

Adopted	Rejected
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## COMMITTEE REPORT

<b>YES:</b>	<b>9</b>
<b>NO:</b>	<b>0</b>

**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:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT concerning commercial law.
- 3 Delete everything after the enacting clause and insert the following:
- 4 SECTION 1. IC 4-22-2-13 IS AMENDED TO READ AS
- 5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) Subject to
- 6 subsections (b), (c), and (d), this chapter applies to the addition,
- 7 amendment, or repeal of a rule in every rulemaking action.
- 8 (b) This chapter does not apply to the following agencies:
- 9 (1) Any military officer or board.
- 10 (2) Any state educational institution (as defined in
- 11 IC 20-12-0.5-1).
- 12 (c) This chapter does not apply to a rulemaking action that results
- 13 in any of the following rules:
- 14 (1) A resolution or directive of any agency that relates solely to

- 1 internal policy, internal agency organization, or internal procedure  
 2 and does not have the effect of law.
- 3 (2) A restriction or traffic control determination of a purely local  
 4 nature that:
- 5 (A) is ordered by the commissioner of the Indiana department  
 6 of transportation;
- 7 (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or  
 8 IC 9-20-7; and
- 9 (C) applies only to one (1) or more particularly described  
 10 intersections, highway portions, bridge causeways, or viaduct  
 11 areas.
- 12 (3) A rule adopted by the secretary of state under ~~IC 26-1-9-408.~~  
 13 **IC 26-1-9.1-526.**
- 14 (4) An executive order or proclamation issued by the governor.
- 15 (d) Except as specifically set forth in IC 13-14-9, sections 24, 26,  
 16 27, and 29 of this chapter do not apply to rulemaking actions under  
 17 IC 13-14-9.
- 18 SECTION 2. IC 6-8.1-3-16 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The department  
 20 shall prepare a list of all outstanding tax warrants for listed taxes each  
 21 month. The list shall identify each taxpayer liable for a warrant by  
 22 name, address, amount of tax, and either Social Security number or  
 23 employer identification number. Unless the department renews the  
 24 warrant, the department shall exclude from the list a warrant issued  
 25 more than ten (10) years before the date of the list. The department  
 26 shall certify a copy of the list to the bureau of motor vehicles.
- 27 (b) The department shall prescribe and furnish tax release forms for  
 28 use by tax collecting officials. A tax collecting official who collects  
 29 taxes in satisfaction of an outstanding warrant shall issue to the  
 30 taxpayers named on the warrant a tax release stating that the tax has  
 31 been paid. The department may also issue a tax release:
- 32 (1) to a taxpayer who has made arrangements satisfactory to the  
 33 department for the payment of the tax; or
- 34 (2) by action of the commissioner under IC 6-8.1-8-2(k).
- 35 (c) The department may not issue or renew:
- 36 (1) a certificate under IC 6-2.5-8;
- 37 (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or
- 38 (3) a permit under IC 6-6-4.1;

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

5 (d) The bureau of motor vehicles shall, before issuing the title to a  
 6 motor vehicle under IC 9-17, determine whether the purchaser's or  
 7 assignee's name is on the most recent monthly warrant list. If the  
 8 purchaser's or assignee's name is on the list, the bureau shall enter as  
 9 a lien on the title the name of the state as the lienholder unless the  
 10 bureau has received notice from the commissioner under  
 11 IC 6-8.1-8-2(k). The tax lien on the title:

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

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

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

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

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

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

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

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

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

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

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

1 (1) subsection (g)(2) does not apply if the person collects the  
 2 taxes, interests, or penalties within sixty (60) days after the date  
 3 the commissioner employs the person to make the collection; and  
 4 (2) subsection (g)(1) does not apply if the person collects the  
 5 taxes, interest, or penalties through the sale or redemption, in a  
 6 court proceeding, of a motor vehicle that has a lien placed on its  
 7 title under subsection (d).

8 SECTION 3. IC 8-1-5-1 IS AMENDED TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Notwithstanding any other  
 10 statute or rule of law of the state, any mortgage executed and recorded  
 11 by a public utility, as defined in IC 8-1-2-1, or by any corporation or  
 12 other business entity engaged in the railroad business or the  
 13 transmission of oil, gas, or petroleum products by pipeline, in the  
 14 manner provided for the execution and recording of mortgages upon  
 15 real estate:

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

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

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

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

36 (d) Notwithstanding the date of the mortgage's execution or  
 37 recordation, if collateral covered by ~~IC 26-1-9~~ IC 26-1-9.1 was or is  
 38 perfected in compliance with the recordation requirements contained

1 in this section, the recordation was or is equivalent to the highest form  
2 of filing or perfection under ~~IC 26-1-9~~ **IC 26-1-9.1**.

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

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

14 (b) The secured party, upon presentation of a properly completed  
15 application for certificate of title to the bureau together with the fee  
16 prescribed by IC 9-29-15-1, may have a notation of the lien made on  
17 the face of the certificate of title to be issued by the bureau. The bureau  
18 shall enter the notation and the date of the notation and shall note the  
19 lien and the date of the lien in the bureau's files.

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

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

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

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

1 (2) IC 32-8.

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

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

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

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

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

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

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

24 **IC 26-1-9.1-501.**

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

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

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

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

38 (2) IC 24-4.5;

- 1 (3) IC 26-1-1-201(37);  
 2 (4) IC 26-1-2 concerning the creation of a security interest in  
 3 property;  
 4 (5) ~~IC 26-1-9~~ **IC 26-1-9.1**; and  
 5 (6) rules adopted under the statutes described in subdivisions (2)  
 6 through (5);  
 7 do not apply to a rental purchase agreement.

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

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

- 19 IC 26-1-2-402 concerning rights of creditors against sold goods.  
 20 IC 26-1-2.1-105 and IC 26-1-2.1-106 concerning leases.  
 21 IC 26-1-4-102 concerning bank deposits and collections.  
 22 IC 26-1-4.1-507 concerning funds transfers.  
 23 IC 26-1-5.1-116 concerning letters of credit.  
 24 IC 26-1-6.1-103 concerning bulk sales.  
 25 IC 26-1-8.1-110 concerning investment securities.  
 26 ~~IC 26-1-9-103 concerning perfection of secured transactions.~~  
 27 **IC 26-1-9.1-301 through IC 26-1-9.1-307 concerning the**  
 28 **perfection, the effect of perfection or nonperfection, and the**  
 29 **priority of security interests.**

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

- 35 (1) "Action" in the sense of a judicial proceeding includes  
 36 recoupment, counterclaim, setoff, suit in equity, and any other  
 37 proceedings in which rights are determined.  
 38 (2) "Aggrieved party" means a party entitled to resort to a remedy.

- 1 (3) "Agreement" means the bargain of the parties in fact as found  
 2 in their language or by implication from other circumstances  
 3 including course of dealing or usage of trade or course of  
 4 performance as provided in IC 26-1-1-205 and IC 26-1-2-208.  
 5 Whether an agreement has legal consequences is determined by  
 6 the provisions of IC 26-1, if applicable; otherwise by the law of  
 7 contracts (IC 26-1-1-103). (Compare "Contract".)
- 8 (4) "Bank" means any person engaged in the business of banking.
- 9 (5) "Bearer" means the person in possession of an instrument,  
 10 document of title, or certificated security payable to bearer or  
 11 endorsed in blank.
- 12 (6) "Bill of lading" means a document evidencing the receipt of  
 13 goods for shipment issued by a person engaged in the business of  
 14 transporting or forwarding goods, and includes an airbill. "Airbill"  
 15 means a document serving for air transportation as a bill of lading  
 16 does for marine or rail transportation, and includes an air  
 17 consignment note or air waybill.
- 18 (7) "Branch" includes a separately incorporated foreign branch of  
 19 a bank.
- 20 (8) "Burden of establishing" a fact means the burden of  
 21 persuading the triers of fact that the existence of the fact is more  
 22 probable than its nonexistence.
- 23 (9) "Buyer in ordinary course of business" means a person ~~who~~  
 24 **that buys goods** in good faith ~~and~~ without knowledge that the  
 25 sale ~~to him is in violation of~~ **violates** the ownership rights or  
 26 security interest of a ~~third party~~ **another person** in the goods, ~~and~~  
 27 ~~buys~~ **in the** ordinary course from a person, ~~other than a~~  
 28 **pawnbroker**, in the business of selling goods of that kind. ~~but~~  
 29 ~~does not include a pawnbroker. All persons who sell minerals or~~  
 30 ~~the like (including oil and gas) at a wellhead or minehead shall be~~  
 31 ~~deemed to be persons~~ **A person buys goods in the ordinary**  
 32 **course of business if the sale to the person comports with the**  
 33 **usual or customary practices in the kind of business in which**  
 34 **the seller is engaged or with the seller's own usual or**  
 35 **customary practices. A person that sells oil, gas, or other**  
 36 **minerals at the wellhead or minehead is a person** in the  
 37 business of selling goods of that kind. "Buying" **A buyer in**  
 38 **ordinary course of business** may ~~be~~ **buy** for cash, ~~or~~ by

1 exchange of other property, or on secured or unsecured credit, and  
 2 **includes receiving may require** goods or documents of title under  
 3 a preexisting contract for sale. **but does not include a transfer in**  
 4 **bulk or as security for or in total or partial satisfaction of a money**  
 5 **debt. Only a buyer that takes possession of the goods or has a**  
 6 **right to recover the goods from that seller under IC 26-1-2**  
 7 **may be a buyer in ordinary course of business. A person that**  
 8 **acquires goods in a transfer in bulk or as security for or total**  
 9 **or partial satisfaction of a money debt is not a buyer in**  
 10 **ordinary course of business.**

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

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

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

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

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

32 (15) "Document of title" includes bill of lading, dock warrant,  
 33 dock receipt, warehouse receipt, or order for the delivery of goods  
 34 and also any other document, which in the regular course of  
 35 business or financing, is treated as adequately evidencing that the  
 36 person in possession of it is entitled to receive, hold, and dispose  
 37 of the document and the goods it covers. To be a document of  
 38 title, a document must purport to be issued by or addressed to a

- 1           bailee and purport to cover goods in the bailee's possession which  
2           are either identified or are fungible portions of an identified mass.
- 3           (16) "Fault" means wrongful act, omission, or breach.
- 4           (17) "Fungible" with respect to goods or securities means goods  
5           or securities of which any unit is, by nature or usage of trade, the  
6           equivalent of any other like unit. Goods which are not fungible  
7           shall be deemed fungible for the purposes of IC 26-1 to the extent  
8           that under a particular agreement or document unlike units are  
9           treated as equivalents.
- 10          (18) "Genuine" means free of forgery or counterfeiting.
- 11          (19) "Good faith" means honesty in fact in the conduct or  
12          transaction concerned.
- 13          (20) "Holder" with respect to a negotiable instrument, means the  
14          person in possession if the instrument is payable to bearer or, in  
15          the case of an instrument, payable to an identified person if the  
16          identified person is in possession. "Holder" with respect to a  
17          document of title, means the person in possession if the goods are  
18          deliverable to bearer or to the order of the person in possession.
- 19          (21) To "honor" is to pay or to accept and pay or where a credit so  
20          engages to purchase or discount a draft complying with the terms  
21          of the credit.
- 22          (22) "Insolvency proceedings" includes any assignment for the  
23          benefit of creditors or other proceedings intended to liquidate or  
24          rehabilitate the estate of the person involved.
- 25          (23) A person is "insolvent" who either has ceased to pay his  
26          debts in the ordinary course of business or cannot pay his debts as  
27          they become due or is insolvent within the meaning of the federal  
28          bankruptcy law.
- 29          (24) "Money" means a medium of exchange authorized or  
30          adopted by a domestic or foreign government and includes a  
31          monetary unit of account established by an intergovernmental  
32          organization or by agreement between two (2) or more nations.
- 33          (25) A person has "notice" of a fact when:
- 34               (a) he has actual knowledge of it; ~~or~~
- 35               (b) he has received a notice or notification of it; or
- 36               (c) from all the facts and circumstances known to him at the  
37               time in question he has reason to know that it exists.
- 38          A person "knows" or has "knowledge" of a fact when he has

1 actual knowledge of it. "Discover" or "learn" or a word or phrase  
2 of similar import refers to knowledge rather than to reason to  
3 know. The time and circumstances under which a notice or  
4 notification may cease to be effective are not determined by  
5 IC 26-1.

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

- 11 (a) it comes to his attention; or
- 12 (b) it is duly delivered at the place of business through which  
13 the contract was made or at any other place held out by him as  
14 the place for receipt of such communications.

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

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

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

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

37 (31) "Presumption" or "presumed" means that the trier of fact  
38 must find the existence of the fact presumed unless and until

1 evidence is introduced which would support a finding of its  
2 nonexistence.

3 (32) "Purchase" includes taking by sale, discount, negotiation,  
4 mortgage, pledge, lien, **security interest**, issue or reissue, gift, or  
5 any other voluntary transaction creating an interest in property.

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

7 (33a) "Registered mail" includes certified mail.

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

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

14 (36) "Rights" includes remedies.

15 (37) "Security interest" means an interest in personal property or  
16 fixtures which secures payment or performance of an obligation.

17 ~~The retention or reservation of title by a seller of goods~~  
18 ~~notwithstanding shipment or delivery to the buyer (IC~~  
19 ~~26-1-2-401) is limited in effect to a reservation of a security~~  
20 ~~interest. The term also includes any interest of a consignor and~~

21 ~~a buyer of accounts, or chattel paper, which a payment~~  
22 ~~intangible, or a promissory note in a transaction that is subject~~

23 ~~to IC 26-1-9: IC 26-1-9.1. The special property interest of a buyer~~  
24 ~~of goods on identification of such goods to a contract for sale~~

25 ~~under IC 26-1-2-401 is not a security interest, but a buyer may~~  
26 ~~also acquire a security interest by complying with IC 26-1-9:~~

27 ~~Unless a lease or consignment is intended as security, reservation~~  
28 ~~of title thereunder is not a security interest but a consignment is~~

29 ~~in any event subject to the provisions on consignment sales (IC~~  
30 ~~26-1-2-326): IC 26-1-9.1. Except as otherwise provided in~~

31 ~~IC 26-1-2-505, the right of a seller or lessor of goods under~~  
32 ~~IC 26-1-2 or IC 26-1-2.1 to retain or acquire possession of the~~

33 ~~goods is not a "security interest", but a seller or lessor may~~  
34 ~~also acquire a "security interest" by complying with~~

35 ~~IC 26-1-9.1. The retention or reservation of title by a seller of~~  
36 ~~goods notwithstanding shipment or delivery to the buyer (IC~~

37 ~~26-1-2-401) is limited in effect to a reservation of a "security~~  
38 ~~interest". Whether a transaction creates a lease or security~~

1 interest is determined by the facts of each case. However, a  
2 transaction creates a security interest if the consideration the  
3 lessee is to pay the lessor for the right to possession and use of the  
4 goods is an obligation for the term of the lease not subject to  
5 termination by the lessee and:

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

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

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

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

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

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

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

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

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

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

37 For purposes of this subsection:

38 (x) Additional consideration is not nominal if:

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

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

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

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

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

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

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

35 (40) "Surety" includes guarantor.

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

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

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

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

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

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

15 (c) by accepting delivery pursuant to a preexisting contract for  
16 purchase; or

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

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

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

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

32 (2) Subsection (1) does not apply to contracts for the sale of goods  
33 (IC 26-1-2-201) nor to security agreements (~~IC 26-1-9-203~~). (IC  
34 **26-1-9.1-201**).

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

38 **Chapter 1.5. UCC Forms**

1           **Sec. 1. The forms in this chapter may be used for filings under**  
2 **this article.**

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

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

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



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 <u>one</u> 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
11d. TAX ID#	SSN OR EIN	ADDL INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATION ID#, if any
					<input type="checkbox"/> NONE
12. <input type="checkbox"/> ADDITIONAL SECURED PARTY'S or <input type="checkbox"/> ASSIGNOR S/P'S NAME - insert only <u>one</u> 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 <input type="checkbox"/> amber to be out or <input type="checkbox"/> as-extracted collateral, or is filed as a <input type="checkbox"/> future filing.			16. Additional collateral description:		
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):					
17. Check only if applicable and check only one box. Debtor is a <input type="checkbox"/> Trust or <input type="checkbox"/> Trustee acting with respect to property held in trust or <input type="checkbox"/> Decedent's Estate					
18. Check only if applicable and check only one box. <input type="checkbox"/> Debtor is a TRANSMITTING UTILITY <input type="checkbox"/> Filed in connection with a Manufactured-Home Transaction —effective 30 years <input type="checkbox"/> 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)



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
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7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME \_\_\_\_\_

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
-------------	------	-------	-------------	---------

7d. TAX ID#	SSN OR EIN	ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATION ID#, if any	<input type="checkbox"/> 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 \_\_\_\_\_

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

FILING OFFICE COPY —NATIONAL UCC FINANCING STATEMENT AMENDMENT ADDENDUM(FORM UCC3Ad) (REV. 04/23/98)

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

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

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

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

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

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

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

12 "Acceptance". IC 26-1-2-606.

13 "Banker's credit". IC 26-1-2-325.

14 "Between merchants". IC 26-1-2-104.

15 "Cancellation". IC 26-1-2-106(4).

16 "Commercial unit". IC 26-1-2-105.

17 "Confirmed credit". IC 26-1-2-325.

18 "Conforming to contract". IC 26-1-2-106.

19 "Contract for sale". IC 26-1-2-106.

20 "Cover". IC 26-1-2-712.

21 "Entrusting". IC 26-1-2-403.

22 "Financing agency". IC 26-1-2-104.

23 "Future goods". IC 26-1-2-105.

24 "Goods". IC 26-1-2-105.

25 "Identification". IC 26-1-2-501.

26 "Installment contract". IC 26-1-2-612.

27 "Letter of credit". IC 26-1-2-325.

28 "Lot". IC 26-1-2-105.

29 "Merchant". IC 26-1-2-104.

30 "Overseas". IC 26-1-2-323.

31 "Person in the position of seller". IC 26-1-2-707.

32 "Present sale". IC 26-1-2-106.

33 "Sale". IC 26-1-2-106.

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

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

36 "Termination". IC 26-1-2-106.

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

38 "Check". IC 26-1-3.1-104.

39 "Consignee". IC 26-1-7-102.

1 "Consignor". IC 26-1-7-102.  
2 "Consumer goods". ~~IC 26-1-9-109~~; **IC 26-1-9.1-102.**  
3 "Dishonor". IC 26-1-3.1-502.  
4 "Draft". IC 26-1-3.1-104.

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

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

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

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

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

1           ~~(4)~~ (5) An assignment of "the contract" or of "all my rights under the  
 2 contract" or an assignment in similar general terms is an assignment of  
 3 rights, and unless the language or the circumstances (as in an  
 4 assignment for security) indicate the contrary, it is a delegation of  
 5 performance of the duties of the assignor, and its acceptance by the  
 6 assignee constitutes a promise by him to perform those duties. This  
 7 promise is enforceable by either the assignor or the other party to the  
 8 original contract.

9           ~~(5)~~ (6) The other party may treat any assignment which delegates  
 10 performance as creating reasonable grounds for insecurity and may,  
 11 without prejudice to his rights against the assignor, demand assurances  
 12 from the assignee (IC 26-1-2-609).

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

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

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

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

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

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

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

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

3           (4) (3) Any "or return" term of a contract for sale is to be treated as  
4           a separate contract for sale within the statute of frauds section (IC  
5           26-2-2-201) and as contradicting the sale aspect of the contract within  
6           the provisions of IC 26-1-2-202 on parol or extrinsic evidence.

7           SECTION 18. IC 26-1-2-401 IS AMENDED TO READ AS  
8           FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 401. Each provision of  
9           IC 26-1-2 with regard to the rights, obligations, and remedies of the  
10          seller, the buyer, purchasers, or other third parties applies irrespective  
11          of title to the goods, except where the provision refers to such title.  
12          Insofar as situations are not covered by the other provisions of  
13          IC 26-1-2 and matters concerning title become material, the following  
14          rules apply:

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

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

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

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

39               (3) Unless otherwise explicitly agreed, where delivery is to be

- 1           made without moving the goods:
- 2           (a) if the seller is to deliver a document of title, title passes at
- 3           the time when and the place where he delivers such
- 4           documents; or
- 5           (b) if the goods are at the time of contracting already identified
- 6           and no documents are to be delivered, title passes at the time
- 7           and place of contracting.
- 8           (4) A rejection or other refusal by the buyer to receive or retain
- 9           the goods, whether or not justified, or a justified revocation of
- 10          acceptance revests title to the goods in the seller. Such revesting
- 11          occurs by operation of law and is not a "sale".

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

13          FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 402. (1) Except as

14          provided in subsections (2) and (3), rights of unsecured creditors of the

15          seller with respect to goods which have been identified to a contract for

16          sale are subject to the buyer's rights to recover the goods under

17          IC 26-1-2-502 and IC 26-1-2-716.

18          (2) A creditor of the seller may treat a sale or an identification of

19          goods to a contract for sale as void if as against him a retention of

20          possession by the seller is fraudulent under any rule of law of the state

21          where the goods are situated, except that retention of possession in

22          good faith and current course of trade by a merchant-seller for a

23          commercially reasonable time after a sale or identification is not

24          fraudulent.

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

26          creditors of the seller:

- 27          (a) under the provisions of ~~IC 26-1-9~~ **IC 26-1-9.1** on secured
- 28          transactions; or
- 29          (b) where identification to the contract or delivery is made not in
- 30          current course of trade but in satisfaction of or as security for a
- 31          pre-existing claim for money, security, or the like and is made
- 32          under circumstances which under any rule of law of the state
- 33          where the goods are situated would apart from IC 26-1-2
- 34          constitute the transaction a fraudulent transfer or voidable
- 35          preference.

36          SECTION 20. IC 26-1-2-403 IS AMENDED TO READ AS

37          FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 403. (1) A purchaser

38          of goods acquires all title which his transferor had or had power to

39          transfer, except that a purchaser of a limited interest acquires rights

1 only to the extent of the interest purchased. A person with voidable title  
 2 has power to transfer a good title to a good faith purchaser for value.  
 3 When goods have been delivered under a transaction of purchase, the  
 4 purchaser has such power even though:

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

6 or

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

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

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

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

15 (3) "Entrusting" includes any delivery and any acquiescence in  
 16 retention of possession regardless of any condition expressed between  
 17 the parties to the delivery or acquiescence and regardless of whether  
 18 the procurement of the entrusting or the possessor's disposition of the  
 19 goods have been such as to be theft under the criminal law.

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

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

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

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

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

38 **(3)** If the identification creating his special property has been made  
 39 by the buyer, he acquires the right to recover the goods only if they

1 conform to the contract for sale.

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

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

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

18 SECTION 23. IC 26-1-2.1-103 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) Unless the  
20 context otherwise requires, in IC 26-1-2.1:

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

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

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

- 1 (d) "Conforming" goods or performance under a lease contract  
2 means goods or performance that are in accordance with the  
3 obligations under the lease contract.
- 4 (e) "Consumer lease" means a lease that a lessor regularly  
5 engaged in the business of leasing or selling makes to a lessee  
6 who is an individual and who takes under the lease primarily for  
7 a personal, family, or household purpose if the total payments to  
8 be made under the lease contract, excluding payments for options  
9 to renew or buy, do not exceed twenty-five thousand dollars  
10 (\$25,000).
- 11 (f) "Fault" means wrongful act, omission, breach, or default.
- 12 (g) "Finance lease" means a lease with respect to which:
- 13 (i) the lessor does not select, manufacture, or supply the goods;  
14 (ii) the lessor acquires the goods or the right to possession and  
15 use of the goods in connection with the lease; and  
16 (iii) one (1) of the following occurs:
- 17 (A) the lessee receives a copy of the contract by which the  
18 lessor acquired the goods or the right to possession and use  
19 of the goods before signing the lease contract;
- 20 (B) the lessee's approval of the contract by which the lessor  
21 acquired the goods or the right to possession and use of the  
22 goods is a condition to effectiveness of the lease contract;
- 23 (C) the lessee, before signing the lease contract, receives an  
24 accurate and complete statement designating the promises  
25 and warranties, and any disclaimers of warranties,  
26 limitations, or modifications of remedies, or liquidated  
27 damages, including those of a third party, such as the  
28 manufacturer of the goods, provided to the lessor by the  
29 person supplying the goods in connection with or as part of  
30 the contract by which the lessor acquired the goods or the  
31 right to possession and use of the goods; or
- 32 (D) if the lease is not a consumer lease, the lessor, before the  
33 lessee signs the lease contract, informs the lessee in writing:
- 34 (a) of the identity of the person supplying the goods to the  
35 lessor, unless the lessee has selected that person and  
36 directed the lessor to acquire the goods or the right to  
37 possession and use of the goods from that person; (b) that  
38 the lessee is entitled under IC 26-1-2.1 to the promises and  
39 warranties, including those of any third party, provided to

1           the lessor by the person supplying the goods in connection  
2           with or as part of the contract by which the lessor acquired  
3           the goods or the right to possession and use of the goods;  
4           and (c) that the lessee may communicate with the person  
5           supplying the goods to the lessor and receive an accurate  
6           and complete statement of those promises and warranties,  
7           including any disclaimers and limitations of them or of  
8           remedies.

9           (h) "Goods" means all things that are movable at the time of  
10          identification to the lease contract, or are fixtures (IC  
11          26-1-2.1-309), but the term does not include money, documents,  
12          instruments, accounts, chattel paper, general intangibles, or  
13          minerals or the like, including oil and gas, before extraction. The  
14          term also includes the unborn young of animals.

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

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

24          (k) "Lease agreement" means the bargain, with respect to the  
25          lease, of the lessor and the lessee in fact as found in their  
26          language or by implication from other circumstances including  
27          course of dealing or usage of trade or course of performance as  
28          provided in IC 26-1-2.1. Unless the context clearly indicates  
29          otherwise, the term includes a sublease agreement.

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

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

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

39          (o) "Lessee in ordinary course of business" means a person who

- 1 in good faith and without knowledge that the lease to the person  
2 is in violation of the ownership rights or security interest or  
3 leasehold interest of a third party in the goods leases in ordinary  
4 course from a person in the business of selling or leasing goods of  
5 that kind but does not include a pawnbroker. "Leasing" may be for  
6 cash or by exchange of other property or on secured or unsecured  
7 credit and includes receiving goods or documents of title under a  
8 pre-existing lease contract but does not include a transfer in bulk  
9 or as security for or in total or partial satisfaction of a money debt.
- 10 (p) "Lessor" means a person who transfers the right to possession  
11 and use of goods under a lease. Unless the context clearly  
12 indicates otherwise, the term includes a sublessor.
- 13 (q) "Lessor's residual interest" means the lessor's interest in the  
14 goods after expiration, termination, or cancellation of the lease  
15 contract.
- 16 (r) "Lien" means a charge against or interest in goods to secure  
17 payment of a debt or performance of an obligation, but the term  
18 does not include a security interest.
- 19 (s) "Lot" means a parcel or a single article that is the subject  
20 matter of a separate lease or delivery, whether or not it is  
21 sufficient to perform the lease contract.
- 22 (t) "Merchant lessee" means a lessee that is a merchant with  
23 respect to goods of the kind subject to the lease.
- 24 (u) "Present value" means the amount as of a date certain of one  
25 (1) or more sums payable in the future, discounted to the date  
26 certain. The discount is determined by the interest rate specified  
27 by the parties if the rate was not manifestly unreasonable at the  
28 time the transaction was entered into; otherwise, the discount is  
29 determined by a commercially reasonable rate that takes into  
30 account the facts and circumstances of each case at the time the  
31 transaction was entered into.
- 32 (v) "Purchase" includes taking by sale, lease, mortgage, security  
33 interest, pledge, gift, or any other voluntary transaction creating  
34 an interest in goods.
- 35 (w) "Sublease" means a lease of goods the right to possession and  
36 use of which was acquired by the lessor as a lessee under an  
37 existing lease.
- 38 (x) "Supplier" means a person from whom a lessor buys or leases  
39 goods to be leased under a finance lease.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 "Pursuant to commitment". ~~IC 26-1-9-105(1)(k).~~

28 **IC 26-1-9.1-102(a)(68).**

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

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

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

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

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

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

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

1 **IC 26-1-9.1-109(a)(3).**

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

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

26 ~~(4)~~ **(3)** A provision in a lease agreement which (i) prohibits a  
 27 transfer of a right to damages for default with respect to the whole lease  
 28 contract or of a right to payment arising out of the transferor's due  
 29 performance of the transferor's entire obligation, or (ii) makes such a  
 30 transfer an event of default, is not enforceable, and such a transfer is  
 31 not a transfer that materially impairs the prospect of obtaining return  
 32 performance by, materially changes the duty of, or materially increases  
 33 the burden or risk imposed on, the other party to the lease contract  
 34 within the purview of subsection ~~(5)~~; **(4)**.

35 ~~(5)~~ **(4)** Subject to subsections (3) and ~~(4)~~ **and IC 26-1-9.1-407:**

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

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

14 ~~(6)~~ (5) A transfer of "the lease" or of "all my rights under the lease",  
 15 or a transfer in similar general terms, is a transfer of rights and, unless  
 16 the language or the circumstances, as in a transfer for security, indicate  
 17 the contrary, the transfer is a delegation of duties by the transferor to  
 18 the transferee. Acceptance by the transferee constitutes a promise by  
 19 the transferee to perform those duties. The promise is enforceable by  
 20 either the transferor or the other party to the lease contract.

21 ~~(7)~~ (6) Unless otherwise agreed by the lessor and the lessee, a  
 22 delegation of performance does not relieve the transferor as against the  
 23 other party of any duty to perform or of any liability for default.

24 ~~(8)~~ (7) In a consumer lease, to prohibit the transfer of an interest of  
 25 a party under the lease contract or to make a transfer an event of  
 26 default, the language must be specific, by a writing, and conspicuous.

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

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

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

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

39 ~~(c) the creditor holds a security interest in the goods which was~~

1           perfected (~~IC 26-1-2.1-303~~) before the lease contract became  
2           enforceable:

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

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

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

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

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

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

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

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

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

38          (2) Under IC 26-1-2.1 a lease may be of goods that are fixtures or  
39          may continue in goods that become fixtures, but no lease exists under

1 IC 26-1-2.1 of ordinary building materials incorporated into an  
2 improvement on land.

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

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

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

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

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

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

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

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

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

37 (6) Notwithstanding subsection 4(a) but otherwise subject to  
38 subsections (4) and (5), the interest of a lessor of fixtures, including the  
39 lessor's residual interest, is subordinate to the conflicting interest of an

1 encumbrancer of the real estate under a construction mortgage recorded  
 2 before the goods become fixtures if the goods become fixtures before  
 3 the completion of the construction. To the extent given to refinance a  
 4 construction mortgage, the conflicting interest of an encumbrancer of  
 5 the real estate under a mortgage has this priority to the same extent as  
 6 the encumbrancer of the real estate under the construction mortgage.

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

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

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

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

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

39 (c) Regulations of the Board of Governors of the Federal Reserve

1 System and operating circulars of the Federal Reserve Banks supersede  
2 any inconsistent provision of IC 26-1-3.1 to the extent of the  
3 inconsistency.

4 SECTION 28. IC 26-1-3.1-605 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 605. (a) In this section,  
6 the term "endorser" includes a drawer having the obligation described  
7 in IC 26-1-3.1-414(d).

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

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

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

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

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

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

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

5           (f) If the obligation of a party is secured by an interest in collateral  
6           not provided by an accommodation party and a person entitled to  
7           enforce the instrument impairs the value of the interest in collateral, the  
8           obligation of any party who is jointly and severally liable with respect  
9           to the secured obligation is discharged to the extent the impairment  
10          causes the party asserting discharge to pay more than that party would  
11          have been obliged to pay, taking into account rights of contribution, if  
12          impairment had not occurred. If the party asserting discharge is an  
13          accommodation party not entitled to discharge under subsection (e), the  
14          party is considered to have a right to contribution based on joint and  
15          several liability rather than a right to reimbursement. The burden of  
16          proving impairment is on the party asserting discharge.

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

- 19           (1) failure to obtain or maintain perfection or recordation of the  
20           interest in collateral;  
21           (2) release of collateral without substitution of collateral of equal  
22           value;  
23           (3) failure to perform a duty to preserve the value of collateral  
24           owed, under ~~IC 26-1-9~~ **IC 26-1-9.1** or other law, to a debtor or  
25           surety or other person secondarily liable; or  
26           (4) failure to comply with applicable law in disposing of  
27           collateral.

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

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

- 33           (1) the party asserting discharge consents to the event or conduct  
34           that is the basis of the discharge; or  
35           (2) the instrument or a separate agreement of the party provides  
36           for waiver of discharge under this section either specifically or by  
37           general language indicating that parties waive defenses based on  
38           suretyship or impairment of collateral.

39          SECTION 29. IC 26-1-4-210 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 210. (a) A collecting  
 2 bank has a security interest in an item and any accompanying  
 3 documents or the proceeds of either:

- 4 (1) in the case of an item deposited in an account, to the extent to  
 5 which credit given for the item has been withdrawn or applied;  
 6 (2) in the case of an item for which it has given credit available  
 7 for withdrawal as of right, to the extent of the credit given,  
 8 whether or not the credit is drawn upon or there is a right of  
 9 charge-back; or  
 10 (3) if it makes an advance on or against the item.

11 (b) If credit given for several items received at one (1) time or under  
 12 a single agreement is withdrawn or applied in part, the security interest  
 13 remains upon all the items, any accompanying documents, or the  
 14 proceeds of either. For the purpose of this section, credits first given  
 15 are first withdrawn.

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

- 23 (1) no security agreement is necessary to make the security  
 24 interest enforceable (~~IC 26-1-9-203(1)(a)~~); (**IC**  
 25 **26-1-9.1-203(b)(3)(A)**);  
 26 (2) no filing is required to perfect the security interest; and  
 27 (3) the security interest has priority over conflicting perfected  
 28 security interests in the item, accompanying documents, or  
 29 proceeds.

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

37 (b) A beneficiary may assign its right to part or all of the proceeds  
 38 of a letter of credit. The beneficiary may do so before presentation as  
 39 a present assignment of its right to receive proceeds contingent upon

1 its compliance with the terms and conditions of the letter of credit.

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

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

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

12 (f) Neither the rights recognized by this section between an assignee  
13 and an issuer, transferee beneficiary, or nominated person nor the  
14 issuer's or nominated person's payment of proceeds to an assignee or a  
15 third person affects the rights between the assignee and any person  
16 other than the issuer, transferee beneficiary, or nominated person. The  
17 mode of creating and perfecting a security interest in or granting an  
18 assignment of a beneficiary's rights to proceeds is governed by  
19 ~~IC 26-1-9~~ **IC 26-1-9.1** or other law. Against persons other than the  
20 issuer, transferee beneficiary, or nominated person, the rights and  
21 obligations arising upon the creation of a security interest or other  
22 assignment of a beneficiary's right to proceeds and its perfection are  
23 governed by ~~IC 26-1-9~~ **IC 26-1-9.1** or other law.

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

33 (b) Unless subsection (a) applies, the liability of an issuer,  
34 nominated person, or adviser for action or omission is governed by the  
35 law of the jurisdiction in which the person is located. The person is  
36 considered to be located at the address indicated in the person's  
37 undertaking. If more than one (1) address is indicated, the person is  
38 considered to be located at the address from which the person's  
39 undertaking was issued. For the purpose of jurisdiction, choice of law,

1 and recognition of interbranch letters of credit, but not enforcement of  
 2 a judgment, all branches of a bank are considered separate juridical  
 3 entities and a bank is considered to be located at the place where its  
 4 relevant branch is considered to be located under this subsection.

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

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

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

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

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

18 (d) If there is conflict between IC 26-1-5.1 and IC 26-1-3.1,  
 19 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.

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

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

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

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

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

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

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

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

- 15               (i) fixtures ~~(IC 26-1-9-313(1)(a))~~ **(IC 26-1-9.1-102(a)(41))**  
 16               other than readily removable factory and office machines;  
 17               (ii) the lessee's interest in a lease of real property; or  
 18               (iii) property to the extent it is generally exempt from creditor  
 19               process under nonbankruptcy law.

20          (b) "Auctioneer" means a person whom the seller engages to  
 21          direct, conduct, control, or be responsible for a sale by auction.

22          (c) "Bulk sale" means:

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

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

38          (d) "Claim" means a right to payment from the seller, whether or  
 39          not the right is reduced to judgment, liquidated, fixed, matured,

1           disputed, secured, legal, or equitable. The term includes costs of  
2           collection and attorney's fees only to the extent that the laws of  
3           this state permit the holder of the claim to recover them in an  
4           action against the obligor.

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

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

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

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

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

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

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

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

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

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

23                   (I) more than ten percent (10%) of the net contract price is  
24                   paid to or for the benefit of the seller; or

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

27           (ii) For purposes of this subsection:

28                   (A) delivery of a negotiable instrument (IC  
29                   26-1-3.1-104(a)(1)) to or for the benefit of the seller in  
30                   exchange for assets constitutes payment of the contract price  
31                   pro tanto;

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

38                   (C) an asset is transferred when a person holding an  
39                   unsecured claim can no longer obtain through judicial

1 proceedings rights to the asset that are superior to those of  
2 the buyer arising as a result of the bulk sale. A person  
3 holding an unsecured claim can obtain those superior rights  
4 to a tangible asset at least until the buyer has an  
5 unconditional right, under the bulk-sale agreement, to  
6 possess the asset, and a person holding an unsecured claim  
7 can obtain those superior rights to an intangible asset at least  
8 until the buyer has an unconditional right, under the  
9 bulk-sale agreement, to use the asset.

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

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

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

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

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

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

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

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

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

38 (i) commissions and reasonable expenses of the sale;

39 (ii) the amount of any proceeds of the sale of an asset, to the

1 extent the proceeds are applied in partial or total satisfaction  
 2 of a debt secured by the asset; and  
 3 (iii) the amount of any debt to the extent it is secured by a  
 4 security interest or lien that is enforceable against the asset  
 5 before and after it has been sold to a buyer. If a debt is secured  
 6 by an asset and other property of the seller, the amount of the  
 7 debt secured by a security interest or lien that is enforceable  
 8 against the asset is determined by multiplying the debt by a  
 9 fraction, the numerator of which is the value of the new  
 10 consideration for the asset on the date of the bulk sale and the  
 11 denominator of which is the value of all property securing the  
 12 debt on the date of the bulk sale.

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

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

19 (o) "Value" means fair market value.

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

21 (2) The following definitions apply to this chapter:

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

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

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

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

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

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

29 SECTION 34. IC 26-1-6.1-103 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) Except as  
 31 otherwise provided in subsection (3), this chapter applies to a bulk sale  
 32 if:

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

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

39 (2) A seller is deemed to be located at the seller's place of business.

- 1 If a seller has more than one (1) place of business, the seller is deemed  
 2 located at the seller's chief executive office.
- 3 (3) This chapter does not apply to:
- 4 (a) a transfer made to secure payment or performance of an  
 5 obligation;
- 6 (b) a transfer of collateral to a secured party pursuant to  
 7 ~~IC 26-1-9-503~~; **IC 26-1-9.1-609**;
- 8 (c) a sale of collateral pursuant to ~~IC 26-1-9-504~~;  
 9 **IC 26-1-9.1-610**;
- 10 (d) retention of collateral pursuant to ~~IC 26-1-9-505~~;  
 11 **IC 26-1-9.1-620**;
- 12 (e) a sale of an asset encumbered by a security interest or lien if  
 13 (i) all the proceeds of the sale are applied in partial or total  
 14 satisfaction of the debt secured by the security interest or lien, or  
 15 (ii) the security interest or lien is enforceable against the asset  
 16 after it has been sold to the buyer and the net contract price is zero  
 17 (0);
- 18 (f) a general assignment for the benefit of creditors or to a  
 19 subsequent transfer by the assignee;
- 20 (g) a sale by an executor, administrator, receiver, trustee in  
 21 bankruptcy, or any public officer under judicial process;
- 22 (h) a sale made in the course of judicial or administrative  
 23 proceedings for the dissolution or reorganization of an  
 24 organization;
- 25 (i) a sale to a buyer whose principal place of business is in the  
 26 United States and who:
- 27 (i) not earlier than twenty-one (21) days before the date of the  
 28 bulk sale, (A) obtains from the seller a verified and dated list  
 29 of claimants of whom the seller has notice three (3) days  
 30 before the seller sends or delivers the list to the buyer or (B)  
 31 conducts a reasonable inquiry to discover the claimants;
- 32 (ii) assumes in full the debts owed to claimants of whom the  
 33 buyer has knowledge on the date the buyer receives the list of  
 34 claimants from the seller or on the date the buyer completes  
 35 the reasonable inquiry, as the case may be;
- 36 (iii) is not insolvent after the assumption; and
- 37 (iv) gives written notice of the assumption not later than thirty  
 38 (30) days after the date of the bulk sale by sending or  
 39 delivering a notice to the claimants identified in subparagraph

- 1           (ii) or by filing a notice in the office of the secretary of state;
- 2           (j) a sale to a buyer whose principal place of business is in the
- 3           United States and who:
- 4           (i) assumes in full the debts that were incurred in the seller's
- 5           business before the date of the bulk sale;
- 6           (ii) is not insolvent after the assumption; and
- 7           (iii) gives written notice of the assumption not later than thirty
- 8           (30) days after the date of the bulk sale by sending or
- 9           delivering a notice to each creditor whose debt is assumed or
- 10          by filing a notice in the office of the secretary of state;
- 11          (k) a sale to a new organization that is organized to take over and
- 12          continue the business of the seller and that has its principal place
- 13          of business in the United States if:
- 14          (i) the buyer assumes in full the debts that were incurred in the
- 15          seller's business before the date of the bulk sale;
- 16          (ii) the seller receives nothing from the sale except an interest
- 17          in the new organization that is subordinate to the claims
- 18          against the organization arising from the assumption; and
- 19          (iii) the buyer gives written notice of the assumption not later
- 20          than thirty (30) days after the date of the bulk sale by sending
- 21          or delivering a notice to each creditor whose debt is assumed
- 22          or by filing a notice in the office of the secretary of state;
- 23          (l) a sale of assets having:
- 24          (i) a value, net of liens, and security interests of less than ten
- 25          thousand dollars (\$10,000). If a debt is secured by assets and
- 26          other property of the seller, the net value of the assets is
- 27          determined by subtracting from their value an amount equal to
- 28          the product of the debt multiplied by a fraction, the numerator
- 29          of which is the value of the assets on the date of the bulk sale
- 30          and the denominator of which is the value of all property
- 31          securing the debt on the date of the bulk sale; or
- 32          (ii) a value of more than twenty-five million dollars
- 33          (\$25,000,000);
- 34          on the date of the bulk-sale agreement; or
- 35          (m) a sale required by, and made pursuant to, statute.
- 36          (4) The notice under subsection (3)(i)(iv) must state:
- 37          (i) that a sale that may constitute a bulk sale has been or will
- 38          be made;
- 39          (ii) the date or prospective date of the bulk sale;

- 1 (iii) the individual, partnership, or corporate names and the  
 2 addresses of the seller and buyer;
- 3 (iv) the address to which inquiries about the sale may be made,  
 4 if different from the seller's address; and
- 5 (v) that the buyer has assumed or will assume in full the debts  
 6 owed to claimants of whom the buyer has knowledge on the  
 7 date the buyer receives the list of claimants from the seller or  
 8 completes a reasonable inquiry to discover the claimants.
- 9 (5) The notice under subsections (3)(j)(iii) and (3)(k)(iii) must state:
- 10 (i) that a sale that may constitute a bulk sale has been or will  
 11 be made;
- 12 (ii) the date or prospective date of the bulk sale;
- 13 (iii) the individual, partnership, or corporate names and the  
 14 addresses of the seller and buyer;
- 15 (iv) the address to which inquiries about the sale may be made,  
 16 if different from the seller's address; and
- 17 (v) that the buyer has assumed or will assume the debts that  
 18 were incurred in the seller's business before the date of the  
 19 bulk sale.
- 20 (6) For purposes of subsection (3)(l), the value of assets is presumed  
 21 to be equal to the price the buyer agrees to pay for the assets. However,  
 22 in a sale by auction or a sale conducted by a liquidator on the seller's  
 23 behalf, the value of assets is presumed to be the amount the auctioneer  
 24 or liquidator reasonably estimates the assets will bring at auction or  
 25 upon liquidation.
- 26 SECTION 35. IC 26-1-6.1-109 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 109. (1) Presentation  
 28 of a notice or list of claimants for filing and tender of the filing fee or  
 29 acceptance of the notice or list by the secretary of state constitutes  
 30 filing under IC 26-1-6.1.
- 31 (2) The secretary of state shall:
- 32 (a) mark each notice or list with a file number and with the date  
 33 and hour of filing;
- 34 (b) hold the notice or list or a copy for public inspection;
- 35 (c) index the notice or list according to each name given for the  
 36 seller and for the buyer; and
- 37 (d) note in the index the file number and the addresses of the  
 38 seller and buyer given in the notice or list.
- 39 (3) If the person filing a notice or list furnishes the secretary of state

1 with a copy, the secretary of state upon request shall note upon the copy  
 2 the file number and date and hour of the filing of the original and send  
 3 or deliver the copy to the person.

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

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

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

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

37 (2) The warehouseman may also reserve a security interest against  
 38 the bailor for a maximum amount specified on the receipt for charges  
 39 other than those specified in subsection (1), such as for money

1 advanced and interest. Such a security interest is governed by ~~IC 26-1-9~~  
2 **IC 26-1-9.1** on secured transactions.

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

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

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

17 (a) delivered or entrusted them or any document of title covering  
18 them to the bailor or his nominee with actual or apparent authority  
19 to ship, store, or sell or with power to obtain delivery under  
20 IC 26-1-7-403 or with power of disposition under IC 26-1-2-403,  
21 ~~IC 26-1-9-307~~ **IC 26-1-9.1-320**, or other statute or rule of law; nor  
22 (b) acquiesced in the procurement by the bailor or his nominee of  
23 any document of title.

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

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

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

39 (b) An "investment company security" is a security. "Investment

1 company security" means a share or similar equity interest issued by an  
 2 entity that is registered as an investment company under the federal  
 3 investment company laws, an interest in a unit investment trust that is  
 4 so registered, or a face amount certificate issued by a face amount  
 5 certificate company that is so registered. Investment company security  
 6 does not include an insurance policy or endowment policy or annuity  
 7 contract issued by an insurance company.

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

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

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

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

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

- 25 (1) the person knows of the adverse claim;
- 26 (2) the person is aware of facts sufficient to indicate that there is  
 27 a significant probability that the adverse claim exists and  
 28 deliberately avoids information that would establish the existence  
 29 of the adverse claim; or
- 30 (3) the person has a duty, imposed by statute or regulation, to  
 31 investigate whether an adverse claim exists, and the investigation  
 32 so required would establish the existence of the adverse claim.

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

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

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

8 (2) six (6) months after a date set for payment of money against  
 9 presentation or surrender of the certificate, if money was available  
 10 for payment on that date.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) the securities intermediary has agreed that it will comply with  
 39 entitlement orders originated by the purchaser without further

1 consent by the entitlement holder; or  
 2 **(3) another person has control of the security entitlement on**  
 3 **behalf of the purchaser or, having previously acquired control**  
 4 **of the security entitlement, acknowledges that it has control**  
 5 **on behalf of the purchaser.**

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

9 (f) A purchaser who has satisfied the requirements of subsection  
 10 ~~(c)(2)~~ (c) or ~~(d)(2)~~ (d) has control even if the registered owner in the  
 11 case of subsection ~~(c)(2)~~ (c) or the entitlement holder in the case of  
 12 subsection ~~(d)(2)~~ (d) retains the right to make substitutions for the  
 13 uncertificated security or security entitlement, to originate instructions  
 14 or entitlement orders to the issuer or a securities intermediary, or  
 15 otherwise to deal with the uncertificated security or security  
 16 entitlement.

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

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

- 29 (1) the validity of a security;  
 30 (2) the rights and duties of the issuer with respect to registration  
 31 of transfer;  
 32 (3) the effectiveness of registration of transfer by the issuer;  
 33 (4) whether the issuer owes any duties to an adverse claimant to  
 34 a security; and  
 35 (5) whether an adverse claim can be asserted against a person to  
 36 whom transfer of a certificated or uncertificated security is  
 37 registered or a person who obtains control of an uncertificated  
 38 security.

39 (b) The local law of the securities intermediary's jurisdiction, as

1 specified in subsection (e), governs:

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

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

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

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

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

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

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

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

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

36 (3) **If neither subdivision (1) nor subdivision (2) applies, and**  
37 **an agreement between the securities intermediary and its**  
38 **entitlement holder does not specify the governing law as provided**  
39 **in subdivision (1); but governing the securities account**

1 expressly ~~specifies~~ **provides** that the securities account is  
 2 maintained at an office in a particular jurisdiction, that  
 3 jurisdiction is the securities intermediary's jurisdiction.

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

10 ~~(4)~~ **(5)** If an agreement between the securities intermediary and its  
 11 entitlement holder does not specify a jurisdiction as provided in  
 12 subdivision (1) or (2) and an account statement does not identify  
 13 an office serving the entitlement holder's account as provided in  
 14 subdivision (3), **none of the preceding subdivisions apply**, the  
 15 securities intermediary's jurisdiction is the jurisdiction in which  
 16 is ~~located~~ the chief executive office of the securities intermediary  
 17 **is located**.

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

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

- 27 (1) the purchaser acquires possession of the security certificate;  
 28 (2) another person, other than a securities intermediary, either  
 29 acquires possession of the security certificate on behalf of the  
 30 purchaser or, having previously acquired possession of the  
 31 certificate, acknowledges that it holds for the purchaser; or  
 32 (3) a securities intermediary acting on behalf of the purchaser  
 33 acquires possession of the security certificate, only if the  
 34 certificate is in registered form and ~~has been~~ **is (i) registered in**  
 35 **the name of the purchaser, (ii) payable to the order of the**  
 36 **purchaser, or (iii) specially endorsed to the purchaser by an**  
 37 **effective endorsement and has not been endorsed to the**  
 38 **securities intermediary or in blank**.

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

1 when:

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

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

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

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

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

19 SECTION 44. IC 26-1-8.1-510 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 510. (a) **In a case not**  
21 **covered by the priority rules in IC 26-1-9.1 or the rules stated in**  
22 **subsection (c)**, an action based on an adverse claim to a financial asset  
23 or security entitlement, whether framed in conversion, replevin,  
24 constructive trust, equitable lien, or other theory, may not be asserted  
25 against a person who purchases a security entitlement, or an interest  
26 therein, from an entitlement holder if the purchaser gives value, does  
27 not have notice of the adverse claim, and obtains control.

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

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

38 (1) **the purchaser's becoming the person for whom the**  
39 **securities account, in which the security entitlement is carried,**

1 is maintained, if the purchaser obtained control under  
 2 IC 26-1-8.1-106(d)(1);  
 3 (2) the securities intermediary's agreement to comply with the  
 4 purchaser's entitlement orders with respect to security  
 5 entitlements carried or to be carried in the securities account  
 6 in which the security entitlement is carried, if the purchaser  
 7 obtained control under IC 26-1-8.1-106(d)(2); or  
 8 (3) if the purchaser obtained control through another person  
 9 under IC 26-1-8.1-106(d)(3), the time on which priority would  
 10 be based under this subsection if the other person were the  
 11 secured party.

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

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

18 **Chapter 9.1. Secured Transactions**

19 **Sec. 101.** This article may be cited as **Uniform Commercial**  
 20 **Code—Secured Transactions.**

21 **Sec. 102. (a) In this article:**

22 (1) "Accession" means goods that are physically united with  
 23 other goods in such a manner that the identity of the original  
 24 goods is not lost.

25 (2) "Account", except as used in "account for", means a right  
 26 to payment of a monetary obligation, whether or not earned  
 27 by performance (i) for property that has been or is to be sold,  
 28 leased, licensed, assigned, or otherwise disposed of, (ii) for  
 29 services rendered or to be rendered, (iii) for a policy of  
 30 insurance issued or to be issued, (iv) for a secondary  
 31 obligation incurred or to be incurred, (v) for energy provided  
 32 or to be provided, (vi) for the use or hire of a vessel under a  
 33 charter or other contract, (vii) arising out of the use of a  
 34 credit or charge card or information contained on or for use  
 35 with the card, or (viii) as winnings in a lottery or other game  
 36 of chance operated or sponsored by a state, governmental unit  
 37 of a state, or person licensed or authorized to operate the  
 38 game by a state or governmental unit of a state. The term  
 39 includes health-care-insurance receivables. The term does not  
 40 include (i) rights to payment evidenced by chattel paper or an

- 1 instrument, (ii) commercial tort claims, (iii) deposit accounts,  
 2 (iv) investment property, (v) letter-of-credit rights or letters  
 3 of credit, or (vi) rights to payment for money or funds  
 4 advanced or sold, other than rights arising out of the use of a  
 5 credit or charge card or information contained on or for use  
 6 with the card.
- 7 (3) "Account debtor" means a person obligated on an  
 8 account, chattel paper, or general intangible. The term does  
 9 not include persons obligated to pay a negotiable instrument,  
 10 even if the instrument constitutes part of chattel paper.
- 11 (4) "Accounting", except as used in "accounting for", means  
 12 a record:
- 13 (A) authenticated by a secured party;  
 14 (B) indicating the aggregate unpaid secured obligations as  
 15 of a date not more than thirty-five (35) days earlier or  
 16 thirty-five (35) days later than the date of the record; and  
 17 (C) identifying the components of the obligations in  
 18 reasonable detail.
- 19 (5) "Agricultural lien" means an interest, other than a  
 20 security interest, in farm products:
- 21 (A) that secures payment or performance of an obligation  
 22 for:
- 23 (i) goods or services furnished in connection with a  
 24 debtor's farming operation; or  
 25 (ii) rent on real property leased by a debtor in  
 26 connection with the debtor's farming operation;
- 27 (B) that is created by statute in favor of a person that:
- 28 (i) in the ordinary course of its business furnished goods  
 29 or services to a debtor in connection with the debtor's  
 30 farming operation; or  
 31 (ii) leased real property to a debtor in connection with  
 32 the debtor's farming operation; and
- 33 (C) whose effectiveness does not depend on the person's  
 34 possession of the personal property.
- 35 (6) "As-extracted collateral" means:
- 36 (A) oil, gas, or other minerals that are subject to a security  
 37 interest that:
- 38 (i) is created by a debtor having an interest in the  
 39 minerals before extraction; and  
 40 (ii) attaches to the minerals as extracted; or

- 1           **(B) accounts arising out of the sale at the wellhead or**  
2           **minehead of oil, gas, or other minerals in which the debtor**  
3           **had an interest before extraction.**
- 4           **(7) "Authenticate" means:**
- 5               **(A) to sign; or**  
6               **(B) to execute or otherwise adopt a symbol, or encrypt or**  
7               **similarly process a record in whole or in part, with the**  
8               **present intent of the authenticating person to identify the**  
9               **person and adopt or accept a record.**
- 10           **(8) "Bank" means an organization that is engaged in the**  
11           **business of banking. The term includes savings banks, savings**  
12           **and loan associations, credit unions, and trust companies.**
- 13           **(9) "Cash proceeds" means proceeds that are money, checks,**  
14           **deposit accounts, or the like.**
- 15           **(10) "Certificate of title" means a certificate of title with**  
16           **respect to which a statute provides for the security interest in**  
17           **question to be indicated on the certificate as a condition or**  
18           **result of the security interest's obtaining priority over the**  
19           **rights of a lien creditor with respect to the collateral.**
- 20           **(11) "Chattel paper" means a record or records that evidence**  
21           **both a monetary obligation and a security interest in specific**  
22           **goods, a security interest in specific goods and software used**  
23           **in the goods, a lease of specific goods, or a lease of specific**  
24           **goods and a license of software used in the goods. In this**  
25           **subdivision, "monetary obligation" means a monetary**  
26           **obligation secured by the goods or owed under a lease of the**  
27           **goods and includes a monetary obligation with respect to**  
28           **software used in the goods. The term "chattel paper" does not**  
29           **include charters or other contracts involving the use or hire**  
30           **of a vessel. If a transaction is evidenced by records that**  
31           **include an instrument or series of instruments, the group of**  
32           **records taken together constitutes chattel paper.**
- 33           **(12) "Collateral" means the property subject to a security**  
34           **interest or agricultural lien. The term includes:**
- 35               **(A) proceeds to which a security interest attaches;**  
36               **(B) accounts, chattel paper, payment intangibles, and**  
37               **promissory notes that have been sold; and**  
38               **(C) goods that are the subject of a consignment.**
- 39           **(13) "Commercial tort claim" means a claim arising in tort**  
40           **with respect to which:**

- 1           **(A) the claimant is an organization; or**  
2           **(B) the claimant is an individual and the claim:**  
3               **(i) arose in the course of the claimant's business or**  
4               **profession; and**  
5               **(ii) does not include damages arising out of personal**  
6               **injury to or the death of an individual.**
- 7           **(14) "Commodity account" means an account maintained by**  
8           **a commodity intermediary in which a commodity contract is**  
9           **carried for a commodity customer.**
- 10          **(15) "Commodity contract" means a commodity futures**  
11          **contract, an option on a commodity futures contract, a**  
12          **commodity option, or another contract if the contract or**  
13          **option is:**  
14               **(A) traded on or subject to the rules of a board of trade**  
15               **that has been designated as a contract market for such a**  
16               **contract pursuant to federal commodities laws; or**  
17               **(B) traded on a foreign commodity board of trade,**  
18               **exchange, or market, and is carried on the books of a**  
19               **commodity intermediary for a commodity customer.**
- 20          **(16) "Commodity customer" means a person for which a**  
21          **commodity intermediary carries a commodity contract on its**  
22          **books.**
- 23          **(17) "Commodity intermediary" means a person that:**  
24               **(A) is registered as a futures commission merchant under**  
25               **federal commodities law; or**  
26               **(B) in the ordinary course of its business provides**  
27               **clearance or settlement services for a board of trade that**  
28               **has been designated as a contract market pursuant to**  
29               **federal commodities law.**
- 30          **(18) "Communicate" means:**  
31               **(A) to send a written or other tangible record;**  
32               **(B) to transmit a record by any means agreed upon by the**  
33               **persons sending and receiving the record; or**  
34               **(C) in the case of transmission of a record to or by a filing**  
35               **office, to transmit a record by any means prescribed by**  
36               **filing-office rule.**
- 37          **(19) "Consignee" means a merchant to which goods are**  
38          **delivered in a consignment.**
- 39          **(20) "Consignment" means a transaction, regardless of its**  
40          **form, in which a person delivers goods to a merchant for the**

- 1           **purpose of sale and:**
- 2           **(A) the merchant:**
- 3               **(i) deals in goods of that kind under a name other than**
- 4               **the name of the person making delivery;**
- 5               **(ii) is not an auctioneer; and**
- 6               **(iii) is not generally known by its creditors to be**
- 7               **substantially engaged in selling the goods of others;**
- 8           **(B) with respect to each delivery, the aggregate value of the**
- 9           **goods is one thousand dollars (\$1,000) or more at the time**
- 10           **of delivery;**
- 11           **(C) the goods are not consumer goods immediately before**
- 12           **delivery; and**
- 13           **(D) the transaction does not create a security interest that**
- 14           **secures an obligation.**
- 15           **(21) "Consignor" means a person that delivers goods to a**
- 16           **consignee in a consignment.**
- 17           **(22) "Consumer debtor" means a debtor in a consumer**
- 18           **transaction.**
- 19           **(23) "Consumer goods" means goods that are used or bought**
- 20           **for use primarily for personal, family, or household purposes.**
- 21           **(24) "Consumer-goods transaction" means a consumer**
- 22           **transaction in which:**
- 23               **(A) an individual incurs an obligation primarily for**
- 24               **personal, family, or household purposes; and**
- 25               **(B) a security interest in consumer goods secures the**
- 26               **obligation.**
- 27           **(25) "Consumer obligor" means an obligor who is an**
- 28           **individual and who incurred the obligation as part of a**
- 29           **transaction entered into primarily for personal, family, or**
- 30           **household purposes.**
- 31           **(26) "Consumer transaction" means a transaction in which (i)**
- 32           **an individual incurs an obligation primarily for personal,**
- 33           **family, or household purposes, (ii) a security interest secures**
- 34           **the obligation, and (iii) the collateral is held or acquired**
- 35           **primarily for personal, family, or household purposes. The**
- 36           **term includes consumer-goods transactions.**
- 37           **(27) "Continuation statement" means an amendment of a**
- 38           **financing statement that:**
- 39               **(A) identifies, by its file number, the initial financing**
- 40               **statement to which it relates; and**

- 1           **(B) indicates that it is a continuation statement for, or that**  
2           **it is filed to continue the effectiveness of, the identified**  
3           **financing statement.**
- 4           **(28) "Debtor" means:**
- 5               **(A) a person having an interest, other than a security**  
6               **interest or other lien, in the collateral, whether or not the**  
7               **person is an obligor;**
- 8               **(B) a seller of accounts, chattel paper, payment intangibles,**  
9               **or promissory notes; or**
- 10              **(C) a consignee.**
- 11           **(29) "Deposit account" means a demand, time, savings,**  
12           **passbook, or similar account maintained with a bank. The**  
13           **term does not include investment property or accounts**  
14           **evidenced by an instrument.**
- 15           **(30) "Document" means a document of title or a receipt of the**  
16           **type described in IC 26-1-7-201(2).**
- 17           **(31) "Electronic chattel paper" means chattel paper**  
18           **evidenced by a record or records consisting of information**  
19           **stored in an electronic medium.**
- 20           **(32) "Encumbrance" means a right, other than an ownership**  
21           **interest, in real property. The term includes mortgages and**  
22           **other liens on real property.**
- 23           **(33) "Equipment" means goods other than inventory, farm**  
24           **products, or consumer goods.**
- 25           **(34) "Farm products" means goods, other than standing**  
26           **timber, with respect to which the debtor is engaged in a**  
27           **farming operation and which are:**
- 28               **(A) crops grown, growing, or to be grown, including:**
- 29                   **(i) crops produced on trees, vines, and bushes; and**
- 30                   **(ii) aquatic goods produced in aquacultural operations;**
- 31               **(B) livestock, born or unborn, including aquatic goods**  
32               **produced in aquacultural operations;**
- 33               **(C) supplies used or produced in a farming operation; or**
- 34               **(D) products of crops or livestock in their unmanufactured**  
35               **states.**
- 36           **(35) "Farming operation" means raising, cultivating,**  
37           **propagating, fattening, grazing, or any other farming,**  
38           **livestock, or aquacultural operation.**
- 39           **(36) "File number" means the number assigned to an initial**  
40           **financing statement pursuant to IC 26-1-9.1-519(a).**

- 1           **(37) "Filing office" means an office designated in**  
2           **IC 26-1-9.1-501 as the place to file a financing statement.**
- 3           **(38) "Filing-office rule" means a rule adopted pursuant to**  
4           **IC 26-1-9.1-526.**
- 5           **(39) "Financing statement" means a record or records**  
6           **composed of an initial financing statement and any filed**  
7           **record relating to the initial financing statement.**
- 8           **(40) "Fixture filing" means the filing of a financing statement**  
9           **covering goods that are or are to become fixtures and**  
10           **satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b). The term**  
11           **includes the filing of a financing statement covering goods of**  
12           **a transmitting utility which are or are to become fixtures.**
- 13           **(41) "Fixtures" means goods that have become so related to**  
14           **particular real property that an interest in them arises under**  
15           **real property law.**
- 16           **(42) "General intangible" means any personal property,**  
17           **including things in action, other than accounts, chattel paper,**  
18           **commercial tort claims, deposit accounts, documents, goods,**  
19           **instruments, investment property, letter-of-credit rights,**  
20           **letters of credit, money, and oil, gas, or other minerals before**  
21           **extraction. The term includes payment intangibles and**  
22           **software.**
- 23           **(43) "Good faith" means honesty in fact and the observance**  
24           **of reasonable commercial standards of fair dealing.**
- 25           **(44) "Goods" means all things that are movable when a**  
26           **security interest attaches. The term includes (i) fixtures, (ii)**  
27           **standing timber that is to be cut and removed under a**  
28           **conveyance or contract for sale, (iii) the unborn young of**  
29           **animals, (iv) crops grown, growing, or to be grown, even if the**  
30           **crops are produced on trees, vines, or bushes, and (v)**  
31           **manufactured homes. The term also includes a computer**  
32           **program embedded in goods and any supporting information**  
33           **provided in connection with a transaction relating to the**  
34           **program if (i) the program is associated with the goods in**  
35           **such a manner that it customarily is considered part of the**  
36           **goods, or (ii) by becoming the owner of the goods, a person**  
37           **acquires a right to use the program in connection with the**  
38           **goods. The term does not include a computer program**  
39           **embedded in goods that consist solely of the medium with**  
40           **which the program is embedded. The term also does not**

1 include accounts, chattel paper, commercial tort claims,  
2 deposit accounts, documents, general intangibles, instruments,  
3 investment property, letter-of-credit rights, letters of credit,  
4 money, or oil, gas, or other minerals before extraction.

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

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

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

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

- 27 (A) are leased by a person as lessor;  
28 (B) are held by a person for sale or lease or to be furnished  
29 under a contract of service;  
30 (C) are furnished by a person under a contract of service;  
31 or  
32 (D) consist of raw materials, work in process, or materials  
33 used or consumed in a business.

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

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

40 (51) "Letter-of-credit right" means a right to payment and

1 performance under a letter of credit, whether or not the  
2 beneficiary has demanded or is at the time entitled to demand  
3 payment or performance. The term does not include the right  
4 of a beneficiary to demand payment or performance under a  
5 letter of credit.

6 (52) "Lien creditor" means:

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

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

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

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

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

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

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

35 (B) in which a manufactured home, other than a  
36 manufactured home held as inventory, is the primary  
37 collateral.

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

- 1           **(56) "New debtor" means a person that becomes bound as**  
2           **debtor under IC 26-1-9.1-203(d) by a security agreement**  
3           **previously entered into by another person.**
- 4           **(57) "New value" means (i) money, (ii) money's worth in**  
5           **property, services, or new credit, or (iii) release by a**  
6           **transferee of an interest in property previously transferred to**  
7           **the transferee. The term does not include an obligation**  
8           **substituted for another obligation.**
- 9           **(58) "Noncash proceeds" means proceeds other than cash**  
10           **proceeds.**
- 11           **(59) "Obligor" means a person that, with respect to an**  
12           **obligation secured by a security interest in or an agricultural**  
13           **lien on the collateral, (i) owes payment or other performance**  
14           **of the obligation, (ii) has provided property other than the**  
15           **collateral to secure payment or other performance of the**  
16           **obligation, or (iii) is otherwise accountable in whole or in part**  
17           **for payment or other performance of the obligation. The term**  
18           **does not include issuers or nominated persons under a letter**  
19           **of credit.**
- 20           **(60) "Original debtor" means a person that, as debtor,**  
21           **entered into a security agreement to which a new debtor has**  
22           **become bound under IC 26-1-9.1-203(d).**
- 23           **(61) "Payment intangible" means a general intangible under**  
24           **which the account debtor's principal obligation is a monetary**  
25           **obligation.**
- 26           **(62) "Person related to", with respect to an individual, means:**  
27                   **(A) the spouse of the individual;**  
28                   **(B) a brother, brother-in-law, sister, or sister-in-law of the**  
29                   **individual;**  
30                   **(C) an ancestor or lineal descendant of the individual or**  
31                   **the individual's spouse; or**  
32                   **(D) any other relative, by blood or marriage, of the**  
33                   **individual or the individual's spouse who shares the same**  
34                   **home with the individual.**
- 35           **(63) "Person related to", with respect to an organization,**  
36           **means:**  
37                   **(A) a person directly or indirectly controlling, controlled**  
38                   **by, or under common control with the organization;**  
39                   **(B) an officer or director of, or a person performing**  
40                   **similar functions with respect to, the organization;**

- 1 (C) an officer or director of, or a person performing  
2 similar functions with respect to, a person described in  
3 clause (A);  
4 (D) the spouse of an individual described in clause (A), (B),  
5 or (C); or  
6 (E) an individual who is related by blood or marriage to an  
7 individual described in clause (A), (B), (C), or (D) and  
8 shares the same home with the individual.
- 9 (64) "Proceeds" means the following property:
- 10 (A) Whatever is acquired upon the sale, lease, license,  
11 exchange, or other disposition of collateral.  
12 (B) Whatever is collected on, or distributed on account of,  
13 collateral.  
14 (C) Rights arising out of collateral.  
15 (D) To the extent of the value of collateral, claims arising  
16 out of the loss, nonconformity, or interference with the use  
17 of, defects or infringement of rights in, or damage to, the  
18 collateral.  
19 (E) To the extent of the value of collateral and to the extent  
20 payable to the debtor or the secured party, insurance  
21 payable by reason of the loss or nonconformity of, defects  
22 or infringement of rights in, or damage to, the collateral.
- 23 (65) "Promissory note" means an instrument that evidences  
24 a promise to pay a monetary obligation, does not evidence an  
25 order to pay, and does not contain an acknowledgment by a  
26 bank that the bank has received for deposit a sum of money or  
27 funds.
- 28 (66) "Proposal" means a record authenticated by a secured  
29 party that includes the terms on which the secured party is  
30 willing to accept collateral in full or partial satisfaction of the  
31 obligation it secures pursuant to IC 26-1-9.1-620,  
32 IC 26-1-9.1-621, and IC 26-1-9.1-622.
- 33 (67) "Public-finance transaction" means a secured  
34 transaction in connection with which:
- 35 (A) debt securities are issued;  
36 (B) all or a portion of the securities issued have an initial  
37 stated maturity of at least twenty (20) years; and  
38 (C) the debtor, obligor, secured party, account debtor, or  
39 other person obligated on collateral, assignor or assignee  
40 of a secured obligation, or assignor or assignee of a

- 1 security interest is a state or a governmental unit of a state.  
 2 (68) "Pursuant to commitment", with respect to an advance  
 3 made or other value given by a secured party, means  
 4 pursuant to the secured party's obligation, whether or not a  
 5 subsequent event of default or other event not within the  
 6 secured party's control has relieved or may relieve the  
 7 secured party from its obligation.
- 8 (69) "Record", except as used in "for record", "of record",  
 9 "record or legal title", and "record owner", means  
 10 information that is inscribed on a tangible medium or that is  
 11 stored in an electronic or other medium and is retrievable in  
 12 perceivable form.
- 13 (70) "Registered organization" means an organization  
 14 organized solely under the law of a single state or the United  
 15 States and as to which the state or the United States must  
 16 maintain a public record showing the organization to have  
 17 been organized.
- 18 (71) "Secondary obligor" means an obligor to the extent that:  
 19 (A) the obligor's obligation is secondary; or  
 20 (B) the obligor has a right of recourse with respect to an  
 21 obligation secured by collateral against the debtor, another  
 22 obligor, or property of either.
- 23 (72) "Secured party" means:  
 24 (A) a person in whose favor a security interest is created or  
 25 provided for under a security agreement, whether or not  
 26 any obligation to be secured is outstanding;  
 27 (B) a person that holds an agricultural lien;  
 28 (C) a consignor;  
 29 (D) a person to which accounts, chattel paper, payment  
 30 intangibles, or promissory notes have been sold;  
 31 (E) a trustee, indenture trustee, agent, collateral agent, or  
 32 other representative in whose favor a security interest or  
 33 agricultural lien is created or provided for; or  
 34 (F) a person that holds a security interest arising under  
 35 IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3),  
 36 IC 26-1-2.1-508(5), IC 26-1-4-210, or IC 26-1-5.1-118.
- 37 (73) "Security agreement" means an agreement that creates  
 38 or provides for a security interest.
- 39 (74) "Send", in connection with a record or notification,  
 40 means:

- 1           **(A) to deposit in the mail, deliver for transmission, or**  
 2           **transmit by any other usual means of communication, with**  
 3           **postage or cost of transmission provided for, addressed to**  
 4           **any address reasonable under the circumstances; or**  
 5           **(B) to cause the record or notification to be received within**  
 6           **the time that it would have been received if properly sent**  
 7           **under clause (A).**
- 8           **(75) "Software" means a computer program and any**  
 9           **supporting information provided in connection with a**  
 10           **transaction relating to the program. The term does not**  
 11           **include a computer program that is included in the definition**  
 12           **of goods.**
- 13           **(76) "State" means a state of the United States, the District of**  
 14           **Columbia, Puerto Rico, the United States Virgin Islands, or**  
 15           **any territory or insular possession subject to the jurisdiction**  
 16           **of the United States.**
- 17           **(77) "Supporting obligation" means a letter-of-credit right or**  
 18           **secondary obligation that supports the payment or**  
 19           **performance of an account, chattel paper, a document, a**  
 20           **general intangible, an instrument, or investment property.**
- 21           **(78) "Tangible chattel paper" means chattel paper evidenced**  
 22           **by a record or records consisting of information that is**  
 23           **inscribed on a tangible medium.**
- 24           **(79) "Termination statement" means an amendment of a**  
 25           **financing statement that:**
- 26               **(A) identifies, by its file number, the initial financing**  
 27               **statement to which it relates; and**
- 28               **(B) indicates either that it is a termination statement or**  
 29               **that the identified financing statement is no longer**  
 30               **effective.**
- 31           **(80) "Transmitting utility" means a person primarily engaged**  
 32           **in the business of:**
- 33               **(A) operating a railroad, subway, street railway, or trolley**  
 34               **bus;**
- 35               **(B) transmitting communications electrically,**  
 36               **electromagnetically, or by light;**
- 37               **(C) transmitting goods by pipeline or sewer; or**
- 38               **(D) transmitting or producing and transmitting electricity,**  
 39               **steam, gas, or water.**
- 40           **(b) The following definitions in other articles apply to this**

- 1 **article:**  
2 "Applicant" IC 26-1-5.1-102.  
3 "Beneficiary" IC 26-1-5.1-102.  
4 "Broker" IC 26-1-8.1-102.  
5 "Certificated security" IC 26-1-8.1-102.  
6 "Check" IC 26-1-3.1-104.  
7 "Clearing corporation" IC 26-1-8.1-102.  
8 "Contract for sale" IC 26-1-2-106.  
9 "Customer" IC 26-1-4-104.  
10 "Entitlement holder" IC 26-1-8.1-102.  
11 "Financial asset" IC 26-1-8.1-102.  
12 "Holder in due course" IC 26-1-3.1-302.  
13 "Issuer" (with respect to a letter of credit or letter-of-credit  
14 right) IC 26-1-5.1-102.  
15 "Issuer" (with respect to a security) IC 26-1-8.1-201.  
16 "Lease" IC 26-1-2.1-103.  
17 "Lease agreement" IC 26-1-2.1-103.  
18 "Lease contract" IC 26-1-2.1-103.  
19 "Leasehold interest" IC 26-1-2.1-103.  
20 "Lessee" IC 26-1-2.1-103.  
21 "Lessee in ordinary course of business" IC 26-1-2.1-103.  
22 "Lessor" IC 26-1-2.1-103.  
23 "Lessor's residual interest" IC 26-1-2.1-103.  
24 "Letter of credit" IC 26-1-5.1-102.  
25 "Merchant" IC 26-1-2-104.  
26 "Negotiable instrument" IC 26-1-3.1-104.  
27 "Nominated person" IC 26-1-5.1-102.  
28 "Note" IC 26-1-3.1-104.  
29 "Proceeds of a letter of credit" IC 26-1-5.1-114.  
30 "Prove" IC 26-1-3.1-103.  
31 "Sale" IC 26-1-2-106.  
32 "Securities account" IC 26-1-8.1-501.  
33 "Securities intermediary" IC 26-1-8.1-102.  
34 "Security" IC 26-1-8.1-102.  
35 "Security certificate" IC 26-1-8.1-102.  
36 "Security entitlement" IC 26-1-8.1-102.  
37 "Uncertificated security" IC 26-1-8.1-102.  
38 (c) Article 1 contains general definitions and principles of  
39 construction and interpretation applicable throughout this article.  
40 Sec. 103. (a) In this section:

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

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

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

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

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

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

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

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

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

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

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

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

39           (2) in the absence of the parties' agreement to a reasonable  
40           method, in accordance with any intention of the obligor

- 1           **manifested at or before the time of payment; or**  
 2           **(3) in the absence of an agreement to a reasonable method and**  
 3           **a timely manifestation of the obligor's intention, in the**  
 4           **following order:**
- 5               **(A) To obligations that are not secured.**  
 6               **(B) If more than one (1) obligation is secured, to**  
 7               **obligations secured by purchase-money security interests**  
 8               **in the order in which those obligations were incurred.**
- 9           **(f) A purchase-money security interest does not lose its status as**  
 10          **such, even if:**
- 11               **(1) the purchase-money collateral also secures an obligation**  
 12               **that is not a purchase-money obligation;**  
 13               **(2) collateral that is not purchase-money collateral also**  
 14               **secures the purchase-money obligation; or**  
 15               **(3) the purchase-money obligation has been renewed,**  
 16               **refinanced, consolidated, or restructured.**
- 17          **(g) A secured party claiming a purchase-money security interest**  
 18          **has the burden of establishing the extent to which the security**  
 19          **interest is a purchase-money security interest.**
- 20          **Sec. 104. (a) A secured party has control of a deposit account if:**
- 21               **(1) the secured party is the bank with which the deposit**  
 22               **account is maintained;**  
 23               **(2) the debtor, secured party, and bank have agreed in an**  
 24               **authenticated record that the bank will comply with**  
 25               **instructions originated by the secured party directing**  
 26               **disposition of the funds in the account without further consent**  
 27               **by the debtor; or**  
 28               **(3) the secured party becomes the bank's customer with**  
 29               **respect to the deposit account.**
- 30          **(b) A secured party that has satisfied subsection (a) has control,**  
 31          **even if the debtor retains the right to direct the disposition of funds**  
 32          **from the deposit account.**
- 33          **Sec. 105. A secured party has control of electronic chattel paper**  
 34          **if the record or records comprising the chattel paper are created,**  
 35          **stored, and assigned in such a manner that:**
- 36               **(1) a single authoritative copy of the record or records exists**  
 37               **which is unique, identifiable and, except as otherwise**  
 38               **provided in subdivisions (4), (5), and (6), unalterable;**  
 39               **(2) the authoritative copy identifies the secured party as the**  
 40               **assignee of the record or records;**

- 1           **(3) the authoritative copy is communicated to and maintained**  
2           **by the secured party or its designated custodian;**  
3           **(4) copies or revisions that add or change an identified**  
4           **assignee of the authoritative copy can be made only with the**  
5           **participation of the secured party;**  
6           **(5) each copy of the authoritative copy and any copy of a copy**  
7           **is readily identifiable as a copy that is not the authoritative**  
8           **copy; and**  
9           **(6) any revision of the authoritative copy is readily**  
10          **identifiable as an authorized or unauthorized revision.**

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

- 14          **(b) A secured party has control of a commodity contract if:**  
15               **(1) the secured party is the commodity intermediary with**  
16               **which the commodity contract is carried; or**  
17               **(2) the commodity customer, secured party, and commodity**  
18               **intermediary have agreed that the commodity intermediary**  
19               **will apply any value distributed on account of the commodity**  
20               **contract as directed by the secured party without further**  
21               **consent by the commodity customer.**

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

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

31          **Sec. 108. (a) Except as otherwise provided in subsections (c), (d),**  
32          **and (e), a description of personal or real property is sufficient,**  
33          **whether or not it is specific, if it reasonably identifies what is**  
34          **described.**

35          **(b) Except as otherwise provided in subsection (d), a description**  
36          **of collateral reasonably identifies the collateral if it identifies the**  
37          **collateral by:**

- 38               **(1) specific listing;**  
39               **(2) category;**  
40               **(3) except as otherwise provided in subsection (e), a type of**

- 1 collateral defined in IC 26-1;  
 2 (4) quantity;  
 3 (5) computational or allocational formula or procedure; or  
 4 (6) except as otherwise provided in subsection (c), any other  
 5 method, if the identity of the collateral is objectively  
 6 determinable.
- 7 (c) A description of collateral as "all the debtor's assets" or "all  
 8 the debtor's personal property" or using words of similar import  
 9 does not reasonably identify the collateral.
- 10 (d) Except as otherwise provided in subsection (e), a description  
 11 of a security entitlement, securities account, or commodity account  
 12 is sufficient if it describes:
- 13 (1) the collateral by those terms or as investment property; or  
 14 (2) the underlying financial asset or commodity contract.
- 15 (e) A description only by type of collateral defined in IC 26-1 is  
 16 an insufficient description of:
- 17 (1) a commercial tort claim; or  
 18 (2) in a consumer transaction, consumer goods, a security  
 19 entitlement, a securities account, or a commodity account.
- 20 **Sec. 109. (a) Except as otherwise provided in subsections (c) and**  
 21 **(d), this article applies to:**
- 22 (1) a transaction, regardless of its form, that creates a security  
 23 interest in personal property or fixtures by contract;  
 24 (2) an agricultural lien;  
 25 (3) a sale of accounts, chattel paper, payment intangibles, or  
 26 promissory notes;  
 27 (4) a consignment;  
 28 (5) a security interest arising under IC 26-1-2-401,  
 29 IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), as  
 30 provided in IC 26-1-9.1-110;  
 31 (6) a security interest arising under IC 26-1-4-210 or  
 32 IC 26-1-5.1-118; and  
 33 (7) a transfer of an interest or a claim in contractual right of  
 34 a person to receive commissions or other compensation  
 35 payable by an insurer (as defined in IC 27-1-2-3).
- 36 (b) The application of this article to a security interest in a  
 37 secured obligation is not affected by the fact that the obligation is  
 38 itself secured by a transaction or interest to which this article does  
 39 not apply.
- 40 (c) This article does not apply to the extent that:

- 1           **(1) a statute, regulation, or treaty of the United States**  
2           **preempts this article; or**  
3           **(2) the rights of a transferee beneficiary or nominated person**  
4           **under a letter of credit are independent and superior under**  
5           **IC 26-1-5.1-114.**
- 6           **(d) This article does not apply to:**
- 7           **(1) a landlord's lien, other than an agricultural lien;**  
8           **(2) a lien, other than an agricultural lien, given by statute or**  
9           **other rule of law for services or materials, but IC 26-1-9.1-333**  
10           **applies with respect to priority of the lien;**  
11           **(3) an assignment of a claim for wages, salary, or other**  
12           **compensation of an employee;**  
13           **(4) a sale of accounts, chattel paper, payment intangibles, or**  
14           **promissory notes as part of a sale of the business out of which**  
15           **they arose;**  
16           **(5) an assignment of accounts, chattel paper, payment**  
17           **intangibles, or promissory notes that is for the purpose of**  
18           **collection only;**  
19           **(6) an assignment of a right to payment under a contract to an**  
20           **assignee that is also obligated to perform under the contract;**  
21           **(7) an assignment of a single account, payment intangible, or**  
22           **promissory note to an assignee in full or partial satisfaction of**  
23           **a preexisting indebtedness;**  
24           **(8) a transfer of an interest in or an assignment of a claim**  
25           **under a policy of insurance, other than a transfer described**  
26           **in subsection (a)(7), or an assignment by or to a health-care**  
27           **provider of a health-care-insurance receivable and any**  
28           **subsequent assignment of the right to payment, but**  
29           **IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to**  
30           **proceeds and priorities in proceeds;**  
31           **(9) an assignment of a right represented by a judgment, other**  
32           **than a judgment taken on a right to payment that was**  
33           **collateral;**  
34           **(10) a right of recoupment or set-off, but:**  
35               **(A) IC 26-1-9.1-340 applies with respect to the effectiveness**  
36               **of rights of recoupment or set-off against deposit accounts;**  
37               **and**  
38               **(B) IC 26-1-9.1-404 applies with respect to defenses or**  
39               **claims of an account debtor;**  
40           **(11) the creation or transfer of an interest in or lien on real**

1           **property, including a lease or rents thereunder, except to the**  
 2           **extent that provision is made for:**

3           **(A) liens on real property in IC 26-1-9.1-203 and**  
 4           **IC 26-1-9.1-308;**

5           **(B) fixtures in IC 26-1-9.1-334;**

6           **(C) fixture filings in IC 26-1-9.1-501, IC 26-1-9.1-502,**  
 7           **IC 26-1-9.1-512, IC 26-1-9.1-516, and IC 26-1-9.1-519; and**

8           **(D) security agreements covering personal and real**  
 9           **property in IC 26-1-9.1-604;**

10          **(12) an assignment of a claim arising in tort, other than a**  
 11          **commercial tort claim, but IC 26-1-9.1-315 and**  
 12          **IC 26-1-9.1-322 apply with respect to proceeds and priorities**  
 13          **in proceeds;**

14          **(13) an assignment of a deposit account in a consumer**  
 15          **transaction, but IC 26-1-9.1 and IC 26-1-9.1-322 apply with**  
 16          **respect to proceeds and priorities in proceeds;**

17          **(14) the creation, perfection, priority, or enforcement of a**  
 18          **security interest created by the state, another state, or a**  
 19          **foreign country, or a governmental unit of the state, another**  
 20          **state or a foreign country; or**

21          **(15) a pledge of revenues, other money, or property made**  
 22          **under IC 5-1-14-4.**

23          **Sec. 110. A security interest arising under IC 26-1-2-401,**  
 24          **IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5) is subject to**  
 25          **this article. However, until the debtor obtains possession of the**  
 26          **goods:**

27               **(1) the security interest is enforceable, even if**  
 28               **IC 26-1-9.1-203(b)(3) has not been satisfied;**

29               **(2) filing is not required to perfect the security interest;**

30               **(3) the rights of the secured party after default by the debtor**  
 31               **are governed by IC 26-1-2 or IC 26-1-2.1; and**

32               **(4) the security interest has priority over a conflicting security**  
 33               **interest created by the debtor.**

34          **Sec. 201. (a) Except as otherwise provided in IC 26-1, a security**  
 35          **agreement is effective according to its terms between the parties,**  
 36          **against purchasers of the collateral, and against creditors.**

37               **(b) A transaction subject to this article is subject to any**  
 38               **applicable rule of law that establishes a different rule for**  
 39               **consumers.**

40               **(c) In case of conflict between this article and a rule of law,**

1 statute, or regulation described in subsection (b), the rule of law,  
 2 statute, or regulation controls. Failure to comply with a statute or  
 3 regulation described in subsection (b) has only the effect the statute  
 4 or regulation specifies.

5 (d) This article does not:

6 (1) validate any rate, charge, agreement, or practice that  
 7 violates a rule of law, statute, or regulation described in  
 8 subsection (b); or

9 (2) extend the application of the rule of law, statute, or  
 10 regulation to a transaction not otherwise subject to it.

11 **Sec. 202.** Except as otherwise provided with respect to  
 12 consignments or sales of accounts, chattel paper, payment  
 13 intangibles, or promissory notes, the provisions of this article with  
 14 regard to rights and obligations apply whether title to collateral is  
 15 in the secured party or the debtor.

16 **Sec. 203. (a)** A security interest attaches to collateral when it  
 17 becomes enforceable against the debtor with respect to the  
 18 collateral, unless an agreement expressly postpones the time of  
 19 attachment.

20 (b) Except as otherwise provided in subsections (c) through (i),  
 21 a security interest is enforceable against the debtor and third  
 22 parties with respect to the collateral only if:

23 (1) value has been given;

24 (2) the debtor has rights in the collateral or the power to  
 25 transfer rights in the collateral to a secured party; and

26 (3) one (1) of the following conditions is met:

27 (A) The debtor has authenticated a security agreement that  
 28 provides a description of the collateral and, if the security  
 29 interest covers timber to be cut, a description of the land  
 30 concerned.

31 (B) The collateral is not a certificated security and is in the  
 32 possession of the secured party under IC 26-1-9.1-313  
 33 pursuant to the debtor's security agreement.

34 (C) The collateral is a certificated security in registered  
 35 form and the security certificate has been delivered to the  
 36 secured party under IC 26-1-8.1-301 pursuant to the  
 37 debtor's security agreement.

38 (D) The collateral is deposit accounts, electronic chattel  
 39 paper, investment property, or letter-of-credit rights, and  
 40 the secured party has control under IC 26-1-9.1-104,

1           **IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107**  
2           **pursuant to the debtor's security agreement.**

3           **(c) Subsection (b) is subject to IC 26-1-4-210 on the security**  
4           **interest of a collecting bank, IC 26-1-5.1-118 on the security**  
5           **interest of a letter-of-credit issuer or nominated person,**  
6           **IC 26-1-9.1-110 on a security interest arising under IC 26-1-2 or**  
7           **IC 26-1-2.1, and IC 26-1-9.1-206 on security interests in investment**  
8           **property.**

9           **(d) A person becomes bound as debtor by a security agreement**  
10           **entered into by another person if, by operation of law other than**  
11           **this article or by contract:**

12           **(1) the security agreement becomes effective to create a**  
13           **security interest in the person's property; or**

14           **(2) the person becomes generally obligated for the obligations**  
15           **of the other person, including the obligation secured under the**  
16           **security agreement, and acquires or succeeds to all or**  
17           **substantially all of the assets of the other person.**

18           **(e) If a new debtor becomes bound as debtor by a security**  
19           **agreement entered into by another person:**

20           **(1) the agreement satisfies subsection (b)(3) with respect to**  
21           **existing or after-acquired property of the new debtor to the**  
22           **extent the property is described in the agreement; and**

23           **(2) another agreement is not necessary to make a security**  
24           **interest in the property enforceable.**

25           **(f) The attachment of a security interest in collateral gives the**  
26           **secured party the rights to proceeds provided by IC 26-1-9-315 and**  
27           **is also attachment of a security interest in a supporting obligation**  
28           **for the collateral.**

29           **(g) The attachment of a security interest in a right to payment**  
30           **or performance secured by a security interest or other lien on**  
31           **personal or real property is also attachment of a security interest**  
32           **in the security interest, mortgage, or other lien.**

33           **(h) The attachment of a security interest in a securities account**  
34           **is also attachment of a security interest in the security entitlements**  
35           **carried in the securities account.**

36           **(i) The attachment of a security interest in a commodity account**  
37           **is also attachment of a security interest in the commodity contracts**  
38           **carried in the commodity account.**

39           **Sec. 204. (a) Except as otherwise provided in subsection (b), a**  
40           **security agreement may create or provide for a security interest in**

1 after-acquired collateral.

2 (b) A security interest does not attach under a term constituting  
3 an after-acquired property clause to:

4 (1) consumer goods, other than an accession when given as  
5 additional security, unless the debtor acquires rights in them  
6 within ten (10) days after the secured party gives value; or

7 (2) a commercial tort claim.

8 (c) A security agreement may provide that collateral secures, or  
9 that accounts, chattel paper, payment intangibles, or promissory  
10 notes are sold in connection with, future advances or other value,  
11 whether or not the advances or value are given pursuant to  
12 commitment.

13 **Sec. 205. (a)** A security interest is not invalid or fraudulent  
14 against creditors solely because:

15 (1) the debtor has the right or ability to:

16 (A) use, commingle, or dispose of all or part of the  
17 collateral, including returned or repossessed goods;

18 (B) collect, compromise, enforce, or otherwise deal with  
19 collateral;

20 (C) accept the return of collateral or make repossessions;  
21 or

22 (D) use, commingle, or dispose of proceeds; or

23 (2) the secured party fails to require the debtor to account for  
24 proceeds or replace collateral.

25 (b) This section does not relax the requirements of possession if  
26 attachment, perfection, or enforcement of a security interest  
27 depends upon possession of the collateral by the secured party.

28 **Sec. 206. (a)** A security interest in favor of a securities  
29 intermediary attaches to a person's security entitlement if:

30 (1) the person buys a financial asset through the securities  
31 intermediary in a transaction in which the person is obligated  
32 to pay the purchase price to the securities intermediary at the  
33 time of the purchase; and

34 (2) the securities intermediary credits the financial asset to the  
35 buyer's securities account before the buyer pays the securities  
36 intermediary.

37 (b) The security interest described in subsection (a) secures the  
38 person's obligation to pay for the financial asset.

39 (c) A security interest in favor of a person that delivers a  
40 certificated security or other financial asset represented by a

- 1 **writing attaches to the security or other financial asset if:**
- 2 **(1) the security or other financial asset:**
- 3 **(A) in the ordinary course of business is transferred by**
- 4 **delivery with any necessary endorsement or assignment;**
- 5 **and**
- 6 **(B) is delivered under an agreement between persons in the**
- 7 **business of dealing with such securities or financial assets;**
- 8 **and**
- 9 **(2) the agreement calls for delivery against payment.**
- 10 **(d) The security interest described in subsection (c) secures the**
- 11 **obligation to make payment for the delivery.**
- 12 **Sec. 207. (a) Except as otherwise provided in subsection (d), a**
- 13 **secured party shall use reasonable care in the custody and**
- 14 **preservation of collateral in the secured party's possession. In the**
- 15 **case of chattel paper or an instrument, reasonable care includes**
- 16 **taking necessary steps to preserve rights against prior parties**
- 17 **unless otherwise agreed.**
- 18 **(b) Except as otherwise provided in subsection (d), if a secured**
- 19 **party has possession of collateral:**
- 20 **(1) reasonable expenses, including the cost of insurance and**
- 21 **payment of taxes or other charges, incurred in the custody,**
- 22 **preservation, use, or operation of the collateral are**
- 23 **chargeable to the debtor and are secured by the collateral;**
- 24 **(2) the risk of accidental loss or damage is on the debtor to the**
- 25 **extent of a deficiency in any effective insurance coverage;**
- 26 **(3) the secured party shall keep the collateral identifiable, but**
- 27 **fungible collateral may be commingled; and**
- 28 **(4) the secured party may use or operate the collateral:**
- 29 **(A) for the purpose of preserving the collateral or its value;**
- 30 **(B) as permitted by an order of a court having competent**
- 31 **jurisdiction; or**
- 32 **(C) except in the case of consumer goods, in the manner**
- 33 **and to the extent agreed by the debtor.**
- 34 **(c) Except as otherwise provided in subsection (d), a secured**
- 35 **party having possession of collateral or control of collateral under**
- 36 **IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or**
- 37 **IC 26-1-9.1-107:**
- 38 **(1) may hold as additional security any proceeds, except**
- 39 **money or funds, received from the collateral;**
- 40 **(2) shall apply money or funds received from the collateral to**

1           **reduce the secured obligation, unless remitted to the debtor;**  
 2           **and**

3           **(3) may create a security interest in the collateral.**

4           **(d) If the secured party is a buyer of accounts, chattel paper,**  
 5           **payment intangibles, or promissory notes or a consignor:**

6           **(1) subsection (a) does not apply unless the secured party is**  
 7           **entitled under an agreement:**

8           **(A) to charge back uncollected collateral; or**

9           **(B) otherwise to full or limited recourse against the debtor**  
 10           **or a secondary obligor based on the nonpayment or other**  
 11           **default of an account debtor or other obligor on the**  
 12           **collateral; and**

13           **(2) subsections (b) and (c) do not apply.**

14           **Sec. 208. (a) This section applies to cases in which there is no**  
 15           **outstanding secured obligation, and the secured party is not**  
 16           **committed to make advances, incur obligations, or otherwise give**  
 17           **value.**

18           **(b) Within ten (10) days after receiving an authenticated**  
 19           **demand by the debtor:**

20           **(1) a secured party having control of a deposit account under**  
 21           **IC 26-1-9.1-104(a)(2) shall send to the bank with which the**  
 22           **deposit account is maintained an authenticated statement that**  
 23           **releases the bank from any further obligation to comply with**  
 24           **instructions originated by the secured party;**

25           **(2) a secured party having control of a deposit account under**  
 26           **IC 26-1-9.1-104(a)(3) shall:**

27           **(A) pay the debtor the balance on deposit in the deposit**  
 28           **account; or**

29           **(B) transfer the balance on deposit into a deposit account**  
 30           **in the debtor's name;**

31           **(3) a secured party, other than a buyer, having control of**  
 32           **electronic chattel paper under IC 26-1-9.1-105 shall:**

33           **(A) communicate the authoritative copy of the electronic**  
 34           **chattel paper to the debtor or its designated custodian;**

35           **(B) if the debtor designates a custodian that is the**  
 36           **designated custodian with which the authoritative copy of the**  
 37           **electronic chattel paper is maintained for the secured**  
 38           **party, communicate to the custodian an authenticated**  
 39           **record releasing the designated custodian from any further**  
 40           **obligation to comply with instructions originated by the**

- 1           secured party and instructing the custodian to comply with  
 2           instructions originated by the debtor; and  
 3           (C) take appropriate action to enable the debtor or its  
 4           designated custodian to make copies of or revisions to the  
 5           authoritative copy that add or change an identified  
 6           assignee of the authoritative copy without the consent of  
 7           the secured party;  
 8           (4) a secured party having control of investment property  
 9           under IC 26-1-8.1-106(d)(2) or IC 26-1-9.1-106(b) shall send  
 10          to the securities intermediary or commodity intermediary  
 11          with which the security entitlement or commodity contract is  
 12          maintained an authenticated record that releases the  
 13          securities intermediary or commodity intermediary from any  
 14          further obligation to comply with entitlement orders or  
 15          directions originated by the secured party; and  
 16          (5) a secured party having control of a letter-of-credit right  
 17          under IC 26-1-9.1-107 shall send to each person having an  
 18          unfulfilled obligation to pay or deliver proceeds of the letter  
 19          of credit to the secured party an authenticated release from  
 20          any further obligation to pay or deliver proceeds of the letter  
 21          of credit to the secured party.

22          Sec. 209. (a) Except as otherwise provided in subsection (c), this  
 23          section applies if:

- 24               (1) there is no outstanding secured obligation; and  
 25               (2) the secured party is not committed to make advances,  
 26               incur obligations, or otherwise give value.

27          (b) Within ten (10) days after receiving an authenticated  
 28          demand by the debtor, a secured party shall send to an account  
 29          debtor that has received notification of an assignment to the  
 30          secured party as assignee under IC 26-1-9.1-406(a) an  
 31          authenticated record that releases the account debtor from any  
 32          further obligation to the secured party.

33          (c) This section does not apply to an assignment constituting the  
 34          sale of an account, chattel paper, or payment intangible.

35          Sec. 210. (a) In this section the following definitions apply:

- 36               (1) "Request" means a record of a type described in  
 37               subdivision (2), (3), or (4).  
 38               (2) "Request for an accounting" means a record authenticated  
 39               by a debtor requesting that the recipient provide an  
 40               accounting of the unpaid obligations secured by collateral and

1           **reasonably identifying the transaction or relationship that is**  
2           **the subject of the request.**

3           **(3) "Request regarding a list of collateral" means a record**  
4           **authenticated by a debtor requesting that the recipient**  
5           **approve or correct a list of what the debtor believes to be the**  
6           **collateral securing an obligation and reasonably identifying**  
7           **the transaction or relationship that is the subject of the**  
8           **request.**

9           **(4) "Request regarding a statement of account" means a**  
10          **record authenticated by a debtor requesting that the recipient**  
11          **approve or correct a statement indicating what the debtor**  
12          **believes to be the aggregate amount of unpaid obligations**  
13          **secured by collateral as of a specified date and reasonably**  
14          **identifying the transaction or relationship that is the subject**  
15          **of the request.**

16          **(b) Subject to subsections (c), (d), (e), and (f), a secured party,**  
17          **other than a buyer of accounts, chattel paper, payment intangibles,**  
18          **or promissory notes or a consignor, shall comply with a request**  
19          **within fourteen (14) days after receipt:**

20                 **(1) in the case of a request for an accounting, by**  
21                 **authenticating and sending to the debtor an accounting; and**  
22                 **(2) in the case of a request regarding a list of collateral or a**  
23                 **request regarding a statement of account, by authenticating**  
24                 **and sending to the debtor an approval or correction.**

25          **(c) A secured party that claims a security interest in all of a**  
26          **particular type of collateral owned by the debtor may comply with**  
27          **a request regarding a list of collateral by sending to the debtor an**  
28          **authenticated record, including a statement to that effect within**  
29          **fourteen (14) days after receipt.**

30          **(d) A person that receives a request regarding a list of collateral,**  
31          **claims no interest in the collateral when it receives the request, and**  
32          **claimed an interest in the collateral at an earlier time shall comply**  
33          **with the request within fourteen (14) days after receipt by sending**  
34          **to the debtor an authenticated record:**

35                 **(1) disclaiming any interest in the collateral; and**  
36                 **(2) if known to the recipient, providing the name and mailing**  
37                 **address of any assignee of or successor to the recipient's**  
38                 **security interest in the collateral.**

39          **(e) A person that receives a request for an accounting or a**  
40          **request regarding a statement of account, claims no interest in the**

1 obligations when the person receives the request, and claimed an  
 2 interest in the obligations at an earlier time shall comply with the  
 3 request within fourteen (14) days after receipt by sending to the  
 4 debtor an authenticated record:

- 5 (1) disclaiming any interest in the obligations; and
- 6 (2) if known to the recipient, providing the name and mailing  
 7 address of any assignee of or successor to the recipient's  
 8 interest in the obligations.

9 (f) A debtor is entitled without charge to one (1) response to a  
 10 request under this section during any six (6) month period. The  
 11 secured party may require payment of a charge not exceeding  
 12 twenty-five dollars (\$25) for each additional response.

13 **Sec. 301.** Except as otherwise provided in IC 26-1-9.1-303  
 14 through IC 26-1-9.1-306, the following rules determine the law  
 15 governing perfection, the effect of perfection or nonperfection, and  
 16 the priority of a security interest in collateral:

17 (1) Except as otherwise provided in this section, while a  
 18 debtor is located in a jurisdiction, the local law of that  
 19 jurisdiction governs perfection, the effect of perfection or  
 20 nonperfection, and the priority of a security interest in  
 21 collateral.

22 (2) While collateral is located in a jurisdiction, the local law of  
 23 that jurisdiction governs perfection, the effect of perfection or  
 24 nonperfection, and the priority of a possessory security  
 25 interest in that collateral.

26 (3) Except as otherwise provided in subdivision (4), while  
 27 negotiable documents, goods, instruments, money, or tangible  
 28 chattel paper is located in a jurisdiction, the local law of that  
 29 jurisdiction governs:

30 (A) perfection of a security interest in the goods by filing a  
 31 fixture filing;

32 (B) perfection of a security interest in timber to be cut; and

33 (C) the effect of perfection or nonperfection and the  
 34 priority of a nonpossessory security interest in the  
 35 collateral.

36 (4) The local law of the jurisdiction in which the wellhead or  
 37 minehead is located governs perfection, the effect of  
 38 perfection or nonperfection, and the priority of a security  
 39 interest in as-extracted collateral.

40 **Sec. 302.** While farm products are located in a jurisdiction, the

1 local law of that jurisdiction governs perfection, the effect of  
2 perfection or nonperfection, and the priority of an agricultural lien  
3 on the farm products.

4 Sec. 303. (a) This section applies to goods covered by a  
5 certificate of title, even if there is no other relationship between the  
6 jurisdiction under whose certificate of title the goods are covered  
7 and the goods or the debtor.

8 (b) Goods become covered by a certificate of title when a valid  
9 application for the certificate of title and the applicable fee are  
10 delivered to the appropriate authority. Goods cease to be covered  
11 by a certificate of title at the earlier of the time the certificate of  
12 title ceases to be effective under the law of the issuing jurisdiction  
13 or the time the goods become covered subsequently by a certificate  
14 of title issued by another jurisdiction.

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

21 Sec. 304. (a) The local law of a bank's jurisdiction governs  
22 perfection, the effect of perfection or nonperfection, and the  
23 priority of a security interest in a deposit account maintained with  
24 that bank.

25 (b) The following rules determine a bank's jurisdiction for  
26 purposes of this part:

27 (1) If an agreement between the bank and the debtor  
28 governing the deposit account expressly provides that a  
29 particular jurisdiction is the bank's jurisdiction for purposes  
30 of IC 26-1, that jurisdiction is the bank's jurisdiction.

31 (2) If subdivision (1) does not apply and an agreement  
32 between the bank and its customer governing the deposit  
33 account expressly provides that the agreement is governed by  
34 the law of a particular jurisdiction, that jurisdiction is the  
35 bank's jurisdiction.

36 (3) If neither subdivision (1) nor subdivision (2) applies, and  
37 an agreement between the bank and its customer governing  
38 the deposit account expressly provides that the deposit  
39 account is maintained at an office in a particular jurisdiction,  
40 that jurisdiction is the bank's jurisdiction.

1           **(4) If none of the preceding subdivisions apply, the bank's**  
2           **jurisdiction is the jurisdiction in which the office identified in**  
3           **an account statement as the office serving the customer's**  
4           **account is located.**

5           **(5) If none of the preceding subdivisions apply, the bank's**  
6           **jurisdiction is the jurisdiction in which the chief executive**  
7           **office of the bank is located.**

8           **Sec. 305. (a) Except as otherwise provided in subsection (c), the**  
9           **following rules apply:**

10           **(1) While a security certificate is located in a jurisdiction, the**  
11           **local law of that jurisdiction governs perfection, the effect of**  
12           **perfection or nonperfection, and the priority of a security**  
13           **interest in the certificated security represented thereby.**

14           **(2) The local law of the issuer's jurisdiction as specified in**  
15           **IC 26-1- 8.1-110(d) governs perfection, the effect of perfection**  
16           **or nonperfection, and the priority of a security interest in an**  
17           **uncertificated security.**

18           **(3) The local law of the securities intermediary's jurisdiction**  
19           **as specified in IC 26-1-8.1-110(e) governs perfection, the effect**  
20           **of perfection or nonperfection, and the priority of a security**  
21           **interest in a security entitlement or securities account.**

22           **(4) The local law of the commodity intermediary's jurisdiction**  
23           **governs perfection, the effect of perfection or nonperfection,**  
24           **and the priority of a security interest in a commodity contract**  
25           **or commodity account.**

26           **(b) The following rules determine a commodity intermediary's**  
27           **jurisdiction for purposes of this part:**

28           **(1) If an agreement between the commodity intermediary and**  
29           **commodity customer governing the commodity account**  
30           **expressly provides that a particular jurisdiction is the**  
31           **commodity intermediary's jurisdiction for purposes of**  
32           **IC 26-1, that jurisdiction is the commodity intermediary's**  
33           **jurisdiction.**

34           **(2) If subdivision (1) does not apply, and an agreement**  
35           **between the commodity intermediary and commodity**  
36           **customer governing the commodity account expressly**  
37           **provides that the agreement is governed by the law of a**  
38           **particular jurisdiction, that jurisdiction is the commodity**  
39           **intermediary's jurisdiction.**

40           **(3) If neither subdivision (1) nor subdivision (2) applies, and**

1           an agreement between the commodity intermediary and  
 2           commodity customer governing the commodity account  
 3           expressly provides that the commodity account is maintained  
 4           at an office in a particular jurisdiction, that jurisdiction is the  
 5           commodity intermediary's jurisdiction.

6           (4) If none of the preceding subdivisions apply, the commodity  
 7           intermediary's jurisdiction is the jurisdiction in which the  
 8           office identified in an account statement as the office serving  
 9           the commodity customer's account is located.

10          (5) If none of the preceding subdivisions apply, the commodity  
 11          intermediary's jurisdiction is the jurisdiction in which the  
 12          chief executive office of the commodity intermediary is  
 13          located.

14          (c) The local law of the jurisdiction in which the debtor is  
 15          located governs:

16           (1) perfection of a security interest in investment property by  
 17           filing;

18           (2) automatic perfection of a security interest in investment  
 19           property created by a broker or securities intermediary; and

20           (3) automatic perfection of a security interest in a commodity  
 21           contract or commodity account created by a commodity  
 22           intermediary.

23          Sec. 306. (a) Subject to subsection (c), the local law of the  
 24          issuer's jurisdiction or a nominated person's jurisdiction governs  
 25          perfection, the effect of perfection or nonperfection, and the  
 26          priority of a security interest in a letter-of-credit right if the  
 27          issuer's jurisdiction or nominated person's jurisdiction is a state.

28          (b) For purposes of this part, an issuer's jurisdiction or  
 29          nominated person's jurisdiction is the jurisdiction whose law  
 30          governs the liability of the issuer or nominated person with respect  
 31          to the letter-of-credit right as provided in IC 26-1-5.1-116.

32          (c) This section does not apply to a security interest that is  
 33          perfected only under IC 26-1-9.1-308(d).

34          Sec. 307. (a) In this section, "place of business" means a place  
 35          where a debtor conducts its affairs.

36          (b) Except as otherwise provided in this section, the following  
 37          rules determine a debtor's location:

38           (1) A debtor who is an individual is located at the individual's  
 39           principal residence.

40           (2) A debtor that is an organization and has only one (1) place

1           **of business is located at its place of business.**

2           **(3) A debtor that is an organization and has more than one (1)**  
3           **place of business is located at its chief executive office.**

4           **(c) Subsection (b) applies only if a debtor's residence, place of**  
5           **business, or chief executive office, as applicable, is located in a**  
6           **jurisdiction whose law generally requires information concerning**  
7           **the existence of a nonpossessory security interest to be made**  
8           **generally available in a filing, recording, or registration system as**  
9           **a condition or result of the security interest's obtaining priority**  
10          **over the rights of a lien creditor with respect to the collateral. If**  
11          **subsection (b) does not apply, the debtor is located in the District**  
12          **of Columbia.**

13          **(d) A person that ceases to exist, have a residence, or have a**  
14          **place of business continues to be located in the jurisdiction**  
15          **specified by subsections (b) and (c).**

16          **(e) A registered organization that is organized under the law of**  
17          **a state is located in that state.**

18          **(f) Except as otherwise provided in subsection (i), a registered**  
19          **organization that is organized under the law of the United States**  
20          **and a branch or agency of a bank that is not organized under the**  
21          **law of the United States or a state are located:**

22               **(1) in the state that the law of the United States designates, if**  
23               **the law designates a state of location;**

24               **(2) in the state that the registered organization, branch, or**  
25               **agency designates, if the law of the United States authorizes**  
26               **the registered organization, branch, or agency to designate its**  
27               **state of location; or**

28               **(3) in the District of Columbia, if neither paragraph (1) nor**  
29               **paragraph (2) applies.**

30          **(g) A registered organization continues to be located in the**  
31          **jurisdiction specified by subsection (e) or (f) notwithstanding:**

32               **(1) the suspension, revocation, forfeiture, or lapse of the**  
33               **registered organization's status as such in its jurisdiction of**  
34               **organization; or**

35               **(2) the dissolution, winding up, or cancellation of the existence**  
36               **of the registered organization.**

37          **(h) The United States is located in the District of Columbia.**

38          **(i) A branch or agency of a bank that is not organized under the**  
39          **law of the United States or a state is located in the state in which**  
40          **the branch or agency is licensed, if all branches and agencies of the**

1 bank are licensed in only one state.

2 (j) A foreign air carrier under the Federal Aviation Act of 1958,  
3 as amended, is located at the designated office of the agent upon  
4 which service of process may be made on behalf of the carrier.

5 (k) This section applies only for purposes of this part.

6 Sec. 308. (a) Except as otherwise provided in this section and  
7 IC 26-1-9.1-309, a security interest is perfected if it has attached  
8 and all of the applicable requirements for perfection in  
9 IC 26-1-9.1-310 through IC 26-1-9.1-316 have been satisfied. A  
10 security interest is perfected when it attaches if the applicable  
11 requirements are satisfied before the security interest attaches.

12 (b) An agricultural lien is perfected if it has become effective  
13 and all of the applicable requirements for perfection in  
14 IC 26-1-9.1-310 have been satisfied. An agricultural lien is  
15 perfected when it becomes effective if the applicable requirements  
16 are satisfied before the agricultural lien becomes effective.

17 (c) A security interest or agricultural lien is perfected  
18 continuously if it is originally perfected by one method under this  
19 article and is later perfected by another method under this article,  
20 without an intermediate period when it was unperfected.

21 (d) Perfection of a security interest in collateral also perfects a  
22 security interest in a supporting obligation for the collateral.

23 (e) Perfection of a security interest in a right to payment or  
24 performance also perfects a security interest in a security interest,  
25 mortgage, or other lien on personal or real property securing the  
26 right.

27 (f) Perfection of a security interest in a securities account also  
28 perfects a security interest in the security entitlements carried in  
29 the securities account.

30 (g) Perfection of a security interest in a commodity account also  
31 perfects a security interest in the commodity contracts carried in  
32 the commodity account.

33 Sec. 309. The following security interests are perfected when  
34 they attach:

35 (1) A purchase-money security interest in consumer goods,  
36 except as otherwise provided in IC 26-1-9.1-311(b) with  
37 respect to consumer goods that are subject to a statute or  
38 treaty described in IC 26-1-9.1-311(a).

39 (2) An assignment of accounts or payment intangibles which  
40 does not by itself or in conjunction with other assignments to

- 1           **the same assignee transfer a significant part of the assignor's**  
 2           **outstanding accounts or payment intangibles.**  
 3           **(3) A sale of a payment intangible.**  
 4           **(4) A sale of a promissory note.**  
 5           **(5) A security interest created by the assignment of a**  
 6           **health-care-insurance receivable to the provider of the**  
 7           **health-care goods or services.**  
 8           **(6) A security interest arising under IC 26-1-2-401,**  
 9           **IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), until**  
 10          **the debtor obtains possession of the collateral.**  
 11          **(7) A security interest of a collecting bank arising under**  
 12          **IC 26-1-4-210.**  
 13          **(8) A security interest of an issuer or nominated person**  
 14          **arising under IC 26-1-5.1-118.**  
 15          **(9) A security interest arising in the delivery of a financial**  
 16          **asset under IC 26-1-9.1-206(c).**  
 17          **(10) A security interest in investment property created by a**  
 18          **broker or securities intermediary.**  
 19          **(11) A security interest in a commodity contract or a**  
 20          **commodity account created by a commodity intermediary.**  
 21          **(12) An assignment for the benefit of all creditors of the**  
 22          **transferor and subsequent transfers by the assignee**  
 23          **thereunder.**  
 24          **(13) A security interest created by an assignment of a**  
 25          **beneficial interest in a decedent's estate.**
- 26          **Sec. 310. (a) Except as otherwise provided in subsection (b) and**  
 27          **IC 26-1-9.1-312(b), a financing statement must be filed to perfect**  
 28          **all security interests and agricultural liens.**
- 29          **(b) The filing of a financing statement is not necessary to perfect**  
 30          **a security interest:**
- 31               **(1) that is perfected under IC 26-1-9.1-308(d),**  
 32               **IC 26-1-9.1-308(e), IC 26-1-9.1-308(f), or IC 26-1-9.1-308(g);**  
 33               **(2) that is perfected under IC 26-1-9.1-309 when it attaches;**  
 34               **(3) in property subject to a statute, regulation, or treaty**  
 35               **described in IC 26-1-9.1-311(a);**  
 36               **(4) in goods in possession of a bailee that are perfected under**  
 37               **IC 26-1-9.1-312(d)(1) or IC 26-1-9.1-312(d)(2);**  
 38               **(5) in certificated securities, documents, goods, or instruments**  
 39               **which is perfected without filing or possession under**  
 40               **IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g);**

- 1           **(6) in collateral in the secured party's possession under**  
 2           **IC 26-1-9.1-313;**  
 3           **(7) in a certificated security which is perfected by delivery of**  
 4           **the security certificate to the secured party under**  
 5           **IC 26-1-9.1-313;**  
 6           **(8) in deposit accounts, electronic chattel paper, investment**  
 7           **property, or letter-of-credit rights which is perfected by**  
 8           **control under IC 26-1-9.1-314;**  
 9           **(9) in proceeds which is perfected under IC 26-1-9.1-315; or**  
 10          **(10) that is perfected under IC 26-1-9.1-316.**

11          **(c) If a secured party assigns a perfected security interest or**  
 12          **agricultural lien, a filing under this article is not required to**  
 13          **continue the perfected status of the security interest against**  
 14          **creditors of and transferees from the original debtor.**

15          **Sec. 311. (a) Except as otherwise provided in subsection (d), the**  
 16          **filing of a financing statement is not necessary or effective to**  
 17          **perfect a security interest in property subject to:**

- 18               **(1) a statute, regulation, or treaty of the United States whose**  
 19               **requirements for a security interest's obtaining priority over**  
 20               **the rights of a lien creditor with respect to the property**  
 21               **preempt IC 26-1-9.1-310(a);**  
 22               **(2) any Indiana certificate-of-title statute covering**  
 23               **automobiles, trailers, mobile homes, boats, farm tractors, or**  
 24               **the like, which provides for a security interest to be indicated**  
 25               **on the certificate as a condition or result of perfection; or**  
 26               **(3) a certificate-of-title statute of another jurisdiction which**  
 27               **provides for a security interest to be indicated on the**  
 28               **certificate as a condition or result of the security interest's**  
 29               **obtaining priority over the rights of a lien creditor with**  
 30               **respect to the property.**

31          **(b) Compliance with the requirements of a statute, regulation,**  
 32          **or treaty described in subsection (a) for obtaining priority over the**  
 33          **rights of a lien creditor is equivalent to the filing of a financing**  
 34          **statement under this article. Except as otherwise provided in**  
 35          **subsection (d), IC 26-1-9.1-313, IC 26-1-9.1-316(d), and**  
 36          **IC 26-1-9.1-316(e) for goods covered by a certificate of title, a**  
 37          **security interest in property subject to a statute, regulation, or**  
 38          **treaty described in subsection (a) may be perfected only by**  
 39          **compliance with those requirements, and a security interest so**  
 40          **perfected remains perfected notwithstanding a change in the use or**

1 transfer of possession of the collateral.

2 (c) Except as otherwise provided in subsection (d),  
 3 IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e), duration and renewal  
 4 of perfection of a security interest perfected by compliance with the  
 5 requirements prescribed by a statute, regulation, or treaty  
 6 described in subsection (a) are governed by the statute, regulation,  
 7 or treaty. In other respects, the security interest is subject to this  
 8 article.

9 (d) During any period in which collateral is inventory held for  
 10 sale or lease by a person or leased by that person as lessor, and that  
 11 person is in the business of selling or leasing goods of that kind, this  
 12 section does not apply to a security interest in that collateral  
 13 created by that person as debtor, but instead, the filing provisions  
 14 of IC 26-1-9.1-501 through IC 26-1-9.1-527 apply.

15 **Sec. 312. (a) A security interest in chattel paper, negotiable**  
 16 **documents, instruments, or investment property may be perfected**  
 17 **by filing.**

18 (b) Except as otherwise provided in IC 26-1-9.1-315(c) and  
 19 IC 26-1-9.1-315(d), for proceeds:

20 (1) a security interest in a deposit account may be perfected  
 21 only by control under IC 26-1-9.1-314;

22 (2) and except as otherwise provided in IC 26-1-9.1-308(d), a  
 23 security interest in a letter-of-credit right may be perfected  
 24 only by control under IC 26-1-9.1-314; and

25 (3) a security interest in money may be perfected only by the  
 26 secured party's taking possession under IC 26-1-9.1-313.

27 (c) While goods are in the possession of a bailee that has issued  
 28 a negotiable document covering the goods:

29 (1) a security interest in the goods may be perfected by  
 30 perfecting a security interest in the document; and

31 (2) a security interest perfected in the document has priority  
 32 over any security interest that becomes perfected in the goods  
 33 by another method during that time.

34 (d) While goods are in the possession of a bailee that has issued  
 35 a nonnegotiable document covering the goods, a security interest  
 36 in the goods may be perfected by:

37 (1) issuance of a document in the name of the secured party;

38 (2) the bailee's receipt of notification of the secured party's  
 39 interest; or

40 (3) filing as to the goods.

1           (e) A security interest in certificated securities, negotiable  
2 documents, or instruments is perfected without filing or the taking  
3 of possession for a period of twenty (20) days from the time it  
4 attaches to the extent that it arises for new value given under an  
5 authenticated security agreement.

6           (f) A perfected security interest in a negotiable document or  
7 goods in possession of a bailee, other than one that has issued a  
8 negotiable document for the goods, remains perfected for twenty  
9 (20) days without filing if the secured party makes available to the  
10 debtor the goods or documents representing the goods for the  
11 purpose of:

12           (1) ultimate sale or exchange; or

13           (2) loading, unloading, storing, shipping, transshipping,  
14 manufacturing, processing, or otherwise dealing with them in  
15 a manner preliminary to their sale or exchange.

16           (g) A perfected security interest in a certificated security or  
17 instrument remains perfected for twenty (20) days without filing  
18 if the secured party delivers the security certificate or instrument  
19 to the debtor for the purpose of:

20           (1) ultimate sale or exchange; or

21           (2) presentation, collection, enforcement, renewal, or  
22 registration of transfer.

23           (h) After the twenty (20) day period specified in subsection (e),  
24 (f), or (g) expires, perfection depends upon compliance with this  
25 article.

26           Sec. 313. (a) Except as otherwise provided in subsection (b), a  
27 secured party may perfect a security interest in negotiable  
28 documents, goods, instruments, money, or tangible chattel paper  
29 by taking possession of the collateral. A secured party may perfect  
30 a security interest in certificated securities by taking delivery of the  
31 certificated securities under IC 26-1-8.1-301.

32           (b) With respect to goods covered by a certificate of title issued  
33 by this state, a secured party may perfect a security interest in the  
34 goods by taking possession of the goods only in the circumstances  
35 described in IC 26-1-9.1-316(d).

36           (c) With respect to collateral other than certificated securities  
37 and goods covered by a document, a secured party takes possession  
38 of collateral in the possession of a person other than the debtor, the  
39 secured party, or a lessee of the collateral from the debtor in the  
40 ordinary course of the debtor's business, when:

1           **(1) the person in possession authenticates a record**  
2           **acknowledging that it holds possession of the collateral for the**  
3           **secured party's benefit; or**

4           **(2) the person takes possession of the collateral after having**  
5           **authenticated a record acknowledging that it will hold**  
6           **possession of collateral for the secured party's benefit.**

7           **(d) If perfection of a security interest depends upon possession**  
8           **of the collateral by a secured party, perfection occurs not earlier**  
9           **than the time the secured party takes possession and continues only**  
10           **while the secured party retains possession.**

11           **(e) A security interest in a certificated security in registered**  
12           **form is perfected by delivery when delivery of the certificated**  
13           **security occurs under IC 26-1-8.1-301 and remains perfected by**  
14           **delivery until the debtor obtains possession of the security**  
15           **certificate.**

16           **(f) A person in possession of collateral is not required to**  
17           **acknowledge that it holds possession for a secured party's benefit.**

18           **(g) If a person acknowledges that it holds possession for the**  
19           **secured party's benefit:**

20           **(1) the acknowledgment is effective under subsection (c) or**  
21           **IC 26-1-8.1-301(a), even if the acknowledgment violates the**  
22           **rights of a debtor; and**

23           **(2) unless the person otherwise agrees or a law other than this**  
24           **article otherwise provides, the person does not owe any duty**  
25           **to the secured party and is not required to confirm the**  
26           **acknowledgment to another person.**

27           **(h) A secured party having possession of collateral does not**  
28           **relinquish possession by delivering the collateral to a person other**  
29           **than the debtor or a lessee of the collateral from the debtor in the**  
30           **ordinary course of the debtor's business if the person was**  
31           **instructed before the delivery or is instructed contemporaneously**  
32           **with the delivery:**

33           **(1) to hold possession of the collateral for the secured party's**  
34           **benefit; or**

35           **(2) to redeliver the collateral to the secured party.**

36           **(i) A secured party does not relinquish possession, even if a**  
37           **delivery under subsection (h) violates the rights of a debtor. A**  
38           **person to which collateral is delivered under subsection (h) does**  
39           **not owe any duty to the secured party and is not required to**  
40           **confirm the delivery to another person unless the person otherwise**

1 agrees or law other than this article otherwise provides.

2       **Sec. 314. (a) A security interest in investment property, deposit**  
 3 **accounts, letter-of-credit rights, or electronic chattel paper may be**  
 4 **perfected by control of the collateral under IC 26-1-9.1-104,**  
 5 **IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107.**

6       **(b) A security interest in deposit accounts, electronic chattel**  
 7 **paper, or letter-of-credit rights is perfected by control under**  
 8 **IC 26-1-9.1-104, IC 26-1-9.1-105, or IC 26-1-9.1-107 when the**  
 9 **secured party obtains control and remains perfected by control**  
 10 **only while the secured party retains control.**

11       **(c) A security interest in investment property is perfected by**  
 12 **control under IC 26-1-9.1-106 from the time the secured party**  
 13 **obtains control and remains perfected by control until:**

- 14           **(1) the secured party does not have control; and**  
 15           **(2) one of the following occurs:**  
 16               **(A) if the collateral is a certificated security, the debtor has**  
 17               **or acquires possession of the security certificate;**  
 18               **(B) if the collateral is an uncertificated security, the issuer**  
 19               **has registered or registers the debtor as the registered**  
 20               **owner; or**  
 21               **(C) if the collateral is a security entitlement, the debtor is**  
 22               **or becomes the entitlement holder.**

23       **Sec. 315. (a) Except as otherwise provided in this article and in**  
 24 **IC 26-1-2-403(2):**

- 25           **(1) a security interest or agricultural lien continues in**  
 26 **collateral notwithstanding sale, lease, license, exchange, or**  
 27 **other disposition thereof unless the secured party authorized**  
 28 **the disposition free of the security interest or agricultural**  
 29 **lien; and**  
 30           **(2) a security interest attaches to any identifiable proceeds of**  
 31 **collateral.**

32       **(b) Proceeds that are commingled with other property are**  
 33 **identifiable proceeds:**

- 34           **(1) if the proceeds are goods, to the extent provided by**  
 35 **IC 26-1-9.1-336; and**  
 36           **(2) if the proceeds are not goods, to the extent that the secured**  
 37 **party identifies the proceeds by a method of tracing, including**  
 38 **application of equitable principles, that is permitted under**  
 39 **law other than this article with respect to commingled**  
 40 **property of the type involved.**

1           (c) A security interest in proceeds is a perfected security interest  
2 if the security interest in the original collateral was perfected.

3           (d) A perfected security interest in proceeds becomes  
4 unperfected on the twenty-first day after the security interest  
5 attaches to the proceeds unless:

6           (1) the following conditions are satisfied:

7           (A) A filed financing statement covers the original  
8 collateral.

9           (B) The proceeds are collateral in which a security interest  
10 may be perfected by filing in the office in which the  
11 financing statement has been filed.

12           (C) The proceeds are not acquired with cash proceeds.

13           (2) the proceeds are identifiable cash proceeds; or

14           (3) the security interest in the proceeds is perfected other than  
15 under subsection (c) when the security interest attaches to the  
16 proceeds or within twenty (20) days thereafter.

17           (e) If a filed financing statement covers the original collateral,  
18 a security interest in proceeds which remains perfected under  
19 subsection (d)(1) becomes unperfected at the later of:

20           (1) when the effectiveness of the filed financing statement  
21 lapses under IC 26-1-9.1-515 or is terminated under  
22 IC 26-1-9.1-513; or

23           (2) the twenty-first day after the security interest attaches to  
24 the proceeds.

25           Sec. 316. (a) A security interest perfected pursuant to the law of  
26 the jurisdiction designated in IC 26-1-9.1-301(1) or  
27 IC 26-1-9.1-305(c) remains perfected until the earliest of:

28           (1) the time perfection would have ceased under the law of  
29 that jurisdiction;

30           (2) the expiration of four (4) months after a change of the  
31 debtor's location to another jurisdiction;

32           (3) the expiration of one (1) year after a transfer of collateral  
33 to a person that thereby becomes a debtor and is located in  
34 another jurisdiction; or

35           (4) the expiration of one (1) year after a new debtor located in  
36 another jurisdiction becomes bound under IC 26-1-9.1-203(d).

37           (b) If a security interest described in subsection (a) becomes  
38 perfected under the law of the other jurisdiction before the earliest  
39 time or event described in that subsection, it remains perfected  
40 thereafter. If the security interest does not become perfected under

1       **the law of the other jurisdiction before the earliest time or event,**  
2       **it becomes unperfected and is deemed never to have been perfected**  
3       **as against a purchaser of the collateral for value.**

4       **(c) A possessory security interest in collateral, other than goods**  
5       **covered by a certificate of title and as-extracted collateral**  
6       **consisting of goods, remains continuously perfected if:**

7           **(1) the collateral is located in one (1) jurisdiction and subject**  
8           **to a security interest perfected under the law of that**  
9           **jurisdiction;**

10          **(2) thereafter the collateral is brought into another**  
11          **jurisdiction; and**

12          **(3) upon entry into the other jurisdiction, the security interest**  
13          **is perfected under the law of the other jurisdiction.**

14       **(d) Except as otherwise provided in subsection (e), a security**  
15       **interest in goods covered by a certificate of title which is perfected**  
16       **by any method under the law of another jurisdiction when the**  
17       **goods become covered by a certificate of title from this state**  
18       **remains perfected until the security interest would have become**  
19       **unperfected under the law of the other jurisdiction had the goods**  
20       **not become so covered.**

21       **(e) A security interest described in subsection (d) becomes**  
22       **unperfected as against a purchaser of the goods for value and is**  
23       **deemed never to have been perfected as against a purchaser of the**  
24       **goods for value if the applicable requirements for perfection under**  
25       **IC 26-1-9.1-311(b) or IC 26-1-9.1-313 are not satisfied before the**  
26       **earlier of:**

27           **(1) the time the security interest would have become**  
28           **unperfected under the law of the other jurisdiction had the**  
29           **goods not become covered by a certificate of title from this**  
30           **state; or**

31           **(2) the expiration of four (4) months after the goods had**  
32           **become so covered.**

33       **(f) A security interest in deposit accounts, letter-of-credit rights,**  
34       **or investment property which is perfected under the law of the**  
35       **bank's jurisdiction, the issuer's jurisdiction, a nominated person's**  
36       **jurisdiction, the securities intermediary's jurisdiction, or the**  
37       **commodity intermediary's jurisdiction, as applicable, remains**  
38       **perfected until the earlier of:**

39           **(1) the time the security interest would have become**  
40           **unperfected under the law of that jurisdiction; or**

1           (2) the expiration of four (4) months after a change of the  
2           applicable jurisdiction to another jurisdiction.

3           (g) If a security interest described in subsection (f) becomes  
4           perfected under the law of the other jurisdiction before the earlier  
5           of the time or the end of the period described in that subsection, it  
6           remains perfected thereafter. If the security interest does not  
7           become perfected under the law of the other jurisdiction before the  
8           earlier of that time or the end of that period, it becomes  
9           unperfected and is deemed never to have been perfected as against  
10          a purchaser of the collateral for value.

11          Sec. 317. (a) An unperfected security interest or agricultural lien  
12          is subordinate to the rights of:

13               (1) a person entitled to priority under IC 26-1-9.1-322; and  
14               (2) a person that becomes a lien creditor before the earlier of  
15               the time the security interest or agricultural lien is perfected  
16               or a financing statement covering the collateral is filed.

17          (b) Except as otherwise provided in subsection (e), a buyer,  
18          other than a secured party, of tangible chattel paper, documents,  
19          goods, instruments, or a security certificate takes free of a security  
20          interest or agricultural lien if the buyer gives value and receives  
21          delivery of the collateral without knowledge of the security interest  
22          or agricultural lien and before it is perfected.

23          (c) Except as otherwise provided in subsection (e), a lessee of  
24          goods takes free of a security interest or agricultural lien if the  
25          lessee gives value and receives delivery of the collateral without  
26          knowledge of the security interest or agricultural lien and before  
27          it is perfected.

28          (d) A licensee of a general intangible or a buyer, other than a  
29          secured party, of accounts, electronic chattel paper, general  
30          intangibles, or investment property other than a certificated  
31          security takes free of a security interest if the licensee or buyer  
32          gives value without knowledge of the security interest and before  
33          it is perfected.

34          (e) Except as otherwise provided in IC 26-1-9.1-320 and  
35          IC 26-1-9.1-321, if a person files a financing statement with respect  
36          to a purchase-money security interest before or within twenty (20)  
37          days after the debtor receives delivery of the collateral, the security  
38          interest takes priority over the rights of a buyer, lessee, or lien  
39          creditor that arise between the time the security interest attaches  
40          and the time of filing.

1           **Sec. 318. (a) A debtor that has sold an account, chattel paper,**  
2 **payment intangible, or promissory note does not retain a legal or**  
3 **equitable interest in the collateral sold.**

4           **(b) For purposes of determining the rights of creditors of, and**  
5 **purchasers for value of an account or chattel paper from, a debtor**  
6 **that has sold an account or chattel paper, while the buyer's security**  
7 **interest is unperfected, the debtor is deemed to have rights and title**  
8 **to the account or chattel paper identical to those the debtor sold.**

9           **Sec. 319. (a) Except as otherwise provided in subsection (b), for**  
10 **purposes of determining the rights of creditors of, and purchasers**  
11 **for value of goods from, a consignee, while the goods are in the**  
12 **possession of the consignee, the consignee has rights and title to the**  
13 **goods identical to those the consignor had or had power to**  
14 **transfer.**

15           **(b) For purposes of determining the rights of a creditor of a**  
16 **consignee, law other than this article determines the rights and title**  
17 **of a consignee while goods are in the consignee's possession if,**  
18 **under this part, a perfected security interest held by the consignor**  
19 **would have priority over the rights of the creditor.**

20           **Sec. 320. (a) Except as otherwise provided in this subsection and**  
21 **subsection (e), a buyer in ordinary course of business takes free of**  
22 **a security interest created by the buyer's seller, even if the security**  
23 **interest is perfected and the buyer knows of its existence. The**  
24 **following apply whenever a person is buying farm products from**  
25 **a person engaged in farming operations who has created a security**  
26 **interest on the farm products:**

27           **(1) A person buying farm products from a person engaged in**  
28 **farming operations is not protected by this subsection if he**  
29 **has received prior written notice of the security interest.**  
30 **"Written notice" means an original financing statement or a**  
31 **carbon, photographic, or other reproduction of an original**  
32 **that is effective under IC 26-1-9.1-502, or a notice on a form**  
33 **prescribed by the secretary of state or a carbon,**  
34 **photographic, or other reproduction of the form that contains**  
35 **the following:**

36           **(A) The full name and address of the debtor.**

37           **(B) The full name and address of the secured party.**

38           **(C) A description of the collateral.**

39           **(D) The date and location of the filing of the security**  
40 **interest.**

- 1           **(E) The date on which written notice is issued.**  
2           **A written notice expires eighteen (18) months after the date**  
3           **the secured party signs the notice or at the time the debt that**  
4           **appears on the notice is satisfied, whichever occurs first.**  
5           **Notice must be received before a buyer of farm products has**  
6           **made full payment to the person engaged in farming**  
7           **operations for the farm products if the notice is to be**  
8           **considered "prior written notice".**
- 9           **(2) A secured party must, within fifteen (15) days of the**  
10           **satisfaction of the debt, inform in writing each potential buyer**  
11           **listed by the debtor whenever a debt has been satisfied and**  
12           **written notice, as required by subdivision (1), had been**  
13           **previously sent to that buyer.**
- 14           **(3) A debtor engaged in farming operations who has created**  
15           **a security interest in farm products must provide the secured**  
16           **party with a written list of potential buyers of the farm**  
17           **products at the time the debt is incurred if such a list is**  
18           **requested by the secured party. The debtor may not sell farm**  
19           **products to a buyer who does not appear on the list (if the list**  
20           **is requested by the secured party) unless the secured party**  
21           **has given prior written permission to the debtor to sell to**  
22           **someone who does not appear on the list, or the debtor**  
23           **satisfies the debt for that secured party on the farm products**  
24           **he sells within fifteen (15) days of the date of sale. A debtor**  
25           **who knowingly or intentionally sells to a buyer who does not**  
26           **appear on the list (if the list is requested by the secured party)**  
27           **and who does not meet one (1) of the above exceptions,**  
28           **commits a Class C misdemeanor. A secured party commits a**  
29           **Class C infraction if the secured party knowingly or**  
30           **intentionally gives false or misleading information on the**  
31           **notice required by subdivision (a) or the secured party fails**  
32           **within fifteen (15) days of satisfaction of the debt to notify**  
33           **purchasers to whom a written notice had been previously sent**  
34           **under subdivision (1) of the satisfaction of the debt.**
- 35           **(4) A purchaser of farm products buying from a person**  
36           **engaged in farming operations must issue a check for**  
37           **payment jointly to the debtor and those secured parties from**  
38           **whom he has received prior written notice of a security**  
39           **interest as provided for in subdivision (1). A purchaser who**  
40           **fails to issue a jointly payable check as required by this**

1           subdivision is not protected by this subdivision. A purchaser  
2           of farm products (on which there is a perfected security  
3           interest) buying from a person engaged in farming operations  
4           who withholds all or part of the proceeds of the sale from the  
5           seller, in order to satisfy a prior debt ("prior debt" does not  
6           include the costs of marketing the farm product or the cost of  
7           transporting the farm product to the market) owed by the  
8           seller to the buyer, commits a Class C infraction.

9           (b) Except as otherwise provided in subsection (e), a buyer of  
10          goods from a person who used or bought the goods for use  
11          primarily for personal, family, or household purposes takes free of  
12          a security interest, even if perfected, if the buyer buys:

- 13               (1) without knowledge of the security interest;  
14               (2) for value;  
15               (3) primarily for the buyer's personal, family, or household  
16               purposes; and  
17               (4) before the filing of a financing statement covering the  
18               goods.

19          (c) To the extent that it affects the priority of a security interest  
20          over a buyer of goods under subsection (b), the period of  
21          effectiveness of a filing made in the jurisdiction in which the seller  
22          is located is governed by IC 26-1-9.1-316(a) and IC 26-1-9.1-316(b).

23          (d) A buyer in ordinary course of business buying oil, gas, or  
24          other minerals at the wellhead or minehead or after extraction  
25          takes free of an interest arising out of an encumbrance.

26          (e) Subsections (a) and (b) do not affect a security interest in  
27          goods in the possession of the secured party under IC 26-1-9.1-313.

28          Sec. 321. (a) In this section, "licensee in ordinary course of  
29          business" means a person that becomes a licensee of a general  
30          intangible in good faith, without knowledge that the license violates  
31          the rights of another person in the general intangible, and in the  
32          ordinary course from a person in the business of licensing general  
33          intangibles of that kind. A person becomes a licensee in the  
34          ordinary course if the license to the person comports with the usual  
35          or customary practices in the kind of business in which the licensor  
36          is engaged or with the licensor's own usual or customary practices.

37          (b) A licensee in ordinary course of business takes its rights  
38          under the license free of a security interest in the general intangible  
39          created by the licensor, even if the security interest is perfected and  
40          the licensee knows of its existence.

1           (c) A lessee in ordinary course of business takes its leasehold  
2 interest free of a security interest in the goods created by the lessor,  
3 even if the security interest is perfected and the lessee knows of its  
4 existence.

5           Sec. 322. (a) Except as otherwise provided in this section,  
6 priority among conflicting security interests and agricultural liens  
7 in the same collateral is determined according to the following  
8 rules:

9           (1) Conflicting perfected security interests and agricultural  
10 liens rank according to priority in time of filing or perfection.  
11 Priority dates from the earlier of the time a filing covering the  
12 collateral is first made or the security interest or agricultural  
13 lien is first perfected, if there is no period thereafter when  
14 there is neither filing nor perfection.

15           (2) A perfected security interest or agricultural lien has  
16 priority over a conflicting unperfected security interest or  
17 agricultural lien.

18           (3) The first security interest or agricultural lien to attach or  
19 become effective has priority if conflicting security interests  
20 and agricultural liens are unperfected.

21           (b) For the purposes of subsection (a)(1):

22           (1) the time of filing or perfection as to a security interest in  
23 collateral is also the time of filing or perfection as to a security  
24 interest in proceeds; and

25           (2) the time of filing or perfection as to a security interest in  
26 collateral supported by a supporting obligation is also the  
27 time of filing or perfection as to a security interest in the  
28 supporting obligation.

29           (c) Except as otherwise provided in subsection (f), a security  
30 interest in collateral which qualifies for priority over a conflicting  
31 security interest under IC 26-1-9.1-327, IC 26-1-9.1-328,  
32 IC 26-1-9.1-329, IC 26-1-9.1-330, or IC 26-1-9.1-331 also has  
33 priority over a conflicting security interest in:

34           (1) any supporting obligation for the collateral; and

35           (2) proceeds of the collateral if:

36           (A) the security interest in proceeds is perfected;

37           (B) the proceeds are cash proceeds or of the same type as  
38 the collateral; and

39           (C) in the case of proceeds that are proceeds of proceeds,  
40 all intervening proceeds are cash proceeds, proceeds of the

1           same type as the collateral, or an account relating to the  
2           collateral.

3           (d) Subject to subsection (e) and except as otherwise provided  
4           in subsection (f), if a security interest in chattel paper, deposit  
5           accounts, negotiable documents, instruments, investment property,  
6           or letter-of-credit rights is perfected by a method other than filing,  
7           conflicting perfected security interests in proceeds of the collateral  
8           rank according to priority in time of filing.

9           (e) Subsection (d) applies only if the proceeds of the collateral  
10          are not cash proceeds, chattel paper, negotiable documents,  
11          instruments, investment property, or letter-of-credit rights.

12          (f) Subsections (a) through (e) are subject to:

13           (1) subsection (g) and the other provisions of this part;

14           (2) IC 26-1-4-210 with respect to a security interest of a  
15           collecting bank;

16           (3) IC 26-1-5.1-118 with respect to a security interest of an  
17           issuer or nominated person; and

18           (4) IC 26-1-9.1-110 with respect to a security interest arising  
19           under IC 26-1-2 or IC 26-1-2.1.

20          (g) A perfected agricultural lien on collateral has priority over  
21          a conflicting security interest in or agricultural lien on the same  
22          collateral if the statute creating the agricultural lien so provides.

23          Sec. 323. (a) Except as otherwise provided in subsection (c), for  
24          purposes of determining the priority of a perfected security interest  
25          under IC 26-1-9.1-322(a)(1), perfection of the security interest  
26          dates from the time an advance is made to the extent that the  
27          security interest secures an advance that:

28           (1) is made while the security interest is perfected only:

29           (A) under IC 26-1-9.1-309 when it attaches; or

30           (B) temporarily under IC 26-1-9.1-312(e),  
31           IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g); and

32           (2) is not made pursuant to a commitment entered into before  
33           or while the security interest is perfected by a method other  
34           than under IC 26-1-9.1-309, IC 26-1-9.1-312(e),  
35           IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g).

36          (b) Except as otherwise provided in subsection (c), a security  
37          interest is subordinate to the rights of a person that becomes a lien  
38          creditor while the security interest is perfected only to the extent  
39          that it secures advances made more than forty-five (45) days after  
40          the person becomes a lien creditor unless the advance is made:

1           (1) without knowledge of the lien; or  
2           (2) pursuant to a commitment entered into without knowledge  
3           of the lien.

4           (c) Subsections (a) and (b) do not apply to a security interest  
5 held by a secured party that is a buyer of accounts, chattel paper,  
6 payment intangibles, or promissory notes or a consignor.

7           (d) Except as otherwise provided in subsection (e), a buyer of  
8 goods other than a buyer in ordinary course of business takes free  
9 of a security interest to the extent that it secures advances made  
10 after the earlier of:

11           (1) the time the secured party acquires knowledge of the  
12 buyer's purchase; or

13           (2) forty-five (45) days after the purchase.

14           (e) Subsection (d) does not apply if the advance is made  
15 pursuant to a commitment entered into without knowledge of the  
16 buyer's purchase and before the expiration of the forty-five (45)  
17 day period.

18           (f) Except as otherwise provided in subsection (g), a lessee of  
19 goods, other than a lessee in ordinary course of business, takes the  
20 leasehold interest free of a security interest to the extent that it  
21 secures advances made after the earlier of:

22           (1) the time the secured party acquires knowledge of the lease;  
23 or

24           (2) forty-five (45) days after the lease contract becomes  
25 enforceable.

26           (g) Subsection (f) does not apply if the advance is made pursuant  
27 to a commitment entered into without knowledge of the lease and  
28 before the expiration of the forty-five (45) day period.

29           Sec. 324. (a) Except as otherwise provided in subsection (g), a  
30 perfected purchase-money security interest in goods other than  
31 inventory or livestock has priority over a conflicting security  
32 interest in the same goods, and, except as otherwise provided in  
33 IC 26-1-9.1-327, a perfected security interest in its identifiable  
34 proceeds also has priority, if the purchase-money security interest  
35 is perfected when the debtor receives possession of the collateral or  
36 within twenty (20) days thereafter.

37           (b) Subject to subsection (c) and except as otherwise provided  
38 in subsection (g), a perfected purchase-money security interest in  
39 inventory has priority over a conflicting security interest in the  
40 same inventory, has priority over a conflicting security interest in

1 chattel paper or an instrument constituting proceeds of the  
2 inventory and in proceeds of the chattel paper, if so provided in  
3 IC 26-1-9.1-330, and, except as otherwise provided in  
4 IC 26-1-9.1-327, also has priority in identifiable cash proceeds of  
5 the inventory to the extent the identifiable cash proceeds are  
6 received on or before the delivery of the inventory to a buyer, if:

7 (1) the purchase-money security interest is perfected when the  
8 debtor receives possession of the inventory;

9 (2) the purchase-money secured party sends an authenticated  
10 notification to the holder of the conflicting security interest;

11 (3) the holder of the conflicting security interest receives the  
12 notification within five (5) years before the debtor receives  
13 possession of the inventory; and

14 (4) the notification states that the person sending the  
15 notification has or expects to acquire a purchase-money  
16 security interest in inventory of the debtor and describes the  
17 inventory.

18 (c) Subsections (b)(2) through (b)(4) apply only if the holder of  
19 the conflicting security interest had filed a financing statement  
20 covering the same types of inventory:

21 (1) if the purchase-money security interest is perfected by  
22 filing, before the date of the filing; or

23 (2) if the purchase-money security interest is temporarily  
24 perfected without filing or possession under  
25 IC 26-1-9.1-312(f), before the beginning of the twenty (20) day  
26 period thereunder.

27 (d) Subject to subsection (e) and except as otherwise provided  
28 in subsection (g), a perfected purchase-money security interest in  
29 livestock that are farm products has priority over a conflicting  
30 security interest in the same livestock, and, except as otherwise  
31 provided in IC 26-1-9.1-327, a perfected security interest in their  
32 identifiable proceeds and identifiable products in their  
33 unmanufactured states also has priority, if:

34 (1) the purchase-money security interest is perfected when the  
35 debtor receives possession of the livestock;

36 (2) the purchase-money secured party sends an authenticated  
37 notification to the holder of the conflicting security interest;

38 (3) the holder of the conflicting security interest receives the  
39 notification within six (6) months before the debtor receives  
40 possession of the livestock; and

1           **(4) the notification states that the person sending the**  
2           **notification has or expects to acquire a purchase-money**  
3           **security interest in livestock of the debtor and describes the**  
4           **livestock.**

5           **(e) Subsections (d)(2) through (d)(4) apply only if the holder of**  
6           **the conflicting security interest had filed a financing statement**  
7           **covering the same types of livestock:**

8                 **(1) if the purchase-money security interest is perfected by**  
9                 **filing, before the date of the filing; or**

10                **(2) if the purchase-money security interest is temporarily**  
11                **perfected without filing or possession under**  
12                **IC 26-1-9.1-312(f), before the beginning of the twenty (20) day**  
13                **period thereunder.**

14           **(f) Except as otherwise provided in subsection (g), a perfected**  
15           **purchase-money security interest in software has priority over a**  
16           **conflicting security interest in the same collateral, and, except as**  
17           **otherwise provided in IC 26-1-9.1-327, a perfected security interest**  
18           **in its identifiable proceeds also has priority, to the extent that the**  
19           **purchase-money security interest in the goods in which the**  
20           **software was acquired for use has priority in the goods and**  
21           **proceeds of the goods under this section.**

22           **(g) If more than one (1) security interest qualifies for priority in**  
23           **the same collateral under subsection (a), (b), (d), or (f):**

24                **(1) a security interest securing an obligation incurred as all or**  
25                **part of the price of the collateral has priority over a security**  
26                **interest securing an obligation incurred for value given to**  
27                **enable the debtor to acquire rights in or the use of collateral;**  
28                **and**

29                **(2) in all other cases, IC 26-1-9.1-322(a) applies to the**  
30                **qualifying security interests.**

31           **Sec. 325. (a) Except as otherwise provided in subsection (b), a**  
32           **security interest created by a debtor is subordinate to a security**  
33           **interest in the same collateral created by another person if:**

34                **(1) the debtor acquired the collateral subject to the security**  
35                **interest created by the other person;**

36                **(2) the security interest created by the other person was**  
37                **perfected when the debtor acquired the collateral; and**

38                **(3) there is no period thereafter when the security interest is**  
39                **unperfected.**

40           **(b) Subsection (a) subordinates a security interest only if the**

1 security interest:

2 (1) otherwise would have priority solely under  
3 IC 26-1-9.1-322(a) or IC 26-1-9.1-324; or

4 (2) arose solely under IC 26-1-2-711(3) or IC 26-1-2.1-508(5).

5 **Sec. 326. (a)** Subject to subsection (b), a security interest created  
6 by a new debtor which is perfected by a filed financing statement  
7 that is effective solely under IC 26-1-9.1-508 in collateral in which  
8 a new debtor has or acquires rights is subordinate to a security  
9 interest in the same collateral that is perfected by another method.

10 (b) The other provisions of IC 26-1-9.1-301 through  
11 IC 26-1-9.1-342 determine the priority among conflicting security  
12 interests in the same collateral perfected by filed financing  
13 statements that are effective solely under IC 26-1-9-508. However,  
14 if the security agreements to which a new debtor became bound as  
15 a debtor were not entered into by the same original debtor, the  
16 conflicting security interests rank according to priority in time of  
17 the new debtor's having become bound.

18 **Sec. 327.** The following rules govern priority among conflicting  
19 security interests in the same deposit account:

20 (1) A security interest held by a secured party having control  
21 of the deposit account under IC 26-1-9.1-104 has priority over  
22 a conflicting security interest held by a secured party that  
23 does not have control.

24 (2) Except as otherwise provided in subdivisions (3) and (4),  
25 security interests perfected by control under IC 26-1-9.1-314  
26 rank according to priority in time of obtaining control.

27 (3) Except as otherwise provided in subdivision (4), a security  
28 interest held by the bank with which the deposit account is  
29 maintained has priority over a conflicting security interest  
30 held by another secured party.

31 (4) A security interest perfected by control under  
32 IC 26-1-9.1-104(a)(3) has priority over a security interest held  
33 by the bank with which the deposit account is maintained.

34 **Sec. 328.** The following rules govern priority among conflicting  
35 security interests in the same investment property:

36 (1) A security interest held by a secured party having control  
37 of investment property under IC 26-1-9.1-106 has priority  
38 over a security interest held by a secured party that does not  
39 have control of the investment property.

40 (2) Except as otherwise provided in subdivisions (3) and (4),

1 **conflicting security interests held by secured parties each of**  
2 **which has control under IC 26-1-9.1-106 rank according to**  
3 **priority in time of:**

4 **(A) if the collateral is a security, obtaining control;**

5 **(B) if the collateral is a security entitlement carried in a**  
6 **securities account and:**

7 **(i) if the secured party obtained control under**  
8 **IC 26-1-8.1-106(d)(1), the secured party's becoming the**  
9 **person for which the securities account is maintained;**

10 **(ii) if the secured party obtained control under**  
11 **IC 26-1-8.1-106(d)(2), the securities intermediary's**  
12 **agreement to comply with the secured party's**  
13 **entitlement orders with respect to security entitlements**  
14 **carried or to be carried in the securities account; or**

15 **(iii) if the secured party obtained control through**  
16 **another person under IC 26-1-8.1-106(d)(3), the time on**  
17 **which priority would be based under this subdivision if**  
18 **the other person were the secured party; or**

19 **(C) if the collateral is a commodity contract carried with**  
20 **a commodity intermediary, the satisfaction of the**  
21 **requirement for control specified in IC 26-1-9.1-106(b)(2)**  
22 **with respect to commodity contracts carried or to be**  
23 **carried with the commodity intermediary.**

24 **(3) A security interest held by a securities intermediary in a**  
25 **security entitlement or a securities account maintained with**  
26 **the securities intermediary has priority over a conflicting**  
27 **security interest held by another secured party.**

28 **(4) A security interest held by a commodity intermediary in a**  
29 **commodity contract or a commodity account maintained with**  
30 **the commodity intermediary has priority over a conflicting**  
31 **security interest held by another secured party.**

32 **(5) A security interest in a certificated security in registered**  
33 **form which is perfected by taking delivery under**  
34 **IC 26-1-9.1-313(a) and not by control under IC 26-1-9.1-314**  
35 **has priority over a conflicting security interest perfected by**  
36 **a method other than control.**

37 **(6) Conflicting security interests created by a broker,**  
38 **securities intermediary, or commodity intermediary, which**  
39 **are perfected without control under IC 26-1-9.1-106 rank**  
40 **equally.**

1           **(7) In all other cases, priority among conflicting security**  
2           **interests in investment property is governed by**  
3           **IC 26-1-9.1-322 and IC 26-1-9.1-323.**

4           **Sec. 329. The following rules govern priority among conflicting**  
5           **security interests in the same letter-of-credit right:**

6           **(1) A security interest held by a secured party having control**  
7           **of the letter-of-credit right under IC 26-1-9.1-107 has priority**  
8           **to the extent of its control over a conflicting security interest**  
9           **held by a secured party that does not have control.**

10          **(2) Security interests perfected by control under**  
11          **IC 26-1-9.1-314 rank according to priority in time of**  
12          **obtaining control.**

13          **Sec. 330. (a) A purchaser of chattel paper has priority over a**  
14          **security interest in the chattel paper which is claimed merely as**  
15          **proceeds of inventory subject to a security interest if:**

16          **(1) in good faith and in the ordinary course of the purchaser's**  
17          **business, the purchaser gives new value and takes possession**  
18          **of the chattel paper or obtains control of the chattel paper**  
19          **under IC 26-1-9.1-105; and**

20          **(2) the chattel paper does not indicate that it has been**  
21          **assigned to an identified assignee other than the purchaser.**

22          **(b) A purchaser of chattel paper has priority over a security**  
23          **interest in the chattel paper which is claimed other than merely as**  
24          **proceeds of inventory subject to a security interest if the purchaser**  
25          **gives new value and takes possession of the chattel paper or obtains**  
26          **control of the chattel paper under IC 26-1-9.1-105 in good faith, in**  
27          **the ordinary course of the purchaser's business, and without**  
28          **knowledge that the purchase violates the rights of the secured**  
29          **party.**

30          **(c) Except as otherwise provided in IC 26-1-9.1-327, a purchaser**  
31          **having priority in chattel paper under subsection (a) or (b) also has**  
32          **priority in proceeds of the chattel paper to the extent that:**

33          **(1) IC 26-1-9.1-322 provides for priority in the proceeds; or**  
34          **(2) the proceeds consist of the specific goods covered by the**  
35          **chattel paper or cash proceeds of the specific goods, even if**  
36          **the purchaser's security interest in the proceeds is**  
37          **unperfected.**

38          **(d) Except as otherwise provided in IC 26-1-9.1-331(a), a**  
39          **purchaser of an instrument has priority over a security interest in**  
40          **the instrument perfected by a method other than possession if the**

1 purchaser gives value and takes possession of the instrument in  
 2 good faith and without knowledge that the purchase violates the  
 3 rights of the secured party.

4 (e) For purposes of subsections (a) and (b), the holder of a  
 5 purchase-money security interest in inventory gives new value for  
 6 chattel paper constituting proceeds of the inventory.

7 (f) For purposes of subsections (b) and (d), if chattel paper or an  
 8 instrument indicates that it has been assigned to an identified  
 9 secured party other than the purchaser, a purchaser of the chattel  
 10 paper or instrument has knowledge that the purchase violates the  
 11 rights of the secured party.

12 Sec. 331. (a) This article does not limit the rights of a holder in  
 13 due course of a negotiable instrument, a holder to which a  
 14 negotiable document of title has been duly negotiated, or a  
 15 protected purchaser of a security. These holders or purchasers take  
 16 priority over an earlier security interest, even if perfected, to the  
 17 extent provided in IC 26-1-3.1, IC 26-1-7, and IC 26-1-8.1.

18 (b) This article does not limit the rights of or impose liability on  
 19 a person to the extent that the person is protected against the  
 20 assertion of an adverse claim under IC 26-1-8.1.

21 (c) Filing under this article does not constitute notice of a claim  
 22 or defense to the holders, purchasers, or persons described in  
 23 subsections (a) and (b).

24 Sec. 332. (a) A transferee of money takes the money free of a  
 25 security interest unless the transferee acts in collusion with the  
 26 debtor in violating the rights of the secured party.

27 (b) A transferee of funds from a deposit account takes the funds  
 28 free of a security interest in the deposit account unless the  
 29 transferee acts in collusion with the debtor in violating the rights  
 30 of the secured party.

31 Sec. 333. (a) In this section, "possessory lien" means an interest,  
 32 other than a security interest or an agricultural lien:

33 (1) that secures payment or performance of an obligation for  
 34 services or materials furnished with respect to goods by a  
 35 person in the ordinary course of the person's business;

36 (2) that is created by statute or rule of law in favor of the  
 37 person; and

38 (3) whose effectiveness depends on the person's possession of  
 39 the goods.

40 (b) A possessory lien on goods has priority over a security

1 interest in the goods unless the lien is created by a statute that  
2 expressly provides otherwise.

3 **Sec. 334. (a) A security interest under this article may be**  
4 **created in goods that are fixtures or may continue in goods that**  
5 **become fixtures. A security interest does not exist under this article**  
6 **in ordinary building materials incorporated into an improvement**  
7 **on land.**

8 **(b) This article does not prevent creation of an encumbrance**  
9 **upon fixtures under real property law.**

10 **(c) In cases not governed by subsections (d) through (h), a**  
11 **security interest in fixtures is subordinate to a conflicting interest**  
12 **of an encumbrancer or owner of the related real property other**  
13 **than the debtor.**

14 **(d) Except as otherwise provided in subsection (h), a perfected**  
15 **security interest in fixtures has priority over a conflicting interest**  
16 **of an encumbrancer or owner of the real property if the debtor has**  
17 **an interest of record in or is in possession of the real property and:**

- 18 **(1) the security interest is a purchase-money security interest;**  
19 **(2) the interest of the encumbrancer or owner arises before**  
20 **the goods become fixtures; and**  
21 **(3) the security interest is perfected by a fixture filing before**  
22 **the goods become fixtures or within twenty (20) days**  
23 **thereafter.**

24 **(e) A perfected security interest in fixtures has priority over a**  
25 **conflicting interest of an encumbrancer or owner of the real**  
26 **property if:**

- 27 **(1) the debtor has an interest of record in the real property or**  
28 **is in possession of the real property and the security interest:**  
29 **(A) is perfected by a fixture filing before the interest of the**  
30 **encumbrancer or owner is of record; and**  
31 **(B) has priority over any conflicting interest of a**  
32 **predecessor in title of the encumbrancer or owner;**  
33 **(2) before the goods become fixtures, the security interest is**  
34 **perfected by any method permitted by this article and the**  
35 **fixtures are readily removable:**  
36 **(A) factory or office machines;**  
37 **(B) equipment that is not primarily used or leased for use**  
38 **in the operation of the real property; or**  
39 **(C) replacements of domestic appliances that are consumer**  
40 **goods;**

- 1           **(3) the conflicting interest is a lien on the real property**  
2           **obtained by legal or equitable proceedings after the security**  
3           **interest was perfected by any method permitted by this**  
4           **article; or**
- 5           **(4) the security interest is:**
- 6               **(A) created in a manufactured home in a**  
7               **manufactured-home transaction; and**
- 8               **(B) perfected pursuant to a statute described in**  
9               **IC 26-1-9.1-311(a)(2).**
- 10          **(f) A security interest in fixtures, whether or not perfected, has**  
11          **priority over a conflicting interest of an encumbrancer or owner**  
12          **of the real property if:**
- 13               **(1) the encumbrancer or owner has, in an authenticated**  
14               **record, consented to the security interest or disclaimed an**  
15               **interest in the goods as fixtures; or**
- 16               **(2) the debtor has a right to remove the goods against the**  
17               **encumbrancer or owner.**
- 18          **(g) The priority of the security interest under subsection (f)**  
19          **continues for a reasonable time if the debtor's right to remove the**  
20          **goods as against the encumbrancer or owner terminates.**
- 21          **(h) A mortgage is a construction mortgage to the extent that it**  
22          **secures an obligation incurred for the construction of an**  
23          **improvement on land, including the acquisition cost of the land, if**  
24          **a recorded record of the mortgage so indicates. Except as**  
25          **otherwise provided in subsections (e) and (f), a security interest in**  
26          **fixtures is subordinate to a construction mortgage if a record of the**  
27          **mortgage is recorded before the goods become fixtures and the**  
28          **goods become fixtures before the completion of the construction.**  
29          **A mortgage has this priority to the same extent as a construction**  
30          **mortgage to the extent that it is given to refinance a construction**  
31          **mortgage.**
- 32          **(i) A perfected security interest in crops growing on real**  
33          **property has priority over a conflicting interest of an**  
34          **encumbrancer or owner of the real property if the debtor has an**  
35          **interest of record in or is in possession of the real property.**
- 36          **Sec. 335. (a) A security interest may be created in an accession**  
37          **and continues in collateral that becomes an accession.**
- 38          **(b) If a security interest is perfected when the collateral becomes**  
39          **an accession, the security interest remains perfected in the**  
40          **collateral.**

1           (c) Except as otherwise provided in subsection (d), the other  
2 provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine  
3 the priority of a security interest in an accession.

4           (d) A security interest in an accession is subordinate to a  
5 security interest in the whole which is perfected by compliance  
6 with the requirements of a certificate-of-title statute under  
7 IC 26-1-9.1-311(b).

8           (e) After default, subject to subsection (f), a secured party may  
9 remove an accession from other goods if the security interest in the  
10 accession has priority over the claims of every person having an  
11 interest in the whole.

12           (f) A secured party that removes an accession from other goods  
13 under subsection (e) shall promptly reimburse any encumbrancer  
14 or owner of the whole or of the other goods, other than the debtor,  
15 for the cost of repair of any physical injury to the whole or the  
16 other goods. The secured party need not reimburse the  
17 encumbrancer or owner for any diminution in value of the whole  
18 or the other goods caused by the absence of the accession removed  
19 or by any necessity for replacing it. A person entitled to  
20 reimbursement may refuse permission to remove until the secured  
21 party gives adequate assurance for the performance of the  
22 obligation to reimburse.

23           Sec. 336. (a) As used in this section, "commingled goods" means  
24 goods that are physically united with other goods in such a manner  
25 that their identity is lost in a product or mass.

26           (b) A security interest does not exist in commingled goods as  
27 such. However, a security interest may attach to a product or mass  
28 that results when goods become commingled goods.

29           (c) If collateral becomes commingled goods, a security interest  
30 attaches to the product or mass.

31           (d) If a security interest in collateral is perfected before the  
32 collateral becomes commingled goods, the security interest that  
33 attaches to the product or mass under subsection (c) is perfected.

34           (e) Except as otherwise provided in subsection (f), the other  
35 provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine  
36 the priority of a security interest that attaches to the product or  
37 mass under subsection (c).

38           (f) If more than one (1) security interest attaches to the product  
39 or mass under subsection (c), the following rules determine  
40 priority:

1           **(1) A security interest that is perfected under subsection (d)**  
 2           **has priority over a security interest that is unperfected at the**  
 3           **time the collateral becomes commingled goods.**

4           **(2) If more than one (1) security interest is perfected under**  
 5           **subsection (d), the security interests rank equally in**  
 6           **proportion to value of the collateral at the time it became**  
 7           **commingled goods.**

8           **Sec. 337. If, while a security interest in goods is perfected by any**  
 9           **method under the law of another jurisdiction, this state issues a**  
 10           **certificate of title that does not show that the goods are subject to**  
 11           **the security interest or contain a statement that they may be**  
 12           **subject to security interests not shown on the certificate:**

13           **(1) a buyer of the goods, other than a person in the business of**  
 14           **selling goods of that kind, takes free of the security interest if**  
 15           **the buyer gives value and receives delivery of the goods after**  
 16           **issuance of the certificate and without knowledge of the**  
 17           **security interest; and**

18           **(2) the security interest is subordinate to a conflicting security**  
 19           **interest in the goods that attaches, and is perfected under**  
 20           **IC 26-1-9.1-311(b), after issuance of the certificate and**  
 21           **without the conflicting secured party's knowledge of the**  
 22           **security interest.**

23           **Sec. 338. If a security interest or agricultural lien is perfected by**  
 24           **a filed financing statement providing information described in**  
 25           **IC 26-1-9.1-516(b)(5) that is incorrect at the time the financing**  
 26           **statement is filed:**

27           **(1) the security interest or agricultural lien is subordinate to**  
 28           **a conflicting perfected security interest in the collateral to the**  
 29           **extent that the holder of the conflicting security interest gives**  
 30           **value in reasonable reliance upon the incorrect information;**  
 31           **and**

32           **(2) a purchaser, other than a secured party, of the collateral**  
 33           **takes free of the security interest or agricultural lien to the**  
 34           **extent that, in reasonable reliance upon the incorrect**  
 35           **information, the purchaser gives value and, in the case of**  
 36           **chattel paper, documents, goods, instruments, or a security**  
 37           **certificate, receives delivery of the collateral.**

38           **Sec. 339. This article does not preclude subordination by**  
 39           **agreement by a person entitled to priority.**

40           **Sec. 340. (a) Except as otherwise provided in subsection (c), a**

1 bank with which a deposit account is maintained may exercise any  
 2 right of recoupment or set-off against a secured party that holds a  
 3 security interest in the deposit account.

4 (b) Except as otherwise provided in subsection (c), the  
 5 application of this article to a security interest in a deposit account  
 6 does not affect a right of recoupment or set-off of the secured party  
 7 as to a deposit account maintained with the secured party.

8 (c) The exercise by a bank of a set-off against a deposit account  
 9 is ineffective against a secured party that holds a security interest  
 10 in the deposit account which is perfected by control under  
 11 IC 26-1-9.1-104(a)(3), if the set-off is based on a claim against the  
 12 debtor.

13 **Sec. 341.** Except as otherwise provided in IC 26-1-9.1-340(c),  
 14 and unless the bank otherwise agrees in an authenticated record,  
 15 a bank's rights and duties with respect to a deposit account  
 16 maintained with the bank are not terminated, suspended, or  
 17 modified by:

- 18 (1) the creation, attachment, or perfection of a security  
 19 interest in the deposit account;
- 20 (2) the bank's knowledge of the security interest; or
- 21 (3) the bank's receipt of instructions from the secured party.

22 **Sec. 342.** This article does not require a bank to enter into an  
 23 agreement of the kind described in IC 26-1-9.1-104(a)(2), even if its  
 24 customer so requests or directs. A bank that has entered into such  
 25 an agreement is not required to confirm the existence of the  
 26 agreement to another person unless requested to do so by its  
 27 customer.

28 **Sec. 401.** (a) Except as otherwise provided in subsection (b) and  
 29 IC 26-1-9.1-406, IC 26-1-9.1-407, IC 26-1-9.1-408, and  
 30 IC 26-1-9.1-409, whether a debtor's rights in collateral may be  
 31 voluntarily or involuntarily transferred is governed by law other  
 32 than this article.

33 (b) An agreement between the debtor and secured party that  
 34 prohibits a transfer of the debtor's rights in collateral or makes the  
 35 transfer a default does not prevent the transfer from taking effect.

36 **Sec. 402.** The existence of a security interest, agricultural lien,  
 37 or authority given to a debtor to dispose of or use collateral,  
 38 without more, does not subject a secured party to liability in  
 39 contract or tort for the debtor's acts or omissions.

40 **Sec. 403.** (a) As used in this section, "value" has the meaning

1 provided in IC 26-1-3-303(a).

2 (b) Except as otherwise provided in this section, an agreement  
3 between an account debtor and an assignor not to assert against an  
4 assignee any claim or defense that the account debtor may have  
5 against the assignor is enforceable by an assignee that takes an  
6 assignment:

- 7 (1) for value;  
8 (2) in good faith;  
9 (3) without notice of a claim of a property or possessory right  
10 to the property assigned; and  
11 (4) without notice of a defense or claim in recoupment of the  
12 type that may be asserted against a person entitled to enforce  
13 a negotiable instrument under IC 26-1-3.1-305(a).

14 (c) Subsection (b) does not apply to defenses of a type that may  
15 be asserted against a holder in due course of a negotiable  
16 instrument under IC 26-1-3.1-305(b).

17 (d) In a consumer transaction, if a record evidences the account  
18 debtor's obligation, law other than this article requires that the  
19 record include a statement to the effect that the rights of an  
20 assignee are subject to claims or defenses that the account debtor  
21 could assert against the original obligee, and the record does not  
22 include such a statement:

- 23 (1) the record has the same effect as if the record included  
24 such a statement; and  
25 (2) the account debtor may assert against an assignee those  
26 claims and defenses that would have been available if the  
27 record included such a statement.

28 (e) This section is subject to law other than this article that  
29 establishes a different rule for an account debtor who is an  
30 individual and who incurred the obligation primarily for personal,  
31 family, or household purposes.

32 (f) Except as otherwise provided in subsection (d), this section  
33 does not displace law other than this article which gives effect to an  
34 agreement by an account debtor not to assert a claim or defense  
35 against an assignee.

36 **Sec. 404. (a)** Unless an account debtor has made an enforceable  
37 agreement not to assert defenses or claims, and subject to  
38 subsections (b) through (e), the rights of an assignee are subject to:

- 39 (1) all terms of the agreement between the account debtor and  
40 assignor and any defense or claim in recoupment arising from

1           **the transaction that gave rise to the contract; and**  
2           **(2) any other defense or claim of the account debtor against**  
3           **the assignor which accrues before the account debtor receives**  
4           **a notification of the assignment authenticated by the assignor**  
5           **or the assignee.**

6           **(b) Subject to subsection (c) and except as otherwise provided**  
7           **in subsection (d), the claim of an account debtor against an**  
8           **assignor may be asserted against an assignee under subsection (a)**  
9           **only to reduce the amount the account debtor owes.**

10          **(c) This section is subject to law other than this article that**  
11          **establishes a different rule for an account debtor who is an**  
12          **individual and who incurred the obligation primarily for personal,**  
13          **family, or household purposes.**

14          **(d) In a consumer transaction, if a record evidences the account**  
15          **debtor's obligation, law other than this article requires that the**  
16          **record include a statement to the effect that the account debtor's**  
17          **recovery against an assignee with respect to claims and defenses**  
18          **against the assignor may not exceed amounts paid by the account**  
19          **debtor under the record, and the record does not include such a**  
20          **statement, the extent to which a claim of an account debtor against**  
21          **the assignor may be asserted against an assignee is determined as**  
22          **if the record included such a statement.**

23          **(e) This section does not apply to an assignment of a**  
24          **health-care-insurance receivable.**

25          **Sec. 405. (a) A modification of or substitution for an assigned**  
26          **contract is effective against an assignee if made in good faith. The**  
27          **assignee acquires corresponding rights under the modified or**  
28          **substituted contract. The assignment may provide that the**  
29          **modification or substitution is a breach of contract by the assignor.**  
30          **This subsection is subject to subsections (b) through (d).**

31          **(b) Subsection (a) applies to the extent that:**

32               **(1) the right to payment or a part thereof under an assigned**  
33               **contract has not been fully earned by performance; or**  
34               **(2) the right to payment or a part thereof has been fully**  
35               **earned by performance and the account debtor has not**  
36               **received notification of the assignment under**  
37               **IC 26-1-9.1-406(a).**

38          **(c) This section is subject to law other than this article that**  
39          **establishes a different rule for an account debtor who is an**  
40          **individual and who incurred the obligation primarily for personal,**

1 family, or household purposes.

2 (d) This section does not apply to an assignment of a  
3 health-care-insurance receivable.

4 **Sec. 406. (a) Subject to subsections (b) through (h), an account**  
5 **debtor on an account, chattel paper, or a payment intangible may**  
6 **discharge its obligation by paying the assignor until, but not after,**  
7 **the account debtor receives a notification, authenticated by the**  
8 **assignor or the assignee, that the amount due or to become due has**  
9 **been assigned and that payment is to be made to the assignee. After**  
10 **receipt of the notification, the account debtor may discharge its**  
11 **obligation by paying the assignee and may not discharge the**  
12 **obligation by paying the assignor.**

13 (b) Subject to subsection (g), notification is ineffective under  
14 subsection (a):

15 (1) if it does not reasonably identify the rights assigned;  
16 (2) to the extent that an agreement between an account debtor  
17 and a seller of a payment intangible limits the account  
18 debtor's duty to pay a person other than the seller and the  
19 limitation is effective under law other than this article; or  
20 (3) at the option of an account debtor, if the notification  
21 notifies the account debtor to make less than the full amount  
22 of any installment or other periodic payment to the assignee,  
23 even if:

24 (A) only a portion of the account, chattel paper, or general  
25 intangible has been assigned to that assignee;

26 (B) a portion has been assigned to another assignee; or

27 (C) the account debtor knows that the assignment to that  
28 assignee is limited.

29 (c) Subject to subsection (g), if requested by the account debtor,  
30 an assignee shall seasonably furnish reasonable proof that the  
31 assignment has been made. Unless the assignee complies, the  
32 account debtor may discharge its obligation by paying the assignor,  
33 even if the account debtor has received a notification under  
34 subsection (a).

35 (d) Except as otherwise provided in subsection (e) and  
36 IC 26-1-2.1-303 and IC 26-1-9.1-407, and subject to subsection (g),  
37 a term in an agreement between an account debtor and an assignor  
38 or in a promissory note is ineffective to the extent that it:

39 (1) prohibits, restricts, or requires the consent of the account  
40 debtor or person obligated on the promissory note to the

1 assignment or transfer of, or the creation, attachment,  
 2 perfection, or enforcement of a security interest in, the  
 3 account, chattel paper, payment intangible, or promissory  
 4 note; or

5 (2) provides that the assignment or transfer or the creation,  
 6 attachment, perfection, or enforcement of the security interest  
 7 may give rise to a default, breach, right of recoupment, claim,  
 8 defense, termination, right of termination, or remedy under  
 9 the account, chattel paper, payment intangible, or promissory  
 10 note.

11 (e) Subsection (d) does not apply to the sale of a payment  
 12 intangible or promissory note.

13 (f) Except as provided in IC 26-1-2.1-303 and IC 26-1-9-407, and  
 14 subject to subsections (h) and (i), a rule of law, statute, or  
 15 regulation that prohibits, restricts, or requires the consent of a  
 16 government, governmental body or official, or account debtor to  
 17 the assignment or transfer of, or creation of a security interest in,  
 18 an account or chattel paper is ineffective to the extent that the rule  
 19 of law, statute, or regulation:

20 (1) prohibits, restricts, or requires the consent of the  
 21 government, governmental body or official, or account debtor  
 22 to the assignment or transfer of, or the creation, attachment,  
 23 perfection, or enforcement of a security interest in the account  
 24 or chattel paper; or

25 (2) provides that the assignment or transfer or the creation,  
 26 attachment, perfection, or enforcement of the security interest  
 27 may give rise to a default, right of recoupment, claim, defense,  
 28 termination, right of termination, or remedy under the  
 29 account or chattel paper.

30 (g) Subject to subsection (h), an account debtor may not waive  
 31 or vary its option under subsection (b)(3).

32 (h) This section is subject to law other than this article which  
 33 establishes a different rule for an account debtor who is an  
 34 individual and who incurred the obligation primarily for personal,  
 35 family, or household purposes.

36 (i) This section does not apply to an assignment of a  
 37 health-care-insurance receivable.

38 **Sec. 407. (a)** Except as otherwise provided in subsection (b), a  
 39 term in a lease agreement is ineffective to the extent that it:

40 (1) prohibits, restricts, or requires the consent of a party to

1           the lease to the creation, attachment, perfection, or  
2           enforcement of a security interest in an interest of a party  
3           under the lease contract or in the lessor's residual interest in  
4           the goods; or

5           (2) provides that the creation, attachment, perfection, or  
6           enforcement of the security interest may give rise to a default,  
7           breach, right of recoupment, claim, defense, termination,  
8           right of termination, or remedy under the lease.

9           (b) Except as otherwise provided in IC 26-1-2.1-303(7), a term  
10          described in subsection (a)(2) is effective to the extent that there is:

11           (1) a transfer by the lessee of the lessee's right of possession or  
12           use of the goods in violation of the term; or

13           (2) a delegation of a material performance of either party to  
14           the lease contract in violation of the term.

15          (c) The creation, attachment, perfection, or enforcement of a  
16          security interest in the lessor's interest under the lease contract or  
17          the lessor's residual interest in the goods is not a transfer that  
18          materially impairs the lessee's prospect of obtaining return  
19          performance or materially changes the duty of or materially  
20          increases the burden or risk imposed on the lessee within the  
21          purview of IC 26-1-2.1-303(4) unless, and then only to the extent  
22          that, enforcement actually results in a delegation of material  
23          performance of the seller. Even in that event, the creation,  
24          attachment, perfection, and enforcement of the security interest  
25          remain effective.

26          Sec. 408. (a) Except as otherwise provided in subsection (b), a  
27          term in a promissory note or in an agreement between an account  
28          debtor and a debtor that relates to a health-care-insurance  
29          receivable or a general intangible, including a contract, permit,  
30          license, or franchise, and which term prohibits, restricts, or  
31          requires the consent of the person obligated on the promissory note  
32          or the account debtor to, the assignment or transfer of, or creation,  
33          attachment, or perfection of a security interest in, the promissory  
34          note, health-care-insurance receivable, or general intangible, is  
35          ineffective to the extent that the term:

36           (1) would impair the creation, attachment, or perfection of a  
37           security interest; or

38           (2) provides that the creation, attachment, or perfection of the  
39           security interest may give rise to a default, breach, right of  
40           recoupment, claim, defense, termination, right of termination,

1           or remedy under the promissory note, health-care-insurance  
2           receivable, or general intangible.

3           (b) Subsection (a) applies to a security interest in a payment  
4           intangible or promissory note only if the security interest arises out  
5           of a sale of the payment intangible or promissory note.

6           (c) A rule of law, statute, or regulation, which prohibits,  
7           restricts, or requires the consent of a government, governmental  
8           body or official, person obligated on a promissory note, or account  
9           debtor to the assignment or transfer of, or creation of a security  
10          interest in, a promissory note, health-care-insurance receivable, or  
11          general intangible, including a contract, permit, license, or  
12          franchise between an account debtor and a debtor, is ineffective to  
13          the extent that the rule of law, statute, or regulation:

14               (1) would impair the creation, attachment, or perfection of a  
15               security interest; or

16               (2) provides that the creation, attachment, or perfection of the  
17               security interest may give rise to a default, breach, right of  
18               recoupment, claim, defense, termination, right of termination,  
19               or remedy under the promissory note, health-care-insurance  
20               receivable, or general intangible.

21          (d) To the extent that a term in a promissory note or in an  
22          agreement between an account debtor and a debtor which relates  
23          to a health-care-insurance receivable or general intangible or a  
24          rule of law, statute, or regulation described in subsection (c) would  
25          be effective under law other than this article but is ineffective  
26          under subsection (a) or (c), the creation, attachment, or perfection  
27          of a security interest in the promissory note, health-care-insurance  
28          receivable, or general intangible:

29               (1) is not enforceable against the person obligated on the  
30               promissory note or the account debtor;

31               (2) does not impose a duty or obligation on the person  
32               obligated on the promissory note or the account debtor;

33               (3) does not require the person obligated on the promissory  
34               note or the account debtor to recognize the security interest,  
35               pay or render performance to the secured party, or accept  
36               payment or performance from the secured party;

37               (4) does not entitle the secured party to use or assign the  
38               debtor's rights under the promissory note,  
39               health-care-insurance receivable, or general intangible,  
40               including any related information or materials furnished to

1           the debtor in the transaction giving rise to the promissory  
2           note, health-care-insurance receivable, or general intangible;  
3           (5) does not entitle the secured party to use, assign, possess, or  
4           have access to any trade secrets or confidential information of  
5           the person obligated on the promissory note or the account  
6           debtor; and

7           (6) does not entitle the secured party to enforce the security  
8           interest in the promissory note, health-care-insurance  
9           receivable, or general intangible.

10          (e) This section prevails over any inconsistent provision in  
11          statute, administrative rule, or regulation.

12          Sec. 409. (a) A term in a letter-of-credit or a rule of law, statute,  
13          regulation, custom, or practice applicable to the letter-of-credit  
14          that prohibits, restricts, or requires the consent of an applicant,  
15          issuer, or nominated person to a beneficiary's assignment of or  
16          creation of a security interest in a letter-of-credit right is  
17          ineffective to the extent that the term or rule of law, statute,  
18          regulation, custom, or practice:

19               (1) would impair the creation, attachment, or perfection of a  
20               security interest in the letter-of-credit right; or

21               (2) provides that the creation, attachment, or perfection of the  
22               security interest may give rise to a default, breach, right of  
23               recoupment, claim, defense, termination, right of termination,  
24               or remedy under the letter-of-credit right.

25          (b) To the extent that a term in a letter-of-credit is ineffective  
26          under subsection (a) but would be effective under law other than  
27          this article or a custom or practice applicable to the  
28          letter-of-credit, to the transfer of a right to draw or otherwise  
29          demand performance under the letter-of-credit, or to the  
30          assignment of a right to proceeds of the letter-of-credit, the  
31          creation, attachment, or perfection of a security interest in the  
32          letter-of-credit right:

33               (1) is not enforceable against the applicant, issuer, nominated  
34               person, or transferee beneficiary;

35               (2) imposes no duties or obligations on the applicant, issuer,  
36               nominated person, or transferee beneficiary; and

37               (3) does not require the applicant, issuer, nominated person,  
38               or transferee beneficiary to recognize the security interest,  
39               pay or render performance to the secured party, or accept  
40               payment or other performance from the secured party.

1           **Sec. 501. (a) Except as otherwise provided in subsection (b), if**  
2 **the local law of this state governs perfection of a security interest**  
3 **or agricultural lien, the office in which to file a financing statement**  
4 **to perfect the security interest or agricultural lien is:**

5           **(1) the office designated for the filing or recording of a record**  
6 **of a mortgage on the related real property, if:**

7           **(A) the collateral is as-extracted collateral or timber to be**  
8 **cut; or**

9           **(B) the financing statement is filed as a fixture filing and**  
10 **the collateral is goods that are or are to become fixtures;**

11 **or**

12 **(2) the office of the secretary of state, in all other cases,**  
13 **including a case in which the collateral is goods that are or are**  
14 **to become fixtures and the financing statement is not filed as**  
15 **a fixture filing.**

16           **(b) The office in which to file a financing statement to perfect a**  
17 **security interest in collateral, including fixtures, of a transmitting**  
18 **utility is the office of the secretary of state. The financing statement**  
19 **also constitutes a fixture filing as to the collateral indicated in the**  
20 **financing statement which is or is to become fixtures.**

21           **Sec. 502. (a) Subject to subsection (b), a financing statement is**  
22 **sufficient only if it:**

23           **(1) provides the name of the debtor;**

24           **(2) provides the name of the secured party or a representative**  
25 **of the secured party; and**

26           **(3) indicates the collateral covered by the financing statement.**

27           **(b) Except as otherwise provided in IC 26-1-9.1-501(b), to be**  
28 **sufficient, a financing statement that covers as-extracted collateral**  
29 **or timber to be cut, or which is filed as a fixture filing and covers**  
30 **goods that are or are to become fixtures, must satisfy subsection (a)**  
31 **and also:**

32           **(1) indicate that it covers this type of collateral;**

33           **(2) indicate that it is to be filed in the real property records;**

34           **(3) provide a description of the real property to which the**  
35 **collateral is related that is sufficient to give constructive**  
36 **notice of a mortgage under the law of this state if the**  
37 **description were contained in a record of the mortgage of the**  
38 **real property; and**

39           **(4) if the debtor does not have an interest of record in the real**  
40 **property, provide the name of a record owner.**

1           (c) A record of a mortgage is effective, from the date of  
2 recording, as a financing statement filed as a fixture filing or as a  
3 financing statement covering as-extracted collateral or timber to  
4 be cut only if:

- 5           (1) the record indicates the goods or accounts that it covers;  
6           (2) the goods are or are to become fixtures related to the real  
7 property described in the record or the collateral is related to  
8 the real property described in the record and is as-extracted  
9 collateral or timber to be cut;  
10          (3) the record complies with the requirements for a financing  
11 statement in this section other than an indication that it is to  
12 be filed in the real property records; and  
13          (4) the record is recorded.

14          (d) A financing statement may be filed before a security  
15 agreement is made or a security interest otherwise attaches.

16          (e) The provisions of IC 36-2-11-15 requiring the identification  
17 of draftsmen of instruments transferring interest in real estate do  
18 not apply to IC 26-1.

19          Sec. 503. (a) A financing statement sufficiently provides the  
20 name of the debtor:

- 21           (1) if the debtor is a registered organization, only if the  
22 financing statement provides the name of the debtor indicated  
23 on the public record of the debtor's jurisdiction of  
24 organization which shows the debtor to have been organized;  
25           (2) if the debtor is a decedent's estate, only if the financing  
26 statement provides the name of the decedent and indicates  
27 that the debtor is an estate;  
28           (3) if the debtor is a trust or a trustee acting with respect to  
29 property held in trust, only if the financing statement:

30           (A) provides the name specified for the trust in its organic  
31 documents or, if no name is specified, provides the name of  
32 the settlor and additional information sufficient to  
33 distinguish the debtor from other trusts having one (1) or  
34 more of the same settlors; and

35           (B) indicates, in the debtor's name or otherwise, that the  
36 debtor is a trust or is a trustee acting with respect to  
37 property held in trust; and

38           (4) in other cases:

39           (A) if the debtor has a name, only if it provides the  
40 individual or organizational name of the debtor; and

1           **(B) if the debtor does not have a name, only if it provides**  
2           **the names of the partners, members, associates, or other**  
3           **persons comprising the debtor.**

4           **(b) A financing statement that provides the name of the debtor**  
5           **in accordance with subsection (a) is not rendered ineffective by the**  
6           **absence of:**

7           **(1) a trade name or other name of the debtor; or**  
8           **(2) unless required under subsection (a)(4)(B), names of**  
9           **partners, members, associates, or other persons comprising**  
10           **the debtor.**

11           **(c) A financing statement that provides only the debtor's trade**  
12           **name does not sufficiently provide the name of the debtor.**

13           **(d) Failure to indicate the representative capacity of a secured**  
14           **party or representative of a secured party does not affect the**  
15           **sufficiency of a financing statement.**

16           **(e) A financing statement may provide the name of more than**  
17           **one (1) debtor and the name of more than one (1) secured party.**

18           **Sec. 504. A financing statement sufficiently indicates the**  
19           **collateral that it covers only if the financing statement provides:**

20           **(1) a description of the collateral pursuant to IC 26-1-9.1-108;**  
21           **or**  
22           **(2) an indication that the financing statement covers all assets**  
23           **or all personal property.**

24           **Sec. 505. (a) A consignor, lessor, or other bailor of goods or a**  
25           **buyer of a payment intangible or a promissory note may file a**  
26           **financing statement, or may comply with a statute or treaty**  
27           **described in IC 26-1-9.1-311(a), using the terms "consignor",**  
28           **"consignee", "lessor", "lessee", "bailor", "bailee", "owner",**  
29           **"registered owner", "buyer", "seller", or words of similar import,**  
30           **instead of the terms "secured party" and "debtor".**

31           **(b) IC 26-1-9.1-501 through IC 26-1-9.1-527 apply to the filing**  
32           **of a financing statement under subsection (a) and, as appropriate,**  
33           **to compliance that is equivalent to filing a financing statement**  
34           **under IC 26-1-9.1-311(b), but the filing or compliance is not of**  
35           **itself a factor in determining whether the collateral secures an**  
36           **obligation. If it is determined for another reason that the collateral**  
37           **secures an obligation, a security interest held by the consignor,**  
38           **lessor, bailor, owner, or buyer which attaches to the collateral is**  
39           **perfected by the filing or compliance.**

40           **Sec. 506. (a) A financing statement substantially satisfying the**

1 requirements of IC 26-1-9.1-501 through IC 26-1-9.1-527 is  
2 effective, even if it has minor errors or omissions, unless the errors  
3 or omissions make the financing statement seriously misleading.

4 (b) Except as otherwise provided in subsection (c), a financing  
5 statement that fails sufficiently to provide the name of the debtor  
6 in accordance with IC 26-1-9.1-503(a) is seriously misleading.

7 (c) If a search of the records of the filing office under the  
8 debtor's correct name, using the filing office's standard search  
9 logic, if any, would disclose a financing statement that fails to  
10 sufficiently provide the name of the debtor in accordance with  
11 IC 26-1-9.1-503(a), the name provided does not make the financing  
12 statement seriously misleading.

13 (d) For purposes of IC 26-1-9.1-508(b), the "debtor's correct  
14 name" in subsection (c) means the correct name of the new debtor.

15 **Sec. 507. (a)** A filed financing statement remains effective with  
16 respect to collateral that is sold, exchanged, leased, licensed, or  
17 otherwise disposed of and in which a security interest or  
18 agricultural lien continues, even if the secured party knows of or  
19 consents to the disposition.

20 (b) Except as otherwise provided in subsection (c) and  
21 IC 26-1-9.1-508, a financing statement is not rendered ineffective  
22 if, after the financing statement is filed, the information provided  
23 in the financing statement becomes seriously misleading under  
24 IC 26-1-9.1-506.

25 (c) If a debtor so changes its name that a filed financing  
26 statement becomes seriously misleading under IC 26-1-9.1-506:

27 (1) the financing statement is effective to perfect a security  
28 interest in collateral acquired by the debtor before, or within  
29 four (4) months after, the change; and

30 (2) the financing statement is not effective to perfect a security  
31 interest in collateral acquired by the debtor more than four  
32 (4) months after the change, unless an amendment to the  
33 financing statement which renders the financing statement  
34 not seriously misleading is filed within four months (4) after  
35 the change.

36 **Sec. 508. (a)** Except as otherwise provided in this section, a filed  
37 financing statement naming an original debtor is effective to  
38 perfect a security interest in collateral in which a new debtor has  
39 or acquires rights to the extent that the financing statement would  
40 have been effective had the original debtor acquired rights in the

1 collateral.

2 (b) If the difference between the name of the original debtor and  
3 that of the new debtor causes a filed financing statement that is  
4 effective under subsection (a) to be seriously misleading under  
5 IC 26-1-9.1-506:

6 (1) the financing statement is effective to perfect a security  
7 interest in collateral acquired by the new debtor before, and  
8 within four (4) months after, the new debtor becomes bound  
9 under IC 26-1-9.1-203(d); and

10 (2) the financing statement is not effective to perfect a security  
11 interest in collateral acquired by the new debtor more than  
12 four (4) months after the new debtor becomes bound under  
13 IC 26-1-9.1-203(d) unless an initial financing statement  
14 providing the name of the new debtor is filed before the  
15 expiration of that time.

16 (c) This section does not apply to collateral as to which a filed  
17 financing statement remains effective against the new debtor under  
18 IC 26-1-9.1-507(a).

19 Sec. 509. (a) A person may file an initial financing statement,  
20 amendment that adds collateral covered by a financing statement,  
21 or amendment that adds a debtor to a financing statement only if:

22 (1) the debtor authorizes the filing in an authenticated record;  
23 or

24 (2) the person holds an agricultural lien that has become  
25 effective at the time of filing and the financing statement  
26 covers only collateral in which the person holds an  
27 agricultural lien.

28 (b) By authenticating a security agreement, a debtor authorizes  
29 the filing of an initial financing statement, and an amendment,  
30 covering:

31 (1) the collateral described in the security agreement; and

32 (2) property that becomes collateral under  
33 IC 26-1-9.1-315(a)(2), whether or not the security agreement  
34 expressly covers proceeds.

35 (c) By acquiring collateral in which a security interest or  
36 agricultural lien continues under IC 26-1-9.1-315(a)(1), a debtor  
37 authorizes the filing of an initial financing statement, and an  
38 amendment, covering the collateral and property that becomes  
39 collateral under IC 26-1-9.1-315(a)(1).

40 (d) A person may file an amendment other than an amendment

1 that adds collateral covered by a financing statement or an  
2 amendment that adds a debtor to a financing statement only if:

- 3 (1) the secured party of record authorizes the filing; or  
4 (2) the amendment is a termination statement for a financing  
5 statement as to which the secured party of record has failed  
6 to file or send a termination statement as required by  
7 IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c), the debtor  
8 authorizes the filing, and the termination statement indicates  
9 that the debtor authorized it to be filed.

10 (e) If there is more than one (1) secured party of record for a  
11 financing statement, each secured party of record may authorize  
12 the filing of an amendment under subsection (d).

13 **Sec. 510. (a)** A filed record is effective only to the extent that it  
14 was filed by a person that may file it under IC 26-1-9.1-509.

15 (b) A record authorized by one secured party of record does not  
16 affect the financing statement with respect to another secured  
17 party of record.

18 (c) A continuation statement that is not filed within the six (6)  
19 month period prescribed by IC 26-1-9.1-515(d) is ineffective.

20 **Sec. 511. (a)** A secured party of record with respect to a  
21 financing statement is a person whose name is provided as the  
22 name of the secured party or a representative of the secured party  
23 in an initial financing statement that has been filed. If an initial  
24 financing statement is filed under IC 26-1-9.1-514(a), the assignee  
25 named in the initial financing statement is the secured party of  
26 record with respect to the financing statement.

27 (b) If an amendment of a financing statement that provides the  
28 name of a person as a secured party or a representative of a  
29 secured party is filed, the person named in the amendment is a  
30 secured party of record. If an amendment is filed under  
31 IC 26-1-9.1-514(b), the assignee named in the amendment is a  
32 secured party of record.

33 (c) A person remains a secured party of record until the filing  
34 of an amendment of the financing statement that deletes the  
35 person.

36 **Sec. 512. (a)** Subject to IC 26-1-9.1-509, a person may add or  
37 delete collateral covered by, continue or terminate the effectiveness  
38 of, or, subject to subsection (e), otherwise amend the information  
39 provided in, a financing statement by filing an amendment that:

- 40 (1) identifies, by its file number, the initial financing statement

1 to which the amendment relates; and  
2 (2) if the amendment relates to an initial financing statement  
3 filed or recorded in a filing office described in  
4 IC 26-1-9.1-501(a)(1), provides the information specified in  
5 IC 26-1-9.1-502(b).

6 (b) Except as otherwise provided in IC 26-1-9.1-515, the filing  
7 of an amendment does not extend the period of effectiveness of the  
8 financing statement.

9 (c) A financing statement that is amended by an amendment  
10 that adds collateral is effective as to the added collateral only from  
11 the date of the filing of the amendment.

12 (d) A financing statement that is amended by an amendment  
13 that adds a debtor is effective as to the added debtor only from the  
14 date of the filing of the amendment.

15 (e) An amendment is ineffective to the extent it:

16 (1) purports to delete all debtors and fails to provide the name  
17 of a debtor to be covered by the financing statement; or

18 (2) purports to delete all secured parties of record and fails to  
19 provide the name of a new secured party of record.

20 Sec. 513. (a) A secured party shall cause the secured party of  
21 record for a financing statement to file a termination statement for  
22 the financing statement if the financing statement covers consumer  
23 goods and:

24 (1) there is no obligation secured by the collateral covered by  
25 the financing statement and no commitment to make an  
26 advance, incur an obligation, or otherwise give value; or

27 (2) the debtor did not authorize the filing of the initial  
28 financing statement.

29 (b) To comply with subsection (a), a secured party shall cause  
30 the secured party of record to file the termination statement:

31 (1) within one (1) month after there is no obligation secured  
32 by the collateral covered by the financing statement and no  
33 commitment to make an advance, incur an obligation, or  
34 otherwise give value; or

35 (2) if earlier, within twenty (20) days after the secured party  
36 receives an authenticated demand from a debtor.

37 (c) In cases not governed by subsection (a), within twenty (20)  
38 days after a secured party receives an authenticated demand from  
39 a debtor, the secured party shall cause the secured party of record  
40 for a financing statement to send to the debtor a termination

1 statement for the financing statement or file the termination  
2 statement in the filing office if:

3 (1) except in the case of a financing statement covering  
4 accounts or chattel paper that has been sold or goods that are  
5 the subject of a consignment, there is no obligation secured by  
6 the collateral covered by the financing statement and no  
7 commitment to make an advance, incur an obligation, or  
8 otherwise give value;

9 (2) the financing statement covers accounts or chattel paper  
10 that has been sold but as to which the account debtor or other  
11 person obligated has discharged its obligation;

12 (3) the financing statement covers goods that were the subject  
13 of a consignment to the debtor but are not in the debtor's  
14 possession; or

15 (4) the debtor did not authorize the filing of the initial  
16 financing statement.

17 (d) Except as otherwise provided in IC 26-1-9.1-510, upon the  
18 filing of a termination statement with the filing office, the financing  
19 statement to which the termination statement relates ceases to be  
20 effective.

21 Sec. 514. (a) Except as otherwise provided in subsection (c), an  
22 initial financing statement may reflect an assignment of all of the  
23 secured party's power to authorize an amendment to the financing  
24 statement by providing the name and mailing address of the  
25 assignee as the name and address of the secured party.

26 (b) Except as otherwise provided in subsection (c), a secured  
27 party of record may assign of record all or part of its power to  
28 authorize an amendment to a financing statement by filing in the  
29 filing office an amendment of the financing statement which:

30 (1) identifies, by its file number, the initial financing statement  
31 to which it relates;

32 (2) provides the name of the assignor; and

33 (3) provides the name and mailing address of the assignee.

34 (c) An assignment of record of a security interest in a fixture  
35 covered by a record of a mortgage which is effective as a financing  
36 statement filed as a fixture filing under IC 26-1-9.1-502(c) may be  
37 made only by an assignment of record of the mortgage in the  
38 manner provided by law of this state other than IC 26-1.

39 Sec. 515. (a) Except as otherwise provided in subsections (b), (e),  
40 (f), and (g), a filed financing statement is effective for a period of

1 five (5) years after the date of filing.

2 (b) Except as otherwise provided in subsections (e), (f), and (g),  
3 an initial financing statement filed in connection with a  
4 public-finance transaction or manufactured-home transaction is  
5 effective for a period of thirty (30) years after the date of filing if  
6 it indicates that it is filed in connection with a public-finance  
7 transaction or manufactured-home transaction.

8 (c) The effectiveness of a filed financing statement lapses on the  
9 expiration of the period of its effectiveness unless, before the lapse,  
10 a continuation statement is filed pursuant to subsection (d). Upon  
11 lapse, a financing statement ceases to be effective and any security  
12 interest or agricultural lien that was perfected by the financing  
13 statement becomes unperfected, unless the security interest is  
14 perfected without filing. If the security interest or agricultural lien  
15 becomes unperfected upon lapse, it is considered never to have  
16 been perfected as against a purchaser of the collateral for value.

17 (d) A continuation statement may be filed only within six (6)  
18 months before the expiration of the five (5) year period specified in  
19 subsection (a) or the thirty (30) year period specified in subsection  
20 (b), whichever is applicable.

21 (e) Except as otherwise provided in IC 26-1-9.1-510, upon timely  
22 filing of a continuation statement, the effectiveness of the initial  
23 financing statement continues for a period of five (5) years  
24 commencing on the day on which the financing statement would  
25 have become ineffective in the absence of the filing. Upon the  
26 expiration of the five (5) year period, the financing statement lapses  
27 in the same manner as provided in subsection (c), unless, before the  
28 lapse, another continuation statement is filed pursuant to  
29 subsection (d). Succeeding continuation statements may be filed in  
30 the same manner to continue the effectiveness of the initial  
31 financing statement.

32 (f) If a debtor is a transmitting utility and a filed financing  
33 statement so indicates, the financing statement is effective until a  
34 termination statement is filed.

35 (g) A record of a mortgage that is effective as a financing  
36 statement filed as a fixture filing under IC 26-1-9.1-502(c) remains  
37 effective as a financing statement filed as a fixture filing until the  
38 mortgage is released or satisfied of record or its effectiveness  
39 otherwise terminates as to the real property.

40 Sec. 516. (a) Except as otherwise provided in subsection (b),

1 **communication of a record to a filing office and tender of the filing**  
2 **fee or acceptance of the record by the filing office constitutes filing.**

3 **(b) Filing does not occur with respect to a record that a filing**  
4 **office refuses to accept because:**

5 **(1) the record is not communicated by a method or medium of**  
6 **communication authorized by the filing office;**

7 **(2) an amount equal to or greater than the applicable filing fee**  
8 **is not tendered;**

9 **(3) the filing office is unable to index the record because:**

10 **(A) in the case of an initial financing statement, the record**  
11 **does not provide a name for the debtor;**

12 **(B) in the case of an amendment or correction statement,**  
13 **the record:**

14 **(i) does not identify the initial financing statement as**  
15 **required by IC 26-1-9.1-512 or IC 26-1-9.1-518, as**  
16 **applicable; or**

17 **(ii) identifies an initial financing statement whose**  
18 **effectiveness has lapsed under IC 26-1-9.1-515;**

19 **(C) in the case of an initial financing statement that**  
20 **provides the name of a debtor identified as an individual or**  
21 **an amendment that provides a name of a debtor identified**  
22 **as an individual which was not previously provided in the**  
23 **financing statement to which the record relates, the record**  
24 **does not identify the debtor's last name; or**

25 **(D) in the case of a record recorded in the filing office**  
26 **described in IC 26-1-9.1-501(a)(1), the record does not**  
27 **provide a sufficient description of the real property to**  
28 **which it relates;**

29 **(4) in the case of an initial financing statement or an**  
30 **amendment that adds a secured party of record, the record**  
31 **does not provide a name and mailing address for the secured**  
32 **party of record;**

33 **(5) in the case of an initial financing statement or an**  
34 **amendment that provides a name of a debtor that was not**  
35 **previously provided in the financing statement to which the**  
36 **amendment relates, the record does not:**

37 **(A) provide a mailing address for the debtor;**

38 **(B) indicate whether the debtor is an individual or an**  
39 **organization; or**

40 **(C) if the financing statement indicates that the debtor is**

- 1                   **an organization, provide:**
- 2                   **(i) a type of organization for the debtor;**
- 3                   **(ii) a jurisdiction of organization for the debtor; or**
- 4                   **(iii) an organizational identification number for the**
- 5                   **debtor or indicate that the debtor has none;**
- 6                   **(6) in the case of an assignment reflected in an initial**
- 7                   **financing statement under IC 26-1-9.1-514(a) or an**
- 8                   **amendment filed under IC 26-1-9.1-514(b), the record does**
- 9                   **not provide a name and mailing address for the assignee; or**
- 10                  **(7) in the case of a continuation statement, the record is not**
- 11                  **filed within the six (6) month period prescribed by**
- 12                  **IC 26-1-9.1-515(d).**
- 13                  **(c) For purposes of subsection (b):**
- 14                   **(1) a record does not provide information if the filing office is**
- 15                   **unable to read or decipher the information; and**
- 16                   **(2) a record that does not indicate that it is an amendment or**
- 17                   **identify an initial financing statement to which it relates, as**
- 18                   **required by IC 26-1-9.1-512, IC 26-1-9.1-514, or**
- 19                   **IC 26-1-9.1-518, is an initial financing statement.**
- 20                  **(d) A record that is communicated to the filing office with**
- 21                  **tender of the filing fee, but which the filing office refuses to accept**
- 22                  **for a reason other than one (1) set forth in subsection (b), is**
- 23                  **effective as a filed record except as against a purchaser of the**
- 24                  **collateral which gives value in reasonable reliance upon the**
- 25                  **absence of the record from the files.**
- 26                  **Sec. 517. The failure of the filing office to index a record**
- 27                  **correctly does not affect the effectiveness of the filed record.**
- 28                  **Sec. 518. (a) A person may file in the filing office a correction**
- 29                  **statement with respect to a record indexed there under the person's**
- 30                  **name if the person believes that the record is inaccurate or was**
- 31                  **wrongfully filed.**
- 32                  **(b) A correction statement must:**
- 33                   **(1) identify the record to which it relates by the file number**
- 34                   **assigned to the initial financing statement to which the record**
- 35                   **relates;**
- 36                   **(2) indicate that it is a correction statement; and**
- 37                   **(3) provide the basis for the person's belief that the record is**
- 38                   **inaccurate and indicate the manner in which the person**
- 39                   **believes the record should be amended to cure any inaccuracy**
- 40                   **or provide the basis for the person's belief that the record was**

1           **wrongfully filed.**

2           **(c) The filing of a correction statement does not affect the**  
3 **effectiveness of an initial financing statement or other filed record.**

4           **Sec. 519. (a) For each record filed in a filing office, the filing**  
5 **office shall:**

6           **(1) assign a unique number to the filed record;**

7           **(2) create a record that bears the number assigned to the filed**  
8 **record and the date and time of filing;**

9           **(3) maintain the filed record for public inspection; and**

10           **(4) index the filed record in accordance with subsections (c),**  
11 **(d), and (e).**

12           **(b) A file number must include a digit that:**

13           **(1) is mathematically derived from or related to the other**  
14 **digits of the file number; and**

15           **(2) enables the filing office to detect whether a number**  
16 **communicated as the file number includes a single-digit or**  
17 **transpositional error.**

18           **(c) Except as otherwise provided in subsections (d) and (e), the**  
19 **filing office shall:**

20           **(1) index an initial financing statement according to the name**  
21 **of the debtor and index all filed records relating to the initial**  
22 **financing statement in a manner that associates with one**  
23 **another an initial financing statement and all filed records**  
24 **relating to the initial financing statement; and**

25           **(2) index a record that provides a name of a debtor that was**  
26 **not previously provided in the financing statement to which**  
27 **the record relates also according to the name that was not**  
28 **previously provided.**

29           **(d) If a financing statement is filed as a fixture filing or covers**  
30 **as-extracted collateral or timber to be cut, the filing office shall**  
31 **index it:**

32           **(1) under the names of the debtor and of each owner of record**  
33 **shown on the financing statement as if they were the**  
34 **mortgagors under a mortgage of the real property described;**  
35 **and**

36           **(2) to the extent that the law of this state provides for indexing**  
37 **of records of mortgages under the name of the mortgagee,**  
38 **under the name of the secured party as if the secured party**  
39 **were the mortgagee thereunder, or, if indexing is by**  
40 **description, as if the financing statement were a record of a**

- 1 mortgage of the real property described.
- 2 (e) If a financing statement is filed as a fixture filing or covers  
3 as-extracted collateral or timber to be cut, the filing office shall  
4 index an assignment filed under IC 26-1-9.1-514(a) or an  
5 amendment filed under IC 26-1-9.1-514(b):
- 6 (1) under the name of the assignor as grantor; and  
7 (2) to the extent that the law of this state provides for indexing  
8 a record of the assignment of a mortgage under the name of  
9 the assignee, under the name of the assignee.
- 10 (f) The filing office shall maintain a capability:
- 11 (1) to retrieve a record by the name of the debtor and by the  
12 file number assigned to the initial financing statement to  
13 which the record relates; and  
14 (2) to associate and retrieve with one another an initial  
15 financing statement and each filed record relating to the  
16 initial financing statement.
- 17 (g) The filing office may not remove a debtor's name from the  
18 index until one (1) year after the effectiveness of a financing  
19 statement naming the debtor lapses under IC 26-1-9.1-515 with  
20 respect to all secured parties of record.
- 21 (h) The filing office shall perform the acts required by  
22 subsections (a) through (e) at the time and in the manner  
23 prescribed by filing-office rule, but not later than two (2) business  
24 days after the filing office receives the record in question.
- 25 (i) Subsections (b) and (h) do not apply to a filing office  
26 described in IC 26-1-9.1-501(a)(1).
- 27 **Sec. 520. (a)** A filing office shall refuse to accept a record for  
28 filing for a reason set forth in IC 26-1-9.1-516(b) and may refuse to  
29 accept a record for filing only for a reason set forth in  
30 IC 26-1-9.1-516(b).
- 31 (b) If a filing office refuses to accept a record for filing, it shall  
32 communicate to the person that presented the record the fact of  
33 and reason for the refusal and the date and time the record would  
34 have been filed had the filing office accepted it. The communication  
35 must be made at the time and in the manner prescribed by  
36 filing-office rule, but in the case of a filing office described in  
37 IC 26-1-9.1-501(a)(2), in no event more than two (2) business days  
38 after the filing office receives the record.
- 39 (c) A filed financing statement satisfying IC 26-1-9.1-502(a) and  
40 IC 26-1-9.1-502(b) is effective, even if the filing office is required to

1 refuse to accept it for filing under subsection (a). However,  
2 IC 26-1-9.1-338 applies to a filed financing statement providing  
3 information described in IC 26-1-9.1-516(b)(5) that is incorrect at  
4 the time the financing statement is filed.

5 (d) If a record communicated to a filing office provides  
6 information that relates to more than one (1) debtor,  
7 IC 26-1-9.1-501 through IC 26-1-9.1-527 apply as to each debtor  
8 separately.

9 Sec. 521. (a) A filing office that accepts written records may not  
10 refuse to accept a written initial financing statement in the form  
11 specified in IC 26-1-1.5 and format except for a reason set forth in  
12 IC 26-1-9.1-516(b).

13 (b) A filing office that accepts written records may not refuse to  
14 accept a written record in the form specified in IC 26-1-1.5 and  
15 format except for a reason described in IC 26-9.1-516(b).

16 Sec. 522. (a) The filing office shall maintain a record of the  
17 information provided in a filed financing statement for at least one  
18 (1) year after the effectiveness of the financing statement has  
19 lapsed under IC 26-1-9.1-515 with respect to all secured parties of  
20 record. The record must be retrievable by using the name of the  
21 debtor and by using the file number assigned to the initial  
22 financing statement to which the record relates.

23 (b) Except to the extent that a statute governing disposition of  
24 public records provides otherwise, the filing office immediately  
25 may destroy any written record evidencing a financing statement.  
26 However, if the filing office destroys a written record, it shall  
27 maintain another record of the financing statement that complies  
28 with subsection (a).

29 Sec. 523. (a) If a person that files a written record requests an  
30 acknowledgment of the filing, the filing office shall send to the  
31 person an image of the record showing the number assigned to the  
32 record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of  
33 the filing of the record. However, if the person furnishes a copy of  
34 the record to the filing office, the filing office may instead:

35 (1) note upon the copy the number assigned to the record  
36 pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the  
37 filing of the record; and

38 (2) send the copy to the person.

39 (b) If a person files a record other than a written record, the  
40 filing office shall communicate to the person an acknowledgment

1 **that provides:**

- 2 (1) the information in the record;  
3 (2) the number assigned to the record pursuant to  
4 IC 26-1-9.1-519(a)(1); and  
5 (3) the date and time of the filing of the record.

6 (c) The filing office shall communicate or otherwise make  
7 available in a record the following information to any person that  
8 requests it:

- 9 (1) whether there is on file on a date and time specified by the  
10 filing office, but not a date earlier than three (3) business days  
11 before the filing office receives the request, any financing  
12 statement that:

13 (A) designates a particular debtor or, if the request so  
14 states, designates a particular debtor at the address  
15 specified in the request;

16 (B) has not lapsed under IC 26-1-9.1-515 with respect to all  
17 secured parties of record; and

18 (C) if the request so states, has lapsed under  
19 IC 26-1-9.1-515 and a record of which is maintained by the  
20 filing office under IC 26-1-9.1-522(a);

- 21 (2) the date and time of filing of each financing statement; and  
22 (3) the information provided in each financing statement.

23 (d) In complying with its duty under subsection (c), the filing  
24 office may communicate information in any medium. However, if  
25 requested, the filing office shall communicate information by  
26 issuing its written certificate.

27 (e) The filing office shall perform the acts required by  
28 subsections (a) through (d) at the time and in the manner  
29 prescribed by filing-office rule, but not later than two (2) business  
30 days after the filing office receives the request.

31 (f) At least weekly, the secretary of state shall offer to sell or  
32 license to the public on a nonexclusive basis, in bulk, copies of all  
33 records filed in it under this part, in every medium from time to  
34 time available to the filing office.

35 **Sec. 524. Delay by the filing office beyond a time limit**  
36 **prescribed in IC 26-1-9.1-501 through IC 26-1-9.1-527 is excused**  
37 **if:**

- 38 (1) the delay is caused by interruption of communication or  
39 computer facilities, war, emergency conditions, failure of  
40 equipment, or other circumstances beyond control of the

1           **filing office; and**  
2           **(2) the filing office exercises reasonable diligence under the**  
3           **circumstances.**

4           **Sec. 525. (a) Except as otherwise provided in subsection (e), the**  
5           **fee for filing and indexing a record under this part, other than an**  
6           **initial financing statement of the kind described in**  
7           **IC 26-1-9.1-502(c), is:**

8           **(1) four dollars (\$4) if the record is communicated in writing**  
9           **and consists of one (1) or two (2) pages;**

10           **(2) eight dollars (\$8) if the record is communicated in writing**  
11           **and consists of more than two (2) pages; and**

12           **(3) four dollars (\$4) if the record is communicated by another**  
13           **medium authorized by filing-office rule.**

14           **(b) Except as otherwise provided in subsection (e), the fee for**  
15           **filing and indexing an initial financing statement of the kind**  
16           **described in IC 26-1-9.1-502(c) is the amount specified in**  
17           **subsection (c), if applicable, plus:**

18           **(1) eight dollars (\$8) if the financing statement indicates that**  
19           **it is filed in connection with a public-finance transaction; and**

20           **(2) eight dollars (\$8) if the financing statement indicates that**  
21           **it is filed in connection with a manufactured-home**  
22           **transaction.**

23           **(c) Except as otherwise provided in subsection (e), if a record is**  
24           **communicated in writing, the fee for each name more than two (2)**  
25           **required to be indexed is one dollar (\$1).**

26           **(d) The fee for responding to a request for information from the**  
27           **filing office, including for issuing a certificate showing whether**  
28           **there is on file any financing statement naming a particular debtor,**  
29           **is:**

30           **(1) one dollar (\$1) if the request is communicated in writing;**  
31           **and**

32           **(2) one dollar (\$1) if the request is communicated by another**  
33           **medium authorized by filing-office rule.**

34           **(e) This section does not require a fee with respect to a record**  
35           **of a mortgage which is effective as a financing statement filed as a**  
36           **fixture filing or as a financing statement covering as-extracted**  
37           **collateral or timber to be cut under IC 26-1-9.1-502(c). However,**  
38           **the recording and satisfaction fees that otherwise would be**  
39           **applicable to the record of the mortgage apply.**

40           **Sec. 526. (a) The secretary of state shall adopt and publish rules**

1 to implement this article. The filing-office rules must be consistent  
2 with this chapter.

3 (b) To keep the filing-office rules and practices of the filing  
4 office in harmony with the rules and practices of filing offices in  
5 other jurisdictions that enact substantially this part, and to keep  
6 the technology used by the filing office compatible with the  
7 technology used by filing offices in other jurisdictions that enact  
8 substantially this part, the secretary of state, so far as is consistent  
9 with the purposes, policies, and provisions of this article, in  
10 adopting, amending, and repealing filing-office rules, shall:

11 (1) consult with filing offices in other jurisdictions that enact  
12 substantially this part;

13 (2) consult the most recent version of the Model Rules  
14 promulgated by the International Association of Corporate  
15 Administrators or any successor organization; and

16 (3) take into consideration the rules and practices of, and the  
17 technology used by, filing offices in other jurisdictions that  
18 enact substantially this part.

19 Sec. 527. The secretary of state shall report annually to the  
20 general assembly on the operation of the filing office. The report  
21 must contain a statement of the extent to which:

22 (1) the filing-office rules are not in harmony with the rules of  
23 filing offices in other jurisdictions that enact substantially  
24 IC 26-1-9.1-501 through IC 26-1-9.1-527 and the reasons for  
25 these variations; and

26 (2) the filing-office rules are not in harmony with the most  
27 recent version of the Model Rules promulgated by the  
28 International Association of Corporate Administrators, or  
29 any successor organization, and the reasons for these  
30 variations.

31 Sec. 601. (a) After default, a secured party has the rights  
32 provided in this section through IC 26-1-9.1-628 and, except as  
33 otherwise provided in IC 26-1-9.1-602, those provided by  
34 agreement of the parties. A secured party:

35 (1) may reduce a claim to judgment, foreclose, or otherwise  
36 enforce the claim, security interest, or agricultural lien by any  
37 available judicial procedure; and

38 (2) if the collateral is documents, may proceed either as to the  
39 documents or as to the goods they cover.

40 (b) A secured party in possession of collateral or control of

1 collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106,  
2 or IC 26-1-9.1-107 has the rights and duties provided in  
3 IC 26-1-9.1-207.

4 (c) The rights under subsections (a) and (b) are cumulative and  
5 may be exercised simultaneously.

6 (d) Except as otherwise provided in subsection (g) and  
7 IC 26-1-9.1-605, after default, a debtor and an obligor have the  
8 rights provided in IC 26-1-9.1-601 through IC 26-1-9.1-628 and by  
9 agreement of the parties.

10 (e) If a secured party has reduced its claim to judgment, the lien  
11 of any levy that may be made upon the collateral by virtue of an  
12 execution based upon the judgment relates back to the earliest of:

13 (1) the date of perfection of the security interest or  
14 agricultural lien in the collateral;

15 (2) the date of filing a financing statement covering the  
16 collateral; or

17 (3) any date specified in a statute under which the agricultural  
18 lien was created.

19 (f) A sale pursuant to an execution is a foreclosure of the  
20 security interest or agricultural lien by judicial procedure within  
21 the meaning of this section. A secured party may purchase at the  
22 sale and thereafter hold the collateral free of any other  
23 requirements of this article.

24 (g) Except as otherwise provided in IC 26-1-9.1-607(c),  
25 IC 26-1-9.1-601 through IC 26-1-9.1-628 impose no duties upon a  
26 secured party that is a consignor or is a buyer of accounts, chattel  
27 paper, payment intangibles, or promissory notes.

28 **Sec. 602.** Except as otherwise provided in IC 26-1-9.1-624, to the  
29 extent that they give rights to a debtor or obligor and impose duties  
30 on a secured party, the debtor or obligor may not waive or vary the  
31 rules stated in the following listed sections (except that a secondary  
32 obligor may waive or vary the rules listed in subdivisions (1), (2),  
33 (3), (4), and (7) below):

34 (1) IC 26-1-9.1-207(b)(4)(C), which deals with use and  
35 operation of the collateral by the secured party.

36 (2) IC 26-1-9.1-210, which deals with requests for an  
37 accounting and requests concerning a list of collateral and  
38 statement of account.

39 (3) IC 26-1-9.1-607(c), which deals with collection and  
40 enforcement of collateral.

- 1           **(4) IC 26-1-9.1-608(a) and IC 26-1-9.1-615(c) to the extent that**  
 2           **they deal with application or payment of noncash proceeds of**  
 3           **collection, enforcement, or disposition.**
- 4           **(5) IC 26-1-9.1-608(a) and IC 26-1-9.1-615(d) to the extent**  
 5           **that they require accounting for or payment of surplus**  
 6           **proceeds of collateral.**
- 7           **(6) IC 26-1-9.1-609 to the extent that it imposes upon a**  
 8           **secured party that takes possession of collateral without**  
 9           **judicial process the duty to do so without breach of the peace.**
- 10          **(7) IC 26-1-9.1-610(b), IC 26-1-9.1-611, IC 26-1-9.1-613, and**  
 11          **IC 26-1-9.1-614, which deal with disposition of collateral.**
- 12          **(8) IC 26-1-9.1-615(f), which deals with calculation of a**  
 13          **deficiency or surplus when a disposition is made to the**  
 14          **secured party, a person related to the secured party, or a**  
 15          **secondary obligor.**
- 16          **(9) IC 26-1-9.1-616, which deals with explanation of the**  
 17          **calculation of a surplus or deficiency.**
- 18          **(10) IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622,**  
 19          **which deal with acceptance of collateral in satisfaction of**  
 20          **obligation.**
- 21          **(11) IC 26-1-9.1-623, which deals with redemption of**  
 22          **collateral.**
- 23          **(12) IC 26-1-9.1-624, which deals with permissible waivers.**
- 24          **(13) IC 26-1-9.1-625 and IC 26-1-9.1-626, which deal with the**  
 25          **secured party's liability for failure to comply with this article.**
- 26          **Sec. 603. (a) The parties may determine by agreement the**  
 27          **standards measuring the fulfillment of the rights of a debtor or**  
 28          **obligor and the duties of a secured party under a rule stated in**  
 29          **IC 26-1-9.1-602 if the standards are not manifestly unreasonable.**
- 30          **(b) Subsection (a) does not apply to the duty under**  
 31          **IC 26-1-9.1-609 to refrain from breaching the peace.**
- 32          **Sec. 604. (a) If a security agreement covers both personal and**  
 33          **real property, a secured party may proceed:**
- 34               **(1) under IC 26-1-9.1-601 through IC 26-1-9.1-628 as to the**  
 35               **personal property without prejudicing any rights with respect**  
 36               **to the real property; or**
- 37               **(2) as to both the personal property and the real property in**  
 38               **accordance with the rights with respect to the real property,**  
 39               **in which case the other provisions of IC 26-1-9.1-601 through**  
 40               **IC 26-1-9.1-628 do not apply.**

1           (b) Subject to subsection (c), if a security agreement covers  
2 goods that are or become fixtures, a secured party may proceed:

- 3           (1) under IC 26-1-9.1-601 through IC 26-1-9.1-628; or  
4           (2) in accordance with the rights with respect to real property,  
5           in which case the other provisions of IC 26-1-9.1-601 through  
6           IC 26-1-9.1-628 do not apply.

7           (c) Subject to the other provisions of IC 26-1-9.1-601 through  
8 IC 26-1-9.1-628, if a secured party holding a security interest in  
9 fixtures has priority over all owners and encumbrancers of the real  
10 property, the secured party, after default, may remove the  
11 collateral from the real property.

12           (d) A secured party that removes collateral shall promptly  
13 reimburse any encumbrancer or owner of the real property, other  
14 than the debtor, for the cost of repair of any physical injury caused  
15 by the removal. The secured party need not reimburse the  
16 encumbrancer or owner for any diminution in value of the real  
17 property caused by the absence of the goods removed or by any  
18 necessity of replacing them. A person entitled to reimbursement  
19 may refuse permission to remove until the secured party gives  
20 adequate assurance for the performance of the obligation to  
21 reimburse.

22           Sec. 605. A secured party does not owe a duty based on its status  
23 as secured party:

- 24           (1) to a person that is a debtor or obligor, unless the secured  
25 party knows:  
26           (A) that the person is a debtor or obligor;  
27           (B) the identity of the person; and  
28           (C) how to communicate with the person; or  
29           (2) to a secured party or lienholder that has filed a financing  
30 statement against a person, unless the secured party knows:  
31           (A) that the person is a debtor; and  
32           (B) the identity of the person.

33           Sec. 606. For purposes of IC 26-1-9.1-601 through  
34 IC 26-1-9.1-628, a default occurs in connection with an agricultural  
35 lien at the time the secured party becomes entitled to enforce the  
36 lien in accordance with the statute under which it was created.

37           Sec. 607. (a) If so agreed, and in any event after default, a  
38 secured party:

- 39           (1) may notify an account debtor or other person obligated on  
40 collateral to make payment or otherwise render performance

- 1           to or for the benefit of the secured party;
- 2           (2) may take any proceeds to which the secured party is
- 3           entitled under IC 26-1-9.1-315;
- 4           (3) may enforce the obligations of an account debtor or other
- 5           person obligated on collateral and exercise the rights of the
- 6           debtor with respect to the obligation of the account debtor or
- 7           other person obligated on collateral to make payment or
- 8           otherwise render performance to the debtor, and with respect
- 9           to any property that secures the obligations of the account
- 10          debtor or other person obligated on the collateral;
- 11          (4) if it holds a security interest in a deposit account perfected
- 12          by control under IC 26-1-9.1-104(a)(1), may apply the balance
- 13          of the deposit account to the obligation secured by the deposit
- 14          account; and
- 15          (5) if it holds a security interest in a deposit account perfected
- 16          by control under IC 26-1-9.1-104(a)(2) or
- 17          IC 26-1-9.1-104-(a)(3), may instruct the bank to pay the
- 18          balance of the deposit account to or for the benefit of the
- 19          secured party.
- 20          (b) If necessary to enable a secured party to exercise under
- 21          subsection (a)(3) the right of a debtor to enforce a mortgage
- 22          nonjudicially, the secured party may record in the office in which
- 23          a record of the mortgage is recorded:
- 24                  (1) a copy of the security agreement that creates or provides
- 25                  for a security interest in the obligation secured by the
- 26                  mortgage; and
- 27                  (2) the secured party's sworn affidavit in recordable form
- 28                  stating that:
- 29                          (A) a default has occurred; and
- 30                          (B) the secured party is entitled to enforce the mortgage
- 31                          nonjudicially.
- 32          (c) A secured party shall proceed in a commercially reasonable
- 33          manner if the secured party:
- 34                  (1) undertakes to collect from or enforce an obligation of an
- 35                  account debtor or other person obligated on collateral; and
- 36                  (2) is entitled to charge back uncollected collateral or
- 37                  otherwise to full or limited recourse against the debtor or a
- 38                  secondary obligor.
- 39          (d) A secured party may deduct from the collections made
- 40          pursuant to subsection (c) reasonable expenses of collection and

1 enforcement, including reasonable attorney's fees and legal  
2 expenses incurred by the secured party.

3 (e) This section does not determine whether an account debtor,  
4 bank, or other person obligated on collateral owes a duty to a  
5 secured party.

6 Sec. 608. (a) If a security interest or agricultural lien secures  
7 payment or performance of an obligation, the following rules  
8 apply:

9 (1) A secured party shall apply or pay over for application the  
10 cash proceeds of collection or enforcement under this section  
11 in the following order to:

12 (A) the reasonable expenses of collection and enforcement  
13 and, to the extent provided for by agreement and not  
14 prohibited by law, reasonable attorney's fees and legal  
15 expenses incurred by the secured party;

16 (B) the satisfaction of obligations secured by the security  
17 interest or agricultural lien under which the collection or  
18 enforcement is made; and

19 (C) the satisfaction of obligations secured by any  
20 subordinate security interest in or other lien on the  
21 collateral subject to the security interest or agricultural  
22 lien under which the collection or enforcement is made if  
23 the secured party receives an authenticated demand for  
24 proceeds before distribution of the proceeds is completed.

25 (2) If requested by a secured party, a holder of a subordinate  
26 security interest or other lien shall furnish reasonable proof  
27 of the interest or lien within a reasonable time. Unless the  
28 holder complies, the secured party need not comply with the  
29 holder's demand under subdivision (1)(C).

30 (3) A secured party need not apply or pay over for application  
31 noncash proceeds of collection and enforcement under this  
32 section unless the failure to do so would be commercially  
33 unreasonable. A secured party that applies or pays over for  
34 application noncash proceeds shall do so in a commercially  
35 reasonable manner.

36 (4) A secured party shall account to and pay a debtor for any  
37 surplus, and the obligor is liable for any deficiency.

38 (b) If the underlying transaction is a sale of accounts, chattel  
39 paper, payment intangibles, or promissory notes, the debtor is not  
40 entitled to any surplus, and the obligor is not liable for any

1       **deficiency.**

2       **Sec. 609. (a) After default, a secured party:**

3           (1) **may take possession of the collateral; and**

4           (2) **without removal, may render equipment unusable and**  
5           **dispose of collateral on a debtor's premises under**  
6           **IC 26-1-9.1-610.**

7       **(b) A secured party may proceed under subsection (a):**

8           (1) **pursuant to judicial process; or**

9           (2) **without judicial process, if it proceeds without breach of**  
10          **the peace.**

11       **(c) If so agreed, and in any event after default, a secured party**  
12       **may require the debtor to assemble the collateral and make it**  
13       **available to the secured party at a place to be designated by the**  
14       **secured party which is reasonably convenient to both parties.**

15       **Sec. 610. (a) After default, a secured party may sell, lease,**  
16       **license, or otherwise dispose of any or all of the collateral in its**  
17       **present condition or following any commercially reasonable**  
18       **preparation or processing.**

19       **(b) Every aspect of a disposition of collateral, including the**  
20       **method, manner, time, place, and other terms, must be**  
21       **commercially reasonable. If commercially reasonable, a secured**  
22       **party may dispose of collateral by public or private proceedings,**  
23       **by one or more contracts, as a unit or in parcels, and at any time**  
24       **and place and on any terms.**

25       **(c) A secured party may purchase collateral:**

26           (1) **at a public disposition; or**

27           (2) **at a private disposition only if the collateral is of a kind**  
28           **that is customarily sold on a recognized market or the subject**  
29           **of widely distributed standard price quotations.**

30       **(d) A contract for sale, lease, license, or other disposition**  
31       **includes the warranty relating to title, but does not include, unless**  
32       **explicitly extended in writing, any warranty relating to possession,**  
33       **quiet enjoyment, merchantability, fitness for a specific purpose, or**  
34       **any other warranty which by operation of law would otherwise**  
35       **accompany a voluntary disposition of property of the kind subject**  
36       **to the contract.**

37       **Sec. 611. (a) As used in this section, "notification date" means**  
38       **the earlier of the date on which:**

39           (1) **a secured party sends to the debtor and any secondary**  
40           **obligor an authenticated notification of disposition; or**

1           **(2) the debtor and any secondary obligor waive the right to**  
2           **notification.**

3           **(b) Except as otherwise provided in subsection (d), a secured**  
4           **party that disposes of collateral under IC 26-1-9.1-610 shall send**  
5           **to the persons specified in subsection (c) a reasonable authenticated**  
6           **notification of disposition.**

7           **(c) To comply with subsection (b), the secured party shall send**  
8           **an authenticated notification of disposition to:**

9           **(1) the debtor;**

10          **(2) any secondary obligor; and**

11          **(3) if the collateral is other than consumer goods:**

12           **(A) any other person from which the secured party has**  
13           **received, before the notification date, an authenticated**  
14           **notification of a claim of an interest in the collateral;**

15           **(B) any other secured party or lienholder that, ten (10)**  
16           **days before the notification date, held a security interest in**  
17           **or other lien on the collateral perfected by the filing of a**  
18           **financing statement that:**

19            **(i) identified the collateral;**

20            **(ii) was indexed under the debtor's name as of that date;**  
21            **and**

22            **(iii) was filed in the office in which to file a financing**  
23            **statement against the debtor covering the collateral as of**  
24            **that date; and**

25           **(C) any other secured party that, ten (10) days before the**  
26           **notification date, held a security interest in the collateral**  
27           **perfected by compliance with a statute, regulation, or**  
28           **treaty described in IC 26-1-9.1-311(a).**

29          **(d) Subsection (b) does not apply if the collateral is perishable**  
30          **or threatens to decline speedily in value or is of a type customarily**  
31          **sold on a recognized market.**

32          **(e) A secured party complies with the requirement for**  
33          **notification prescribed in subsection (c)(3)(B) if:**

34           **(1) not later than twenty (20) days or earlier than thirty (30)**  
35           **days before the notification date, the secured party requests,**  
36           **in a commercially reasonable manner, information**  
37           **concerning financing statements indexed under the debtor's**  
38           **name in the office indicated in subsection (c)(3)(B); and**

39           **(2) before the notification date, the secured party:**

40            **(A) did not receive a response to the request for**

1           **information; or**  
 2           **(B) received a response to the request for information and**  
 3           **sent an authenticated notification of disposition to each**  
 4           **secured party or other lienholder named in that response**  
 5           **whose financing statement covered the collateral.**

6           **Sec. 612. (a) Except as otherwise provided in subsection (b),**  
 7           **whether a notification is sent within a reasonable time is a question**  
 8           **of fact.**

9           **(b) A notification of disposition sent after default and ten (10)**  
 10          **days or more before the earliest time of disposition set forth in the**  
 11          **notification is sent within a reasonable time before the disposition.**

12          **Sec. 613. Except in a consumer-goods transaction, the following**  
 13          **rules apply:**

14          **(1) The contents of a notification of disposition are sufficient**  
 15          **if the notification:**

- 16           **(A) describes the debtor and the secured party;**
- 17           **(B) describes the collateral that is the subject of the**  
 18           **intended disposition;**
- 19           **(C) states the method of intended disposition;**
- 20           **(D) states that the debtor is entitled to an accounting of the**  
 21           **unpaid indebtedness and states the charge, if any, for an**  
 22           **accounting; and**
- 23           **(E) states the time and place of a public sale or the time**  
 24           **after which any other disposition is to be made.**

25          **(2) Whether the contents of a notification that lacks any of the**  
 26          **information specified in subdivision (1) are nevertheless**  
 27          **sufficient is a question of fact.**

28          **(3) The contents of a notification providing substantially the**  
 29          **information specified in subdivision (1) are sufficient, even if**  
 30          **the notification includes:**

- 31           **(A) information not specified by that subdivision; or**
- 32           **(B) minor errors that are not seriously misleading.**

33          **(4) A particular phrasing of the notification is not required.**

34          **(5) The following form of notification and the form appearing**  
 35          **in IC 26-1-9.1-614(3), when completed, each provides**  
 36          **sufficient information:**

37          **NOTIFICATION OF DISPOSITION OF COLLATERAL**

38          **To:           Name of debtor, obligor, or other person to which**  
 39                    **the notification is sent**

40          **From:       Name, address, and telephone number of secured**





1 effect of including information not required by subdivision  
2 (1).

3 Sec. 615. (a) A secured party shall apply or pay over for  
4 application the cash proceeds of disposition in the following order  
5 to:

6 (1) the reasonable expenses of retaking, holding, preparing for  
7 disposition, processing, and disposing, and, to the extent  
8 provided for by agreement and not prohibited by law,  
9 reasonable attorney's fees and legal expenses incurred by the  
10 secured party;

11 (2) the satisfaction of obligations secured by the security  
12 interest or agricultural lien under which the disposition is  
13 made;

14 (3) the satisfaction of obligations secured by any subordinate  
15 security interest in or other subordinate lien on the collateral  
16 if:

17 (A) the secured party receives from the holder of the  
18 subordinate security interest or other lien an authenticated  
19 demand for proceeds before distribution of the proceeds is  
20 completed; and

21 (B) in a case in which a consignor has an interest in the  
22 collateral, the subordinate security interest or other lien is  
23 senior to the interest of the consignor; and

24 (4) a secured party that is a consignor of the collateral if the  
25 secured party receives from the consignor an authenticated  
26 demand for proceeds before distribution of the proceeds is  
27 completed.

28 (b) If requested by a secured party, a holder of a subordinate  
29 security interest or other lien shall furnish reasonable proof of the  
30 interest or lien within a reasonable time. Unless the holder does so,  
31 the secured party need not comply with the holder's demand under  
32 subsection (a)(3).

33 (c) A secured party need not apply or pay over for application  
34 noncash proceeds of disposition under this section unless the  
35 failure to do so would be commercially unreasonable. A secured  
36 party that applies or pays over for application noncash proceeds  
37 shall do so in a commercially reasonable manner.

38 (d) If the security interest under which a disposition is made  
39 secures payment or performance of an obligation, after making the  
40 payments and applications required by subsection (a) and

1 permitted by subsection (c):

2 (1) unless subsection (a)(4) requires the secured party to apply  
3 or pay over cash proceeds to a consignor, the secured party  
4 shall account to and pay a debtor for any surplus; and

5 (2) the obligor is liable for any deficiency.

6 (e) If the underlying transaction is a sale of accounts, chattel  
7 paper, payment intangibles, or promissory notes:

8 (1) the debtor is not entitled to any surplus; and

9 (2) the obligor is not liable for any deficiency.

10 (f) The surplus or deficiency following a disposition is calculated  
11 based on the amount of proceeds that would have been realized in  
12 a disposition complying with IC 26-1-9.1-601 through  
13 IC 26-1-9.1-628 to a transferee other than the secured party, a  
14 person related to the secured party, or a secondary obligor if:

15 (1) the transferee in the disposition is the secured party, a  
16 person related to the secured party, or a secondary obligor;  
17 and

18 (2) the amount of proceeds of the disposition is significantly  
19 below the range of proceeds that a complying disposition to a  
20 person other than the secured party, a person related to the  
21 secured party, or a secondary obligor would have brought.

22 (g) A secured party that receives cash proceeds of a disposition  
23 in good faith and without knowledge that the receipt violates the  
24 rights of the holder of a security interest or other lien that is not  
25 subordinate to the security interest or agricultural lien under  
26 which the disposition is made:

27 (1) takes the cash proceeds free of the security interest or  
28 other lien;

29 (2) is not obligated to apply the proceeds of the disposition to  
30 the satisfaction of obligations secured by the security interest  
31 or other lien; and

32 (3) is not obligated to account to or pay the holder of the  
33 security interest or other lien for any surplus.

34 **Sec. 616. (a) As used in this section:**

35 (1) "Explanation" means a writing that:

36 (A) states the amount of the surplus or deficiency;

37 (B) provides an explanation in accordance with subsection  
38 (c) of how the secured party calculated the surplus or  
39 deficiency;

40 (C) states, if applicable, that future debits, credits, charges,

- 1 including additional credit service charges or interest,  
2 rebates, and expenses may affect the amount of the surplus  
3 or deficiency; and  
4 (D) provides a telephone number or mailing address from  
5 which additional information concerning the transaction  
6 is available.
- 7 (2) "Request" means a record:  
8 (A) authenticated by a debtor or consumer obligor;  
9 (B) requesting that the recipient provide an explanation;  
10 and  
11 (C) sent after disposition of the collateral under  
12 IC 26-1-9.1-610.
- 13 (b) In a consumer-goods transaction in which the debtor is  
14 entitled to a surplus or a consumer obligor is liable for a deficiency  
15 under IC 26-1-9.1-615, the secured party shall:  
16 (1) send an explanation to the debtor or consumer obligor, as  
17 applicable, after the disposition and:  
18 (A) before or when the secured party accounts to the  
19 debtor and pays any surplus or first makes written  
20 demand on the consumer obligor after the disposition for  
21 payment of the deficiency; and  
22 (B) within fourteen (14) days after receipt of a request; or  
23 (2) in the case of a consumer obligor who is liable for a  
24 deficiency, within fourteen (14) days after receipt of a request,  
25 send to the consumer obligor a record waiving the secured  
26 party's right to a deficiency.
- 27 (c) To comply with subsection (a)(1)(B), a writing must provide  
28 the following information in the following order:  
29 (1) the aggregate amount of obligations secured by the  
30 security interest under which the disposition was made, and,  
31 if the amount reflects a rebate of unearned interest or credit  
32 service charge, an indication of that fact, calculated as of a  
33 specified date:  
34 (A) if the secured party takes or receives possession of the  
35 collateral after default, not more than thirty-five (35) days  
36 before the secured party takes or receives possession; or  
37 (B) if the secured party takes or receives possession of the  
38 collateral before default or does not take possession of the  
39 collateral, not more than thirty-five (35) days before the  
40 disposition;

- 1           **(2) the amount of proceeds of the disposition;**  
 2           **(3) the aggregate amount of the obligations after deducting**  
 3           **the amount of proceeds;**  
 4           **(4) the amount, in the aggregate or by type, and types of**  
 5           **expenses, including expenses of retaking, holding, preparing**  
 6           **for disposition, processing, and disposing of the collateral, and**  
 7           **attorney's fees secured by the collateral that are known to the**  
 8           **secured party and relate to the current disposition;**  
 9           **(5) the amount, in the aggregate or by type, and types of**  
 10           **credits, including rebates of interest or credit service charges,**  
 11           **to which the obligor is known to be entitled and that are not**  
 12           **reflected in the amount in paragraph (1); and**  
 13           **(6) the amount of the surplus or deficiency.**

14           **(d) A particular phrasing of the explanation is not required. An**  
 15           **explanation complying substantially with the requirements of**  
 16           **subsection (a) is sufficient, even if it includes minor errors that are**  
 17           **not seriously misleading.**

18           **(e) A debtor or consumer obligor is entitled without charge to**  
 19           **one (1) response to a request under this section during any six (6)**  
 20           **month period in which the secured party did not send to the debtor**  
 21           **or consumer obligor an explanation pursuant to subsection (b)(1).**  
 22           **The secured party may require payment of a charge not exceeding**  
 23           **twenty-five dollars (\$25) for each additional response.**

24           **Sec. 617. (a) A secured party's disposition of collateral after**  
 25           **default:**

- 26           **(1) transfers to a transferee for value all of the debtor's rights**  
 27           **in the collateral;**  
 28           **(2) discharges the security interest under which the**  
 29           **disposition is made; and**  
 30           **(3) discharges any subordinate security interest or other**  
 31           **subordinate lien.**

32           **(b) A transferee that acts in good faith takes free of the rights**  
 33           **and interests described in subsection (a), even if the secured party**  
 34           **fails to comply with this article or the requirements of any judicial**  
 35           **proceeding.**

36           **(c) If a transferee does not take free of the rights and interests**  
 37           **described in subsection (a), the transferee takes the collateral**  
 38           **subject to:**

- 39           **(1) the debtor's rights in the collateral;**  
 40           **(2) the security interest or agricultural lien under which the**

1           **disposition is made; and**  
2           **(3) any security interest or other lien.**

3           **Sec. 618. (a) A secondary obligor acquires the rights and**  
4           **becomes obligated to perform the duties of the secured party after**  
5           **the secondary obligor:**

6           **(1) receives an assignment of a secured obligation from the**  
7           **secured party;**

8           **(2) receives a transfer of collateral from the secured party and**  
9           **agrees to accept the rights and assume the duties of the**  
10           **secured party; or**

11           **(3) is subrogated to the rights of a secured party with respect**  
12           **to collateral.**

13           **(b) An assignment, transfer, or subrogation described in**  
14           **subsection (a):**

15           **(1) is not a disposition of collateral under IC 26-1-9.1-610; and**

16           **(2) relieves the secured party of further duties under this**  
17           **article.**

18           **Sec. 619. (a) In this section, "transfer statement" means a**  
19           **record authenticated by a secured party stating:**

20           **(1) that the debtor has defaulted in connection with an**  
21           **obligation secured by specified collateral;**

22           **(2) that the secured party has exercised its post-default**  
23           **remedies with respect to the collateral;**

24           **(3) that, by reason of the exercise, a transferee has acquired**  
25           **the rights of the debtor in the collateral; and**

26           **(4) the name and mailing address of the secured party, debtor,**  
27           **and transferee.**

28           **(b) A transfer statement entitles the transferee to the transfer of**  
29           **record of all rights of the debtor in the collateral specified in the**  
30           **statement in any official filing, recording, registration, or**  
31           **certificate-of-title system covering the collateral. If a transfer**  
32           **statement is presented with the applicable fee and request form to**  
33           **the official or office responsible for maintaining the system, the**  
34           **official or office shall:**

35           **(1) accept the transfer statement;**

36           **(2) promptly amend its records to reflect the transfer; and**

37           **(3) if applicable, issue a new appropriate certificate of title in**  
38           **the name of transferee.**

39           **(c) A transfer of the record or legal title to collateral to a**  
40           **secured party under subsection (b) or otherwise is not of itself a**

1 **disposition of collateral under this article and does not of itself**  
2 **relieve the secured party of its duties under this article.**

3 **Sec. 620. (a) Except as otherwise provided in subsection (g), a**  
4 **secured party may accept collateral in full or partial satisfaction of**  
5 **the obligation it secures only if:**

6 **(1) the debtor consents to the acceptance under subsection (c);**

7 **(2) the secured party does not receive, within the time set**  
8 **forth in subsection (d), a notification of objection to the**  
9 **proposal authenticated by:**

10 **(A) a person to which the secured party was required to**  
11 **send a proposal under IC 26-1-9.1-621; or**

12 **(B) any other person, other than the debtor, holding a**  
13 **interest in the collateral subordinate to the security**  
14 **interest that is the subject of the proposal;**

15 **(3) if the collateral is consumer goods, the collateral is not in**  
16 **the possession of the debtor when the debtor consents to the**  
17 **acceptance; and**

18 **(4) subsection (e) does not require the secured party to dispose**  
19 **of the collateral or the debtor waives the requirement**  
20 **pursuant to IC 26-1-9.1-624.**

21 **(b) A purported or apparent acceptance of collateral under this**  
22 **section is ineffective unless:**

23 **(1) the secured party consents to the acceptance in an**  
24 **authenticated record or sends a proposal to the debtor; and**

25 **(2) the conditions of subsection (a) are met.**

26 **(c) For purposes of this section:**

27 **(1) a debtor consents to an acceptance of collateral in partial**  
28 **satisfaction of the obligation it secures only if the debtor**  
29 **agrees to the terms of the acceptance in a record**  
30 **authenticated after default; and**

31 **(2) a debtor consents to an acceptance of collateral in full**  
32 **satisfaction of the obligation it secures only if the debtor**  
33 **agrees to the terms of the acceptance in a record**  
34 **authenticated after default or the secured party:**

35 **(A) sends to the debtor after default a proposal that is**  
36 **unconditional or subject only to a condition that collateral**  
37 **not in the possession of the secured party be preserved or**  
38 **maintained;**

39 **(B) in the proposal, proposes to accept collateral in full**  
40 **satisfaction of the obligation it secures; and**

1           (C) does not receive a notification of objection  
2           authenticated by the debtor within twenty (20) days after  
3           the proposal is sent.

4           (d) To be effective under subsection (a)(2), a notification of  
5           objection must be received by the secured party:

6           (1) in the case of a person to which the proposal was sent  
7           pursuant to IC 26-1-9.1-621, within twenty (20) days after  
8           notification was sent to that person; and

9           (2) in other cases:

10           (A) within twenty (20) days after the last notification was  
11           sent pursuant to IC 26-1-9.1-621; or

12           (B) if a notification was not sent, before the debtor  
13           consents to the acceptance under subsection (c).

14           (e) A secured party that has taken possession of collateral shall  
15           dispose of the collateral pursuant to IC 26-1-9.1-610 within the  
16           time specified in subsection (f) if:

17           (1) sixty percent (60%) of the cash price has been paid in the  
18           case of a purchase-money security interest in consumer goods;  
19           or

20           (2) sixty percent (60%) of the principal amount of the  
21           obligation secured has been paid in the case of a  
22           non-purchase-money security interest in consumer goods.

23           (f) To comply with subsection (e), the secured party shall dispose  
24           of the collateral:

25           (1) within ninety (90) days after taking possession; or

26           (2) within any longer period to which the debtor and all  
27           secondary obligors have agreed in an agreement to that effect  
28           entered into and authenticated after default.

29           (g) In a consumer transaction, a secured party may not accept  
30           collateral in partial satisfaction of the obligation it secures.

31           Sec. 621. (a) A secured party that desires to accept collateral in  
32           full or partial satisfaction of the obligation it secures shall send its  
33           proposal to:

34           (1) any person from which the secured party has received,  
35           before the debtor consented to the acceptance, an  
36           authenticated notification of a claim of an interest in the  
37           collateral;

38           (2) any other secured party or lienholder that, ten (10) days  
39           before the debtor consented to the acceptance, held a security  
40           interest in or other lien on the collateral perfected by the filing

- 1           **of a financing statement that:**
- 2           **(A) identified the collateral;**
- 3           **(B) was indexed under the debtor's name as of that date;**
- 4           **and**
- 5           **(C) was filed in the office or offices in which to file a**
- 6           **financing statement against the debtor covering the**
- 7           **collateral as of that date; and**
- 8           **(3) any other secured party that, ten (10) days before the**
- 9           **debtor consented to the acceptance, held a security interest in**
- 10          **the collateral perfected by compliance with a statute,**
- 11          **regulation, or treaty described in IC 26-1-9.1-311(a).**
- 12          **(b) A secured party that desires to accept collateral in partial**
- 13          **satisfaction of the obligation it secures shall send its proposal to**
- 14          **any secondary obligor in addition to the persons described in**
- 15          **subsection (a).**
- 16          **Sec. 622. (a) A secured party's acceptance of collateral in full or**
- 17          **partial satisfaction of the obligation it secures:**
- 18               **(1) discharges the obligation to the extent consented to by the**
- 19               **debtor;**
- 20               **(2) transfers to the secured party all of a debtor's rights in the**
- 21               **collateral;**
- 22               **(3) discharges the security interest or agricultural lien that is**
- 23               **the subject of the debtor's consent and any subordinate**
- 24               **security interest or other subordinate lien; and**
- 25               **(4) terminates any other subordinate interest.**
- 26          **(b) A subordinate interest is discharged or terminated under**
- 27          **subsection (a), even if the secured party fails to comply with this**
- 28          **article.**
- 29          **Sec. 623. (a) A debtor, any secondary obligor, or any other**
- 30          **secured party or lienholder may redeem collateral.**
- 31          **(b) To redeem collateral, a person shall tender:**
- 32               **(1) fulfillment of all obligations secured by the collateral; and**
- 33               **(2) the reasonable expenses and attorney's fees described in**
- 34               **IC 26-1-9.1-615(a)(1).**
- 35          **(c) A redemption may occur at any time before a secured party:**
- 36               **(1) has collected collateral under IC 26-1-9.1-607;**
- 37               **(2) has disposed of collateral or entered into a contract for its**
- 38               **disposition under IC 26-1-9.1-610; or**
- 39               **(3) has accepted collateral in full or partial satisfaction of the**
- 40               **obligation it secures under IC 26-1-9.1-622.**

1           **Sec. 624. (a) A debtor may waive the right to notification of**  
2 **disposition of collateral under IC 26-1-9.1-611 only by an**  
3 **agreement to that effect entered into and authenticated after**  
4 **default.**

5           **(b) A debtor may waive the right to require disposition of**  
6 **collateral under IC 26-1-9.1-620(e) only by an agreement to that**  
7 **effect entered into and authenticated after default.**

8           **(c) Except in a consumer-goods transaction, a debtor may waive**  
9 **the right to redeem collateral under IC 26-1-9.1-623 only by an**  
10 **agreement to that effect entered into and authenticated after**  
11 **default.**

12           **(d) A secondary obligor may waive any right or defense, before**  
13 **or after default, unless the waiver is explicitly prohibited by this**  
14 **chapter.**

15           **Sec. 625. (a) If it is established that a secured party is not**  
16 **proceeding in accordance with this article, a court may order or**  
17 **restrain collection, enforcement, or disposition of collateral on**  
18 **appropriate terms and conditions.**

19           **(b) Subject to subsections (c), and (d), a secured party is liable**  
20 **for damages in the amount of any loss caused by a failure to**  
21 **comply with this article. Loss caused by a failure to comply with a**  
22 **request under IC 26-1-9.1-210 may include loss resulting from the**  
23 **debtor's inability to obtain, or increased costs of, alternative**  
24 **financing.**

25           **(c) Except as otherwise provided in IC 26-1-9.1-628:**

26                   **(1) a person that, at the time of the failure, was a debtor, was**  
27 **an obligor, or held a security interest in or other lien on the**  
28 **collateral may recover damages under subsection (b) for its**  
29 **loss; and**

30                   **(2) if the collateral is consumer goods, a person that was a**  
31 **debtor or a secondary obligor at the time a secured party**  
32 **failed to comply with IC 26-1-9.1-601 through IC 26-1-9.1-628**  
33 **may recover for that failure in any event an amount not less**  
34 **than the credit service charge plus ten percent (10%) of the**  
35 **principal amount of the obligation or the time-price**  
36 **differential plus ten percent (10%) of the cash price.**

37           **(d) A debtor whose deficiency is eliminated under**  
38 **IC 26-1-9.1-626 may recover damages for the loss of any surplus.**  
39 **However, a debtor or secondary obligor whose deficiency is**  
40 **eliminated or reduced under IC 26-1-9.1-626 may not otherwise**

1 recover under subsection (b) for noncompliance with the provisions  
2 of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection,  
3 enforcement, disposition, or acceptance.

4 (e) If a secured party fails to comply with a request regarding  
5 a list of collateral or a statement of account under IC 26-1-9.1-210,  
6 the secured party may claim a security interest only as shown in  
7 the statement included in the request as against a person that is  
8 reasonably misled by the failure.

9 **Sec. 626.** In an action arising from a transaction in which the  
10 amount of a deficiency or surplus is in issue, the following rules  
11 apply:

12 (1) A secured party need not prove compliance with the  
13 provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating  
14 to collection, enforcement, disposition, or acceptance unless  
15 the debtor or a secondary obligor places the secured party's  
16 compliance in issue.

17 (2) If the secured party's compliance is placed in issue, the  
18 secured party has the burden of establishing that the  
19 collection, enforcement, disposition, or acceptance was  
20 conducted in accordance with this part.

21 (3) Except as otherwise provided in IC 26-1-9.1-628, if a  
22 secured party fails to prove that the collection, enforcement,  
23 disposition, or acceptance was conducted in accordance with  
24 the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628  
25 relating to collection, enforcement, disposition, or acceptance,  
26 the liability of a debtor or a secondary obligor for a deficiency  
27 is limited to an amount by which the sum of the secured  
28 obligation, expenses, and attorney's fees exceeds the greater  
29 of:

30 (A) the proceeds of the collection, enforcement, disposition,  
31 or acceptance; or

32 (B) the amount of proceeds that would have been realized  
33 had the noncomplying secured party proceeded in  
34 accordance with the provisions of IC 26-1-9.1-601 through  
35 IC 26-1-9.1-628 relating to collection, enforcement,  
36 disposition, or acceptance.

37 (4) For purposes of subdivision (3)(B), the amount of proceeds  
38 that would have been realized is equal to the sum of the  
39 secured obligation, expenses, and attorney's fees unless the  
40 secured party proves that the amount is less than that sum.

1           **(5) If a deficiency or surplus is calculated under**  
2           **IC 26-1-9.1-615(f), the debtor or obligor has the burden of**  
3           **establishing that the amount of proceeds of the disposition is**  
4           **significantly below the range of prices that a complying**  
5           **disposition to a person other than the secured party, a person**  
6           **related to the secured party, or a secondary obligor would**  
7           **have brought.**

8           **Sec. 627. (a) The fact that a greater amount could have been**  
9           **obtained by a collection, enforcement, disposition, or acceptance at**  
10          **a different time or in a different method from that selected by the**  
11          **secured party is not of itself sufficient to preclude the secured party**  
12          **from establishing that the collection, enforcement, disposition, or**  
13          **acceptance was made in a commercially reasonable manner.**

14          **(b) A disposition of collateral is made in a commercially**  
15          **reasonable manner if the disposition is made:**

- 16               **(1) in the usual manner on any recognized market;**  
17               **(2) at the price current in any recognized market at the time**  
18               **of the disposition; or**  
19               **(3) otherwise in conformity with reasonable commercial**  
20               **practices among dealers in the type of property that was the**  
21               **subject of the disposition.**

22          **(c) A collection, enforcement, disposition, or acceptance is**  
23          **commercially reasonable if it has been approved:**

- 24               **(1) in a judicial proceeding;**  
25               **(2) by a bona fide creditors' committee;**  
26               **(3) by a representative of creditors; or**  
27               **(4) by an assignee for the benefit of creditors.**

28          **(d) Approval under subsection (c) need not be obtained, and**  
29          **lack of approval does not mean that the collection, enforcement,**  
30          **disposition, or acceptance is not commercially reasonable.**

31          **Sec. 628. (a) Unless a secured party knows that a person is a**  
32          **debtor or obligor, knows the identity of the person, and knows how**  
33          **to communicate with the person:**

- 34               **(1) the secured party is not liable to the person, or to a**  
35               **secured party or lienholder that has filed a financing**  
36               **statement against the person, for failure to comply with this**  
37               **article; and**  
38               **(2) the secured party's failure to comply with this article does**  
39               **not affect the liability of the person for a deficiency.**

40          **(b) A secured party is not liable because of its status as secured**

- 1 **party:**
- 2 (1) to a person that is a debtor or obligor, unless the secured
- 3 party knows:
- 4 (A) that the person is a debtor or obligor;
- 5 (B) the identity of the person; and
- 6 (C) how to communicate with the person; or
- 7 (2) to a secured party or lienholder that has filed a financing
- 8 statement against a person, unless the secured party knows:
- 9 (A) that the person is a debtor; and
- 10 (B) the identity of the person.
- 11 (c) A secured party is not liable to any person, and a person's
- 12 liability for a deficiency is not affected, because of any act or
- 13 omission arising out of the secured party's reasonable belief that a
- 14 transaction is not a consumer-goods transaction or a consumer
- 15 transaction or that goods are not consumer goods, if the secured
- 16 party's belief is based on its reasonable reliance on:
- 17 (1) a debtor's representation concerning the purpose for
- 18 which collateral was to be used, acquired, or held; or
- 19 (2) an obligor's representation concerning the purpose for
- 20 which a secured obligation was incurred.
- 21 (d) A secured party is not liable to any person under
- 22 IC 26-1-9.1-625(c)(2) for its failure to comply with IC 26-1-9.1-616.
- 23 (e) A secured party is not liable under IC 26-1-9.1-625(c)(2)
- 24 more than once with respect to any one secured obligation.
- 25 **Sec. 701. IC 26-1-9.1 takes effect on July 1, 2001.**
- 26 **Sec. 702. (a) Except as otherwise provided in this section**
- 27 **through section 708 of this chapter, IC 26-1-9.1 applies to a**
- 28 **transaction or lien within its scope, even if the transaction or lien**
- 29 **was entered into or created before IC 26-1-9.1 takes effect.**
- 30 **(b) Except as otherwise provided in subsection (c) and**
- 31 **IC 26-1-9.1-703 through IC 26-1-9.1-708:**
- 32 (1) transactions and liens that were not governed by
- 33 IC 26-1-9, before its repeal, were validly entered into or
- 34 created before IC 26-1-9.1 takes effect, and would be subject
- 35 to IC 26-1-9.1 if they had been entered into or created after
- 36 IC 26-1-9.1 takes effect, and the rights, duties, and interests
- 37 flowing from those transactions and liens remain valid after
- 38 IC 26-1-9.1 takes effect; and
- 39 (2) the transactions and liens may be terminated, completed,
- 40 consummated, and enforced as required or permitted by

1           **IC 26-1-9.1 or by the law that otherwise would apply if**  
 2           **IC 26-1-9.1 had not taken effect.**

3           **(c) IC 26-1-9.1 does not affect an action, case, or proceeding**  
 4           **commenced before IC 26-1-9.1 takes effect.**

5           **Sec. 703. (a) A security interest that is enforceable immediately**  
 6           **before IC 26-1-9.1 takes effect and would have priority over the**  
 7           **rights of a person that becomes a lien creditor at that time is a**  
 8           **perfected security interest under IC 26-1-9.1 if, when IC 26-1-9.1**  
 9           **takes effect, the applicable requirements for enforceability and**  
 10           **perfection under IC 26-1-9.1 are satisfied without further action.**

11           **(b) Except as otherwise provided in IC 26-1-9.1-705, if,**  
 12           **immediately before IC 26-1-9.1 takes effect, a security interest is**  
 13           **enforceable and would have priority over the rights of a person**  
 14           **that becomes a lien creditor at that time, but the applicable**  
 15           **requirements for enforceability or perfection under IC 26-1-9.1 are**  
 16           **not satisfied when IC 26-1-9.1 takes effect, the security interest:**

17           **(1) is a perfected security interest for one (1) year after**  
 18           **IC 26-1-9.1 takes effect;**

19           **(2) remains enforceable thereafter only if the security interest**  
 20           **becomes enforceable under IC 26-1-9.1-203 before the year**  
 21           **expires; and**

22           **(3) remains perfected thereafter only if the applicable**  
 23           **requirements for perfection under IC 26-1-9.1 are satisfied**  
 24           **before the year expires.**

25           **Sec. 704. A security interest that is enforceable immediately**  
 26           **before IC 26-1-9.1 takes effect but which would be subordinate to**  
 27           **the rights of a person that becomes a lien creditor at that time:**

28           **(1) remains an enforceable security interest for one (1) year**  
 29           **after IC 26-1-9.1 takes effect;**

30           **(2) remains enforceable thereafter if the security interest**  
 31           **becomes enforceable under IC 26-1-9.1-203 when IC 26-1-9.1**  
 32           **takes effect or within one (1) year thereafter; and**

33           **(3) becomes perfected:**

34           **(A) without further action, when IC 26-1-9.1 takes effect if**  
 35           **the applicable requirements for perfection under**  
 36           **IC 26-1-9.1 are satisfied before or at that time; or**

37           **(B) when the applicable requirements for perfection are**  
 38           **satisfied if the requirements are satisfied after that time.**

39           **Sec. 705. (a) If action, other than the filing of a financing**  
 40           **statement, is taken before IC 26-1-9.1 takes effect and the action**

1 would have resulted in priority of a security interest over the rights  
2 of a person that becomes a lien creditor had the security interest  
3 become enforceable before IC 26-1-9.1 takes effect, the action is  
4 effective to perfect a security interest that attaches under  
5 IC 26-1-9.1 within one (1) year after IC 26-1-9.1 takes effect. An  
6 attached security interest becomes unperfected one (1) year after  
7 IC 26-1-9.1 takes effect unless the security interest becomes a  
8 perfected security interest under IC 26-1-9.1 before the expiration  
9 of that period.

10 (b) The filing of a financing statement before IC 26-1-9.1 takes  
11 effect is effective to perfect a security interest to the extent the  
12 filing would satisfy the applicable requirements for perfection  
13 under IC 26-1-9.1.

14 (c) IC 26-1-9.1 does not render ineffective an effective financing  
15 statement that is filed before IC 26-1-9.1 takes effect and satisfied  
16 the applicable requirements for perfection under the law of the  
17 jurisdiction governing perfection as provided in IC 26-1-9-103,  
18 before its repeal. However, except as otherwise provided in  
19 subsections (d) and (e) and IC 26-1-9.1-706, the financing statement  
20 ceases to be effective at the earlier of:

21 (1) the time the financing statement would have ceased to be  
22 effective under the law of the jurisdiction in which it is filed;

23 or

24 (2) June 30, 2006.

25 (d) The filing of a continuation statement after IC 26-1-9.1 takes  
26 effect does not continue the effectiveness of the financing statement  
27 filed before IC 26-1-9.1 takes effect. However, upon the timely  
28 filing of a continuation statement after IC 26-1-9.1 takes effect and  
29 in accordance with the law of the jurisdiction governing perfection  
30 as provided in subsection (c), the effectiveness of a financing  
31 statement filed in the same office in that jurisdiction before  
32 IC 26-1-9.1 takes effect continues for the period provided by the  
33 law of that jurisdiction.

34 (e) Subsection (c)(2) applies to a financing statement that is filed  
35 against a transmitting utility before IC 26-1-9.1 takes effect and  
36 satisfied the applicable requirements for perfection under the law  
37 of the jurisdiction governing perfection as provided in  
38 IC 26-1-9-103, before its repeal, only to the extent that subsection  
39 (c) provides that the law of a jurisdiction other than jurisdiction in  
40 which the financing statement is filed governs perfection of a

1 security interest in collateral covered by the financing statement.

2 (f) A financing statement that includes a financing statement  
3 filed before IC 26-1-9.1 takes effect and a continuation statement  
4 filed after IC 26-1-9.1 takes effect is effective only to the extent that  
5 it satisfies the requirements of subsection (e) for an initial financing  
6 statement.

7 Sec. 706. (a) The filing of an initial financing statement in the  
8 office specified in IC 26-1-9.1-501 continues the effectiveness of a  
9 financing statement filed before IC 26-1-9.1 takes effect for the  
10 period provided in IC 26-1-9.1-515 with respect to an initial  
11 financing statement if:

12 (1) the filing of an initial financing statement in that office  
13 would be effective to perfect a security interest under  
14 IC 26-1-9.1;

15 (2) the pre-effective-date financing statement was filed in an  
16 office in another state or another office in this state; and

17 (3) the initial financing statement satisfies subsection (c).

18 (b) The filing of an initial financing statement under subsection  
19 (a) continues the effectiveness of the pre-effective date financing  
20 statement if the initial financing statement is filed before  
21 IC 26-1-9.1 takes effect, for the period provided in:

22 (1) IC 26-1-9-403 (before its repeal) for a financing statement;  
23 and

24 (2) IC 26-1-9-115 (before its repeal) for an initial financing  
25 statement.

26 (c) To be effective for purposes of subsection (a), an initial  
27 financing statement must:

28 (1) satisfy the requirements of IC 26-1-9.1-705(e) for an initial  
29 financing statement;

30 (2) identify the pre-effective-date financing statement by  
31 indicating the office in which the financing statement was filed  
32 and providing the dates of filing and file numbers, if any, of  
33 the financing statement and of the most recent continuation  
34 statement filed with respect to the financing statement; and

35 (3) indicate that the pre-effective-date financing statement  
36 remains effective.

37 Sec. 707. A person may file an initial financing statement or a  
38 continuation statement under IC 26-1-9.1-701 through  
39 IC 26-1-9.1-708 if:

40 (1) the secured party of record authorizes the filing; and

1           **(2) the filing is necessary under IC 26-1-9.1-701 through**  
2           **IC 26-1-9.1-708:**

3           **(A) to continue the effectiveness of a financing statement**  
4           **filed before IC 26-1-9.1 takes effect; or**

5           **(B) to perfect or continue the perfection of a security**  
6           **interest.**

7           **Sec. 708. (a) IC 26-1-9, before its repeal, determines the priority**  
8           **of conflicting claims to collateral if the relative priorities of the**  
9           **parties were fixed before IC 26-1-9.1 takes effect. In other cases,**  
10          **IC 26-1-9.1 determines priority.**

11          **(b) For purposes of IC 26-1-9.1-322(a), the priority of a security**  
12          **interest that becomes a perfected security interest under**  
13          **IC 26-1-9.1-704 dates from the time the applicable requirements**  
14          **for perfection are satisfied. This subsection does not apply to**  
15          **conflicting security interests each of which becomes a perfected**  
16          **security interest under IC 26-1-9.1-704.**

17          **(c) For purposes of IC 26-1-9.1-322(a), the priority of a security**  
18          **interest that becomes enforceable under IC 26-1-9.1-203 dates**  
19          **from the time IC 26-1-9.1 takes effect if the security interest is**  
20          **perfected under IC 26-1-9.1 by the filing of a financing statement**  
21          **before IC 26-1-9.1 takes effect which would not have been effective**  
22          **to perfect the security interest under IC 26-1-9, before its repeal.**  
23          **This subsection does not apply to conflicting security interests each**  
24          **of which is perfected by the filing of such a financing statement.**

25          SECTION 46. IC 32-1-2-16.3 IS AMENDED TO READ AS  
26          FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16.3. (a) This section  
27          applies to an instrument regardless of when the instrument was  
28          recorded, except that this section does not divest rights that vested  
29          before May 1, 1993.

30          (b) An assignment, a mortgage, or a pledge of rents and profits  
31          arising from real estate that is intended as security, whether contained  
32          in a separate instrument or otherwise, shall be recorded under section  
33          16 of this chapter.

34          (c) When an assignment, a mortgage, or a pledge of rents and profits  
35          is recorded under subsection (b), the security interest of the assignee,  
36          mortgagee, or pledgee is immediately perfected as to the assignor,  
37          mortgagor, pledgor, and any third parties:

38                  (1) regardless of whether the assignment, mortgage, or pledge is  
39                  operative:

40                          (A) immediately;

- 1 (B) upon the occurrence of a default; or  
 2 (C) under any other circumstances; and  
 3 (2) without the holder of the security interest taking any further  
 4 action.

- 5 (d) This section does not apply to security interests in:  
 6 (1) farm products;  
 7 (2) accounts or general intangibles arising from or relating to the  
 8 sale of farm products by a farmer;  
 9 (3) timber to be cut; **or**  
 10 (4) minerals or the like (including oil and gas); **or**  
 11 ~~(5) accounts subject to IC 26-1-9-103(5);~~

12 that may be perfected under ~~IC 26-1-9~~; **IC 26-1-9.1.**

13 SECTION 47. IC 32-8-24-2 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Any employee  
 15 wishing to acquire such lien upon the corporate property of any  
 16 corporation, or the earnings thereof, whether the employee's claim be  
 17 due or not, shall file in the recorder's office of the county where such  
 18 corporation is located or doing business, notice of the employee's  
 19 intention to hold a lien upon such property and earnings aforesaid, for  
 20 the amount of the employee's claim, setting forth the date of such  
 21 employment, the name of the corporation and the amount of such  
 22 claim, and it shall be the duty of the recorder of any county, when such  
 23 notice is presented for record, to record the same in the record required  
 24 by law for notice of mechanics' liens, for which the recorder shall  
 25 charge a fee in an amount specified in IC 36-2-7-10(b)(1) and  
 26 IC 36-2-7-10(b)(2). The lien so created shall relate to the time when  
 27 such employee was employed by such corporation, or to any  
 28 subsequent date during such employment, at the election of such  
 29 employee, and shall have priority over all liens suffered or created  
 30 thereafter, except other employees' liens, over which there shall be no  
 31 such priority.

- 32 (b) Where:  
 33 (1) any person, other than an employee, shall acquire a lien upon  
 34 the corporate property of any corporation located or doing  
 35 business in this state;  
 36 (2) such lien for a period of sixty (60) days either:  
 37 (A) remains a matter of record in the proper place specified in  
 38 ~~IC 26-1-9-401~~; **IC 26-1-9.1-501**; or  
 39 (B) remains otherwise perfected under applicable law; and

1           (3) no notice of an employee's intention to hold a lien shall have  
2           been filed by any employee of such corporation during that  
3           period;  
4           then and in that case such lien so created shall have priority over the  
5           lien of such employee in the county where such corporation is located  
6           or doing business, and not otherwise.  
7           (c) This section shall not apply to any lien acquired by any person  
8           for purchase money.  
9           SECTION 48. IC 26-1-9 IS REPEALED [EFFECTIVE JULY 1,  
10          2001].  
            (Reference is to HB 1326 as introduced.)

**and when so amended that said bill do pass.**

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Representative Dvorak