any agency that relates solely to internal policy, internal agency organization, or internal procedure and does not have the effect of law.

(2) A restriction or traffic control determination of a purely local nature that:

(A) is ordered by the commissioner of the Indiana department

of transportation;

(B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or IC 9-20-7; and

(C) applies only to one (1) or more particularly described intersections, highway portions, bridge causeways, or viaduct areas.

(3) A rule adopted by the secretary of state under ~~IC 26-1-9-408.~~ **IC 26-1-9.1-526.**

(4) An executive order or proclamation issued by the governor.

(d) Except as specifically set forth in IC 13-14-9, sections 24, 26, 27, and 29 of this chapter do not apply to rulemaking actions under IC 13-14-9.

SECTION 2. IC 6-8.1-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:

(1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or

(2) by action of the commissioner under IC 6-8.1-8-2(k).

(c) The department may not issue or renew:

(1) a certificate under IC 6-2.5-8;

(2) a license under IC 6-6-1.1 or IC 6-6-2.5; or

(3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the

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bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

(1) is subordinate to a perfected security interest (as defined and perfected in accordance with ~~IC 26-1-9);~~ **IC 26-1-9.1);** and

(2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-2.1, IC 6-3, or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

(1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or

(2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

(h) In the case of a sheriff, subsection (g) does not apply if:

(1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or

(2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(i) In the case of a person other than a sheriff:

(1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and

(2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

SECTION 3. IC 8-1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Notwithstanding any other statute or rule of law of the state, any mortgage executed and recorded by a public utility, as defined in IC 8-1-2-1, or by any corporation or other business entity engaged in the railroad business or the transmission of oil, gas, or petroleum products by pipeline, in the

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manner provided for the execution and recording of mortgages upon real estate:

(1) may include all or any part of the property of the mortgagor, real, personal, or mixed, chattels real and fixtures; and

(2) shall, upon its recordation, constitute a valid and perfected lien upon all and every part of the property of the mortgagor described in the mortgage and situated in any county in this state where the mortgage is or shall be recorded in the manner provided for recording real estate mortgages. Neither the mortgage nor any statement respecting the mortgage or any of the property described in the mortgage need be otherwise filed or refiled in order to perfect or continue perfection of the lien created by the mortgage.

(b) The term "mortgage", as used in this chapter, includes deeds of trust and any and all documents creating an interest in property to secure the payment of bonds, notes, debentures, and like securities, and any instrument executed to supplement any mortgage.

(c) If it is executed and recorded as provided in this section and by its terms covers some or all of the after-acquired property of the mortgagor, the mortgage constitutes a valid and perfected lien upon the interest of the mortgagor in the after-acquired property from the date the mortgagor acquires an interest in the property.

(d) Notwithstanding the date of the mortgage's execution or recordation, if collateral covered by ~~IC 26-1-9~~ **IC 26-1-9.1** was or is perfected in compliance with the recordation requirements contained in this section, the recordation was or is equivalent to the highest form of filing or perfection under ~~IC 26-1-9.~~ **IC 26-1-9.1.**

SECTION 4. IC 9-17-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. Except as otherwise provided, ~~IC 26-1-9~~ **IC 26-1-9.1** applies to a security interest in a manufactured home.

SECTION 5. IC 9-31-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 24. (a) A security agreement covering a security interest in a watercraft that is not inventory held for sale can be perfected only if the bureau indicates the security interest on the certificate of title or duplicate. Except as otherwise provided in this section, ~~IC 26-1-9~~ **IC 26-1-9.1** applies to security interests in watercraft.

(b) The secured party, upon presentation of a properly completed application for certificate of title to the bureau together with the fee prescribed by IC 9-29-15-1, may have a notation of the lien made on the face of the certificate of title to be issued by the bureau. The bureau

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shall enter the notation and the date of the notation and shall note the lien and the date of the lien in the bureau's files.

(c) Whenever a lien is discharged, the holder shall note the discharge on the certificate of title over the holder's signature.

SECTION 6. IC 12-17-2-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33. (a) The bureau shall, each month, prepare a list of each person against whom a child support obligation lien is held under IC 31-16-16-3 (or IC 31-2-11-9 before its repeal). The list must identify each person liable for a lien by name, address, amount of lien, and either Social Security number or employer identification number. The bureau shall certify a copy of the list to the bureau of motor vehicles.

(b) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly lien list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder. The state's lien on a title under this section is subordinate to a prior perfected security interest if the interest is defined and perfected under either of the following:

(1) ~~IC 26-1-9.~~ **IC 26-1-9.1.**

(2) IC 32-8.

(c) A lien against the title under this section must be treated in the same manner as any other subordinate title lien.

(d) The bureau shall prescribe and furnish release forms for use by the bureau. When the amount of the lien is paid, the bureau shall issue to the person against whom the lien was held a release stating that the amount represented by the lien has been paid. The bureau may also issue a release to a person against whom the lien is held if the person has made arrangements, agreed to by the bureau, for the payment of the amount represented by the lien.

(e) The director of the bureau or the director's designee is the custodian of all titles having the state as the sole lienholder under this section. Upon receiving a title from the bureau of motor vehicles under this section, the director shall notify the owner of the motor vehicle.

(f) The bureau shall reimburse the bureau of motor vehicles for all costs incurred by the bureau in implementing this section.

SECTION 7. IC 20-12-21.2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. Notwithstanding IC 26-1-9-302(1)(a), a security interest in education loans is perfected by:

(1) possession under IC 26-1-9-305; or

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(2) filing a financing statement in the office of the secretary of state under ~~IC 26-1-9-401, IC 26-1-9-402, or IC 26-1-9-403.~~ **IC 26-1-9.1-501.**

SECTION 8. IC 24-5-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. As used in this chapter, "secured party" has the meaning set forth in ~~IC 26-1-9-105(m).~~ **IC 26-1-9.1-102(a)(72).**

SECTION 9. IC 24-5-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. As used in this chapter, "security agreement" has the meaning set forth in ~~IC 26-1-9-105(l).~~ **IC 26-1-9.1-102(a)(73).**

SECTION 10. IC 24-7-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Except as provided in this article, the provisions of:

(1) the Federal Consumer Credit Protection Act and regulations adopted under it;

(2) IC 24-4.5;

(3) IC 26-1-1-201(37);

(4) IC 26-1-2 concerning the creation of a security interest in property;

(5) ~~IC 26-1-9~~ **IC 26-1-9.1;** and

(6) rules adopted under the statutes described in subdivisions (2) through (5);

do not apply to a rental purchase agreement.

SECTION 11. IC 26-1-1-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 105. (1) Except as provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement, IC 26-1 applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of IC 26-1 specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

IC 26-1-2-402 concerning rights of creditors against sold goods.

IC 26-1-2.1-105 and IC 26-1-2.1-106 concerning leases.

IC 26-1-4-102 concerning bank deposits and collections.

IC 26-1-4.1-507 concerning funds transfers.

IC 26-1-5.1-116 concerning letters of credit.

IC 26-1-6.1-103 concerning bulk sales.

IC 26-1-8.1-110 concerning investment securities.

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~~IC 26-1-9-103 concerning perfection of secured transactions.~~ **IC 26-1-9.1-301 through IC 26-1-9.1-307 concerning the perfection, the effect of perfection or nonperfection, and the priority of security interests.**

SECTION 12. IC 26-1-1-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 201. Subject to additional definitions contained in IC 26-1-2 through IC 26-1-10 which are applicable to specific provisions, and unless the context otherwise requires, in IC 26-1:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in IC 26-1-1-205 and IC 26-1-2-208. Whether an agreement has legal consequences is determined by the provisions of IC 26-1, if applicable; otherwise by the law of contracts (IC 26-1-1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person ~~who~~ **that buys goods** in good faith ~~and~~ without knowledge that the sale ~~to him is in violation of~~ **violates** the ~~ownership~~ rights ~~or security interest~~ of ~~a third party~~ **another person** in the goods, **and** ~~buys~~ in **the** ordinary course from a person, **other than a pawnbroker,** in the business of selling goods of that kind. ~~but does not include a pawnbroker. All persons who sell minerals or~~

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~~the like (including oil and gas) at a wellhead or minehead shall be deemed to be persons~~ **A person buys goods in the ordinary course of business if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person** in the business of selling goods of that kind. ~~"Buying"~~ **A buyer in ordinary course of business** may ~~be~~ **buy** for cash, ~~or~~ by exchange of other property, or on secured or unsecured credit, and ~~includes receiving~~ **may require** goods or documents of title under a preexisting contract for sale. ~~but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.~~ **Only a buyer that takes possession of the goods or has a right to recover the goods from that seller under IC 26-1-2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or total or partial satisfaction of a money debt is not a buyer in ordinary course of business.**

(10) "Conspicuous". A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is conspicuous if it is in larger or other contrasting type or color. But in a telegram any stated term is conspicuous. Whether a term or clause is conspicuous or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Act and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods

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and also any other document, which in the regular course of business or financing, is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission, or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of IC 26-1 to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument, payable to an identified person if the identified person is in possession. "Holder" with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more nations.

(25) A person has "notice" of a fact when:

(a) he has actual knowledge of it; ~~or~~

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

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A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by IC 26-1.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge, or a notice of notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction and, in any event, from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within IC 26-1.

(30) "Person" includes an individual or an organization. (See IC 26-1-1-102.)

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation,

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mortgage, pledge, lien, **security interest,** issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(33a) "Registered mail" includes certified mail.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (IC 26-1-2-401) is limited in effect to a reservation of a security interest.~~ The term also includes any interest of a **consignor and a** buyer of accounts, ~~or~~ chattel paper, ~~which~~ **a payment intangible, or a promissory note in a transaction that** is subject to ~~IC 26-1-9.~~ **IC 26-1-9.1.** The special property interest of a buyer of goods on identification of such goods to a contract for sale under IC 26-1-2-401 is not a security interest, but a buyer may also acquire a security interest by complying with ~~IC 26-1-9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a security interest but a consignment is in any event subject to the provisions on consignment sales (IC 26-1-2-326).~~ **IC 26-1-9.1. Except as otherwise provided in IC 26-1-2-505, the right of a seller or lessor of goods under IC 26-1-2 or IC 26-1-2.1 to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with IC 26-1-9.1. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (IC 26-1-2-401) is limited in effect to a reservation of a "security interest".** Whether a transaction creates a lease or security interest is determined by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee and:

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods;

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(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that:

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;

(c) the lessee has an option to renew the lease or to become the owner of the goods;

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection:

(x) Additional consideration is not nominal if:

(i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

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(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into. ~~and~~

(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into. Otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or, if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (IC 26-1-3.1-303, IC 26-1-4-208, and IC 26-1-4-209) a person gives value for rights if he acquires them:

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection;

(b) as security for or in total or partial satisfaction of a preexisting claim;

(c) by accepting delivery pursuant to a preexisting contract for

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purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

SECTION 13. IC 26-1-1-206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 206. (1) Except in the cases described in subsection (2), a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars ($5,000) in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

(2) Subsection (1) does not apply to contracts for the sale of goods (IC 26-1-2-201) nor to security agreements ~~(IC 26-1-9-203).~~ **(IC 26-1-9.1-201).**

SECTION 14. IC 26-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 1.5. UCC Forms

Sec. 1. The forms in this chapter may be used for filings under IC 26-1.

Sec. 2. The following forms are set forth below:

(1) IC 26-1-9.1 financing statement.

(2) IC 26-1-9.1 financing statement amendment.

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[redacted]

UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS (front and back)CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

+ ,

. -

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) do not abbreviate or combine names.

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATION ID#, if any ☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATION ID#, if any ☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured part name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Attached Addendum [if applicable]

7. Check to REQUEST SEARCH REPORTS(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. DEBTOR SIGNATURE

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 04/23/98)

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UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back)CAREFULLY

9. NAME OF FIRST DEBTOR(1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -insert only one debtor name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 11e. TYPE OF ORGANIZATION | 11f. JURISDICTION OF ORGANIZATION | 11g. ORGANIZATION ID#, if any | ☐ NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

12c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☐ fixture filing.

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction —effective 30 years

☐ Filed in connection with a Public-Finance Transaction —effective 30 years

FILING OFFICE COPY—NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad)(REV. 04/23/98)

C o p y

1 **END OF IC 26-1-9.1 FINANCING STATEMENT**

[redacted]

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back)CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

+ ,

. -

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

1b. This FINANCING STATEMENT AMENDMENT is ☐ to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured party authorizing this Termination Statement

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment effects ☐ Debtor or ☐ Secured party of record. Check only one of these boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6 or 6b; also give new Name (if name change) in item 7a or 7b and./or new address (if address change) in item 7c

☐ DELETE name: give record name to be deleted in item 6a or 6b.

☐ ADD name: Complete item 7a or 7b and also Item 7c; also complete 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATION ID#, if any ☐ NONE

8. AMENDMENT (COLLATERAL CHANGE): Check only one box.

Describe collateral ☐ Deleted or ☐ Added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

10. DEBTOR SIGNATURE

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT AMENDMENT(FORM UCC3) (REV. 04/23/98)

C o p y

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

11. INITIAL FINANCING STATEMENT FILE # (same as item 1a on amendment form)

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a ORGANIZATION'S NAME

OR

12b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

13. Use this space for additional information

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

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1 **END OF IC 26-1-9.1 FINANCING STATEMENT AMENDMENT**

SECTION 15. IC 26-1-2-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) In IC 26-1-2, unless the context otherwise requires:

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to IC 26-1-2, or to specified parts thereof, and the sections in which they appear are:

"Acceptance". IC 26-1-2-606.
"Banker's credit". IC 26-1-2-325.
"Between merchants". IC 26-1-2-104.
"Cancellation". IC 26-1-2-106(4).
"Commercial unit". IC 26-1-2-105.
"Confirmed credit". IC 26-1-2-325.
"Conforming to contract". IC 26-1-2-106.
"Contract for sale". IC 26-1-2-106.
"Cover". IC 26-1-2-712.
"Entrusting". IC 26-1-2-403.
"Financing agency". IC 26-1-2-104.
"Future goods". IC 26-1-2-105.
"Goods". IC 26-1-2-105.
"Identification". IC 26-1-2-501.
"Installment contract". IC 26-1-2-612.
"Letter of credit". IC 26-1-2-325.
"Lot". IC 26-1-2-105.
"Merchant". IC 26-1-2-104.
"Overseas". IC 26-1-2-323.
"Person in the position of seller". IC 26-1-2-707.
"Present sale". IC 26-1-2-106.
"Sale". IC 26-1-2-106.
"Sale on approval". IC 26-1-2-326.
"Sale or return". IC 26-1-2-326.
"Termination". IC 26-1-2-106.

(3) The following definitions apply to IC 26-1-2:

"Check". IC 26-1-3.1-104.
"Consignee". IC 26-1-7-102.
"Consignor". IC 26-1-7-102.
"Consumer goods". ~~IC 26-1-9-109.~~ **IC 26-1-9.1-102.**
"Dishonor". IC 26-1-3.1-502.

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"Draft". IC 26-1-3.1-104.

(4) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-2.

SECTION 16. IC 26-1-2-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 210. (1) A party may perform his duty through a delegate, unless otherwise agreed, or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) **The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.**

(4) Unless the circumstances indicate the contrary, a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

~~(4)~~ **(5)** An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights, and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor, and its acceptance by the assignee constitutes a promise by him to perform those duties. This

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promise is enforceable by either the assignor or the other party to the original contract.

~~(5)~~ **(6)** The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may, without prejudice to his rights against the assignor, demand assurances from the assignee (IC 26-1-2-609).

SECTION 17. IC 26-1-2-326 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 326. (1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) a "sale on approval" if the goods are delivered primarily for use; and

(b) a "sale or return" if the goods are delivered primarily for resale.

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

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery:~~

~~(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign; or~~

~~(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others; or~~

~~(c) complies with the filing provisions of IC 26-1-9 on secured transactions.~~

~~(4)~~ **(3)** Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section (IC 26-2-2-201) and as contradicting the sale aspect of the contract within the provisions of IC 26-1-2-202 on parol or extrinsic evidence.

SECTION 18. IC 26-1-2-401 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 401. Each provision of IC 26-1-2 with regard to the rights, obligations, and remedies of the

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seller, the buyer, purchasers, or other third parties applies irrespective of title to the goods, except where the provision refers to such title. Insofar as situations are not covered by the other provisions of IC 26-1-2 and matters concerning title become material, the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (IC 26-1-2-501), and unless otherwise explicitly agreed, the buyer acquires by their identification a special property as limited by IC 26-1. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions, title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place, and in particular despite any reservation of a security interest by the bill of lading:

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed, where delivery is to be made without moving the goods:

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of law and is not a "sale".

SECTION 19. IC 26-1-2-402 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 402. (1) Except as provided in subsections (2) and (3), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under IC 26-1-2-502 and IC 26-1-2-716.

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in IC 26-1-2 shall be deemed to impair the rights of creditors of the seller:

(a) under the provisions of ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions; or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security, or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from IC 26-1-2 constitute the transaction a fraudulent transfer or voidable preference.

SECTION 20. IC 26-1-2-403 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 403. (1) A purchaser of goods acquires all title which his transferor had or had power to transfer, except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase, the purchaser has such power even though:

(a) the transferor was deceived as to the identity of the purchaser; or

(b) the delivery was in exchange for a check which is later dishonored; or

(c) it was agreed that the transaction was to be a "cash sale"; or

(d) the delivery was procured through fraud punishable as theft under the criminal law.

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) "Entrusting" includes any delivery and any acquiescence in

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retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be theft under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions, IC 26-1-6.1 on bulk sales, and IC 26-1-7 on documents of title.

SECTION 21. IC 26-1-2-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 502. (1) Subject to ~~subsection~~ **subsections** (2) **and (3)** and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of IC 26-1-2-501 may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

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

(b) in other cases, the seller becomes insolvent within ten (10) days after receipt of the first installment on their price.

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

(3) If the identification creating his special property has been made by the buyer, he acquires the right to recover the goods only if they conform to the contract for sale.

SECTION 22. IC 26-1-2-716 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 716. (1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

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

SECTION 23. IC 26-1-2.1-103 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) Unless the context otherwise requires, in IC 26-1-2.1:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars ($25,000).

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one (1) of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the

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goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations, or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing: (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person; (b) that the lessee is entitled under IC 26-1-2.1 to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (IC 26-1-2.1-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the

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lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in IC 26-1-2.1. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by IC 26-1-2.1 and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the

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time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to IC 26-1-2.1 and the sections in which they appear are:

"Accessions". IC 26-1-2.1-310(1).

"Construction mortgage". IC 26-1-2.1-309(1)(d).

"Encumbrance". IC 26-1-2.1-309(1)(e).

"Fixtures". IC 26-1-2.1-309(1)(a).

"Fixture filing". IC 26-1-2.1-309(1)(b).

"Purchase money lease". IC 26-1-2.1-309(1)(c).

(3) The following definitions in other chapters apply to IC 26-1-2.1:

"Account". ~~IC 26-1-9-106.~~ **IC 26-1-9.1-102(a)(2).**

"Between merchants". IC 26-1-2-104(3).

"Buyer". IC 26-1-2-103(1)(a).

"Chattel paper". ~~IC 26-1-9-105(1)(b).~~ **IC 26-1-9.1-102(a)(11).**

"Consumer goods". ~~IC 26-1-9-109(1).~~ **IC 26-1-9.1-102(a)(23).**

"Document". ~~IC 26-1-9-105(1)(f).~~ **IC 26-1-9.1-102(a)(30).**

"Entrusting". IC 26-1-2-403(3).

"General intangibles". ~~IC 26-1-9-106.~~ **IC 26-1-9.1-102(a)(42).**

"Good faith". IC 26-1-2-103(1)(b).

"Instrument". ~~IC 26-1-9-105(1)(i).~~ **IC 26-1-9.1-102(a)(47).**

"Merchant". IC 26-1-2-104(1).

"Mortgage". ~~IC 26-1-9-105(1)(j).~~ **IC 26-1-9.1-102(a)(55).**

"Pursuant to commitment". ~~IC 26-1-9-105(1)(k).~~ **IC 26-1-9.1-102(a)(68).**

"Receipt". IC 26-1-2-103(1)(c).

"Sale". IC 26-1-2-106(1).

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"Sale on approval". IC 26-1-2-326.

"Sale or return". IC 26-1-2-326.

"Seller". IC 26-1-2-103(1)(d).

(4) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-2.1.

SECTION 24. IC 26-1-2.1-303 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 303. (1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to IC 26-1-9, by reason of ~~IC 26-1-9-102(1)(b).~~ **IC 26-1-9.1-109(a)(3).**

(2) Except as provided in ~~subsections~~ **subsection** (3) and ~~(4),~~ **IC 26-1-9.1-407,** a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection ~~(5),~~ **(4),** but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~(3) A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

~~(4)~~ **(3)** A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract

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within the purview of subsection ~~(5).~~ **(4).**

~~(5)~~ **(4)** Subject to ~~subsections~~ **subsection** (3) and ~~(4)~~ **IC 26-1-9.1-407:**

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in IC 26-1-2.1-501(2); **or**

(b) if subdivision (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

~~(6)~~ **(5)** A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

~~(7)~~ **(6)** Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

~~(8)~~ **(7)** In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

SECTION 25. IC 26-1-2.1-307 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 307. (1) Except as otherwise provided in IC 26-1-2.1-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in ~~subsections~~ **subsection** (3) ~~and (4)~~ and in IC 26-1-2.1-306 and IC 26-1-2.1-308, a creditor of a lessor takes subject to the lease contract unless

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

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~~(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or~~

~~(c) the creditor holds a security interest in the goods which was perfected (IC 26-1-2.1-303) before the lease contract became enforceable.~~

~~(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (IC 26-1-2.1-303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five (45) days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.~~

(3) Except as otherwise provided in IC 26-1-9.1-317, IC 26-1-9.1-321, and IC 26-1-9.1-323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor.

SECTION 26. IC 26-1-2.1-309 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 309. (1) In this section:

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of ~~IC 26-1-9-402(4);~~ **IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b);**

(c) a lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) a mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under IC 26-1-2.1 a lease may be of goods that are fixtures or

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may continue in goods that become fixtures, but no lease exists under IC 26-1-2.1 of ordinary building materials incorporated into an improvement on land.

(3) IC 26-1-2.1 does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten (10) days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

(b) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection 4(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before

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the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and IC 26-1-2.1, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under IC 26-1-2.1, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of ~~IC 26-1-9.~~ **IC 26-1-9.1.**

SECTION 27. IC 26-1-3.1-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 102. (a) IC 26-1-3.1 applies to negotiable instruments. It does not apply to money, to payment orders governed by IC 26-1-4.1, or to securities governed by IC 26-1-8.1.

(b) If there is conflict between IC 26-1-3.1 and IC 26-1-4 or ~~IC 26-1-9~~ **IC 26-1-9.1,** IC 26-1-4, and ~~IC 26-1-9~~ **IC 26-1-9.1** govern.

(c) Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of IC 26-1-3.1 to the extent of the inconsistency.

SECTION 28. IC 26-1-3.1-605 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 605. (a) In this section,

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the term "endorser" includes a drawer having the obligation described in IC 26-1-3.1-414(d).

(b) Discharge, under IC 26-1-3.1-604, of the obligation of a party to pay an instrument does not discharge the obligation of an endorser or accommodation party having a right of recourse against the discharged party.

(c) If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an endorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the endorser or accommodation party proves that the extension caused loss to the endorser or accommodation party with respect to the right of recourse.

(d) If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an endorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the endorser or accommodation party with respect to the right of recourse. The loss suffered by the endorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.

(e) If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an endorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent:

(1) the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge; or

(2) the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest.

The burden of proving impairment is on the party asserting discharge.

(f) If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect

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to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection (e), the party is considered to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

(g) Under subsection (e) or (f), impairing value of an interest in collateral includes:

(1) failure to obtain or maintain perfection or recordation of the interest in collateral;

(2) release of collateral without substitution of collateral of equal value;

(3) failure to perform a duty to preserve the value of collateral owed, under ~~IC 26-1-9~~ **IC 26-1-9.1** or other law, to a debtor or surety or other person secondarily liable; or

(4) failure to comply with applicable law in disposing of collateral.

(h) An accommodation party is not discharged under subsection (c), (d), or (e) unless the person entitled to enforce the instrument knows of the accommodation or has notice under IC 26-1-3.1-419(c) that the instrument was signed for accommodation.

(i) A party is not discharged under this section if:

(1) the party asserting discharge consents to the event or conduct that is the basis of the discharge; or

(2) the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.

SECTION 29. IC 26-1-4-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 210. (a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) in the case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in the case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or

(3) if it makes an advance on or against the item.

(b) If credit given for several items received at one (1) time or under

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a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents, or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to IC 26-1-9, but:

(1) no security agreement is necessary to make the security interest enforceable ~~(IC 26-1-9-203(1)(a));~~ **(IC 26-1-9.1-203(b)(3)(A));**

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

SECTION 30. IC 26-1-5.1-114 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 114. (a) In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(b) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(c) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(d) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

(e) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(f) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a

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third person affects the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by ~~IC 26-1-9~~ **IC 26-1-9.1** or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by ~~IC 26-1-9~~ **IC 26-1-9.1** or other law.

SECTION 31. IC 26-1-5.1-116 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 116. (a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in IC 26-1-5.1-104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one (1) address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(c) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If:

(i) IC 26-1-5.1 would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b);

(ii) the relevant undertaking incorporates rules of custom or practice; and

(iii) there is conflict between IC 26-1-5.1 and those rules as applied to that undertaking;

those rules govern except to the extent of any conflict with the nonvariable provisions specified in IC 26-1-5.1-103(c).

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(d) If there is conflict between IC 26-1-5.1 and IC 26-1-3.1, IC 26-1-4, IC 26-1-4.1, or ~~IC 26-1-9~~ **IC 26-1-9.1,** IC 26-1-5.1 governs.

(e) The forum for settling disputes arising out of an undertaking within IC 26-1-5.1 may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a).

SECTION 32. IC 26-1-5.1-118 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 118. (a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.**

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a), the security interest continues and is subject to IC 26-1-9.1, but:

(1) a security agreement is not necessary to make the security interest enforceable under IC 26-1-9.1-203(b)(3);

(2) if the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

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

SECTION 33. IC 26-1-6.1-102, AS AMENDED BY P.L.154-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 102. (1) In this chapter, unless the context otherwise requires:

(a) "Assets" means the inventory that is the subject of a bulk sale and any tangible and intangible personal property used or held for use primarily in, or arising from, the seller's business and sold in connection with that inventory, but the term does not include:

(i) fixtures ~~(IC 26-1-9-313(1)(a))~~ **(IC 26-1-9.1-102(a)(41))** other than readily removable factory and office machines;

(ii) the lessee's interest in a lease of real property; or

(iii) property to the extent it is generally exempt from creditor process under nonbankruptcy law.

(b) "Auctioneer" means a person whom the seller engages to

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direct, conduct, control, or be responsible for a sale by auction.

(c) "Bulk sale" means:

(i) in the case of a sale by auction or a sale or series of sales conducted by a liquidator on the seller's behalf, a sale or series of sales not in the ordinary course of the seller's business of more than half of the seller's inventory, as measured by value on the date of the bulk-sale agreement, if on that date the auctioneer or liquidator has notice, or after reasonable inquiry would have had notice, that the seller will not continue to operate the same or a similar kind of business after the sale or series of sales; and

(ii) in all other cases, a sale not in the ordinary course of the seller's business of more than half the seller's inventory, as measured by value on the date of the bulk-sale agreement, if on that date the buyer has notice, or after reasonable inquiry would have had notice, that the seller will not continue to operate the same or a similar kind of business after the sale.

(d) "Claim" means a right to payment from the seller, whether or not the right is reduced to judgment, liquidated, fixed, matured, disputed, secured, legal, or equitable. The term includes costs of collection and attorney's fees only to the extent that the laws of this state permit the holder of the claim to recover them in an action against the obligor.

(e) "Claimant" means a person holding a claim incurred in the seller's business other than:

(i) an unsecured and unmatured claim for employment compensation and benefits, including commissions and vacation, severance, and sick-leave pay; and

(ii) a claim for injury to an individual or to property, or for breach of warranty, unless:

(A) a right of action for the claim has accrued;

(B) the claim has been asserted against the seller; and

(C) the seller knows the identity of the person asserting the claim and the basis upon which the person has asserted it.

(f) "Creditor" means a claimant or other person holding a claim.

(g) (i) "Date of the bulk sale" means:

(A) if the sale is by auction or is conducted by a liquidator on the seller's behalf, the date on which more than ten percent (10%) of the net proceeds is paid to or for the benefit of the seller; and

(B) in all other cases, the later of the date on which:

(I) more than ten percent (10%) of the net contract price is

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paid to or for the benefit of the seller; or

(II) more than ten percent (10%) of the assets, as measured by value, are transferred to the buyer.

(ii) For purposes of this subsection:

(A) delivery of a negotiable instrument (IC 26-1-3.1-104(a)(1)) to or for the benefit of the seller in exchange for assets constitutes payment of the contract price pro tanto;

(B) to the extent that the contract price is deposited in an escrow, the contract price is paid to or for the benefit of the seller when the seller acquires the unconditional right to receive the deposit or when the deposit is delivered to the seller or for the benefit of the seller, whichever is earlier; and

(C) an asset is transferred when a person holding an unsecured claim can no longer obtain through judicial proceedings rights to the asset that are superior to those of the buyer arising as a result of the bulk sale. A person holding an unsecured claim can obtain those superior rights to a tangible asset at least until the buyer has an unconditional right, under the bulk-sale agreement, to possess the asset, and a person holding an unsecured claim can obtain those superior rights to an intangible asset at least until the buyer has an unconditional right, under the bulk-sale agreement, to use the asset.

(h) "Date of the bulk-sale agreement" means:

(i) in the case of a sale by auction or conducted by a liquidator (subsection (c)(i)), the date on which the seller engages the auctioneer or liquidator; and

(ii) in all other cases, the date on which a bulk-sale agreement becomes enforceable between the buyer and the seller.

(i) "Debt" means liability on a claim.

(j) "Liquidator" means a person who is regularly engaged in the business of disposing of assets for businesses contemplating liquidation or dissolution.

(k) "Net contract price" means the new consideration the buyer is obligated to pay for the assets less:

(i) the amount of any proceeds of the sale of an asset, to the extent the proceeds are applied in partial or total satisfaction of a debt secured by the asset; and

(ii) the amount of any debt to the extent it is secured by a security interest or lien that is enforceable against the asset

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before and after it has been sold to a buyer. If a debt is secured by an asset and other property of the seller, the amount of the debt secured by a security interest or lien that is enforceable against the asset is determined by multiplying the debt by a fraction, the numerator of which is the value of the new consideration for the asset on the date of the bulk sale and the denominator of which is the value of all property securing the debt on the date of the bulk sale.

(l) "Net proceeds" means the new consideration received for assets sold at a sale by auction or a sale conducted by a liquidator on the seller's behalf less:

(i) commissions and reasonable expenses of the sale;

(ii) the amount of any proceeds of the sale of an asset, to the extent the proceeds are applied in partial or total satisfaction of a debt secured by the asset; and

(iii) the amount of any debt to the extent it is secured by a security interest or lien that is enforceable against the asset before and after it has been sold to a buyer. If a debt is secured by an asset and other property of the seller, the amount of the debt secured by a security interest or lien that is enforceable against the asset is determined by multiplying the debt by a fraction, the numerator of which is the value of the new consideration for the asset on the date of the bulk sale and the denominator of which is the value of all property securing the debt on the date of the bulk sale.

(m) A sale is "in the ordinary course of the seller's business" if the sale comports with usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices.

(n) "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(o) "Value" means fair market value.

(p) "Verified" means signed and sworn to or affirmed.

(2) The following definitions apply to this chapter:

(a) "Buyer." IC 26-1-2-103(1)(a).

(b) "Equipment." ~~IC 26-1-9-109(2).~~ **IC 26-1-9.1-102(a)(33).**

(c) "Inventory." ~~IC 26-1-9-109(4).~~ **IC 26-1-9.1-102(a)(48).**

(d) "Sale." IC 26-1-2-106(1).

(e) "Seller". IC 26-1-2-103(1)(d).

(3) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 34. IC 26-1-6.1-103 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) Except as otherwise provided in subsection (3), this chapter applies to a bulk sale if:

(a) the seller's principal business is the sale of inventory from stock; and

(b) on the date of the bulk-sale agreement the seller is located in Indiana or, if the seller is located in a jurisdiction that is not a part of the United States, the seller's major executive office in the United States is in Indiana.

(2) A seller is deemed to be located at the seller's place of business. If a seller has more than one (1) place of business, the seller is deemed located at the seller's chief executive office.

(3) This chapter does not apply to:

(a) a transfer made to secure payment or performance of an obligation;

(b) a transfer of collateral to a secured party pursuant to ~~IC 26-1-9-503;~~ **IC 26-1-9.1-609;**

(c) a sale of collateral pursuant to ~~IC 26-1-9-504;~~ **IC 26-1-9.1-610;**

(d) retention of collateral pursuant to ~~IC 26-1-9-505;~~ **IC 26-1-9.1-620;**

(e) a sale of an asset encumbered by a security interest or lien if (i) all the proceeds of the sale are applied in partial or total satisfaction of the debt secured by the security interest or lien, or (ii) the security interest or lien is enforceable against the asset after it has been sold to the buyer and the net contract price is zero (0);

(f) a general assignment for the benefit of creditors or to a subsequent transfer by the assignee;

(g) a sale by an executor, administrator, receiver, trustee in bankruptcy, or any public officer under judicial process;

(h) a sale made in the course of judicial or administrative proceedings for the dissolution or reorganization of an organization;

(i) a sale to a buyer whose principal place of business is in the United States and who:

(i) not earlier than twenty-one (21) days before the date of the bulk sale, (A) obtains from the seller a verified and dated list of claimants of whom the seller has notice three (3) days before the seller sends or delivers the list to the buyer or (B) conducts a reasonable inquiry to discover the claimants;

(ii) assumes in full the debts owed to claimants of whom the

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buyer has knowledge on the date the buyer receives the list of claimants from the seller or on the date the buyer completes the reasonable inquiry, as the case may be;

(iii) is not insolvent after the assumption; and

(iv) gives written notice of the assumption not later than thirty (30) days after the date of the bulk sale by sending or delivering a notice to the claimants identified in subparagraph (ii) or by filing a notice in the office of the secretary of state;

(j) a sale to a buyer whose principal place of business is in the United States and who:

(i) assumes in full the debts that were incurred in the seller's business before the date of the bulk sale;

(ii) is not insolvent after the assumption; and

(iii) gives written notice of the assumption not later than thirty (30) days after the date of the bulk sale by sending or delivering a notice to each creditor whose debt is assumed or by filing a notice in the office of the secretary of state;

(k) a sale to a new organization that is organized to take over and continue the business of the seller and that has its principal place of business in the United States if:

(i) the buyer assumes in full the debts that were incurred in the seller's business before the date of the bulk sale;

(ii) the seller receives nothing from the sale except an interest in the new organization that is subordinate to the claims against the organization arising from the assumption; and

(iii) the buyer gives written notice of the assumption not later than thirty (30) days after the date of the bulk sale by sending or delivering a notice to each creditor whose debt is assumed or by filing a notice in the office of the secretary of state;

(l) a sale of assets having:

(i) a value, net of liens, and security interests of less than ten thousand dollars ($10,000). If a debt is secured by assets and other property of the seller, the net value of the assets is determined by subtracting from their value an amount equal to the product of the debt multiplied by a fraction, the numerator of which is the value of the assets on the date of the bulk sale and the denominator of which is the value of all property securing the debt on the date of the bulk sale; or

(ii) a value of more than twenty-five million dollars ($25,000,000);

on the date of the bulk-sale agreement; or

(m) a sale required by, and made pursuant to, statute.

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(4) The notice under subsection (3)(i)(iv) must state:

(i) that a sale that may constitute a bulk sale has been or will be made;

(ii) the date or prospective date of the bulk sale;

(iii) the individual, partnership, or corporate names and the addresses of the seller and buyer;

(iv) the address to which inquiries about the sale may be made, if different from the seller's address; and

(v) that the buyer has assumed or will assume in full the debts owed to claimants of whom the buyer has knowledge on the date the buyer receives the list of claimants from the seller or completes a reasonable inquiry to discover the claimants.

(5) The notice under subsections (3)(j)(iii) and (3)(k)(iii) must state:

(i) that a sale that may constitute a bulk sale has been or will be made;

(ii) the date or prospective date of the bulk sale;

(iii) the individual, partnership, or corporate names and the addresses of the seller and buyer;

(iv) the address to which inquiries about the sale may be made, if different from the seller's address; and

(v) that the buyer has assumed or will assume the debts that were incurred in the seller's business before the date of the bulk sale.

(6) For purposes of subsection (3)(l), the value of assets is presumed to be equal to the price the buyer agrees to pay for the assets. However, in a sale by auction or a sale conducted by a liquidator on the seller's behalf, the value of assets is presumed to be the amount the auctioneer or liquidator reasonably estimates the assets will bring at auction or upon liquidation.

SECTION 35. IC 26-1-6.1-109 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 109. (1) Presentation of a notice or list of claimants for filing and tender of the filing fee or acceptance of the notice or list by the secretary of state constitutes filing under IC 26-1-6.1.

(2) The secretary of state shall:

(a) mark each notice or list with a file number and with the date and hour of filing;

(b) hold the notice or list or a copy for public inspection;

(c) index the notice or list according to each name given for the seller and for the buyer; and

(d) note in the index the file number and the addresses of the seller and buyer given in the notice or list.

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(3) If the person filing a notice or list furnishes the secretary of state with a copy, the secretary of state upon request shall note upon the copy the file number and date and hour of the filing of the original and send or deliver the copy to the person.

(4) The fee for filing and indexing and for stamping a copy furnished by the person filing to show the date and place of filing is set forth in ~~IC 26-1-9-401.~~ **IC 26-1-9.1.**

(5) Upon request of any person, the secretary of state shall issue a certificate showing whether any notice or list with respect to a particular seller or buyer is on file on the date and hour stated in the certificate. If a notice or list is on file, the certificate must give the date and hour of filing of each notice or list and the name and address of each seller, buyer, auctioneer, or liquidator. The fee for the certificate is set forth in IC 26-1-9-401. Upon request of any person, the secretary of state shall furnish a copy of any filed notice or list for the fee that is set forth in IC 26-1-9-401.

(6) The secretary of state shall keep each notice or list for two (2) years after it is filed.

SECTION 36. IC 26-1-7-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 209. (1) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods, the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated, a warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(2) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. Such a security interest is governed by ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions.

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(3) A warehouseman's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under IC 26-1-7-503.

(4) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

SECTION 37. IC 26-1-7-503 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 503. (1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither:

(a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store, or sell or with power to obtain delivery under IC 26-1-7-403 or with power of disposition under IC 26-1-2-403, ~~IC 26-1-9-307~~ **IC 26-1-9.1-320,** or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under IC 26-1-7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder covering such goods has been duly negotiated, but delivery by the carrier in accordance with IC 26-1-7-401 through IC 26-1-7-404 pursuant to its own bill of lading discharges the carrier's obligation to deliver.

SECTION 38. IC 26-1-8.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face amount certificate issued by a face amount certificate company that is so registered. Investment company security

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does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by IC 26-1-8.1, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by IC 26-1-8.1 and not by IC 26-1-3.1, even though it also meets the requirements of that article. However, a negotiable instrument governed by IC 26-1-3.1 is a financial asset if it is held in a securities account.

(e) An option or a similar obligation issued by a clearing corporation to its participants is not a security, but it is a financial asset.

(f) A commodity contract (as defined in ~~IC 26-1-9-115)~~ **IC 26-1-9.1-102(a)(15))** is not a security or a financial asset.

SECTION 39. IC 26-1-8.1-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 105. (a) A person has notice of an adverse claim if:

(1) the person knows of the adverse claim;

(2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

(3) the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

(b) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(c) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

(1) one (1) year after a date set for presentment or surrender for redemption or exchange; or

(2) six (6) months after a date set for payment of money against

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presentation or surrender of the certificate, if money was available for payment on that date.

(d) A purchaser of a certificated security has notice of an adverse claim if the security certificate:

(1) whether in bearer or registered form, has been endorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(2) is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(e) Filing of a financing statement under ~~IC 26-1-9~~ **IC 26-1-9.1** is not notice of an adverse claim to a financial asset.

SECTION 40. IC 26-1-8.1-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 106. (a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) the certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

(1) the purchaser becomes the entitlement holder; ~~or~~

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; **or**

(3) another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection ~~(c)(2)~~ **(c)** or ~~(d)(2)~~ **(d)** has control even if the registered owner in the case of subsection ~~(c)(2)~~ **(c)** or the entitlement holder in the case of

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subsection ~~(d)(2)~~ **(d)** retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or a securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

SECTION 41. IC 26-1-8.1-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 110. (a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

(1) the validity of a security;

(2) the rights and duties of the issuer with respect to registration of transfer;

(3) the effectiveness of registration of transfer by the issuer;

(4) whether the issuer owes any duties to an adverse claimant to a security; and

(5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

(1) acquisition of a security entitlement from the securities intermediary;

(2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is

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delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection (a)(2) through (a)(5).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder ~~specifies that it is governed by the law of a particular jurisdiction,~~ **governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of IC 26-1-8.1-101 through IC 26-1-8.1-116,** that jurisdiction is the securities intermediary's jurisdiction.

(2) **If subdivision (1) does not apply, and an agreement between the securities intermediary and its entitlement holder expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.**

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

~~(3)~~ **(4)** If ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2),~~ **none of the preceding subdivisions apply,** the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account **is located.**

~~(4)~~ **(5)** If ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in subdivision (3),~~ **none of the preceding subdivisions apply,** the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary **is located.**

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(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

SECTION 42. IC 26-1-8.1-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 301. (a) Delivery of a certificated security to a purchaser occurs when:

(1) the purchaser acquires possession of the security certificate;

(2) another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(3) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ~~has been~~ **is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii)** specially endorsed to the purchaser by an effective endorsement **and has not been endorsed to the securities intermediary or in blank.**

(b) Delivery of an uncertificated security to a purchaser occurs when:

(1) the issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(2) another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

SECTION 43. IC 26-1-8.1-302 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 302. (a) Except as otherwise provided in subsections (b) and (c), ~~upon delivery~~ **a purchaser** of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

SECTION 44. IC 26-1-8.1-510 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 510. (a) **In a case not**

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covered by the priority rules in IC 26-1-9.1 or the rules stated in subsection (c), an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under IC 26-1-8.1-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in ~~IC 26-1-9,~~ **IC 26-1-9.1,** a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. **Except as otherwise provided in subsection (d),** purchasers who have control rank ~~equally, except that~~ **according to priority in time of:**

(1) the purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under IC 26-1-8.1-106(d)(1);

(2) the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under IC 26-1-8.1-106(d)(2); or

(3) if the purchaser obtained control through another person under IC 26-1-8.1-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

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

SECTION 45. IC 26-1-9.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 9.1. Secured Transactions

Sec. 101. IC 26-1-9.1 may be cited as Uniform Commercial Code–Secured Transactions.

Sec. 102. (a) In IC 26-1-9.1:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original

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goods is not lost.

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

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

(4) "Accounting", except as used in "accounting for", means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) that secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in

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connection with the debtor's farming operation;

(B) that is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with the debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

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

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, "monetary obligation" means a monetary obligation secured by the goods or owed under a

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lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

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(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

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

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an

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individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in IC 26-1-7-201(2).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

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(ii) aquatic goods produced in aquacultural operations;
(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;
(C) supplies used or produced in a farming operation; or
(D) products of crops or livestock in their unmanufactured states.
(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.
(36) "File number" means the number assigned to an initial financing statement pursuant to IC 26-1-9.1-519(a).
(37) "Filing office" means an office designated in IC 26-1-9.1-501 as the place to file a financing statement.
(38) "Filing-office rule" means a rule adopted pursuant to IC 26-1-9.1-526.
(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.
(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.
(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.
(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer

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program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

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

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, that:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

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(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a

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manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under IC 26-1-9.1-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in IC 26-1-9.1-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under IC 26-1-9.1-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to", with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to", with respect to an organization, means:

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(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in clause (A);

(D) the spouse of an individual described in clause (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in clause (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds", except as used in IC 26-1-9.1-609(b), means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral.

(B) Whatever is collected on, or distributed on account of, collateral.

(C) Rights arising out of collateral.

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral.

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

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

(66) "Proposal" means a record authenticated by a secured party that includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

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(C) the debtor, obligor, secured party, account debtor, or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), IC 26-1-2.1-508(5), IC 26-1-4-210, or IC 26-1-5.1-118.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send", in connection with a record or notification,

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means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under clause (A).

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) The following definitions outside IC 26-1-9.1 apply to IC 26-1-9.1:

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"Applicant" IC 26-1-5.1-102.
"Beneficiary" IC 26-1-5.1-102.
"Broker" IC 26-1-8.1-102.
"Certificated security" IC 26-1-8.1-102.
"Check" IC 26-1-3.1-104.
"Clearing corporation" IC 26-1-8.1-102.
"Contract for sale" IC 26-1-2-106.
"Customer" IC 26-1-4-104.
"Entitlement holder" IC 26-1-8.1-102.
"Financial asset" IC 26-1-8.1-102.
"Holder in due course" IC 26-1-3.1-302.
"Issuer" (with respect to a letter of credit or letter-of-credit right) IC 26-1-5.1-102.
"Issuer" (with respect to a security) IC 26-1-8.1-201.
"Lease" IC 26-1-2.1-103.
"Lease agreement" IC 26-1-2.1-103.
"Lease contract" IC 26-1-2.1-103.
"Leasehold interest" IC 26-1-2.1-103.
"Lessee" IC 26-1-2.1-103.
"Lessee in ordinary course of business" IC 26-1-2.1-103.
"Lessor" IC 26-1-2.1-103.
"Lessor's residual interest" IC 26-1-2.1-103.
"Letter of credit" IC 26-1-5.1-102.
"Merchant" IC 26-1-2-104.
"Negotiable instrument" IC 26-1-3.1-104.
"Nominated person" IC 26-1-5.1-102.
"Note" IC 26-1-3.1-104.
"Proceeds of a letter of credit" IC 26-1-5.1-114.
"Prove" IC 26-1-3.1-103.
"Sale" IC 26-1-2-106.
"Securities account" IC 26-1-8.1-501.
"Securities intermediary" IC 26-1-8.1-102.
"Security" IC 26-1-8.1-102.
"Security certificate" IC 26-1-8.1-102.
"Security entitlement" IC 26-1-8.1-102.
"Uncertificated security" IC 26-1-8.1-102.

(c) IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-9.1.

Sec. 103. (a) In this section:

(1) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral.

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(2) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in, or the use of the collateral if the value is in fact so used.

(b) A security interest in goods is a purchase-money security interest:

(1) to the extent that the goods are purchase-money collateral with respect to that security interest;

(2) if the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) the debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) the debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) in accordance with any reasonable method of application to which the parties agree;

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

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

(A) To obligations that are not secured.

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(B) If more than one (1) obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) A purchase-money security interest does not lose its status as such, even if:

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

(2) collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(3) the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

Sec. 104. (a) A secured party has control of a deposit account if:

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

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

(3) the secured party becomes the bank's customer with respect to the deposit account.

(b) A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 105. A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subdivisions (4), (5), and (6), unalterable;

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

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

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

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative

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copy; and

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

Sec. 106. (a) A person has control of a certificated security, uncertificated security, or security entitlement as provided in IC 26-1-8.1-106.

(b) A secured party has control of a commodity contract if:

(1) the secured party is the commodity intermediary with which the commodity contract is carried; or

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

(c) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Sec. 107. A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under IC 26-1-5.1-114(c) or otherwise applicable law or practice.

Sec. 108. (a) Except as otherwise provided in subsections (c), (d), and (e), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) Except as otherwise provided in subsection (d), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) specific listing;

(2) category;

(3) except as otherwise provided in subsection (e), a type of collateral defined in IC 26-1;

(4) quantity;

(5) computational or allocational formula or procedure; or

(6) except as otherwise provided in subsection (c), any other method, if the identity of the collateral is objectively determinable.

(c) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

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(d) Except as otherwise provided in subsection (e), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(1) the collateral by those terms or as investment property; or

(2) the underlying financial asset or commodity contract.

(e) A description only by type of collateral defined in IC 26-1 is an insufficient description of:

(1) a commercial tort claim; or

(2) in a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

Sec. 109. (a) Except as otherwise provided in subsections (c) and (d), IC 26-1-9.1 applies to:

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

(2) an agricultural lien;

(3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;

(4) a consignment;

(5) a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), as provided in IC 26-1-9.1-110;

(6) a security interest arising under IC 26-1-4-210 or IC 26-1-5.1-118; and

(7) a transfer of an interest or a claim in a contractual right of a person to receive commissions or other compensation payable by an insurer (as defined in IC 27-1-2-3).

(b) The application of IC 26-1-9.1 to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which IC 26-1-9.1 does not apply.

(c) IC 26-1-9.1 does not apply to the extent that:

(1) a statute, regulation, or treaty of the United States preempts IC 26-1-9.1; or

(2) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under IC 26-1-5.1-114.

(d) IC 26-1-9.1 does not apply to:

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

(2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but IC 26-1-9.1-333 applies with respect to priority of the lien;

(3) an assignment of a claim for wages, salary, or other

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compensation of an employee;

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

(5) an assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;

(6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

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

(8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than a transfer described in subsection (a)(7), or an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) IC 26-1-9.1-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) IC 26-1-9.1-404 applies with respect to defenses or claims of an account debtor;

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

(A) liens on real property in IC 26-1-9.1-203 and IC 26-1-9.1-308;

(B) fixtures in IC 26-1-9.1-334;

(C) fixture filings in IC 26-1-9.1-501, IC 26-1-9.1-502, IC 26-1-9.1-512, IC 26-1-9.1-516, and IC 26-1-9.1-519; and

(D) security agreements covering personal and real property in IC 26-1-9.1-604;

(12) an assignment of a claim arising in tort, other than a commercial tort claim, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to proceeds and priorities in proceeds;

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(13) an assignment of a deposit account in a consumer transaction, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to proceeds and priorities in proceeds;

(14) the creation, perfection, priority, or enforcement of a security interest created by the state, another state, or a foreign country, or a governmental unit of the state, another state or a foreign country; or

(15) a pledge of revenues, other money, or property made under IC 5-1-14-4.

Sec. 110. A security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5) is subject to IC 26-1-9.1. However, until the debtor obtains possession of the goods:

(1) the security interest is enforceable, even if IC 26-1-9.1-203(b)(3) has not been satisfied;

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

(3) the rights of the secured party after default by the debtor are governed by IC 26-1-2 or IC 26-1-2.1; and

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

Sec. 201. (a) Except as otherwise provided in IC 26-1, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers.

(c) In case of conflict between IC 26-1-9.1 and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) IC 26-1-9.1 does not:

(1) validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Sec. 202. Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

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Sec. 203. (a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) value has been given;

(2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one (1) of the following conditions is met:

(A) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned.

(B) The collateral is not a certificated security and is in the possession of the secured party under IC 26-1-9.1-313 pursuant to the debtor's security agreement.

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under IC 26-1-8.1-301 pursuant to the debtor's security agreement.

(D) The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107 pursuant to the debtor's security agreement.

(c) Subsection (b) is subject to IC 26-1-4-210 on the security interest of a collecting bank, IC 26-1-5.1-118 on the security interest of a letter-of-credit issuer or nominated person, IC 26-1-9.1-110 on a security interest arising under IC 26-1-2 or IC 26-1-2.1, and IC 26-1-9.1-206 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than IC 26-1-9.1 or by contract:

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

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

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(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies subsection (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by IC 26-1-9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 204. (a) Except as otherwise provided in subsection (b), a security agreement may create or provide for a security interest in after-acquired collateral.

(b) A security interest does not attach under a term constituting an after-acquired property clause to:

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

(2) a commercial tort claim.

(c) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Sec. 205. (a) A security interest is not invalid or fraudulent against creditors solely because:

(1) the debtor has the right or ability to:

(A) use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

(B) collect, compromise, enforce, or otherwise deal with collateral;

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(C) accept the return of collateral or make repossessions; or

(D) use, commingle, or dispose of proceeds; or

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

(b) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

Sec. 206. (a) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

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

(2) the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) The security interest described in subsection (a) secures the person's obligation to pay for the financial asset.

(c) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(1) the security or other financial asset:

(A) in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment; and

(B) is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(2) the agreement calls for delivery against payment.

(d) The security interest described in subsection (c) secures the obligation to make payment for the delivery.

Sec. 207. (a) Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody,

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preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

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

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

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

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

Sec. 208. (a) This section applies to cases in which there is no outstanding secured obligation, and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten (10) days after receiving an authenticated demand by the debtor:

(1) a secured party having control of a deposit account under IC 26-1-9.1-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with

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instructions originated by the secured party;

(2) a secured party having control of a deposit account under IC 26-1-9.1-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control of electronic chattel paper under IC 26-1-9.1-105 shall:

(A) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) a secured party having control of investment property under IC 26-1-8.1-106(d)(2) or IC 26-1-9.1-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) a secured party having control of a letter-of-credit right under IC 26-1-9.1-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

Sec. 209. (a) Except as otherwise provided in subsection (c), this section applies if:

(1) there is no outstanding secured obligation; and

(2) the secured party is not committed to make advances,

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incur obligations, or otherwise give value.

(b) Within ten (10) days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under IC 26-1-9.1-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Sec. 210. (a) In this section the following definitions apply:

(1) "Request" means a record of a type described in subdivision (2), (3), or (4).

(2) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

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

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

(b) Subject to subsections (c), (d), (e), and (f), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen (14) days after receipt:

(1) in the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

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

(c) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an

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authenticated record, including a statement to that effect within fourteen (14) days after receipt.

(d) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

(1) disclaiming any interest in the collateral; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when the person receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

(1) disclaiming any interest in the obligations; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) A debtor is entitled without charge to one (1) response to a request under this section during any six (6) month period. The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

Sec. 301. Except as otherwise provided in IC 26-1-9.1-303 through IC 26-1-9.1-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

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

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

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

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(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

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

Sec. 302. While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

Sec. 303. (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

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

Sec. 304. (a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of IC 26-1, that jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) does not apply and an agreement

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between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

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

(4) If none of the preceding subdivisions apply, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding subdivisions apply, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 305. (a) Except as otherwise provided in subsection (c), the following rules apply:

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

(2) The local law of the issuer's jurisdiction as specified in IC 26-1- 8.1-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in IC 26-1-8.1-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

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

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of IC 26-1, that jurisdiction is the commodity intermediary's jurisdiction.

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(2) If subdivision (1) does not apply, and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies, and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in investment property by filing;

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

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

Sec. 306. (a) Subject to subsection (c), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in IC 26-1-5.1-116.

(c) This section does not apply to a security interest that is perfected only under IC 26-1-9.1-308(d).

Sec. 307. (a) In this section, "place of business" means a place where a debtor conducts its affairs.

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(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one (1) place of business is located at its place of business.

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

(c) Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

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

(2) the dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

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(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of this part.

Sec. 308. (a) Except as otherwise provided in this section and IC 26-1-9.1-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in IC 26-1-9.1-310 through IC 26-1-9.1-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in IC 26-1-9.1-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under IC 26-1-9.1 and is later perfected by another method under IC 26-1-9.1, without an intermediate period when it was unperfected.

(d) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

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

(f) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

Sec. 309. The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in IC 26-1-9.1-311(b) with respect to consumer goods that are subject to a statute or treaty described in IC 26-1-9.1-311(a).

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

(3) A sale of a payment intangible.

(4) A sale of a promissory note.

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

(6) A security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), until the debtor obtains possession of the collateral.

(7) A security interest of a collecting bank arising under IC 26-1-4-210.

(8) A security interest of an issuer or nominated person arising under IC 26-1-5.1-118.

(9) A security interest arising in the delivery of a financial asset under IC 26-1-9.1-206(c).

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

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary.

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

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

Sec. 310. (a) Except as otherwise provided in subsection (b) and IC 26-1-9.1-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

(1) that is perfected under IC 26-1-9.1-308(d), IC 26-1-9.1-308(e), IC 26-1-9.1-308(f), or IC 26-1-9.1-308(g);

(2) that is perfected under IC 26-1-9.1-309 when it attaches;

(3) in property subject to a statute, regulation, or treaty described in IC 26-1-9.1-311(a);

(4) in goods in possession of a bailee that are perfected under IC 26-1-9.1-312(d)(1) or IC 26-1-9.1-312(d)(2);

(5) in certificated securities, documents, goods, or instruments which is perfected without filing or possession under IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g);

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(6) in collateral in the secured party's possession under IC 26-1-9.1-313;

(7) in a certificated security which is perfected by delivery of the security certificate to the secured party under IC 26-1-9.1-313;

(8) in deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under IC 26-1-9.1-314;

(9) in proceeds which is perfected under IC 26-1-9.1-315; or

(10) that is perfected under IC 26-1-9.1-316.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under IC 26-1-9.1 is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Sec. 311. (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt IC 26-1-9.1-310(a);

(2) any Indiana certificate-of-title statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under IC 26-1-9.1. Except as otherwise provided in subsection (d), IC 26-1-9.1-313, IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d),

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IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to IC 26-1-9.1.

(d) During any period in which collateral, subject to a statute specified in subsection (a)(2), is inventory held for sale or lease by a person or leased by that person as lessor, and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person, but instead, the filing provisions of IC 26-1-9.1-501 through IC 26-1-9.1-527 apply.

Sec. 312. (a) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Except as otherwise provided in IC 26-1-9.1-315(c) and IC 26-1-9.1-315(d), for proceeds:

(1) a security interest in a deposit account may be perfected only by control under IC 26-1-9.1-314;

(2) and except as otherwise provided in IC 26-1-9.1-308(d), a security interest in a letter-of-credit right may be perfected only by control under IC 26-1-9.1-314; and

(3) a security interest in money may be perfected only by the secured party's taking possession under IC 26-1-9.1-313.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

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

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) issuance of a document in the name of the secured party;

(2) the bailee's receipt of notification of the secured party's interest; or

(3) filing as to the goods.

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of twenty (20) days from the time it

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attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) ultimate sale or exchange; or

(2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) ultimate sale or exchange; or

(2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) After the twenty (20) day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with IC 26-1-9.1.

Sec. 313. (a) Except as otherwise provided in subsection (b), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under IC 26-1-8.1-301.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in IC 26-1-9.1-316(e).

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having authenticated a record acknowledging that it will hold

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possession of collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under IC 26-1-8.1-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit:

(1) the acknowledgment is effective under subsection (c) or IC 26-1-8.1-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) unless the person otherwise agrees or a law other than IC 26-1-9.1 otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) to hold possession of the collateral for the secured party's benefit; or

(2) to redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than IC 26-1-9.1 otherwise provides.

Sec. 314. (a) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107.

(b) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under

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IC 26-1-9.1-104, IC 26-1-9.1-105, or IC 26-1-9.1-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under IC 26-1-9.1-106 from the time the secured party obtains control and remains perfected by control until:

(1) the secured party does not have control; and

(2) one of the following occurs:

(A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 315. (a) Except as otherwise provided in IC 26-1-9.1 and in IC 26-1-2-403(2):

(1) a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(2) a security interest attaches to any identifiable proceeds of collateral.

(b) Proceeds that are commingled with other property are identifiable proceeds:

(1) if the proceeds are goods, to the extent provided by IC 26-1-9.1-336; and

(2) if the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than IC 26-1-9.1 with respect to commingled property of the type involved.

(c) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) the following conditions are satisfied:

(A) A filed financing statement covers the original collateral.

(B) The proceeds are collateral in which a security interest

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may be perfected by filing in the office in which the financing statement has been filed.

(C) The proceeds are not acquired with cash proceeds.

(2) the proceeds are identifiable cash proceeds; or

(3) the security interest in the proceeds is perfected other than under subsection (c) when the security interest attaches to the proceeds or within twenty (20) days thereafter.

(e) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (d)(1) becomes unperfected at the later of:

(1) when the effectiveness of the filed financing statement lapses under IC 26-1-9.1-515 or is terminated under IC 26-1-9.1-513; or

(2) the twenty-first day after the security interest attaches to the proceeds.

Sec. 316. (a) A security interest perfected pursuant to the law of the jurisdiction designated in IC 26-1-9.1-301(1) or IC 26-1-9.1-305(c) remains perfected until the earliest of:

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

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

(3) the expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) the collateral is located in one (1) jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) thereafter the collateral is brought into another jurisdiction; and

(3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

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(d) Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under IC 26-1-9.1-311(b) or IC 26-1-9.1-313 are not satisfied before the earlier of:

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

(2) the expiration of four (4) months after the goods had become so covered.

(f) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 317. (a) An unperfected security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under IC 26-1-9.1-322; and

(2) a person that becomes a lien creditor before the earlier of the time:

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(A) the security interest or agricultural lien is perfected; or

(B) one (1) of the conditions specified in IC 26-1-9.1-203(b)(3) is met;

and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in IC 26-1-9.1-320 and IC 26-1-9.1-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor that arise between the time the security interest attaches and the time of filing.

Sec. 318. (a) A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

Sec. 319. (a) Except as otherwise provided in subsection (b), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee has rights and title to the goods identical to those the consignor had or had power to transfer.

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(b) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

Sec. 320. (a) Except as otherwise provided in this subsection and subsection (e), a buyer in ordinary course of business takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence. The following apply whenever a person is buying farm products from a person engaged in farming operations who has created a security interest on the farm products:

(1) A person buying farm products from a person engaged in farming operations is not protected by this subsection if, within one (1) year before the sale of the farm products, the buyer has received prior written notice of the security interest. "Written notice" means any writing that contains the following:

(A) The full name and address of the debtor.

(B) The full name and address of the secured party.

(C) In the case of a debtor doing business other than as an individual, the United States Internal Revenue Service taxpayer identification number of the debtor.

(D) A description of the collateral, including the type and amount of farm products, the crop year, the county of location, and a description of the real property on which the farm products were grown or produced.

(E) Any payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest.

Notice must be received before a buyer of farm products has made full payment to the person engaged in farming operations for the farm products if the notice is to be considered "prior written notice". The written notice lapses on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first.

(2) A secured party must, within fifteen (15) days of the satisfaction of the debt, inform in writing each potential buyer listed by the debtor whenever a debt has been satisfied and written notice, as required by subdivision (1), had been previously sent to that buyer.

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(3) A debtor engaged in farming operations who has created a security interest in farm products must provide the secured party with a written list of potential buyers of the farm products at the time the debt is incurred if such a list is requested by the secured party. The debtor may not sell farm products to a buyer who does not appear on the list (if the list is requested by the secured party) unless the secured party has given prior written permission to the debtor to sell to someone who does not appear on the list, or the debtor satisfies the debt for that secured party on the farm products he sells within fifteen (15) days of the date of sale. A debtor who knowingly or intentionally sells to a buyer who does not appear on the list (if the list is requested by the secured party) and who does not meet one (1) of the above exceptions, commits a Class C misdemeanor. A secured party commits a Class C infraction if the secured party knowingly or intentionally gives false or misleading information on the notice required by subdivision (1) or the secured party fails within fifteen (15) days of satisfaction of the debt to notify purchasers to whom a written notice had been previously sent under subdivision (1) of the satisfaction of the debt.

(4) A purchaser of farm products buying from a person engaged in farming operations must issue a check for payment jointly to the debtor and those secured parties from whom he has received prior written notice of a security interest as provided for in subdivision (1). A purchaser who fails to issue a jointly payable check as required by this subsection is not protected by this subdivision. A purchaser of farm products (on which there is a perfected security interest) buying from a person engaged in farming operations who withholds all or part of the proceeds of the sale from the seller, in order to satisfy a prior debt ("prior debt" does not include the costs of marketing the farm product or the cost of transporting the farm product to the market) owed by the seller to the buyer, commits a Class C infraction.

(b) Except as otherwise provided in subsection (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(1) without knowledge of the security interest;

(2) for value;

(3) primarily for the buyer's personal, family, or household

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purposes; and

(4) before the filing of a financing statement covering the goods.

(c) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by IC 26-1-9.1-316(a) and IC 26-1-9.1-316(b).

(d) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Subsections (a) and (b) do not affect a security interest in goods in the possession of the secured party under IC 26-1-9.1-313.

Sec. 321. (a) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

Sec. 322. (a) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

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

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

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

(b) For the purposes of subsection (a)(1):

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

(2) the time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) Except as otherwise provided in subsection (f), a security interest in collateral which qualifies for priority over a conflicting security interest under IC 26-1-9.1-327, IC 26-1-9.1-328, IC 26-1-9.1-329, IC 26-1-9.1-330, or IC 26-1-9.1-331 also has priority over a conflicting security interest in:

(1) any supporting obligation for the collateral; and

(2) proceeds of the collateral if:

(A) the security interest in proceeds is perfected;

(B) the proceeds are cash proceeds or of the same type as the collateral; and

(C) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) Subject to subsection (e) and except as otherwise provided in subsection (f), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Subsection (d) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) Subsections (a) through (e) are subject to:

(1) subsection (g) and the other provisions of this part;

(2) IC 26-1-4-210 with respect to a security interest of a collecting bank;

(3) IC 26-1-5.1-118 with respect to a security interest of an issuer or nominated person; and

(4) IC 26-1-9.1-110 with respect to a security interest arising under IC 26-1-2 or IC 26-1-2.1.

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(g) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

Sec. 323. (a) Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under IC 26-1-9.1-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) is made while the security interest is perfected only:

(A) under IC 26-1-9.1-309 when it attaches; or

(B) temporarily under IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g); and

(2) is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under IC 26-1-9.1-309, IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g).

(b) Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:

(1) without knowledge of the lien; or

(2) pursuant to a commitment entered into without knowledge of the lien.

(c) Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the buyer's purchase; or

(2) forty-five (45) days after the purchase.

(e) Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.

(f) Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

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(1) the time the secured party acquires knowledge of the lease; or

(2) forty-five (45) days after the lease contract becomes enforceable.

(g) Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

Sec. 324. (a) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in IC 26-1-9.1-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.

(b) Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in IC 26-1-9.1-330, and, except as otherwise provided in IC 26-1-9.1-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subsection (b)(2) through (b)(4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily

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perfected without filing or possession under IC 26-1-9.1-312(f), before the beginning of the twenty (20) day period thereunder.

(d) Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in IC 26-1-9.1-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

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

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under IC 26-1-9.1-312(f), before the beginning of the twenty (20) day period thereunder.

(f) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in IC 26-1-9.1-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one (1) security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security

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interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, IC 26-1-9.1-322(a) applies to the qualifying security interests.

Sec. 325. (a) Except as otherwise provided in subsection (b), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(1) the debtor acquired the collateral subject to the security interest created by the other person;

(2) the security interest created by the other person was perfected when the debtor acquired the collateral; and

(3) there is no period thereafter when the security interest is unperfected.

(b) Subsection (a) subordinates a security interest only if the security interest:

(1) otherwise would have priority solely under IC 26-1-9.1-322(a) or IC 26-1-9.1-324; or

(2) arose solely under IC 26-1-2-711(3) or IC 26-1-2.1-508(5).

Sec. 326. (a) Subject to subsection (b), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under IC 26-1-9.1-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral that is perfected by another method.

(b) The other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under IC 26-1-9-508. However, if the security agreements to which a new debtor became bound as a debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 327. The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under IC 26-1-9.1-104 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subdivisions (3) and (4), security interests perfected by control under IC 26-1-9.1-314 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subdivision (4), a security

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interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under IC 26-1-9.1-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.

Sec. 328. The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under IC 26-1-9.1-106 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subdivisions (3) and (4), conflicting security interests held by secured parties each of which has control under IC 26-1-9.1-106 rank according to priority in time of:

(A) if the collateral is a security, obtaining control;

(B) if the collateral is a security entitlement carried in a securities account and:

(i) if the secured party obtained control under IC 26-1-8.1-106(d)(1), the secured party's becoming the person for which the securities account is maintained;

(ii) if the secured party obtained control under IC 26-1-8.1-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(iii) if the secured party obtained control through another person under IC 26-1-8.1-106(d)(3), the time on which priority would be based under this subdivision if the other person were the secured party; or

(C) if the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in IC 26-1-9.1-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with

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the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under IC 26-1-9.1-313(a) and not by control under IC 26-1-9.1-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary, which are perfected without control under IC 26-1-9.1-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by IC 26-1-9.1-322 and IC 26-1-9.1-323.

Sec. 329. The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under IC 26-1-9.1-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under IC 26-1-9.1-314 rank according to priority in time of obtaining control.

Sec. 330. (a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under IC 26-1-9.1-105; and

(2) the chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under IC 26-1-9.1-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Except as otherwise provided in IC 26-1-9.1-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has

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priority in proceeds of the chattel paper to the extent that:

(1) IC 26-1-9.1-322 provides for priority in the proceeds; or

(2) the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Except as otherwise provided in IC 26-1-9.1-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) For purposes of subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) For purposes of subsections (b) and (d), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 331. (a) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in IC 26-1-3.1, IC 26-1-7, and IC 26-1-8.1.

(b) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under IC 26-1-8.1.

(c) Filing under IC 26-1-9.1 does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsections (a) and (b).

Sec. 332. (a) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

Sec. 333. (a) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

(1) that secures payment or performance of an obligation for

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services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(2) that is created by statute or rule of law in favor of the person; and

(3) whose effectiveness depends on the person's possession of the goods.

(b) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

Sec. 334. (a) A security interest under IC 26-1-9.1 may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under IC 26-1-9.1 in ordinary building materials incorporated into an improvement on land.

(b) IC 26-1-9.1 does not prevent creation of an encumbrance upon fixtures under real property law.

(c) In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) the security interest is a purchase-money security interest;

(2) the interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) the security interest is perfected by a fixture filing before the goods become fixtures or within twenty (20) days thereafter.

(e) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) before the goods become fixtures, the security interest is perfected by any method permitted by IC 26-1-9.1 and the fixtures are readily removable:

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(A) factory or office machines;

(B) equipment that is not primarily used or leased for use in the operation of the real property; or

(C) replacements of domestic appliances that are consumer goods;

(3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by IC 26-1-9.1; or

(4) the security interest is:

(A) created in a manufactured home in a manufactured-home transaction; and

(B) perfected pursuant to a statute described in IC 26-1-9.1-311(a)(2).

(f) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) the debtor has a right to remove the goods against the encumbrancer or owner.

(g) The priority of the security interest under subsection (f) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

Sec. 335. (a) A security interest may be created in an accession and continues in collateral that becomes an accession.

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(b) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Except as otherwise provided in subsection (d), the other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority of a security interest in an accession.

(d) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under IC 26-1-9.1-311(b).

(e) After default, subject to subsection (f), a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) A secured party that removes an accession from other goods under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner, of the whole or the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 336. (a) As used in this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) is perfected.

(e) Except as otherwise provided in subsection (f), the other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority of a security interest that attaches to the product or mass under subsection (c).

(f) If more than one (1) security interest attaches to the product or mass under subsection (c), the following rules determine

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priority:

(1) A security interest that is perfected under subsection (d) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one (1) security interest is perfected under subsection (d), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

Sec. 337. If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) a buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) the security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under IC 26-1-9.1-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

Sec. 338. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in IC 26-1-9.1-516(b)(5) that is incorrect at the time the financing statement is filed:

(1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 339. IC 26-1-9.1 does not preclude subordination by agreement by a person entitled to priority.

Sec. 340. (a) Except as otherwise provided in subsection (c), a bank with which a deposit account is maintained may exercise any

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right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(b) Except as otherwise provided in subsection (c), the application of IC 26-1-9.1 to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(c) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under IC 26-1-9.1-104(a)(3), if the set-off is based on a claim against the debtor.

Sec. 341. Except as otherwise provided in IC 26-1-9.1-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) the creation, attachment, or perfection of a security interest in the deposit account;

(2) the bank's knowledge of the security interest; or

(3) the bank's receipt of instructions from the secured party.

Sec. 342. IC 26-1-9.1 does not require a bank to enter into an agreement of the kind described in IC 26-1-9.1-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Sec. 401. (a) Except as otherwise provided in subsection (b) and IC 26-1-9.1-406, IC 26-1-9.1-407, IC 26-1-9.1-408, and IC 26-1-9.1-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than IC 26-1-9.1.

(b) An agreement between the debtor and secured party that prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

Sec. 402. The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

Sec. 403. (a) As used in this section, "value" has the meaning provided in IC 26-1-3-303(a).

(b) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an

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assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(1) for value;

(2) in good faith;

(3) without notice of a claim of a property or possessory right to the property assigned; and

(4) without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under IC 26-1-3.1-305(a).

(c) Subsection (b) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under IC 26-1-3.1-305(b).

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than IC 26-1-9.1 requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(1) the record has the same effect as if the record included such a statement; and

(2) the account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) This section is subject to law other than IC 26-1-9.1 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) Except as otherwise provided in subsection (d), this section does not displace law other than IC 26-1-9.1 which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

Sec. 404. (a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e), the rights of an assignee are subject to:

(1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

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(b) Subject to subsection (c) and except as otherwise provided in subsection (d), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) only to reduce the amount the account debtor owes.

(c) This section is subject to law other than IC 26-1-9.1 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than IC 26-1-9.1 requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 405. (a) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d).

(b) Subsection (a) applies to the extent that:

(1) the right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(2) the right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under IC 26-1-9.1-406(a).

(c) This section is subject to law other than IC 26-1-9.1 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 406. (a) Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the

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assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h), notification is ineffective under subsection (a):

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than IC 26-1-9.1; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and IC 26-1-2.1-303 and IC 26-1-9.1-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory

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note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) Except as provided in IC 26-1-2.1-303 and IC 26-1-9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) This section is subject to law other than IC 26-1-9.1 which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 407. (a) Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of a party to the lease to the assignment, transfer, creation, attachment, perfection, or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) provides that the assignment, transfer, creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Except as otherwise provided in IC 26-1-2.1-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

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(1) a transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) a delegation of a material performance of either party to the lease contract in violation of the term.

(c) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of IC 26-1-2.1-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

Sec. 408. (a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation, which prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

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(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than IC 26-1-9.1 but is ineffective under subsection (a) or (c), the assignment, transfer, creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provision in statute, administrative rule, or regulation.

Sec. 409. (a) A term in a letter-of-credit or a rule of law, statute, regulation, custom, or practice applicable to the letter-of-credit that prohibits, restricts, or requires the consent of an applicant,

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issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) To the extent that a term in a letter-of-credit is ineffective under subsection (a) but would be effective under law other than IC 26-1-9.1 or a custom or practice applicable to the letter-of-credit, to the transfer of a right to draw or otherwise demand performance under the letter-of-credit, or to the assignment of a right to proceeds of the letter-of-credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

Sec. 501. (a) Except as otherwise provided in subsections (b) and (c), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

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(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

(c) Before July 1, 2002, the office in which to file a financing statement to perfect a security interest or agricultural lien in:

(1) equipment used in a farming operation;

(2) a farm product; or

(3) an account or a general intangible arising from or relating to the sale of a farm product by a farmer;

is the office of county recorder in the county of the debtor's location, as determined under IC 26-1-9.1-307.

(d) A financing statement filed under subsection (c) is effective for five (5) years after the date the financing statement is filed.

(e) After June 30, 2001, and before July 1, 2002, a financing statement filed under subsection (c) may be amended only by filing an amendment in the same office of county recorder as the office in which the financing statement being amended was filed.

(f) After June 30, 2002, a financing statement filed under subsection (c) may be amended only if a replacement financing statement is filed in the office of the secretary of state. The replacement financing statement must:

(1) satisfy the requirements of IC 26-1-9.1 for an initial financing statement;

(2) identify the earlier financing statement filed under subsection (c) by:

(A) indicating the office in which the earlier financing statement was filed; and

(B) providing the dates of filing and file numbers, if any, of:

(i) the earlier financing statement filed under subsection (c); and

(ii) the most recent amendment filed with respect to the financing statement filed under subsection (c); and

(3) indicate that the earlier financing statement filed under subsection (c) remains effective.

(g) The filing of a replacement financing statement under subsection (f) is effective as a continuation statement of the earlier financing statement filed under subsection (c) if it is filed:

(1) after June 30, 2002; and

(2) before the lapse of the earlier financing statement filed

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under subsection (c).

The filing of a replacement financing statement under subsection (f) continues the effectiveness of the earlier financing statement filed under subsection (c) for five (5) years after the date the replacement financing statement is filed.

(h) After June 30, 2002, a financing statement filed under subsection (c) may be terminated only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) a termination statement has been filed that satisfies IC 26-1-9.1-513.

(i) After June 30, 2002, a financing statement filed under subsection (c) may be assigned only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) an assignment of record is filed that satisfies IC 26-1-9.1-514.

(j) After June 30, 2002, a financing statement filed under subsection (c) may be amended (for purposes other than continuation, termination, or assignment) only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) an amendment is filed that satisfies IC 26-1-9.1-512.

Sec. 502. (a) Subject to subsection (b), a financing statement is sufficient only if it:

(1) provides the name of the debtor;

(2) provides the name of the secured party or a representative of the secured party;

(3) indicates the collateral covered by the financing statement; and

(4) is authenticated by the debtor, if the financing statement is an initial financing statement.

(b) Except as otherwise provided in IC 26-1-9.1-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

(1) indicate that it covers this type of collateral;

(2) indicate that it is to be filed in the real property records;

(3) provide a description of the real property to which the collateral is related that is sufficient to give constructive notice of a mortgage under the law of this state if the

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description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(4) the record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(e) To the extent that IC 36-2-11-15 applies to require the identification of the preparer of a financing statement, the failure of the financing statement to identify the preparer does not affect the sufficiency of the financing statement.

Sec. 503. (a) A financing statement sufficiently provides the name of the debtor:

(1) if the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(2) if the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(3) if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one (1) or more of the same settlors; and

(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

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(4) in other cases:

(A) if the debtor has a name, only if it provides the individual or organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under subsection (a)(4)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

Sec. 504. A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) a description of the collateral pursuant to IC 26-1-9.1-108; or

(2) an indication that the financing statement covers all assets or all personal property.

Sec. 505. (a) A consignor, lessor, or other bailor of goods or a buyer of a payment intangible or a promissory note may file a financing statement, or may comply with a statute or treaty described in IC 26-1-9.1-311(a), using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

(b) IC 26-1-9.1-501 through IC 26-1-9.1-527 apply to the filing of a financing statement under subsection (a) and, as appropriate, to compliance that is equivalent to filing a financing statement under IC 26-1-9.1-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, owner, or buyer which attaches to the collateral is

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perfected by the filing or compliance.

Sec. 506. (a) A financing statement substantially satisfying the requirements of IC 26-1-9.1-501 through IC 26-1-9.1-527 is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c), a financing statement that fails to be authenticated by the debtor or fails sufficiently to provide the name of the debtor in accordance with IC 26-1-9.1-503(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails to sufficiently provide the name of the debtor in accordance with IC 26-1-9.1-503(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of IC 26-1-9.1-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

Sec. 507. (a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) and IC 26-1-9.1-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under IC 26-1-9.1-506.

(c) If a debtor so changes its name that a filed financing statement becomes seriously misleading under IC 26-1-9.1-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the change; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months (4) after the change.

Sec. 508. (a) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would

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have been effective had the original debtor acquired rights in the collateral.

(b) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) to be seriously misleading under IC 26-1-9.1-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four (4) months after, the new debtor becomes bound under IC 26-1-9.1-203(d); and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four (4) months after the new debtor becomes bound under IC 26-1-9.1-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under IC 26-1-9.1-507(a).

Sec. 509. (a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) either:

(A) the debtor authorizes the filing in an authenticated record or under subsection (b) or (c); or

(B) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien; and

(2) the initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement, is authenticated by the debtors covered by the financing statement.

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under IC 26-1-9.1-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under IC 26-1-9.1-315(a)(1), a debtor

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authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under IC 26-1-9.1-315(a)(1).

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

Sec. 510. (a) A filed record is effective only to the extent that it was filed by a person that may file it under IC 26-1-9.1-509.

(b) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) A continuation statement that is not filed within the six (6) month period prescribed by IC 26-1-9.1-515(d) is ineffective.

Sec. 511. (a) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under IC 26-1-9.1-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) If an amendment of a financing statement that provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under IC 26-1-9.1-514(b), the assignee named in the amendment is a secured party of record.

(c) A person remains a secured party of record until the filing of an amendment of the financing statement that deletes the person.

Sec. 512. (a) Subject to IC 26-1-9.1-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information

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provided in, a financing statement by filing an amendment that:

(1) identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) if the amendment relates to an initial financing statement filed or recorded in a filing office described in IC 26-1-9.1-501(a)(1), provides the information specified in IC 26-1-9.1-502(b).

(b) Except as otherwise provided in IC 26-1-9.1-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) An amendment is ineffective to the extent it:

(1) purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Sec. 513. (a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) the debtor did not authorize the filing of the initial financing statement.

(b) To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) within one (1) month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) if earlier, within twenty (20) days after the secured party receives an authenticated demand from a debtor.

(c) In cases not governed by subsection (a), within twenty (20) days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination

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statement for the financing statement or file the termination statement in the filing office if:

(1) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) the debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in IC 26-1-9.1-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in IC 26-1-9.1-510, for purposes of IC 26-1-9.1-519(g), IC 26-1-9.1-522(a), and IC 26-1-9.1-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Sec. 514. (a) Except as otherwise provided in subsection (c), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) Except as otherwise provided in subsection (c), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(1) identifies, by its file number, the initial financing statement to which it relates;

(2) provides the name of the assignor; and

(3) provides the name and mailing address of the assignee.

(c) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under IC 26-1-9.1-502(c) may be made only by an assignment of record of the mortgage in the

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manner provided by law of this state other than IC 26-1.

Sec. 515. (a) Except as otherwise provided in subsections (b), (e), (f), and (g), a filed financing statement is effective for a period of five (5) years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless, before the lapse, a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is considered never to have been perfected as against a purchaser of the collateral for value.

(d) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (a) or the thirty (30) year period specified in subsection (b), whichever is applicable.

(e) Except as otherwise provided in IC 26-1-9.1-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (c), unless, before the lapse, another continuation statement is filed pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under IC 26-1-9.1-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

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Sec. 516. (a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by IC 26-1-9.1-512 or IC 26-1-9.1-518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under IC 26-1-9.1-515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) in the case of a record recorded in the filing office described in IC 26-1-9.1-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

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(i) a type of organization for the debtor;
(ii) a jurisdiction of organization for the debtor; or
(iii) an organizational identification number for the debtor or indicate that the debtor has none;

(6) in the case of an assignment reflected in an initial financing statement under IC 26-1-9.1-514(a) or an amendment filed under IC 26-1-9.1-514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six (6) month period prescribed by IC 26-1-9.1-515(d).

(c) For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by IC 26-1-9.1-512, IC 26-1-9.1-514, or IC 26-1-9.1-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one (1) set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 517. The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Sec. 518. (a) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) A correction statement must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is a correction statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

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Sec. 519. (a) For each record filed in a filing office, the filing office shall:

(1) assign a unique number to the filed record;

(2) create a record that bears the number assigned to the filed record and the date and time of filing;

(3) maintain the filed record for public inspection; and

(4) index the filed record in accordance with subsections (c), (d), and (e).

(b) A file number must include a digit that:

(1) is mathematically derived from or related to the other digits of the file number; and

(2) aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(c) Except as otherwise provided in subsections (d) and (e), the filing office shall:

(1) index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) index a record that provides a name of a debtor that was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(1) under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) to the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under IC 26-1-9.1-514(a) or an amendment filed under IC 26-1-9.1-514(b):

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(1) under the name of the assignor as grantor; and

(2) to the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) The filing office shall maintain a capability:

(1) to retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) The filing office may not remove a debtor's name from the index until one (1) year after the effectiveness of a financing statement naming the debtor lapses under IC 26-1-9.1-515 with respect to all secured parties of record.

(h) The filing office shall perform the acts required by subsections (a) through (e) at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the record in question.

(i) Subsections (b) and (h) do not apply to a filing office described in IC 26-1-9.1-501(a)(1).

Sec. 520. (a) A filing office shall refuse to accept a record for filing for a reason set forth in IC 26-1-9.1-516(b) and may refuse to accept a record for filing only for a reason set forth in IC 26-1-9.1-516(b).

(b) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule, but in the case of a filing office described in IC 26-1-9.1-501(a)(2), in no event more than two (2) business days after the filing office receives the record.

(c) A filed financing statement satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a). However, IC 26-1-9.1-338 applies to a filed financing statement providing information described in IC 26-1-9.1-516(b)(5) that is incorrect at the time the financing statement is filed.

(d) If a record communicated to a filing office provides information that relates to more than one (1) debtor, IC 26-1-9.1-501 through IC 26-1-9.1-527 apply as to each debtor

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separately.

Sec. 521. (a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form specified in IC 26-1-1.5 and format except for a reason set forth in IC 26-1-9.1-516(b).

(b) A filing office that accepts written records may not refuse to accept a written record in the form specified in IC 26-1-1.5 and format except for a reason described in IC 26-9.1-516(b).

Sec. 522. (a) The filing office shall maintain a record of the information provided in a filed financing statement for at least one (1) year after the effectiveness of the financing statement has lapsed under IC 26-1-9.1-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies with subsection (a).

Sec. 523. (a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) note upon the copy the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the filing of the record; and

(2) send the copy to the person.

(b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) the information in the record;

(2) the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1); and

(3) the date and time of the filing of the record.

(c) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) whether there is on file on a date and time specified by the

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filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;

(B) has not lapsed under IC 26-1-9.1-515 with respect to all secured parties of record; and

(C) if the request so states, has lapsed under IC 26-1-9.1-515 and a record of which is maintained by the filing office under IC 26-1-9.1-522(a);

(2) the date and time of filing of each financing statement; and

(3) the information provided in each financing statement.

(d) In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(e) The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the request.

(f) At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

Sec. 524. Delay by the filing office beyond a time limit prescribed in IC 26-1-9.1-501 through IC 26-1-9.1-527 is excused if:

(1) the delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) the filing office exercises reasonable diligence under the circumstances.

Sec. 525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in IC 26-1-9.1-502(c), is:

(1) four dollars ($4) if the record is communicated in writing and consists of one (1) or two (2) pages;

(2) eight dollars ($8) if the record is communicated in writing and consists of more than two (2) pages; and

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(3) four dollars ($4) if the record is communicated by another medium authorized by filing-office rule.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in IC 26-1-9.1-502(c) is the amount specified in subsection (c), if applicable, plus:

(1) eight dollars ($8) if the financing statement indicates that it is filed in connection with a public-finance transaction; and

(2) eight dollars ($8) if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(c) Except as otherwise provided in subsection (e), if a record is communicated in writing, the fee for each name more than two (2) required to be indexed is one dollar ($1).

(d) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is:

(1) one dollar ($1) if the request is communicated in writing; and

(2) one dollar ($1) if the request is communicated by another medium authorized by filing-office rule.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under IC 26-1-9.1-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Sec. 526. (a) The secretary of state shall adopt and publish rules to implement IC 26-1-9.1. The filing-office rules must be consistent with IC 26-1-9.1.

(b) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies, and provisions of IC 26-1-9.1, in adopting, amending, and repealing filing-office rules, shall:

(1) consult with filing offices in other jurisdictions that enact substantially this part;

(2) consult the most recent version of the Model Rules

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promulgated by the International Association of Corporate Administrators or any successor organization; and

(3) take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

Sec. 527. The secretary of state shall report annually to the general assembly on the operation of the filing office. The report must contain a statement of the extent to which:

(1) the filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially IC 26-1-9.1-501 through IC 26-1-9.1-527 and the reasons for these variations; and

(2) the filing-office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

Sec. 601. (a) After default, a secured party has the rights provided in this section through IC 26-1-9.1-628 and, except as otherwise provided in IC 26-1-9.1-602, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107 has the rights and duties provided in IC 26-1-9.1-207.

(c) The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subsection (g) and IC 26-1-9.1-605, after default, a debtor and an obligor have the rights provided in IC 26-1-9.1-601 through IC 26-1-9.1-628 and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the

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collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of IC 26-1-9.1.

(g) Except as otherwise provided in IC 26-1-9.1-607(c), IC 26-1-9.1-601 through IC 26-1-9.1-628 impose no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Sec. 602. Except as otherwise provided in IC 26-1-9.1-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) IC 26-1-9.1-207(b)(4)(C), which deals with use and operation of the collateral by the secured party.

(2) IC 26-1-9.1-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account.

(3) IC 26-1-9.1-607(c), which deals with collection and enforcement of collateral.

(4) IC 26-1-9.1-608(a) and IC 26-1-9.1-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition.

(5) IC 26-1-9.1-608(a) and IC 26-1-9.1-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral.

(6) IC 26-1-9.1-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace.

(7) IC 26-1-9.1-610(b), IC 26-1-9.1-611, IC 26-1-9.1-613, and IC 26-1-9.1-614, which deal with disposition of collateral.

(8) IC 26-1-9.1-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor.

(9) IC 26-1-9.1-616, which deals with explanation of the calculation of a surplus or deficiency.

(10) IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622, which deal with acceptance of collateral in satisfaction of

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obligation.

(11) IC 26-1-9.1-623, which deals with redemption of collateral.

(12) IC 26-1-9.1-624, which deals with permissible waivers.

(13) IC 26-1-9.1-625 and IC 26-1-9.1-626, which deal with the secured party's liability for failure to comply with IC 26-1-9.1.

Sec. 603. (a) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in IC 26-1-9.1-602 if the standards are not manifestly unreasonable.

(b) Subsection (a) does not apply to the duty under IC 26-1-9.1-609 to refrain from breaching the peace.

Sec. 604. (a) If a security agreement covers both personal and real property, a secured party may proceed:

(1) under IC 26-1-9.1-601 through IC 26-1-9.1-628 as to the personal property without prejudicing any rights with respect to the real property; or

(2) as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 do not apply.

(b) Subject to subsection (c), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) under IC 26-1-9.1-601 through IC 26-1-9.1-628; or

(2) in accordance with the rights with respect to real property, in which case the other provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 do not apply.

(c) Subject to the other provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

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Sec. 605. A secured party does not owe a duty based on its status as secured party:

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

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

Sec. 606. For purposes of IC 26-1-9.1-601 through IC 26-1-9.1-628, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

Sec. 607. (a) If so agreed, and in any event after default, a secured party:

(1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) may take any proceeds to which the secured party is entitled under IC 26-1-9.1-315;

(3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) if it holds a security interest in a deposit account perfected by control under IC 26-1-9.1-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) if it holds a security interest in a deposit account perfected by control under IC 26-1-9.1-104(a)(2) or IC 26-1-9.1-104-(a)(3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

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(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

Sec. 608. (a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under IC 26-1-9.1-607 in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate

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security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under subdivision (1)(C).

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under IC 26-1-9.1-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 609. (a) After default, a secured party:

(1) may take possession of the collateral; and

(2) without removal, may render equipment unusable and dispose of collateral on a debtor's premises under IC 26-1-9.1-610.

(b) A secured party may proceed under subsection (a):

(1) pursuant to judicial process; or

(2) without judicial process, if it proceeds without breach of the peace.

(c) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

Sec. 610. (a) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) A secured party may purchase collateral:

(1) at a public disposition; or

(2) at a private disposition only if the collateral is of a kind

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that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like, which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) A secured party may disclaim or modify warranties under subsection (d):

(1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) A record is sufficient to disclaim warranties under subsection (e) if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

Sec. 611. (a) As used in this section, "notification date" means the earlier of the date on which:

(1) a secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) the debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in subsection (d), a secured party that disposes of collateral under IC 26-1-9.1-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

(1) the debtor;

(2) any secondary obligor; and

(3) if the collateral is other than consumer goods:

(A) any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) any other secured party or lienholder that, ten (10) days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) identified the collateral;

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(ii) was indexed under the debtor's name as of that date; and

(iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, ten (10) days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in IC 26-1-9.1-311(a).

(d) Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed in subsection (c)(3)(B) if:

(1) not later than twenty (20) days or earlier than thirty (30) days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) before the notification date, the secured party:

(A) did not receive a response to the request for information; or

(B) received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

Sec. 612. (a) Except as otherwise provided in subsection (b), whether a notification is sent within a reasonable time is a question of fact.

(b) In a transaction other than a consumer transaction, a notification of disposition sent after default and ten (10) days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

Sec. 613. Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the

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unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subdivision (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subdivision (1) are sufficient, even if the notification includes:

(A) information not specified by that subdivision; or

(B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in IC 26-1-9.1-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: <u>Name of debtor, obligor, or other person to which the notification is sent</u>

From: <u>Name, address, and telephone number of secured party</u>

Name of Debtor(s): <u>Include only if debtor(s) are not an addressee</u>

(For a public disposition:)

We will sell (or lease or license, as applicable) the <u>describe collateral</u> to the highest qualified bidder in public as follows:

Day and Date:__

Time:__

Place:__

(For a private disposition:)

We will sell (or lease or license, as applicable) the <u>describe collateral</u> privately sometime after <u>day and date</u>.

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of $). You may request an accounting by calling us at <u>telephone number</u>.

(End of Form)

Sec. 614. In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in IC 26-1-9.1-613(1).

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(B) A description of any liability for a deficiency of the person to which the notification is sent.

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under IC 26-1-9.1-623 is available.

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

Name and address of secured party

Date

NOTICE OF OUR PLAN TO SELL PROPERTY

Name and address of any obligor who is also a debtor

Subject: Identification of Transaction

We have your describe collateral, because you broke promises in our agreement.

(For a public disposition:)

We will sell describe collateral at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:__

Time:__

Place:__

You may attend the sale and bring bidders if you want.

(For a private disposition:)

We will sell describe collateral at private sale sometime after date. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you will or will not, as applicable still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at telephone number.

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at telephone number or write us at secured party's address and request a written explanation. We will charge you $ for the explanation if we sent you another written explanation of the amount you owe us within

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the last six (6) months.
If you need more information about the sale call us at <u>telephone number</u> or write us at <u>secured party's address</u>.
We are sending this notice to the following other people who have an interest in <u>describe collateral</u> or who owe money under your agreement:
<u>Names of all other debtors and obligors, if any</u>.

(End of Form)

(4) A notification in the form of subdivision (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subdivision (3) is sufficient, even if it includes errors in information not required by subdivision (1), unless the error is misleading with respect to rights arising under IC 26-1-9.1.

(6) If a notification under this section is not in the form of subdivision (3), law other than IC 26-1-9.1 determines the effect of including information not required by subdivision (1).

Sec. 615. (a) A secured party shall apply or pay over for application the cash proceeds of disposition under IC 26-1-9.1-610 in the following order to:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) the secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is

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completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under IC 26-1-9.1-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) the obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) the debtor is not entitled to any surplus; and

(2) the obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with IC 26-1-9.1-601 through IC 26-1-9.1-628 to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) takes the cash proceeds free of the security interest or other lien;

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(2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 616. (a) As used in this section:

(1) "Explanation" means a writing that:

(A) states the amount of the surplus or deficiency;

(B) provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;

(C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) "Request" means a record:

(A) authenticated by a debtor or consumer obligor;

(B) requesting that the recipient provide an explanation; and

(C) sent after disposition of the collateral under IC 26-1-9.1-610.

(b) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under IC 26-1-9.1-615, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

(B) within fourteen (14) days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within fourteen (14) days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) To comply with subsection (a)(1)(B), a writing must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made, and,

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if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than thirty-five (35) days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five (35) days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral that are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and that are not reflected in the amount in paragraph (1); and

(6) the amount of the surplus or deficiency.

(d) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) is sufficient, even if it includes minor errors that are not seriously misleading.

(e) A debtor or consumer obligor is entitled without charge to one (1) response to a request under this section during any six (6) month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1). The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

Sec. 617. (a) A secured party's disposition of collateral after default:

(1) transfers to a transferee for value all of the debtor's rights in the collateral;

(2) discharges the security interest under which the disposition is made; and

(3) discharges any subordinate security interest or other subordinate lien.

(b) A transferee that acts in good faith takes free of the rights

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and interests described in subsection (a), even if the secured party fails to comply with IC 26-1-9.1 or the requirements of any judicial proceeding.

(c) If a transferee does not take free of the rights and interests described in subsection (a), the transferee takes the collateral subject to:

(1) the debtor's rights in the collateral;

(2) the security interest or agricultural lien under which the disposition is made; and

(3) any security interest or other lien.

Sec. 618. (a) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(1) receives an assignment of a secured obligation from the secured party;

(2) receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(3) is subrogated to the rights of a secured party with respect to collateral.

(b) An assignment, transfer, or subrogation described in subsection (a):

(1) is not a disposition of collateral under IC 26-1-9.1-610; and

(2) relieves the secured party of further duties under IC 26-1-9.1.

Sec. 619. (a) In this section, "transfer statement" means a record authenticated by a secured party stating:

(1) that the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) that the secured party has exercised its post-default remedies with respect to the collateral;

(3) that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) the name and mailing address of the secured party, debtor, and transferee.

(b) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

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(1) accept the transfer statement;

(2) promptly amend its records to reflect the transfer; and

(3) if applicable, issue a new appropriate certificate of title in the name of transferee.

(c) A transfer of the record or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a disposition of collateral under IC 26-1-9.1 and does not of itself relieve the secured party of its duties under IC 26-1-9.1.

Sec. 620. (a) Except as otherwise provided in subsection (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) the debtor consents to the acceptance under subsection (c);

(2) the secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal authenticated by:

(A) a person to which the secured party was required to send a proposal under IC 26-1-9.1-621; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to IC 26-1-9.1-624.

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) the conditions of subsection (a) are met.

(c) For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral

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not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within twenty (20) days after the proposal is sent.

(d) To be effective under subsection (a)(2), a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to IC 26-1-9.1-621, within twenty (20) days after notification was sent to that person; and

(2) in other cases:

(A) within twenty (20) days after the last notification was sent pursuant to IC 26-1-9.1-621; or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to IC 26-1-9.1-610 within the time specified in subsection (f) if:

(1) sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) To comply with subsection (e), the secured party shall dispose of the collateral:

(1) within ninety (90) days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 621. (a) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, ten (10) days

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before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, ten (10) days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in IC 26-1-9.1-311(a).

(b) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a).

Sec. 622. (a) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) discharges the obligation to the extent consented to by the debtor;

(2) transfers to the secured party all of a debtor's rights in the collateral;

(3) discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) terminates any other subordinate interest.

(b) A subordinate interest is discharged or terminated under subsection (a), even if the secured party fails to comply with IC 26-1-9.1.

Sec. 623. (a) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) To redeem collateral, a person shall tender:

(1) fulfillment of all obligations secured by the collateral; and

(2) the reasonable expenses and attorney's fees described in IC 26-1-9.1-615(a)(1).

(c) A redemption may occur at any time before a secured party:

(1) has collected collateral under IC 26-1-9.1-607;

(2) has disposed of collateral or entered into a contract for its disposition under IC 26-1-9.1-610; or

(3) has accepted collateral in full or partial satisfaction of the obligation it secures under IC 26-1-9.1-622.

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Sec. 624. (a) A debtor or secondary obligor may waive the right to notification of disposition of collateral under IC 26-1-9.1-611 only by an agreement to that effect entered into and authenticated after default.

(b) A debtor may waive the right to require disposition of collateral under IC 26-1-9.1-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under IC 26-1-9.1-623 only by an agreement to that effect entered into and authenticated after default.

Sec. 625. (a) If it is established that a secured party is not proceeding in accordance with IC 26-1-9.1, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with IC 26-1-9.1. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in IC 26-1-9.1-628:

(1) a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with IC 26-1-9.1-601 through IC 26-1-9.1-628 may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) A debtor whose deficiency is eliminated under IC 26-1-9.1-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under IC 26-1-9.1-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance.

(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500)

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in each case from a person that:

(1) fails to comply with IC 26-1-9.1-208;

(2) fails to comply with IC 26-1-9.1-209;

(3) files a record that the person is not entitled to file under IC 26-1-9.1-509(a);

(4) fails to cause the secured party of record to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c);

(5) fails to comply with IC 26-1-9.1-616(b)(1) and whose failure is part of a pattern or consistent with a practice, of noncompliance; or

(6) fails to comply with IC 26-1-9.1-616(b)(2).

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars ($500) in each case from a person that, without reasonable cause, fails to comply with a request under IC 26-1-9.1-210. A recipient of a request under IC 26-1-9.1-210 that never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under IC 26-1-9.1-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Sec. 626. In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in IC 26-1-9.1-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance,

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the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

(A) the proceeds of the collection, enforcement, disposition, or acceptance; or

(B) the amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of subdivision (3)(B), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under IC 26-1-9.1-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

Sec. 627. (a) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(1) in the usual manner on any recognized market;

(2) at the price current in any recognized market at the time of the disposition; or

(3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(1) in a judicial proceeding;

(2) by a bona fide creditors' committee;

(3) by a representative of creditors; or

(4) by an assignee for the benefit of creditors.

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(d) Approval under subsection (c) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Sec. 628. (a) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with IC 26-1-9.1; and

(2) the secured party's failure to comply with IC 26-1-9.1 does not affect the liability of the person for a deficiency.

(b) A secured party is not liable because of its status as secured party:

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

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

(c) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) A secured party is not liable to any person under IC 26-1-9.1-625(c)(2) for its failure to comply with IC 26-1-9.1-616.

(e) A secured party is not liable under IC 26-1-9.1-625(c)(2) more than once with respect to any one secured obligation.

Sec. 701. IC 26-1-9.1 takes effect on July 1, 2001.

Sec. 702. (a) Except as otherwise provided in this section through section 709 of this chapter, IC 26-1-9.1 applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before IC 26-1-9.1 takes effect.

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(b) Except as otherwise provided in subsection (c) and IC 26-1-9.1-703 through IC 26-1-9.1-709:

(1) transactions and liens that were not governed by IC 26-1-9, before its repeal, were validly entered into or created before IC 26-1-9.1 takes effect, and would be subject to IC 26-1-9.1 if they had been entered into or created after IC 26-1-9.1 takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after IC 26-1-9.1 takes effect; and

(2) the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by IC 26-1-9.1 or by the law that otherwise would apply if IC 26-1-9.1 had not taken effect.

(c) IC 26-1-9.1 does not affect an action, case, or proceeding commenced before IC 26-1-9.1 takes effect.

Sec. 703. (a) A security interest that is enforceable immediately before IC 26-1-9.1 takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under IC 26-1-9.1 if, when IC 26-1-9.1 takes effect, the applicable requirements for enforceability and perfection under IC 26-1-9.1 are satisfied without further action.

(b) Except as otherwise provided in IC 26-1-9.1-705, if, immediately before IC 26-1-9.1 takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under IC 26-1-9.1 are not satisfied when IC 26-1-9.1 takes effect, the security interest:

(1) is a perfected security interest for one (1) year after IC 26-1-9.1 takes effect;

(2) remains enforceable thereafter only if the security interest becomes enforceable under IC 26-1-9.1-203 before the year expires; and

(3) remains perfected thereafter only if the applicable requirements for perfection under IC 26-1-9.1 are satisfied before the year expires.

Sec. 704. A security interest that is enforceable immediately before IC 26-1-9.1 takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) remains an enforceable security interest for one (1) year after IC 26-1-9.1 takes effect;

(2) remains enforceable thereafter if the security interest becomes enforceable under IC 26-1-9.1-203 when IC 26-1-9.1

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takes effect or within one (1) year thereafter; and

(3) becomes perfected:

(A) without further action, when IC 26-1-9.1 takes effect if the applicable requirements for perfection under IC 26-1-9.1 are satisfied before or at that time; or

(B) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 705. (a) If action, other than the filing of a financing statement, is taken before IC 26-1-9.1 takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before IC 26-1-9.1 takes effect, the action is effective to perfect a security interest that attaches under IC 26-1-9.1 within one (1) year after IC 26-1-9.1 takes effect. An attached security interest becomes unperfected one (1) year after IC 26-1-9.1 takes effect unless the security interest becomes a perfected security interest under IC 26-1-9.1 before the expiration of that period.

(b) The filing of a financing statement before IC 26-1-9.1 takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under IC 26-1-9.1.

(c) IC 26-1-9.1 does not render ineffective an effective financing statement that is filed before IC 26-1-9.1 takes effect and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in IC 26-1-9-103, before its repeal. However, except as otherwise provided in subsections (d) and (e) and IC 26-1-9.1-706, the financing statement ceases to be effective at the earlier of:

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

(2) June 30, 2006.

(d) The filing of a continuation statement after IC 26-1-9.1 takes effect does not continue the effectiveness of the financing statement filed before IC 26-1-9.1 takes effect. However, upon the timely filing of a continuation statement after IC 26-1-9.1 takes effect and in accordance with the law of the jurisdiction governing perfection as provided in subsection (c), the effectiveness of a financing statement filed in the same office in that jurisdiction before IC 26-1-9.1 takes effect continues for the period provided by the law of that jurisdiction.

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(e) Subsection (c)(2) applies to a financing statement that is filed against a transmitting utility before IC 26-1-9.1 takes effect and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in IC 26-1-9-103, before its repeal, only to the extent that subsection (c) provides that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) A financing statement that includes a financing statement filed before IC 26-1-9.1 takes effect and a continuation statement filed after IC 26-1-9.1 takes effect is effective only to the extent that it satisfies the requirements of subsection (e) for an initial financing statement.

Sec. 706. (a) The filing of an initial financing statement in the office specified in IC 26-1-9.1-501 continues the effectiveness of a financing statement filed before IC 26-1-9.1 takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under IC 26-1-9.1;

(2) the pre-effective-date financing statement was filed in an office in another state or another office in this state; and

(3) the initial financing statement satisfies subsection (c).

(b) The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-effective date financing statement if the initial financing statement is filed:

(1) before IC 26-1-9.1 takes effect, for the period provided in IC 26-1-9-403 (before its repeal) for a financing statement; and

(2) after IC 26-1-9.1 takes effect, for the period provided in IC 26-9.1-9-515 for an initial financing statement.

(c) To be effective for purposes of subsection (a), an initial financing statement must:

(1) satisfy the requirements of IC 26-1-9.1-501 through IC 26-1-9.1-526 for an initial financing statement;

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

(3) indicate that the pre-effective-date financing statement remains effective.

Sec. 707. (a) In this section, "pre-effective-date financing

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statement" means a financing statement filed before IC 26-1-9.1 takes effect.

(b) After IC 26-1-9.1 takes effect, a person may add or delete collateral covered by, continue, or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided under IC 26-1-9.1-301 through IC 26-1-9.1-342. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d), if Indiana law governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after IC 26-1-9.1 takes effect only if:

(1) the pre-effective date financing statement and an amendment are filed in the office specified in IC 26-1-9.1-501;

(2) an amendment is filed in the office specified in IC 26-1-9.1-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies IC 26-1-9.1-706(c); or

(3) an initial financing statement that provides the information as amended and satisfies IC 26-1-9.1-706(c) is filed in the office specified in IC 26-1-9.1-501.

(d) If Indiana law governs the perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under IC 26-1-9.1-705(d) and IC 26-1-9.1-705(f) or IC 26-1-9.1-706.

(e) Whether or not Indiana law governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in Indiana may be terminated after IC 26-1-9.1 takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies IC 26-1-9.1-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection in IC 26-1-9.1-301 through IC 26-1-9.1-342 as the office in which to file a financing statement.

Sec. 708. A person may file an initial financing statement or a continuation statement under IC 26-1-9.1-701 through IC 26-1-9.1-709 if:

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

(2) the filing is necessary under IC 26-1-9.1-701 through

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IC 26-1-9.1-709:

(A) to continue the effectiveness of a financing statement filed before IC 26-1-9.1 takes effect; or

(B) to perfect or continue the perfection of a security interest.

Sec. 709. (a) IC 26-1-9, before its repeal, determines the priority of conflicting claims to collateral if the relative priorities of the claims were established before IC 26-1-9.1 takes effect. In other cases, IC 26-1-9.1 determines priority.

(b) For purposes of IC 26-1-9.1-322(a), the priority of a security interest that becomes enforceable under IC 26-1-9.1-203 dates from the time IC 26-1-9.1 takes effect if the security interest is perfected under IC 26-1-9.1 by the filing of a financing statement before IC 26-1-9.1 takes effect which would not have been effective to perfect the security interest under IC 26-1-9, before its repeal. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

SECTION 46. IC 32-1-2-16.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16.3. (a) This section applies to an instrument regardless of when the instrument was recorded, except that this section does not divest rights that vested before May 1, 1993.

(b) An assignment, a mortgage, or a pledge of rents and profits arising from real estate that is intended as security, whether contained in a separate instrument or otherwise, shall be recorded under section 16 of this chapter.

(c) When an assignment, a mortgage, or a pledge of rents and profits is recorded under subsection (b), the security interest of the assignee, mortgagee, or pledgee is immediately perfected as to the assignor, mortgagor, pledgor, and any third parties:

(1) regardless of whether the assignment, mortgage, or pledge is operative:

(A) immediately;

(B) upon the occurrence of a default; or

(C) under any other circumstances; and

(2) without the holder of the security interest taking any further action.

(d) This section does not apply to security interests in:

(1) farm products;

(2) accounts or general intangibles arising from or relating to the sale of farm products by a farmer;

(3) timber to be cut; **or**

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(4) minerals or the like (including oil and gas); ~~or~~

~~(5) accounts subject to IC 26-1-9-103(5);~~

that may be perfected under ~~IC 26-1-9.~~ **IC 26-1-9.1.**

SECTION 47. IC 32-8-24-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Any employee wishing to acquire such lien upon the corporate property of any corporation, or the earnings thereof, whether the employee's claim be due or not, shall file in the recorder's office of the county where such corporation is located or doing business, notice of the employee's intention to hold a lien upon such property and earnings aforesaid, for the amount of the employee's claim, setting forth the date of such employment, the name of the corporation and the amount of such claim, and it shall be the duty of the recorder of any county, when such notice is presented for record, to record the same in the record required by law for notice of mechanics' liens, for which the recorder shall charge a fee in an amount specified in IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2). The lien so created shall relate to the time when such employee was employed by such corporation, or to any subsequent date during such employment, at the election of such employee, and shall have priority over all liens suffered or created thereafter, except other employees' liens, over which there shall be no such priority.

(b) Where:

(1) any person, other than an employee, shall acquire a lien upon the corporate property of any corporation located or doing business in this state;

(2) such lien for a period of sixty (60) days either:

(A) remains a matter of record in the proper place specified in ~~IC 26-1-9-401;~~ **IC 26-1-9.1-501;** or

(B) remains otherwise perfected under applicable law; and

(3) no notice of an employee's intention to hold a lien shall have been filed by any employee of such corporation during that period;

then and in that case such lien so created shall have priority over the lien of such employee in the county where such corporation is located or doing business, and not otherwise.

(c) This section shall not apply to any lien acquired by any person for purchase money.

SECTION 48. IC 26-1-9 IS REPEALED [EFFECTIVE JULY 1, 2001].

Copy

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1326, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning commercial law.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1326 as introduced.)

DVORAK, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1326 be amended to read as follows:

Delete pages 15 through 17 and insert the following:

Copy

[redacted]

UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS (front and back)CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

+ ,

. -

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) do not abbreviate or combine names.

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATION ID#, if any ☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATION ID#, if any ☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured part name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Attached Addendum [if applicable]

7. Check to REQUEST SEARCH REPORTS(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 04/23/98)

Copy

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back)CAREFULLY

9. NAME OF FIRST DEBTOR(1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -insert only one debtor name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 11e. TYPE OF ORGANIZATION | 11f. JURISDICTION OF ORGANIZATION | 11g. ORGANIZATION ID#, if any | ☐ NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

12c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☐ fixture filing.

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction —effective 30 years

☐ Filed in connection with a Public-Finance Transaction —effective 30 years

FILING OFFICE COPY—NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad)(REV. 04/23/98)

C o p y

1 **END OF IC 26-1-9.1 FINANCING STATEMENT**

[redacted]

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back)CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

+ ,

. -

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

1b. This FINANCING STATEMENT AMENDMENT is ☐ to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured party authorizing this Termination Statement

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment effects ☐ Debtor or ☐ Secured party of record. Check only one of these boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6 or 6b; also give new Name (if name change) in item 7a or 7b and /or new address (if address change) in item 7c

☐ DELETE name: give record name to be deleted in item 6a or 6b

☐ ADD name: Complete item 7a or 7b and also Item 7c; also complete 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

	6a. ORGANIZATION'S NAME			
OR	6b. INDIVIDUAL'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

	7a. ORGANIZATION'S NAME			
OR	7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
7c.	ADDRESS	CITY	STATE POSTAL CODE	COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATION ID#, if any ☐ NONE

8. AMENDMENT (COLLATERAL CHANGE): Check only one box.

Describe collateral ☐ Deleted or ☐ Added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

	9a. ORGANIZATION'S NAME			
OR	9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

10. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT AMENDMENT(FORM UCC3) (REV. 04/23/98)

C o p y

(Reference is to HB 1326 as printed January 27, 2000.)

DVORAK

COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1326, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 11, line 18, delete "promissary" and insert "**promissory**".

Page 14, line 24, delete "this article." and insert "**IC 26-1.**".

Page 30, line 2, strike "subsections" and insert "**subsection**".

Page 30, line 2, after "(4)" delete "and".

Page 47, line 15, delete ",".

Page 52, line 37, delete "This article" and insert "**IC 26-1-9.1**".

Page 52, line 39, delete "this article" and insert "**IC 26-1-9.1**".

Page 54, line 37, after "the goods," insert "**a security interest in specific goods and license of software used in the goods,**".

Page 54, line 38, delete "a".

Page 55, line 1, after "include" insert "**: (i)**".

Page 55, line 2, delete "." and insert "**; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.**".

Page 59, line 3, delete "with" and insert "**in**".

Page 60, line 2, delete "and" and insert "**or**".

Page 61, line 20, after "debtor"" insert "**, except as used in IC 26-1-9.1-310(c),**".

Page 62, line 7, after ""Proceeds"" insert "**, except as used in IC 26-1-9.1-609(b),**".

Page 64, line 34, delete "in other articles" and insert "**outside IC 26-1-9.1**".

Page 64, line 34, delete "this" and insert "**IC 26-1-9.1:**".

Page 64, delete line 35.

Page 65, line 30, delete "Article 1" and insert "**IC 26-1-1**".

Page 65, line 31, delete "this article" and insert "**IC 26-1-9.1**".

Page 65, line 38, delete "in,or" and insert "**in, or**".

Page 69, line 5, delete "this article" and insert "**IC 26-1-9.1**".

Page 69, line 17, after "in" insert "**a**".

Page 69, line 20, delete "this article" and insert "**IC 26-1-9.1**".

Page 69, line 22, delete "this article" and insert "**IC 26-1-9.1**".

Page 69, line 24, delete "This article" and insert "**IC 26-1-9.1**".

Page 69, line 26, delete "this article" and insert "**IC 26-1-9.1**".

Page 69, line 30, delete "This article" and insert "**IC 26-1-9.1**".

Page 70, line 37, delete "IC 26-1-9.1" and insert "**IC 26-1-9.1-315**".

Page 71, line 5, delete "this article" and insert "**IC 26-1-9.1**".

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Page 71, line 20, delete "this article" and insert "**IC 26-1-9.1**".
Page 71, line 25, delete "This article" and insert "**IC 26-1-9.1**".
Page 72, line 29, delete "this article" and insert "**IC 26-1-9.1**".
Page 78, line 4, delete "security".
Page 83, line 14, delete "this" and insert "**IC 26-1-9.1**".
Page 83, line 15, before "and" delete "article".
Page 83, line 15, after "under" delete "this article" and insert "**IC 26-1-9.1**".
Page 85, line 4, delete "this article" and insert "**IC 26-1-9.1**".
Page 85, line 26, delete "this article" and insert "**IC 26-1-9.1**".
Page 85, line 39, delete "this" and insert "**IC 26-1-9.1.**".
Page 85, delete line 40.
Page 85, line 41, after "collateral" insert "**, subject to a statute specified in subsection (a)(2),**".
Page 86, line 1, delete "or leasing".
Page 86, line 3, delete "as debtor".
Page 87, line 12, delete "this" and insert "**IC 26-1-9.1.**".
Page 87, delete line 13.
Page 87, line 23, delete "IC 26-1-9.1-316(d)" and insert "**IC 26-1-9.1-316(e)**".
Page 88, line 9, delete "this" and insert "**IC 26-1-9.1**".
Page 88, line 10, delete "article".
Page 88, line 27, delete "this article" and insert "**IC 26-1-9.1**".
Page 89, line 7, delete "this article" and insert "**IC 26-1-9.1**".
Page 89, line 23, delete "this article" and insert "**IC 26-1-9.1**".
Page 90, line 13, after "jurisdiction;" insert "**or**".
Page 90, line 16, delete "; or" and insert "**.**".
Page 90, delete lines 17 through 18.
Page 91, line 35, after "time" insert ":".
Page 91, line 35, before "the security" begin a new line double block indented and insert:

"**(A)**".

Page 91, line 35, after "perfected" insert "**;**".
Page 91, line 36, after "or" begin a new line double block indented and insert:

"**(B) one (1) of the conditions specified in IC 26-1-9.1-203(b)(3) is met;**".

Page 91, line 36, before "a" begin a new line single blocked indented and insert "**and**".
Page 93, line 4, delete "he" and insert "**, within one (1) year before the sale of the farm products, the buyer**".
Page 93, line 6, delete "an original financing statement or a" and

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insert "**any writing**".

Page 93, delete lines 7 through 9.

Page 93, line 10, delete "photographic, or other reproduction of the form".

Page 93, run in lines 6 through 10.

Page 93, between lines 13 and 14, begin a new line double block indented and insert:

> "**(C) In the case of a debtor doing business other than as an individual, the United States Internal Revenue Service taxpayer identification number of the debtor.**".

Page 93, line 14, delete "(C)" and insert "**(D)**".

Page 93, line 14, delete "." and insert "**, including the type and amount of farm products, the crop year, the county of location, and a description of the real property on which the farm products were grown or produced.**".

Page 93, delete lines 15 through 20, begin a new line double block indented and insert:

> "**(E) Any payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest.**".

Page 93, line 21, beginning with "Notice" begin a new line single block indented.

Page 93, line 24, after "notice"." insert "**The written notice lapses on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first.**".

Page 94, line 5, delete "(a)" and insert "**(1)**".

Page 94, line 15, delete "subdivision" and insert "**subsection**".

Page 95, line 10, after "under" delete "the" and insert "**a nonexclusive**".

Page 97, line 6, delete "while" and insert "**to the extent that**".

Page 97, line 6, delete "is perfected only to the extent" and insert "**secures an advance**".

Page 97, line 7, delete "that it secures advances".

Page 98, line 24, delete "Subsections" and insert "**Subsection**".

Page 99, line 9, delete "Subsections" and insert "**Subsection**".

Page 103, line 17, delete "this article" and insert "**IC 26-1-9.1**".

Page 103, line 39, delete "this article" and insert "**IC 26-1-9.1**".

Page 103, line 41, delete "this article" and insert "**IC 26-1-9.1**".

Page 104, line 2, delete "This article" and insert "**IC 26-1-9.1**".

Page 104, line 28, delete "this article" and insert "**IC 26-1-9.1**".

Page 104, line 37, delete "this" and insert "**IC 26-1-9.1;**".

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Page 104, line 38, delete "article;".

Page 106, line 3, delete "encumbrancer" and insert "**holder of a security interest or other lien on,**".

Page 106, line 4, after "owner of" insert "**,**".

Page 106, line 4, after "whole or" delete "of".

Page 106, line 7, delete "encumbrancer" and insert "**holder**".

Page 107, line 8, delete "26-1-9.1-311(b,)" and insert "**26-1-9.1-311(b),**".

Page 107, line 26, delete "This article" and insert "**IC 26-1-9.1**".

Page 107, line 33, delete "this article" and insert "**IC 26-1-9.1**".

Page 108, line 8, delete "This article" and insert "**IC 26-1-9.1**".

Page 108, line 18, delete "this article." and insert "**IC 26-1-9.1.**".

Page 109, line 2, delete "this article" and insert "**IC 26-1-9.1**".

Page 109, line 12, delete "this article" and insert "**IC 26-1-9.1**".

Page 109, line 17, delete "this article" and insert "**IC 26-1-9.1**".

Page 109, line 34, delete "this article" and insert "**IC 26-1-9.1**".

Page 109, line 39, delete "this article" and insert "**IC 26-1-9.1**".

Page 110, line 20, delete "this article" and insert "**IC 26-1-9.1**".

Page 110, line 26, delete "(h)" and insert "**(i)**".

Page 110, line 35, delete "(g)" and insert "**(h)**".

Page 110, line 41, delete "this article;" and insert "**IC 26-1-9.1;**".

Page 111, line 4, delete "general" and insert "**payment**".

Page 111, line 9, delete "(g)" and insert "**(h)**".

Page 111, line 16, delete "(g)" and insert "**(h)**".

Page 112, line 10, delete "this article" and insert "**IC 26-1-9.1**".

Page 112, line 19, after "to the" insert "**assignment, transfer,**".

Page 112, line 23, after "that the" insert "**assignment, transfer,**".

Page 112, line 41, delete "seller. Even in that event, the creation," and insert "**lessor.**".

Page 112, delete line 42.

Page 113, delete line 1.

Page 113, line 14, after "that the" insert "**assignment, transfer,**".

Page 113, line 32, after "that the" insert "**assignment, transfer,**".

Page 113, line 41, delete "this article" and insert "**IC 26-1-9.1**".

Page 113, line 42, after "the" insert "**assignment, transfer,**".

Page 114, line 35, after "that the" insert "**assignment, transfer,**".

Page 114, line 41, delete "this article" and insert "**IC 26-1-9.1**".

Page 115, line 13, delete "subsection" and insert "**subsections**".

Page 115, line 13, after "(b)" insert "**and (c)**".

Page 115, between lines 32 and 33, begin a new paragraph and insert:

"**(c) Before July 1, 2002, the office in which to file a financing**

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statement to perfect a security interest or agricultural lien in:

(1) equipment used in a farming operation;

(2) a farm product; or

(3) an account or a general intangible arising from or relating to the sale of a farm product by a farmer;

is the office of county recorder in the county of the debtor's location, as determined under IC 26-1-9.1-307.

(d) A financing statement filed under subsection (c) is effective for five (5) years after the date the financing statement is filed.

(e) After June 30, 2001, and before July 1, 2002, a financing statement filed under subsection (c) may be amended only by filing an amendment in the same office of county recorder as the office in which the financing statement being amended was filed.

(f) After June 30, 2002, a financing statement filed under subsection (c) may be amended only if a replacement financing statement is filed in the office of the secretary of state. The replacement financing statement must:

(1) satisfy the requirements of IC 26-1-9.1 for an initial financing statement;

(2) identify the earlier financing statement filed under subsection (c) by:

(A) indicating the office in which the earlier financing statement was filed; and

(B) providing the dates of filing and file numbers, if any, of:

(i) the earlier financing statement filed under subsection (c); and

(ii) the most recent amendment filed with respect to the financing statement filed under subsection (c); and

(3) indicate that the earlier financing statement filed under subsection (c) remains effective.

(g) The filing of a replacement financing statement under subsection (f) is effective as a continuation statement of the earlier financing statement filed under subsection (c) if it is filed:

(1) after June 30, 2002; and

(2) before the lapse of the earlier financing statement filed under subsection (c).

The filing of a replacement financing statement under subsection (f) continues the effectiveness of the earlier financing statement filed under subsection (c) for five (5) years after the date the replacement financing statement is filed.

(h) After June 30, 2002, a financing statement filed under

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subsection (c) may be terminated only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) a termination statement has been filed that satisfies IC 26-1-9.1-513.

(i) After June 30, 2002, a financing statement filed under subsection (c) may be assigned only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) an assignment of record is filed that satisfies IC 26-1-9.1-514.

(j) After June 30, 2002, a financing statement filed under subsection (c) may be amended (for purposes other than continuation, termination, or assignment) only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) an amendment is filed that satisfies IC 26-1-9.1-512.".

Page 116, line 20, delete "complies with" and insert "**satisfies**".

Page 117, line 27, delete "only".

Page 117, line 36, after ""bailee"", insert "**"licensor", "licensee",**".

Page 119, line 26, delete ";" and insert "**or under subsection (b) or (c);**".

Page 119, line 32, after "authenticating" insert "**or becoming bound as debtor by**".

Page 119, line 32, after "debtor" insert "**or new debtor**".

Page 122, line 18, after "effective." insert "**Except as otherwise provided in IC 26-1-9.1-510, for purposes of IC 26-1-9.1-519(g), IC 26-1-9.1-522(a), and IC 26-1-9.1-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.**".

Page 123, line 10, delete "without filing" and insert "**otherwise**".

Page 126, line 5, delete "enables" and insert "**aids**".

Page 126, line 5, delete "to detect" and insert "**in determining**".

Page 130, line 23, delete "this article." and insert "**IC 26-1-9.1.**".

Page 130, line 24, delete "this chapter." and insert "**IC 26-1-9.1.**".

Page 130, line 31, delete "this article," and insert "**IC 26-1-9.1,**".

Page 132, line 1, delete "this article." and insert "**IC 26-1-9.1.**".

Page 132, line 28, delete "IC 26-1-9.1-610(b),IC 26-1-9.1-611" and insert "**IC 26-1-9.1-610(b), IC 26-1-9.1-611**".

Page 133, line 1, delete "this article." and insert "**IC 26-1-9.1.**".

Page 135, line 22, delete "this section" and insert "**IC**

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26-1-9.1-607".

Page 136, line 1, delete "this" and insert "**IC 26-1-9.1-607**".

Page 136, line 2, delete "section".

Page 138, line 29, delete "sale" and insert "**disposition**".

Page 140, line 40, delete "this article." and insert "**IC 26-1-9.1.**".

Page 140, line 42, delete "this article" and insert "**IC 26-1-9.1**".

Page 141, line 4, after "disposition" insert "**under IC 26-1-9.1-610**".

Page 141, line 34, delete "this section" and insert "**IC 26-1-9.1-610**".

Page 144, line 28, delete "this article" and insert "**IC 26-1-9.1**".

Page 145, line 8, delete "this" and insert "**IC 26-1-9.1.**".

Page 145, delete line 9.

Page 145, line 33, delete "this article" and insert "**IC 26-1-9.1**".

Page 145, line 34, delete "this article." and insert "**IC 26-1-9.1.**".

Page 148, line 13, delete "this" and insert "**IC 26-1-9.1.**".

Page 148, delete line 14.

Page 148, line 42, delete "this article," and insert "**IC 26-1-9.1,**".

Page 149, line 3, after "(c)" delete ",".

Page 149, line 3, delete "secured party" and insert "**person**".

Page 149, line 5, delete "this article." and insert "**IC 26-1-9.1.**".

Page 149, line 5, delete "with a".

Page 149, line 6, delete "request under IC 26-1-9.1-210".

Page 149, line 31, after "the" insert "**list or**".

Page 151, line 16, delete "this" and insert "**IC 26-1-9.1;**".

Page 151, line 17, delete "article;".

Page 151, line 18, delete "this article" and insert "**IC 26-1-9.1**".

Page 152, line 5, delete "708" and insert "**709**".

Page 152, line 9, delete "IC 26-1-9.1-708:" and insert "**IC 26-1-9.1-709:**".

Page 154, line 23, delete "for the" and insert "**if:**".

Page 154, delete lines 24 through 25.

Page 154, line 34, after "filed" insert "**:**".

Page 154, line 34, before "before" begin a new line block indented and insert:

"**(1)**".

Page 154, line 35, delete ":".

Page 154, line 36, delete "(1)".

Page 154, run in lines 35 through 36.

Page 154, line 38, delete "IC 26-1-9-115 (before its repeal)" and insert "**after IC 26-1-9.1 takes effect, for the period provided in IC 26-1-9.1-9-515**".

Page 154, line 42, delete "IC 26-1-9.1-705(e)" and insert "**IC**

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26-1-9.1-501 through IC 26-1-9.1-526".

Page 155, between lines 8 and 9, begin a new paragraph and insert:

"**Sec. 707. (a) In this section, "pre-effective-date financing statement" means a financing statement filed before IC 26-1-9.1 takes effect.**

(b) After IC 26-1-9.1 takes effect, a person may add or delete collateral covered by, continue, or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided under IC 26-1-9.1-301 through IC 26-1-9.1-342. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d), if Indiana law governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after IC 26-1-9.1 takes effect only if:

(1) the pre-effective date financing statement and an amendment are filed in the office specified in IC 26-1-9.1-501;

(2) an amendment is filed in the office specified in IC 26-1-9.1-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies IC 26-1-9.1-706(c); or

(3) an initial financing statement that provides the information as amended and satisfies IC 26-1-9.1-706(c) is filed in the office specified in IC 26-1-9.1-501.

(d) If Indiana law governs the perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under IC 26-1-9.1-705(d) and IC 26-1-9.1-705(f) or IC 26-1-9.1-706

(e) Whether or not Indiana law governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in Indiana may be terminated after IC 26-1-9.1 takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies IC 26-1-9.1-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection in IC 26-1-9.1-301 through IC 26-1-9.1-342 as the office in which to file a financing statement.".

Page 155, line 9, delete "707." and insert "**708.**".

Page 155, line 11, delete "IC 26-1-9.1-708" and insert "**IC**

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26-1-9.1-709".

Page 155, line 14, delete "IC 26-1-9.1-708:" and insert "**IC 26-1-9.1-709:**".

Page 155, line 19, delete "708." and insert "**709.**".

Page 155, line 21, delete "parties" and insert "**claims**".

Page 155, line 21, delete "fixed" and insert "**established**".

Page 155, delete lines 23 through 28.

Page 155, line 29, delete "(c)" and insert "**(b)**".

and when so amended that said bill do pass.

(Reference is to HB 1326 as reprinted February 2, 2000.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that House Bill 1326 be amended to read as follows:

Delete page 15 and insert:

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[redacted]

UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS (front and back)CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

+ ,

. -

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) do not abbreviate or combine names.

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATION ID#, if any ☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATION ID#, if any ☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured part name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Attached Addendum [if applicable]

7. Check to REQUEST SEARCH REPORTS(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. DEBTOR SIGNATURE

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 04/23/98)

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Delete page 17 and insert:

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UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back)CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

+ ,

. -

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

1b. This FINANCING STATEMENT AMENDMENT is ☐ to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured party authorizing this Termination Statement

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment effects ☐ Debtor or ☐ Secured party of record. Check only one of these boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6 or 6b; also give new Name (if name change) in item 7a or 7b and./or new address (if address change) in item 7c

☐ DELETE name: give record name to be deleted in item 6a or 6b.

☐ ADD name: Complete item 7a or 7b and also Item 7c; also complete 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATION ID#, if any ☐ NONE

8. AMENDMENT (COLLATERAL CHANGE): Check only one box.

Describe collateral ☐ Deleted or ☐ Added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

10. DEBTOR SIGNATURE

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT AMENDMENT(FORM UCC3) (REV. 04/23/98)

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Page 117, line 28, delete "and".

Page 117, line 29, delete "." and insert "**; and**".

Page 117, between lines 29 and 30, begin a new line block indented and insert:

"**(4) is authenticated by the debtor, if the financing statement is an initial financing statement.**".

Page 118, line 17, delete "The provisions of" and insert "**To the extent that**".

Page 118, line 17, delete "requiring" and insert "**applies to require**".

Page 118, line 18, delete "draftsmen of instruments transferring interest in real estate do" and insert "**the preparer of a financing statement, the failure of the financing statement to identify the preparer does not affect the sufficiency of the financing statement.**".

Page 118, delete line 19.

Page 120, line 3, after "that" insert "**fails to be authenticated by the debtor or**".

Page 121, between lines 17 and 18, begin a new line block indented and insert:

"**(1) either:**".

Page 121, line 18, delete "(1)", begin a new line double block indented and insert:

"**(A)**".

Page 121, line 20, delete "(2)", begin a new line double block indented and insert:

"**(B)**".

Page 121, line 23, delete "." and insert "**; and**".

Page 121, between lines 23 and 24, begin a new line block indented and insert:

"**(2) the initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement, is authenticated by the debtors covered by the financing statement.**".

Page 134, line 6, after "sections" insert "**:**".

Page 134, line 6, delete "(except that a secondary".

Page 134, delete lines 7 through 8.

Page 138, line 38, delete "warranty" and insert "**warranties**".

Page 138, line 38, delete "but does not include, unless".

Page 138, line 39, delete "explicitly extended in writing, any warranty relating to".

Page 138, line 40, delete "merchantability, fitness for a specific purpose, or" and insert "**and the like,**".

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Page 138, line 41, delete "any other warranty".

Page 138, line 41, delete "would otherwise".

Page 139, between lines 1 and 2, begin a new paragraph and insert:

"**(e) A secured party may disclaim or modify warranties under subsection (d):**

(1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) A record is sufficient to disclaim warranties under subsection (e) if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.".

Page 140, line 12, delete "A" and insert "**In a transaction other than a consumer transaction, a**".

Page 150, line 24, after "debtor" insert "**or secondary obligor**".

Page 150, line 31, after "debtor" insert "**or secondary obligor**".

Page 150, delete lines 35 through 37.

Page 150, line 42, delete "and" and insert "**,**".

Page 150, line 42, after "(d)," insert "**and (f),**".

Page 151, between lines 23 and 24, begin a new paragraph and insert:

"**(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500) in each case from a person that:**

(1) fails to comply with IC 26-1-9.1-208;

(2) fails to comply with IC 26-1-9.1-209;

(3) files a record that the person is not entitled to file under IC 26-1-9.1-509(a);

(4) fails to cause the secured party of record to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c);

(5) fails to comply with IC 26-1-9.1-616(b)(1) and whose failure is part of a pattern or consistent with a practice, of noncompliance; or

(6) fails to comply with IC 26-1-9.1-616(b)(2).

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars ($500) in each case from a person that, without reasonable cause, fails to comply with a request under IC 26-1-9.1-210. A recipient of a request under IC 26-1-9.1-210 that never claimed an interest in the

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collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.".

Page 151, line 24, delete "(e)" and insert "**(g)**".

Page 157, line 31, after "26-1-9.1-706" insert "**.**".

(Reference is to EHB 1326 as printed February 18, 2000.)

SIMPSON

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