
ENGROSSED SENATE BILL 5053

State of Washington

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By Senators Constantine and Johnson

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1 AN ACT Relating to technical amendments and corrections to Article
2 9A of the Uniform Commercial Code and related statutes; amending RCW
3 19.40.081, 43.163.130, 60.10.010, 60.11.030, 60.11.904, 60.56.015,
4 62A.1-105, 62A.1-201, 62A.2A-303, 62A.2A-306, 62A.3-102, 62A.4-210,
5 62A.8-110, 62A.8-510, 62A.9A-102, 62A.9A-104, 62A.9A-105, 62A.9A-107,
6 62A.9A-201, 62A.9A-208, 62A.9A-301, 62A.9A-305, 62A.9A-306, 62A.9A-311,
7 62A.9A-313, 62A.9A-317, 62A.9A-322, 62A.9A-328, 62A.9A-331, 62A.9A-333,
8 62A.9A-334, 62A.9A-336, 62A.9A-406, 62A.9A-407, 62A.9A-509, 62A.9A.513,
9 62A.9A-516, 62A.9A-520, 62A.9A-523, 62A.9A-608, 62A.9A-613, 62A.9A-615,
10 62A.9A-625, 62A.9A-628, 62A.9A-702, 62A.9A-703, 62A.9A-704, 62A.9A-705,
11 62A.9A-706, 62A.9A-707, and 62A.9A-708; reenacting and amending RCW
12 60.13.040; adding a new section to Article 62A.9A RCW; repealing RCW
13 60.11.9001; providing an effective date; and declaring an emergency.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

15 **Sec. 1.** RCW 19.40.081 and 1987 c 444 s 8 are each amended to read
16 as follows:

17 DEFENSES, LIABILITY, AND PROTECTION OF TRANSFEREE. (a) A transfer
18 or obligation is not voidable under RCW 19.40.041(a)(1) against a

1 person who took in good faith and for a reasonably equivalent value or
2 against any subsequent transferee or obligee.

3 (b) Except as otherwise provided in this section, to the extent a
4 transfer is voidable in an action by a creditor under RCW
5 19.40.071(a)(1), the creditor may recover judgment for the value of the
6 asset transferred, as adjusted under subsection (c) of this section, or
7 the amount necessary to satisfy the creditor's claim, whichever is
8 less. The judgment may be entered against:

9 (1) The first transferee of the asset or the person for whose
10 benefit the transfer was made; or

11 (2) Any subsequent transferee other than a good-faith transferee or
12 obligee who took for value or from any subsequent transferee or
13 obligee.

14 (c) If the judgment under subsection (b) of this section is based
15 upon the value of the asset transferred, the judgment must be for an
16 amount equal to the value of the asset at the time of the transfer,
17 subject to adjustment as the equities may require.

18 (d) Notwithstanding voidability of a transfer or an obligation
19 under this chapter, a good-faith transferee or obligee is entitled, to
20 the extent of the value given the debtor for the transfer or
21 obligation, to:

22 (1) A lien on or a right to retain any interest in the asset
23 transferred;

24 (2) Enforcement of any obligation incurred; or

25 (3) A reduction in the amount of the liability on the judgment.

26 (e) A transfer is not voidable under RCW 19.40.041(a)(2) or
27 19.40.051 if the transfer results from:

28 (1) Termination of a lease upon default by the debtor when the
29 termination is pursuant to the lease and applicable law; or

30 (2) Enforcement of a security interest in compliance with Article
31 ((9)) 9A of Title 62A RCW.

32 (f) A transfer is not voidable under RCW 19.40.051(b):

33 (1) To the extent the insider gave new value to or for the benefit
34 of the debtor after the transfer was made unless the new value was
35 secured by a valid lien;

36 (2) If made in the ordinary course of business or financial affairs
37 of the debtor and the insider; or

1 (3) If made pursuant to a good-faith effort to rehabilitate the
2 debtor and the transfer secured present value given for that purpose as
3 well as an antecedent debt of the debtor.

4 **Sec. 2.** RCW 43.163.130 and 1998 c 48 s 1 are each amended to read
5 as follows:

6 NONRECOURSE REVENUE BONDS--ISSUANCE. (1) The authority may issue
7 its nonrecourse revenue bonds in order to obtain the funds to carry out
8 the programs authorized in this chapter. The bonds shall be special
9 obligations of the authority, payable solely out of the special fund or
10 funds established by the authority for their repayment.

11 (2) Any bonds issued under this chapter may be secured by a
12 financing document between the authority and the purchasers or owners
13 of such bonds or between the authority and a corporate trustee, which
14 may be any trust company or bank having the powers of a trust company
15 within or without the state.

16 (a) The financing document may pledge or assign, in whole or in
17 part, the revenues and funds held or to be received by the authority,
18 any present or future contract or other rights to receive the same, and
19 the proceeds thereof.

20 (b) The financing document may contain such provisions for
21 protecting and enforcing the rights, security, and remedies of
22 bondowners as may be reasonable and proper, including, without limiting
23 the generality of the foregoing, provisions defining defaults and
24 providing for remedies in the event of default which may include the
25 acceleration of maturities, restrictions on the individual rights of
26 action by bondowners, and covenants setting forth duties of and
27 limitations on the authority in conduct of its programs and the
28 management of its property.

29 (c) In addition to other security provided in this chapter or
30 otherwise by law, bonds issued by the authority may be secured, in
31 whole or in part, by financial guaranties, by insurance or by letters
32 of credit issued to the authority or a trustee or any other person, by
33 any bank, trust company, insurance or surety company or other financial
34 institution, within or without the state. The authority may pledge or
35 assign, in whole or in part, the revenues and funds held or to be
36 received by the authority, any present or future contract or other
37 rights to receive the same, and the proceeds thereof, as security for
38 such guaranties or insurance or for the reimbursement by the authority

1 to any issuer of such letter of credit of any payments made under such
2 letter of credit.

3 (3) Without limiting the powers of the authority contained in this
4 chapter, in connection with each issue of its obligation bonds, the
5 authority shall create and establish one or more special funds,
6 including, but not limited to debt service and sinking funds, reserve
7 funds, project funds, and such other special funds as the authority
8 deems necessary, useful, or convenient.

9 (4) Any security interest created against the unexpended bond
10 proceeds and against the special funds created by the authority shall
11 be immediately valid and binding against the money and any securities
12 in which the money may be invested without authority or trustee
13 possession. The security interest shall be prior to any party having
14 any competing claim against the moneys or securities, without filing or
15 recording under Article ((9)) 9A of the Uniform Commercial Code, Title
16 62A RCW, and regardless of whether the party has notice of the security
17 interest.

18 (5) The bonds may be issued as serial bonds, term bonds or any
19 other type of bond instrument consistent with the provisions of this
20 chapter. The bonds shall bear such date or dates; mature at such time
21 or times; bear interest at such rate or rates, either fixed or
22 variable; be payable at such time or times; be in such denominations;
23 be in such form; bear such privileges of transferability,
24 exchangeability, and interchangeability; be subject to such terms of
25 redemption; and be sold at public or private sale, in such manner, at
26 such time or times, and at such price or prices as the authority shall
27 determine. The bonds shall be executed by the manual or facsimile
28 signatures of the authority's chair and either its secretary or
29 executive director, and may be authenticated by the trustee (if the
30 authority determines to use a trustee) or any registrar which may be
31 designated for the bonds by the authority.

32 (6) Bonds may be issued by the authority to refund other
33 outstanding authority bonds, at or prior to maturity of, and to pay any
34 redemption premium on, the outstanding bonds. Bonds issued for
35 refunding purposes may be combined with bonds issued for the financing
36 or refinancing of new projects. Pending the application of the
37 proceeds of the refunding bonds to the redemption of the bonds to be
38 redeemed, the authority may enter into an agreement or agreements with
39 a corporate trustee regarding the interim investment of the proceeds

1 and the application of the proceeds and the earnings on the proceeds to
2 the payment of the principal of and interest on, and the redemption of,
3 the bonds to be redeemed.

4 (7) The bonds of the authority may be negotiable instruments under
5 Title 62A RCW.

6 (8) Neither the members of the authority, nor its employees or
7 agents, nor any person executing the bonds shall be personally liable
8 on the bonds or be subject to any personal liability or accountability
9 by reason of the issuance of the bonds.

10 (9) The authority may purchase its bonds with any of its funds
11 available for the purchase. The authority may hold, pledge, cancel or
12 resell the bonds subject to and in accordance with agreements with
13 bondowners.

14 (10) The authority shall not exceed five hundred million dollars in
15 total outstanding debt at any time.

16 (11) The state finance committee shall be notified in advance of
17 the issuance of bonds by the authority in order to promote the orderly
18 offering of obligations in the financial markets.

19 (12) The authority may not issue any bonds after June 30, 2004.

20 **Sec. 3.** RCW 60.10.010 and 1969 c 82 s 2 are each amended to read
21 as follows:

22 DEFINITIONS. As used in this chapter:

23 (1) The term "lien debtor" means the person who is obligated, owes
24 payment or other performance. Where the lien debtor and the owner of
25 the collateral are not the same person, the term "lien debtor" means
26 the owner of the collateral.

27 (2) "Collateral" means the property subject to a statutory lien.

28 (3) "Lien holder" means a person who, by statute, has acquired a
29 lien on the property of the lien debtor, or such person's successor in
30 interest.

31 (4) "Secured party" has the same meaning as used in Article ((9))
32 9A of the Uniform Commercial Code (Title 62A RCW).

33 **Sec. 4.** RCW 60.11.030 and 2000 c 250 s 9A-826 are each amended to
34 read as follows:

35 ATTACHMENT AND EFFECTIVENESS OF LIEN ON CROPS AND PROCEEDS--FILING.

36 (1) Upon the later of both: (a) Execution of the lease or other
37 agreement, or commencement of delivery of such supplies, and/or of

1 provision of such services giving rise to the crop lien; and (b) filing
2 a financing statement as required by RCW 62A.9A-310 and subsection (3)
3 of this section, the crop liens described in RCW 60.11.020 (1) and (2)
4 shall become effective and attach to the subject crop for all sums then
5 and thereafter due and owing the lien holder under this chapter, and
6 those liens shall continue in all identifiable cash proceeds of the
7 crop.

8 (2) Upon the delivery of an orchard crop by the lien debtor or
9 another handler to a handler without the necessity of filing, the crop
10 lien described in RCW 60.11.020(3) shall become effective and attach to
11 and be perfected in the delivered orchard crop for all sums then and
12 thereafter due and owing the lien holder under this chapter, and the
13 lien shall continue and be perfected in all proceeds of the orchard
14 crop. (~~Upon filing a financing statement as required by RCW
15 62A.9A-310 and subsection (3) of this section, an effective crop lien
16 described in RCW 60.11.020(3) that has attached to the delivered
17 orchard crop shall be perfected.~~)

18 (3) Except as provided in RCW 60.11.040(4) with respect to the lien
19 of a landlord, and except for the lien of a handler on orchard crops as
20 provided in RCW 60.11.020(3), the lien holder must file the required
21 financing statement during the period after the commencement of
22 delivery of such supplies and/or of provision of such services, but
23 before the completion of the harvest of the crops for which the lien is
24 claimed, or in the case of a lien for furnishing work or labor, before
25 the end of the fortieth day after the cessation of the work or labor
26 for which the lien is claimed. If the lien holder under the crop liens
27 described in RCW 60.11.020 (1) or (2) is to be allowed costs,
28 disbursements, and attorneys' fees, the lien holder must also mail a
29 copy of such financing statement to the last known address of the
30 debtor by certified mail, return receipt requested, within ten days
31 after filing the financing statement.

32 **Sec. 5.** RCW 60.11.904 and 2000 c 250 s 9A-835 are each amended to
33 read as follows:

34 All statements filed with the department of licensing under this
35 chapter (~~prior to~~) before July 1, 2001, shall satisfy the
36 requirements of RCW 62A.9A-310 and 60.11.030 for filing a financing
37 statement (~~for up to five years from the date they were originally~~

1 ~~filed if and so long as they are found and reported in a search of~~
2 ~~financing statements performed by the department of licensing)).~~

3 **Sec. 6.** RCW 60.13.040 and 1987 c 189 s 7 and 1987 c 148 s 3 are
4 each reenacted and amended to read as follows:

5 (1) A producer or commercial fisherman claiming a processor or
6 preparer lien may file a statement evidencing the lien with the
7 department of licensing after payment from the processor, conditioner,
8 or preparer to the producer or fisherman is due and remains unpaid.
9 For purposes of this subsection and RCW 60.13.050, payment is due on
10 the date specified in the contract, or if not specified, then within
11 thirty days from time of delivery.

12 (2) The statement shall be in (~~writing, verified~~) a record,
13 authenticated by the producer or fisherman, and shall contain in
14 substance the following information:

15 (a) A true statement of the amount demanded after deducting all
16 credits and offsets;

17 (b) The name of the processor, conditioner, or preparer who
18 received the agricultural product or fish to be charged with the lien;

19 (c) A description sufficient to identify the agricultural product
20 or fish to be charged with the lien;

21 (d) A statement that the amount claimed is a true and bona fide
22 existing debt as of the date of the filing of the notice evidencing the
23 lien;

24 (e) The date on which payment was due for the agricultural product
25 or fish to be charged with the lien; and

26 (f) The department of licensing may by rule prescribe standard
27 filing forms, fees, and uniform procedures for filing with, and
28 obtaining information from, filing officers.

29 **Sec. 7.** RCW 60.56.015 and 1993 c 53 s 3 are each amended to read
30 as follows:

31 An agister who holds a lien under RCW 60.56.010 shall perfect the
32 lien by (1) posting notice of the lien in a conspicuous location on the
33 premises where the lien holder is keeping the animal or animals, (2)
34 providing a copy of the posted notice to the owner of the animal or
35 animals, and (3) providing a copy of the posted notice to any lien
36 creditor as defined in RCW (~~62A.9-301(3)~~) 62A.9A-102(52) if the
37 amount of the agister lien is in excess of one thousand five hundred

1 dollars. A lien creditor may be determined through a search under RCW
2 (~~62A.9-409~~) 62A.9A-523 and 62A.9A-526. The lien holder is entitled
3 to collect from the buyer, the seller, or the person selling on a
4 commission basis if there is a failure to make payment to the perfected
5 lien holder.

6 **Sec. 8.** RCW 62A.1-105 and 2000 c 250 s 9A-801 are each amended to
7 read as follows:

8 TERRITORIAL APPLICATION OF THE TITLE; PARTIES' POWER TO CHOOSE
9 APPLICABLE LAW. (1) Except as provided hereafter in this section, when
10 a transaction bears a reasonable relation to this state and also to
11 another state or nation the parties may agree that the law either of
12 this state or of such other state or nation shall govern their rights
13 and duties. Failing such agreement this Title applies to transactions
14 bearing an appropriate relation to this state.

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

19 Rights of creditors against sold goods. RCW 62A.2-402.

20 Applicability of the Article on Leases. RCW 62A.2A-105 and
21 62A.2A-106.

22 Applicability of the Article on Bank Deposits and Collections. RCW
23 62A.4-102.

24 Governing law in the Article on Funds Transfers. RCW 62A.4A-507.

25 Letters of Credit. RCW 62A.5-116.

26 Applicability of the Article on Investment Securities. RCW
27 62A.8-110.

28 Law governing perfection, the effect of perfection or
29 nonperfection, and the priority of security interests and agricultural
30 liens. RCW 62A.9A-301 through 62A.9A-307.

31 **Sec. 9.** RCW 62A.1-201 and 2000 c 250 s 9A-802 are each amended to
32 read as follows:

33 GENERAL DEFINITIONS. Subject to additional definitions contained
34 in the subsequent Articles of this Title which are applicable to
35 specific Articles or Parts thereof, and unless the context otherwise
36 requires, in this Title:

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

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

5 (3) "Agreement" means the bargain of the parties in fact as found
6 in their language or by implication from other circumstances including
7 course of dealing or usage of trade or course of performance as
8 provided in this Title (RCW 62A.1-205, RCW 62A.2-208, and RCW
9 62A.2A-207). Whether an agreement has legal consequences is determined
10 by the provisions of this Title, if applicable; otherwise by the law of
11 contracts (RCW 62A.1-103). (Compare "Contract".)

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

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

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

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

24 (8) "Burden of establishing" a fact means the burden of persuading
25 the triers of fact that the existence of the fact is more probable than
26 its non-existence.

27 (9) "Buyer in ordinary course of business" means a person that buys
28 goods in good faith, without knowledge that the sale violates the
29 rights of another person in the goods, and in the ordinary course from
30 a person, other than a pawnbroker, in the business of selling goods of
31 that kind. A person buys goods in the ordinary course if the sale to
32 the person comports with the usual or customary practices in the kind
33 of business in which the seller is engaged or with the seller's own
34 usual or customary practices. A person that sells oil, gas, or other
35 minerals at the wellhead or minehead is a person in the business of
36 selling goods of that kind. A buyer in ordinary course of business may
37 buy for cash, by exchange of other property, or on secured or unsecured
38 credit, and may acquire goods or documents of title under a pre-
39 existing contract for sale. Only a buyer that takes possession of the

1 goods or has a right to recover the goods from the seller under Article
2 62A.2 RCW may be a buyer in ordinary course of business. A person that
3 acquires goods in a transfer in bulk or as security for or in total or
4 partial satisfaction of a money debt is not a buyer in ordinary course
5 of business.

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

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

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

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

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

26 (15) "Document of title" includes bill of lading, dock warrant,
27 dock receipt, warehouse receipt or order for the delivery of goods, and
28 also any other document which in the regular course of business or
29 financing is treated as adequately evidencing that the person in
30 possession of it is entitled to receive, hold and dispose of the
31 document and the goods it covers. To be a document of title a document
32 must purport to be issued by or addressed to a bailee and purport to
33 cover goods in the bailee's possession which are either identified or
34 are fungible portions of an identified mass.

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

36 (17) "Fungible" with respect to goods or securities means goods or
37 securities of which any unit is, by nature or usage of trade, the
38 equivalent of any other like unit. Goods which are not fungible shall
39 be deemed fungible for the purposes of this Title to the extent that

1 under a particular agreement or document unlike units are treated as
2 equivalents.

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

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

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

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

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

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

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

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

27 (a) he or she has actual knowledge of it; or

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

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

31 A person "knows" or has "knowledge" of a fact when he or she has actual
32 knowledge of it. "Discover" or "learn" or a word or phrase of similar
33 import refers to knowledge rather than to reason to know. The time and
34 circumstances under which a notice or notification may cease to be
35 effective are not determined by this Title.

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

1 (a) it comes to his or her attention; or
2 (b) it is duly delivered at the place of business through which the
3 contract was made or at any other place held out by him or her as the
4 place for receipt of such communications.

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

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

22 (29) "Party", as distinct from "third party", means a person who
23 has engaged in a transaction or made an agreement within this Title.

24 (30) "Person" includes an individual or an organization (See RCW
25 62A.1-102).

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

29 (32) "Purchase" includes taking by sale, discount, negotiation,
30 mortgage, pledge, lien, security interest, issue or re-issue, gift or
31 any other voluntary transaction creating an interest in property.

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

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

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

38 (36) "Rights" includes remedies.

1 (37) "Security interest" means an interest in personal property or
2 fixtures which secures payment or performance of an obligation, except
3 for lease-purchase agreements under chapter 63.19 RCW. The term also
4 includes any interest of a consignor and a buyer of accounts, chattel
5 paper, a payment intangible, or a promissory note in a transaction that
6 is subject to Article ((9{A})) 9A. The special property interest of a
7 buyer of goods on identification of such goods to a contract for sale
8 under RCW 62A.2-401 is not a "security interest", but a buyer may also
9 acquire a "security interest" by complying with Article ((9{A})) 9A.
10 Except as otherwise provided in RCW 62A.2-505, the right of a seller or
11 lessor of goods under Article 2 or 2A to retain or acquire possession
12 of the goods is not a "security interest," but a seller or lessor may
13 also acquire a "security interest" by complying with Article ((9{A}))
14 9A. The retention or reservation of title by a seller of goods
15 notwithstanding shipment or delivery to the buyer (RCW 62A.2-401) is
16 limited in effect to a reservation of a "security interest."

17 Whether a transaction creates a lease or security interest is
18 determined by the facts of each case. However, a transaction creates
19 a security interest if the consideration the lessee is to pay the
20 lessor for the right to possession and use of the goods is an
21 obligation for the term of the lease not subject to termination by the
22 lessee, and:

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

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

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

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

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

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

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

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

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

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

14 (f) The amount of rental payments may or will be increased or
15 decreased by reference to the amount realized by the lessor upon sale
16 or disposition of the goods.

17 For purposes of this subsection (37):

18 (a) Additional consideration is not nominal if (i) when the option
19 to renew the lease is granted to the lessee the rent is stated to be
20 the fair market rent for the use of the goods for the term of the
21 renewal determined at the time the option is to be performed, or (ii)
22 when the option to become the owner of the goods is granted to the
23 lessee the price is stated to be the fair market value of the goods
24 determined at the time the option is to be performed. Additional
25 consideration is nominal if it is less than the lessee's reasonably
26 predictable cost of performing under the lease agreement if the option
27 is not exercised;

28 (b) "Reasonably predictable" and "remaining economic life of the
29 goods" are to be determined with reference to the facts and
30 circumstances at the time the transaction is entered into; and

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

38 (38) "Send" in connection with any writing or notice means to
39 deposit in the mail or deliver for transmission by any other usual

1 means of communication with postage or cost of transmission provided
2 for and properly addressed and in the case of an instrument to an
3 address specified thereon or otherwise agreed, or if there be none to
4 any address reasonable under the circumstances. The receipt of any
5 writing or notice within the time at which it would have arrived if
6 properly sent has the effect of a proper sending.

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

9 (40) "Surety" includes guarantor.

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

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

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

16 (44) "Value". Except as otherwise provided with respect to
17 negotiable instruments and bank collections (RCW 62A.3-303, RCW
18 62A.4-210, and RCW 62A.4-211) a person gives "value" for rights if he
19 or she acquires them

20 (a) in return for a binding commitment to extend credit or for the
21 extension of immediately available credit whether or not drawn upon and
22 whether or not a charge-back is provided for in the event of
23 difficulties in collection; or

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

26 (c) by accepting delivery pursuant to a pre-existing contract for
27 purchase; or

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

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

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

34 **Sec. 10.** RCW 62A.2A-303 and 2000 c 250 s 9A-809 are each amended
35 to read as follows:

36 ALIENABILITY OF PARTY'S INTEREST UNDER LEASE CONTRACT OR OF
37 LESSOR'S RESIDUAL INTEREST IN GOODS; DELEGATION OF PERFORMANCE;
38 TRANSFER OF RIGHTS. (1) As used in this section, "creation of a

1 security interest" includes the sale of a lease contract that is
2 subject to Article ((9[A])) 9A, Secured Transactions, by reason of RCW
3 62A.9A-109(a)(3).

4 (2) Except as provided in subsection (3) of this section and RCW
5 62A.9A-407, a provision in a lease agreement which (a) prohibits the
6 voluntary or involuntary transfer, including a transfer by sale,
7 sublease, creation or enforcement of a security interest, or
8 attachment, levy, or other judicial process, of an interest of a party
9 under the lease contract or of the lessor's residual interest in the
10 goods, or (b) makes such a transfer an event of default, gives rise to
11 the rights and remedies provided in subsection (4) of this section, but
12 a transfer that is prohibited or is an event of default under the lease
13 agreement is otherwise effective.

14 (3) A provision in a lease agreement which ((~~(i)~~[(a)])) (a)
15 prohibits a transfer of a right to damages for default with respect to
16 the whole lease contract or of a right to payment arising out of the
17 transferor's due performance of the transferor's entire obligation, or
18 ((~~(ii)~~[(b)])) (b) makes such a transfer an event of default, is not
19 enforceable, and such a transfer is not a transfer that materially
20 impairs the prospect of obtaining return performance by, materially
21 changes the duty of, or materially increases the burden or risk imposed
22 on, the other party to the lease contract within the purview of
23 subsection (4) of this section.

24 (4) Subject to subsection (3) of this section and RCW 62A.9A-407:

25 (a) If a transfer is made which is made an event of default under
26 a lease agreement, the party to the lease contract not making the
27 transfer, unless that party waives the default or otherwise agrees, has
28 the rights and remedies described in RCW 62A.2A-501(2);

29 (b) If subsection (4)(a) of this section is not applicable and if
30 a transfer is made that (i) is prohibited under a lease agreement or
31 (ii) materially impairs the prospect of obtaining return performance
32 by, materially changes the duty of, or materially increases the burden
33 or risk imposed on, the other party to the lease contract, unless the
34 party not making the transfer agrees at any time to the transfer in the
35 lease contract or otherwise, then, except as limited by contract, (A)
36 the transferor is liable to the party not making the transfer for
37 damages caused by the transfer to the extent that the damages could not
38 reasonably be prevented by the party not making the transfer and (B) a
39 court having jurisdiction may grant other appropriate relief, including

1 cancellation of the lease contract or an injunction against the
2 transfer.

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

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

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

17 **Sec. 11.** RCW 62A.2A-306 and 1993 c 230 s 2A-306 are each amended
18 to read as follows:

19 ~~PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW. ((If a~~
20 ~~person in the ordinary course of his or her business furnishes services~~
21 ~~or materials with respect to goods subject to a lease contract, a lien~~
22 ~~upon those goods in the possession of that person given by statute or~~
23 ~~rule of law for those materials or services takes priority over any~~
24 ~~interest of the lessor or lessee under the lease contract or this~~
25 ~~Article unless the lien is created by statute and the statute provides~~
26 ~~otherwise or unless the lien is created by rule of law and the rule of~~
27 ~~law provides otherwise.)) (a) **"Possessory lien."** In this section,~~
28 "possessory lien" has the meaning defined in RCW 62A.9A-333.

29 (b) **Priority of possessory lien.** A possessory lien on goods
30 subject to a lease contract has priority over any interest of the
31 lessor or the lessee under the lease contract or this Article only if
32 the lien is created by a statute that expressly so provides.

33 (c) A preparer lien or processor lien properly created pursuant to
34 chapter 60.13 RCW or a depositor's lien created pursuant to chapter
35 22.09 RCW takes priority over any perfected or unperfected security
36 interest.

1 **Sec. 12.** RCW 62A.3-102 and 1993 c 229 s 4 are each amended to read
2 as follows:

3 SUBJECT MATTER. (a) This Article applies to negotiable
4 instruments. It does not apply to money, to payment orders governed by
5 Article 4A, or to securities governed by Article 8.

6 (b) If there is conflict between this Article and Article 4 or
7 ((9)) 9A, Articles 4 and ((9)) 9A govern.

8 (c) Regulations of the Board of Governors of the Federal Reserve
9 System and operating circulars of the Federal Reserve Banks supersede
10 any inconsistent provision of this Article to the extent of the
11 inconsistency.

12 **Sec. 13.** RCW 62A.4-210 and 2000 c 250 s 9A-813 are each amended to
13 read as follows:

14 SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING
15 DOCUMENTS AND PROCEEDS. (a) A collecting bank has a security interest
16 in an item and any accompanying documents or the proceeds of either:

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

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

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

23 (b) If credit given for several items received at one time or
24 pursuant to a single agreement is withdrawn or applied in part, the
25 security interest remains upon all the items, any accompanying
26 documents or the proceeds of either. For the purpose of this section,
27 credits first given are first withdrawn.

28 (c) Receipt by a collecting bank of a final settlement for an item
29 is a realization on its security interest in the item, accompanying
30 documents, and proceeds. So long as the bank does not receive final
31 settlement for the item or give up possession of the item or
32 accompanying documents for purposes other than collection, the security
33 interest continues to that extent and is subject to Article ((9{A}))
34 9A, but:

35 (1) No security agreement is necessary to make the security
36 interest enforceable RCW 62A.9A-203(b)(3)(A);

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

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

3 **Sec. 14.** RCW 62A.8-110 and 2000 c 250 s 9A-817 are each amended to
4 read as follows:

5 APPLICABILITY; CHOICE OF LAW. (1) The local law of the issuer's
6 jurisdiction, as specified in subsection (4) of this section, governs:

7 (a) The validity of a security;

8 (b) The rights and duties of the issuer with respect to
9 registration of transfer;

10 (c) The effectiveness of registration of transfer by the issuer;

11 (d) Whether the issuer owes any duties to an adverse claimant to a
12 security; and

13 (e) Whether an adverse claim can be asserted against a person to
14 whom transfer of a certificated or uncertificated security is
15 registered or a person who obtains control of an uncertificated
16 security.

17 (2) The local law of the securities intermediary's jurisdiction, as
18 specified in subsection (5) of this section, governs:

19 (a) Acquisition of a security entitlement from the securities
20 intermediary;

21 (b) The rights and duties of the securities intermediary and
22 entitlement holder arising out of a security entitlement;

23 (c) Whether the securities intermediary owes any duties to an
24 adverse claimant to a security entitlement; and

25 (d) Whether an adverse claim can be asserted against a person who
26 acquires a security entitlement from the securities intermediary or a
27 person who purchases a security entitlement or interest therein from an
28 entitlement holder.

29 (3) The local law of the jurisdiction in which a security
30 certificate is located at the time of delivery governs whether an
31 adverse claim can be asserted against a person to whom the security
32 certificate is delivered.

33 (4) "Issuer's jurisdiction" means the jurisdiction under which the
34 issuer of the security is organized or, if permitted by the law of that
35 jurisdiction, the law of another jurisdiction specified by the issuer.
36 An issuer organized under the law of this state may specify the law of
37 another jurisdiction as the law governing the matters specified in
38 subsection (1)(b) through (e) of this section.

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

3 (a) If an agreement between the securities intermediary and its
4 entitlement holder governing the securities account expressly provides
5 that a particular jurisdiction is the securities intermediary's
6 jurisdiction for purposes of this part, this Article, or (~~chapter 250,~~
7 ~~Laws of 2000~~) Article 62A.9A RCW, that jurisdiction is the securities
8 intermediary's jurisdiction.

9 (b) If (~~(+5)~~)(a) of this (~~section [(a) of this subsection]~~)
10 subsection does not apply and an agreement between the securities
11 intermediary and its entitlement holder governing the securities
12 account expressly provides that the agreement is governed by the law of
13 a particular jurisdiction, that jurisdiction is the securities
14 intermediary's jurisdiction.

15 (c) If neither (~~(+5)~~)(a) nor (b) of this (~~section [(a) nor (b) of~~
16 ~~this subsection]~~) subsection applies, and an agreement between the
17 securities intermediary and its entitlement holder governing the
18 securities account expressly provides that the securities account is
19 maintained at an office in a particular jurisdiction, that jurisdiction
20 is the securities intermediary's jurisdiction.

21 (d) If (~~(+5)~~)(a), (b), and (c) of this (~~section [(a), (b), and~~
22 ~~(c) of this subsection]~~) subsection do not apply, the securities
23 intermediary's jurisdiction is the jurisdiction in which the office
24 identified in an account statement as the office serving the
25 entitlement holder's account is located.

26 (e) If (a), (b), (c), and (d) of this subsection do not apply, the
27 securities intermediary's jurisdiction is the jurisdiction in which the
28 chief executive office of the securities intermediary is located.

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

35 **Sec. 15.** RCW 62A.8-510 and 2000 c 250 s 9A-820 are each amended to
36 read as follows:

37 RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT
38 HOLDER. (1) In a case not covered by the priority rules in Article

1 ((9[A])) 9A or the rules stated in subsection (3) of this section, an
2 action based on an adverse claim to a financial asset or security
3 entitlement, whether framed in conversion, replevin, constructive
4 trust, equitable lien, or other theory, may not be asserted against a
5 person who purchases a security entitlement, or an interest therein,
6 from an entitlement holder if the purchaser gives value, does not have
7 notice of the adverse claim, and obtains control.

8 (2) If an adverse claim could not have been asserted against an
9 entitlement holder under RCW 62A.8-502, the adverse claim cannot be
10 asserted against a person who purchases a security entitlement, or an
11 interest therein, from the entitlement holder.

12 (3) In a case not covered by the priority rules in Article ((9[A]))
13 9A, a purchaser for value of a security entitlement, or an interest
14 therein, who obtains control has priority over a purchaser of a
15 security entitlement, or an interest therein, who does not obtain
16 control. Except as otherwise provided in subsection (4) of this
17 section, purchasers who have control rank according to priority in time
18 of:

19 (a) The purchaser's becoming the person for whom the securities
20 account, in which the security entitlement is carried, is maintained,
21 if the purchaser obtained control under RCW 62A.8-106(~~((d)(1))~~)
22 ~~{(4)(a)}~~ (4)(a);

23 (b) The securities intermediary's agreement to comply with the
24 purchaser's entitlement orders with respect to security entitlements
25 carried or to be carried in the securities account in which the
26 security entitlement is carried, if the purchaser obtained control
27 under RCW 62A.8-106(~~((d)(2))~~~~{(4)(b)}~~) (4)(b); or

28 (c) If the purchaser obtained control through another person under
29 RCW 62A.8-106(~~((d)(3))~~~~{(4)(c)}~~) (4)(c), the time on which priority
30 would be based under this subsection if the other person were the
31 secured party.

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

35 **Sec. 16.** RCW 62A.9A-102 and 2000 c 250 s 9A-102 are each amended
36 to read as follows:

37 **DEFINITIONS AND INDEX OF DEFINITIONS.** (a) **Article ((9[A])) 9A**
38 **definitions.** In this Article:

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

4 (2)(A) "Account," except as used in "account for," means a right to
5 payment of a monetary obligation, whether or not earned by performance,
6 (i) for property that has been or is to be sold, leased, licensed,
7 assigned, or otherwise disposed of, (ii) for services rendered or to be
8 rendered, (iii) for a policy of insurance issued or to be issued, (iv)
9 for a secondary obligation incurred or to be incurred, (v) for energy
10 provided or to be provided, (vi) for the use or hire of a vessel under
11 a charter or other contract, (vii) arising out of the use of a credit
12 or charge card or information contained on or for use with the card, or
13 (viii) as winnings in a lottery or other game of chance operated or
14 sponsored by a state, governmental unit of a state, or person licensed
15 or authorized to operate the game by a state or governmental unit of a
16 state. The term includes health-care-insurance receivables.

17 (B) The term does not include (i) rights to payment evidenced by
18 chattel paper or an instrument, (ii) commercial tort claims, (iii)
19 deposit accounts, (iv) investment property, (v) letter-of-credit rights
20 or letters of credit, or (vi) rights to payment for money or funds
21 advanced or sold, other than rights arising out of the use of a credit
22 or charge card or information contained on or for use with the card.

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

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

29 (A) Authenticated by a secured party;

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

33 (C) Identifying the components of the obligations in reasonable
34 detail.

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

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

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

1 (ii) Rent on real property leased by a debtor in connection with
2 its farming operation;

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

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

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

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

11 (6) "As-extracted collateral" means:

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

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

16 (ii) Attaches to the minerals as extracted; or

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

20 (7) "Authenticate" means:

21 (A) To sign; or

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

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

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

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

36 (11) "Chattel paper" means a record or records that evidence both
37 a monetary obligation and a security interest in specific goods, a
38 security interest in specific goods and software used in the goods, a
39 security interest in specific goods and license of software used in the

1 goods, a lease of specific goods, or a lease of specific goods and
2 license of software used in the goods. In this subsection, "monetary
3 obligation" means a monetary obligation secured by the goods or owed
4 under a lease of the goods and includes a monetary obligation with
5 respect to software used in the goods. The term "chattel paper" does
6 not include (A) charters or other contracts involving the use or hire
7 of a vessel or (B) records that evidence a right to payment arising out
8 of the use of a credit or charge card or information contained on or
9 for use with the card. If a transaction is evidenced by records that
10 include an instrument or series of instruments, the group of records
11 taken together constitutes chattel paper.

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

14 (A) Proceeds to which a security interest attaches;

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

17 (C) Goods that are the subject of a consignment.

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

20 (A) The claimant is an organization; or

21 (B) The claimant is an individual, and the claim:

22 (i) Arose in the course of the claimant's business or profession;
23 and

24 (ii) Does not include damages arising out of personal injury to, or
25 the death of, an individual.

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

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

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

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

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

1 (17) "Commodity intermediary" means a person that:
2 (A) Is registered as a futures commission merchant under federal
3 commodities law; or
4 (B) In the ordinary course of its business, provides clearance or
5 settlement services for a board of trade that has been designated as a
6 contract market pursuant to federal commodities law.
7 (18) "Communicate" means:
8 (A) To send a written or other tangible record;
9 (B) To transmit a record by any means agreed upon by the persons
10 sending and receiving the record; or
11 (C) In the case of transmission of a record to or by a filing
12 office, to transmit a record by any means prescribed by filing-office
13 rule.
14 (19) "Consignee" means a merchant to which goods are delivered in
15 a consignment.
16 (20) "Consignment" means a transaction, regardless of its form, in
17 which a person delivers goods to a merchant for the purpose of sale
18 and:
19 (A) The merchant:
20 (i) Deals in goods of that kind under a name other than the name of
21 the person making delivery;
22 (ii) Is not an auctioneer; and
23 (iii) Is not generally known by its creditors to be substantially
24 engaged in selling the goods of others;
25 (B) With respect to each delivery, the aggregate value of the goods
26 is one thousand dollars or more at the time of delivery;
27 (C) The goods are not consumer goods immediately before delivery;
28 and
29 (D) The transaction does not create a security interest that
30 secures an obligation.
31 (21) "Consignor" means a person that delivers goods to a consignee
32 in a consignment.
33 (22) "Consumer debtor" means a debtor in a consumer transaction.
34 (23) "Consumer goods" means goods that are used or bought for use
35 primarily for personal, family, or household purposes.
36 (24) "Consumer-goods transaction" means a consumer transaction in
37 which:
38 (A) An individual incurs a consumer obligation; and
39 (B) A security interest in consumer goods secures the obligation.

1 (25) "Consumer obligation" means an obligation which:

2 (A) Is incurred as part of a transaction entered into primarily for
3 personal, family, or household purposes; and

4 (B) Arises from an extension of credit, or commitment to extend
5 credit, in an aggregate amount not exceeding forty thousand dollars, or
6 is secured by personal property used or expected to be used as a
7 principal dwelling.

8 "Consumer obligor" means an obligor who is an individual and who
9 incurred a consumer obligation.

10 (26) "Consumer transaction" means a transaction in which (A) an
11 individual incurs a consumer obligation, (B) a security interest
12 secures the obligation, and (C) the collateral is held or acquired
13 primarily for personal, family, or household purposes. The term
14 includes consumer-goods transactions.

15 (27) "Continuation statement" means an amendment of a financing
16 statement which:

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

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

22 (28) "Debtor" means:

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

25 (B) A seller of accounts, chattel paper, payment intangibles, or
26 promissory notes; or

27 (C) A consignee.

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

31 (30) "Document" means a document of title or a receipt of the type
32 described in RCW 62A.7-201(2).

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

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

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

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

6 (A) Crops grown, growing, or to be grown, including:

7 (i) Crops produced on trees, vines, and bushes; and

8 (ii) Aquatic goods produced in aquacultural operations;

9 (B) Livestock, born or unborn, including aquatic goods produced in
10 aquacultural operations;

11 (C) Supplies used or produced in a farming operation; or

12 (D) Products of crops or livestock in their unmanufactured states.

13 (35) "Farming operation" means raising, cultivating, propagating,
14 fattening, grazing, or any other farming, livestock, or aquacultural
15 operation.

16 (36) "File number" means the number assigned to an initial
17 financing statement pursuant to RCW 62A.9A-519(a).

18 (37) "Filing office" means an office designated in RCW 62A.9A-501
19 as the place to file a financing statement.

20 (38) "Filing-office rule" means a rule adopted pursuant to RCW
21 62A.9A-526.

22 (39) "Financing statement" means a record or records composed of an
23 initial financing statement and any filed record relating to the
24 initial financing statement.

25 (40) "Fixture filing" means the filing of a financing statement
26 covering goods that are or are to become fixtures and satisfying RCW
27 62A.9A-502 (a) and (b). The term includes the filing of a financing
28 statement covering goods of a transmitting utility which are or are to
29 become fixtures.

30 (41) "Fixtures" means goods that have become so related to
31 particular real property that an interest in them arises under real
32 property law.

33 (42) "General intangible" means any personal property, including
34 things in action, other than accounts, chattel paper, commercial tort
35 claims, deposit accounts, documents, goods, instruments, investment
36 property, letter-of-credit rights, letters of credit, money, and oil,
37 gas, or other minerals before extraction. The term includes payment
38 intangibles and software.

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

3 (44) "Goods" means all things that are movable when a security
4 interest attaches. The term includes (A) fixtures, (B) standing timber
5 that is to be cut and removed under a conveyance or contract for sale,
6 (C) the unborn young of animals, (D) crops grown, growing, or to be
7 grown, even if the crops are produced on trees, vines, or bushes, and
8 (E) manufactured homes. The term also includes a computer program
9 embedded in goods and any supporting information provided in connection
10 with a transaction relating to the program if (i) the program is
11 associated with the goods in such a manner that it customarily is
12 considered part of the goods, or (ii) by becoming the owner of the
13 goods, a person acquires a right to use the program in connection with
14 the goods. The term does not include a computer program embedded in
15 goods that consist solely of the medium in which the program is
16 embedded. The term also does not include accounts, chattel paper,
17 commercial tort claims, deposit accounts, documents, general
18 intangibles, instruments, investment property, letter-of-credit rights,
19 letters of credit, money, or oil, gas, or other minerals before
20 extraction or a manufactured home converted to real property under
21 chapter 65.20 RCW.

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

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

31 (47) "Instrument" means a negotiable instrument or any other
32 writing that evidences a right to the payment of a monetary obligation,
33 is not itself a security agreement or lease, and is of a type that in
34 ordinary course of business is transferred by delivery with any
35 necessary indorsement or assignment. The term does not include (A)
36 investment property, (B) letters of credit, (C) writings that evidence
37 a right to payment arising out of the use of a credit or charge card or
38 information contained on or for use with the card, (D) writings that do

1 not contain a promise or order to pay, or (E) writings that are
2 expressly nontransferable or nonassignable.

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

4 (A) Are leased by a person as lessor;

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

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

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

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

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

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

21 (52) "Lien creditor" means:

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

24 (B) An assignee for benefit of creditors from the time of
25 assignment;

26 (C) A trustee in bankruptcy from the date of the filing of the
27 petition; or

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

29 (53) "Manufactured home" means a manufactured home or mobile home
30 as defined in RCW 46.04.302.

31 (54) [Reserved]

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

35 (56) "New debtor" means a person that becomes bound as debtor under
36 RCW 62A.9A-203(d) by a security agreement previously entered into by
37 another person.

38 (57) "New value" means (A) money, (B) money's worth in property,
39 services, or new credit, or (C) release by a transferee of an interest

1 in property previously transferred to the transferee. The term does
2 not include an obligation substituted for another obligation.

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

4 (59) "Obligor" means a person that, with respect to an obligation
5 secured by a security interest in or an agricultural lien on the
6 collateral, (A) owes payment or other performance of the obligation,
7 (B) has provided property other than the collateral to secure payment
8 or other performance of the obligation, or (C) is otherwise accountable
9 in whole or in part for payment or other performance of the obligation.
10 The term does not include issuers or nominated persons under a letter
11 of credit.

12 (60) "Original debtor", except as used in RCW 62A.9A-310(c), means
13 a person that, as debtor, entered into a security agreement to which a
14 new debtor has become bound under RCW 62A.9A-203(d).

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

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

18 (A) The spouse of the individual;

19 (B) A brother, brother-in-law, sister, or sister-in-law of the
20 individual;

21 (C) An ancestor or lineal descendant of the individual or the
22 individual's spouse; or

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

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

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

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

30 (C) An officer or director of, or a person performing similar
31 functions with respect to, a person described in (~~(64)~~[(63)])
32 (63)(A) of this subsection;

33 (D) The spouse of an individual described in (~~(64)~~[(63)])
34 (63)(A), (B), or (C) of this subsection; or

35 (E) An individual who is related by blood or marriage to an
36 individual described in (~~(64)~~[(63)]) (63)(A), (B), (C), or (D) of
37 this subsection and shares the same home with the individual.

38 (64) "Proceeds", except as used in RCW 62A.9A-609(b), means the
39 following property:

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

3 (B) Whatever is collected on, or distributed on account of,
4 collateral;

5 (C) Rights arising out of collateral;

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

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

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

17 (66) "Proposal" means a record authenticated by a secured party,
18 which includes the terms on which the secured party is willing to
19 accept collateral in full or partial satisfaction of the obligation it
20 secures pursuant to RCW 62A.9A-620, 62A.9A-621, and 62A.9A-622.

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

23 (A) Debt securities are issued;

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

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

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

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

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

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

6 (A) The obligor's obligation is secondary; or

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

10 (72) "Secured party" means:

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

14 (B) A person that holds an agricultural lien;

15 (C) A consignor;

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

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

21 (F) A person that holds a security interest arising under RCW
22 62A.2-401, 62A.2-505, 62A.2-711(3), 62A.2A-508(5), 62A.4-210, or
23 62A.5-118.

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

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

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

31 (B) To cause the record or notification to be received within the
32 time that it would have been received if properly sent under ~~((75)~~
33 ~~{(74)})~~ (A) of this subsection.

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

38 (76) "State" means a state of the United States, the District of
39 Columbia, Puerto Rico, the United States Virgin Islands, or any

1 territory or insular possession subject to the jurisdiction of the
2 United States.

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

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

10 (79) "Termination statement" means an amendment of a financing
11 statement which:

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

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

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

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

19 (B) Transmitting communications electrically, electromagnetically,
20 or by light;

21 (C) Transmitting goods by pipeline or sewer; or

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

24 (b) **Definitions in other Articles.** The following definitions in
25 other Articles apply to this Article:

26 "Applicant." RCW 62A.5-102.

27 "Beneficiary." RCW 62A.5-102.

28 "Broker." RCW 62A.8-102.

29 "Certificated security." RCW 62A.8-102.

30 "Check." RCW 62A.3-104.

31 "Clearing corporation." RCW 62A.8-102.

32 "Contract for sale." RCW 62A.2-106.

33 "Customer." RCW 62A.4-104.

34 "Entitlement holder." RCW 62A.8-102.

35 "Financial asset." RCW 62A.8-102.

36 "Holder in due course." RCW 62A.3-302.

37 "Issuer" with respect to
38 a letter of credit

39 or letter-of-credit right. RCW 62A.5-102.

1 "Issuer" with respect to a
2 security. RCW 62A.8-201.
3 "Lease." RCW 62A.2A-103.
4 "Lease agreement." RCW 62A.2A-103.
5 "Lease contract." RCW 62A.2A-103.
6 "Leasehold interest." RCW 62A.2A-103.
7 "Lessee." RCW 62A.2A-103.
8 "Lessee in ordinary course
9 of business." RCW 62A.2A-103.
10 "Lessor." RCW 62A.2A-103.
11 "Lessor's residual
12 interest." RCW 62A.2A-103.
13 "Letter of credit." RCW 62A.5-102.
14 "Merchant." RCW 62A.2-104.
15 "Negotiable instrument." RCW 62A.3-104.
16 "Nominated person." RCW 62A.5-102.
17 "Note." RCW 62A.3-104.
18 "Proceeds of a letter
19 of credit." RCW 62A.5-114.
20 "Prove." RCW 62A.3-103.
21 "Sale." RCW 62A.2-106.
22 "Securities account." RCW 62A.8-501.
23 "Securities intermediary." RCW 62A.8-102.
24 "Security." RCW 62A.8-102.
25 "Security certificate." RCW 62A.8-102.
26 "Security entitlement." RCW 62A.8-102.
27 "Uncertificated security." RCW 62A.8-102.

28 (c) **Article 1 definitions and principles.** Article 1 contains
29 general definitions and principles of construction and interpretation
30 applicable throughout this Article.

31 **Sec. 17.** RCW 62A.9A-104 and 2000 c 250 s 9A-104 are each amended
32 to read as follows:

33 CONTROL OF DEPOSIT ACCOUNT. (a) **Requirements for control.** A
34 secured party has control of a deposit account if:

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

37 (2) The debtor, secured party, and bank have agreed in an
38 authenticated record that the bank will comply with instructions

1 originated by the secured party directing disposition of the funds in
2 the deposit account without further consent by the debtor; or

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

5 (b) **Debtor's right to direct disposition.** A secured party that has
6 satisfied subsection (a) of this section has control, even if the
7 debtor retains the right to direct the disposition of funds from the
8 deposit account.

9 **Sec. 18.** RCW 62A.9A-105 and 2000 c 250 s 9A-105 are each amended
10 to read as follows:

11 CONTROL OF ELECTRONIC CHATTEL PAPER. A secured party has control
12 of electronic chattel paper if the record or records comprising the
13 chattel paper are created, stored, and assigned in such a manner that:

14 (1) A single authoritative copy of the record or records exists
15 which is unique, identifiable and, except as otherwise provided in
16 (~~{subsections}~~) subsections (4), (5), and (6) of this section,
17 unalterable;

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

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

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

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

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

29 **Sec. 19.** RCW 62A.9A-107 and 2000 c 250 s 9A-107 are each amended
30 to read as follows:

31 CONTROL OF LETTER-OF-CREDIT RIGHT. A secured party has control of
32 a letter-of-credit right to the extent of any right to payment or
33 performance by the issuer or any nominated person if the issuer or
34 nominated person has consented to an assignment of proceeds of the
35 letter of credit under RCW 62A.5-114(~~(e)-(3)~~) (3) or otherwise
36 applicable law or practice.

1 **Sec. 20.** RCW 62A.9A-201 and 2000 c 250 s 9A-201 are each amended
2 to read as follows:

3 GENERAL EFFECTIVENESS OF SECURITY AGREEMENT. (a) **General**
4 **effectiveness.** Except as otherwise provided in the Uniform Commercial
5 Code, a security agreement is effective according to its terms between
6 the parties, against purchasers of the collateral, and against
7 creditors.

8 (b) **Applicable consumer laws and other law.** A transaction subject
9 to this Article is subject to any applicable rule of law which
10 establishes a different rule for consumers and (~~(i)-(1)~~) (1) any
11 other statute or regulation that regulates the rates, charges,
12 agreements, and practices for loans, credit sales, or other extensions
13 of credit and (~~(ii)-(2)~~) (2) any consumer-protection statute or
14 regulation.

15 (c) **Other applicable law controls.** In case of conflict between
16 this Article and a rule of law, statute, or regulation described in
17 subsection (b) of this section, the rule of law, statute, or regulation
18 controls. Failure to comply with a statute or regulation described in
19 subsection (b) of this section has only the effect the statute or
20 regulation specifies.

21 (d) **Further deference to other applicable law.** This Article does
22 not:

23 (1) Validate any rate, charge, agreement, or practice that violates
24 a rule of law, statute, or regulation described in subsection (b) of
25 this section; or

26 (2) Extend the application of the rule of law, statute, or
27 regulation to a transaction not otherwise subject to it.

28 **Sec. 21.** RCW 62A.9A-208 and 2000 c 250 s 9A-208 are each amended
29 to read as follows:

30 ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL.

31 (a) **Applicability of section.** This section applies to cases in which
32 there is no outstanding secured obligation and the secured party is not
33 committed to make advances, incur obligations, or otherwise give value.

34 (b) **Duties of secured party after receiving demand from debtor.**
35 Within ten days after receiving an authenticated demand by the debtor:

36 (1) A secured party having control of a deposit account under RCW
37 62A.9A-104(a)(2) shall send to the bank with which the deposit account
38 is maintained an authenticated statement that releases the bank from

1 any further obligation to comply with instructions originated by the
2 secured party;

3 (2) A secured party having control of a deposit account under RCW
4 62A.9A-104(a)(3) shall:

5 (A) Pay the debtor the balance on deposit in the deposit account;
6 or

7 (B) Transfer the balance on deposit into a deposit account in the
8 debtor's name;

9 (3) A secured party, other than a buyer, having control of
10 electronic chattel paper under RCW 62A.9A-105 shall:

11 (A) Communicate the authoritative copy of the electronic chattel
12 paper to the debtor or its designated custodian;

13 (B) If the debtor designates a custodian that is the designated
14 custodian with which the authoritative copy of the electronic chattel
15 paper is maintained for the secured party, communicate to the custodian
16 an authenticated record releasing the designated custodian from any
17 further obligation to comply with instructions originated by the
18 secured party and instructing the custodian to comply with instructions
19 originated by the debtor; and

20 (C) Take appropriate action to enable the debtor or its designated
21 custodian to make copies of or revisions to the authoritative copy
22 which add or change an identified assignee of the authoritative copy
23 without the consent of the secured party;

24 (4) A secured party having control of investment property under RCW
25 62A.8-106(~~((d)(2) [(4)(b)]~~)) (4)(b) or 62A.9A-106(b) shall send to the
26 securities intermediary or commodity intermediary with which the
27 security entitlement or commodity contract is maintained an
28 authenticated record that releases the securities intermediary or
29 commodity intermediary from any further obligation to comply with
30 entitlement orders or directions originated by the secured party; and

31 (5) A secured party having control of a letter-of-credit right
32 under RCW 62A.9A-107 shall send to each person having an unfulfilled
33 obligation to pay or deliver proceeds of the letter of credit to the
34 secured party an authenticated release from any further obligation to
35 pay or deliver proceeds of the letter of credit to the secured party.

36 **Sec. 22.** RCW 62A.9A-301 and 2000 c 250 s 9A-301 are each amended
37 to read as follows:

1 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.
2 Except as otherwise provided in RCW 62A.9A-303 through 62A.9A-306, the
3 following rules determine the law governing perfection, the effect of
4 perfection or nonperfection, and the priority of a security interest in
5 collateral:

6 (1) Except as otherwise provided in this section, while a debtor is
7 located in a jurisdiction, the local law of that jurisdiction governs
8 perfection, the effect of perfection or nonperfection, and the priority
9 of a security interest in collateral.

10 (2) While collateral is located in a jurisdiction, the local law of
11 that jurisdiction governs perfection, the effect of perfection or
12 nonperfection, and the priority of a possessory security interest in
13 that collateral.

14 (3) Except as otherwise provided in (~~(subsection)~~) subsection (4)
15 of this section, while negotiable documents, goods, instruments, money,
16 or tangible chattel paper is located in a jurisdiction, the local law
17 of that jurisdiction governs:

18 (A) Perfection of a security interest in the goods by filing a
19 fixture filing;

20 (B) Perfection of a security interest in timber to be cut; and

21 (C) The effect of perfection or nonperfection and the priority of
22 a nonpossessory security interest in the collateral.

23 (4) The local law of the jurisdiction in which the wellhead or
24 minehead is located governs perfection, the effect of perfection or
25 nonperfection, and the priority of a security interest in as-extracted
26 collateral.

27 **Sec. 23.** RCW 62A.9A-305 and 2000 c 250 s 9A-305 are each amended
28 to read as follows:

29 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN
30 INVESTMENT PROPERTY. (a) **Governing law: General rules.** Except as
31 otherwise provided in subsection (c) of this section, the following
32 rules apply:

33 (1) While a security certificate is located in a jurisdiction, the
34 local law of that jurisdiction governs perfection, the effect of
35 perfection or nonperfection, and the priority of a security interest in
36 the certificated security represented thereby.

37 (2) The local law of the issuer's jurisdiction as specified in RCW
38 62A.8-110(~~(d)-(4)~~) (4) governs perfection, the effect of perfection

1 or nonperfection, and the priority of a security interest in an
2 uncertificated security.

3 (3) The local law of the securities intermediary's jurisdiction as
4 specified in RCW 62A.8-110(~~((e)–{(5)}))~~) (5) governs perfection, the
5 effect of perfection or nonperfection, and the priority of a security
6 interest in a security entitlement or securities account.

7 (4) The local law of the commodity intermediary's jurisdiction
8 governs perfection, the effect of perfection or nonperfection, and the
9 priority of a security interest in a commodity contract or commodity
10 account.

11 (b) **Commodity intermediary's jurisdiction.** The following rules
12 determine a commodity intermediary's jurisdiction for purposes of this
13 part:

14 (1) If an agreement between the commodity intermediary and
15 commodity customer governing the commodity account expressly provides
16 that a particular jurisdiction is the commodity intermediary's
17 jurisdiction for purposes of this part, this Article, or the Uniform
18 Commercial Code, that jurisdiction is the commodity intermediary's
19 jurisdiction.

20 (2) If (1) of this subsection does not apply and an agreement
21 between the commodity intermediary and commodity customer governing the
22 commodity account expressly provides that the agreement is governed by
23 the law of a particular jurisdiction, that jurisdiction is the
24 commodity intermediary's jurisdiction.

25 (3) If neither (1) nor (2) of this subsection applies and an
26 agreement between the commodity intermediary and commodity customer
27 governing the commodity account expressly provides that the commodity
28 account is maintained at an office in a particular jurisdiction, that
29 jurisdiction is the commodity intermediary's jurisdiction.

30 (4) If (1) through (3) of this subsection do not apply, the
31 commodity intermediary's jurisdiction is the jurisdiction in which the
32 office identified in an account statement as the office serving the
33 commodity customer's account is located.

34 (5) If (1) through (4) of this subsection do not apply, the
35 commodity intermediary's jurisdiction is the jurisdiction in which the
36 chief executive office of the commodity intermediary is located.

37 (c) **When perfection governed by law of jurisdiction where debtor**
38 **located.** The local law of the jurisdiction in which the debtor is
39 located governs:

1 (1) Perfection of a security interest in investment property by
2 filing;

3 (2) Automatic perfection of a security interest in investment
4 property created by a broker or securities intermediary; and

5 (3) Automatic perfection of a security interest in a commodity
6 contract or commodity account created by a commodity intermediary.

7 **Sec. 24.** RCW 62A.9A-306 and 2000 c 250 s 9A-306 are each amended
8 to read as follows:

9 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN
10 LETTER-OF-CREDIT RIGHTS. (a) **Governing law: ((Issuers)) Issuer's or**
11 **nominated person's jurisdiction.** Subject to subsection (c) of this
12 section, the local law of the issuer's jurisdiction or a nominated
13 person's jurisdiction governs perfection, the effect of perfection or
14 nonperfection, and the priority of a security interest in a letter-of-
15 credit right if the issuer's jurisdiction or nominated person's
16 jurisdiction is a state.

17 (b) **Issuer's or nominated person's jurisdiction.** For purposes of
18 this part, an issuer's jurisdiction or nominated person's jurisdiction
19 is the jurisdiction whose law governs the liability of the issuer or
20 nominated person with respect to the letter-of-credit right as provided
21 in RCW 62A.5-116.

22 (c) **When section not applicable.** This section does not apply to a
23 security interest that is perfected only under RCW 62A.9A-308(d).

24 **Sec. 25.** RCW 62A.9A-311 and 2000 c 250 s 9A-311 are each amended
25 to read as follows:

26 PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN
27 STATUTES, REGULATIONS, AND TREATIES. (a) **Security interest subject to**
28 **other law.** Except as otherwise provided in subsection (d) of this
29 section, the filing of a financing statement is not necessary or
30 effective to perfect a security interest in property subject to:

31 (1) A statute, regulation, or treaty of the United States whose
32 requirements for a security interest's obtaining priority over the
33 rights of a lien creditor with respect to the property preempt RCW
34 62A.9A-310(a);

35 (2) RCW 46.12.095 or 88.02.070, or chapter 65.12 RCW; or

36 (3) A certificate-of-title statute of another jurisdiction which
37 provides for a security interest to be indicated on the certificate as

1 a condition or result of the security interest's obtaining priority
2 over the rights of a lien creditor with respect to the property.

3 (b) **Compliance with other law.** Compliance with the requirements of
4 a statute, regulation, or treaty described in subsection (a) of this
5 section for obtaining priority over the rights of a lien creditor is
6 equivalent to the filing of a financing statement under this Article.
7 Except as otherwise provided in subsection (d) of this section, RCW
8 62A.9A-313, and 62A.9A-316 (d) and (e) for goods covered by a
9 certificate of title, a security interest in property subject to a
10 statute, regulation, or treaty described in subsection (a) of this
11 section may be perfected only by compliance with those requirements,
12 and a security interest so perfected remains perfected notwithstanding
13 a change in the use or transfer of possession of the collateral.

14 (c) **Duration and renewal of perfection.** Except as otherwise
15 provided in subsection (d) of this section and RCW 62A.9A-316 (d) and
16 (e), duration and renewal of perfection of a security interest
17 perfected by compliance with the requirements prescribed by a statute,
18 regulation, or treaty described in subsection (a) of this section are
19 governed by the statute, regulation, or treaty. In other respects, the
20 security interest is subject to this Article.

21 (d) **Inapplicability to certain inventory.** During any period in
22 which collateral subject to RCW 46.12.095 or 88.02.070, or chapter
23 65.12 RCW is inventory held for sale or lease by a person or leased by
24 that person as lessor and that person is in the business of selling
25 ((or leasing)) goods of that kind, this section does not apply to a
26 security interest in that collateral created by that person ((as
27 debtor)).

28 **Sec. 26.** RCW 62A.9A-313 and 2000 c 250 s 9A-313 are each amended
29 to read as follows:

30 WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY
31 INTEREST WITHOUT FILING. (a) **Perfection by possession or delivery.**
32 Except as otherwise provided in subsection (b) of this section, a
33 secured party may perfect a security interest in negotiable documents,
34 goods, instruments, money, or tangible chattel paper by taking
35 possession of the collateral. A secured party may perfect a security
36 interest in certificated securities by taking delivery of the
37 certificated securities under RCW 62A.8-301.

1 (b) **Goods covered by certificate of title.** With respect to goods
2 covered by a certificate of title issued by this state, a secured party
3 may perfect a security interest in the goods by taking possession of
4 the goods only in the circumstances described in RCW 62A.9A-316(d).

5 (c) **Collateral in possession of person other than debtor.** With
6 respect to collateral other than certificated securities and goods
7 covered by a document, a secured party takes possession of collateral
8 in the possession of a person other than the debtor, the secured party,
9 or a lessee of the collateral from the debtor in the ordinary course of
10 the debtor's business, when:

11 (1) The person in possession authenticates a record acknowledging
12 that it holds possession of the collateral for the secured party's
13 benefit; or

14 (2) The person takes possession of the collateral after having
15 authenticated a record acknowledging that it will hold possession of
16 collateral for the secured party's benefit.

17 (d) **Time of perfection by possession; continuation of perfection.**
18 If perfection of a security interest depends upon possession of the
19 collateral by a secured party, perfection occurs no earlier than the
20 time the secured party takes possession and continues only while the
21 secured party retains possession.

22 (e) **Time of perfection by delivery; continuation of perfection.** A
23 security interest in a certificated security in registered form is
24 perfected by delivery when delivery of the certificated security occurs
25 under RCW 62A.8-301 and remains perfected by delivery until the debtor
26 obtains possession of the security certificate.

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

30 (g) **Effectiveness of acknowledgment; no duties or confirmation.** If
31 a person acknowledges that it holds possession for the secured party's
32 benefit:

33 (1) The acknowledgment is effective under subsection (c) of this
34 section or RCW 62A.8-301(~~(1)(a)~~) (1), even if the acknowledgment
35 violates the rights of a debtor; and

36 (2) Unless the person otherwise agrees or law other than this
37 Article otherwise provides, the person does not owe any duty to the
38 secured party and is not required to confirm the acknowledgment to
39 another person.

1 (h) **Secured party's delivery to person other than debtor.** A
2 secured party having possession of collateral does not relinquish
3 possession by delivering the collateral to a person other than the
4 debtor or a lessee of the collateral from the debtor in the ordinary
5 course of the debtor's business if the person was instructed before the
6 delivery or is instructed contemporaneously with the delivery:

7 (1) To hold possession of the collateral for the secured party's
8 benefit; or

9 (2) To redeliver the collateral to the secured party.

10 (i) **Effect of delivery under subsection (h); no duties or**
11 **confirmation.** A secured party does not relinquish possession, even if
12 a delivery under subsection (h) of this section violates the rights of
13 a debtor. A person to which collateral is delivered under subsection
14 (h) of this section does not owe any duty to the secured party and is
15 not required to confirm the delivery to another person unless the
16 person otherwise agrees or law other than this Article otherwise
17 provides.

18 **Sec. 27.** RCW 62A.9A-317 and 2000 c 250 s 9A-317 are each amended
19 to read as follows:

20 INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST
21 OR AGRICULTURAL LIEN. (a) **Conflicting security interests and rights of**
22 **lien creditors.** A security interest or agricultural lien is
23 subordinate to the rights of:

24 (1) A person entitled to priority under RCW 62A.9A-322; and

25 (2) Except as otherwise provided in subsection (e) of this section,
26 a person that becomes a lien creditor before the earlier of the time:

27 (A) The security interest or agricultural lien is perfected; or

28 (B) One of the conditions specified in RCW 62A.9A-203(b)(3) is met
29 and a financing statement covering the collateral is filed.

30 (b) **Buyers that receive delivery.** Except as otherwise provided in
31 subsection (e) of this section, a buyer, other than a secured party, of
32 tangible chattel paper, documents, goods, instruments, or a security
33 certificate takes free of a security interest or agricultural lien if
34 the buyer gives value and receives delivery of the collateral without
35 knowledge of the security interest or agricultural lien and before it
36 is perfected.

37 (c) **Lessees that receive delivery.** Except as otherwise provided in
38 subsection (e) of this section, a lessee of goods takes free of a

1 security interest or agricultural lien if the lessee gives value and
2 receives delivery of the collateral without knowledge of the security
3 interest or agricultural lien and before it is perfected.

4 (d) **Licensees and buyers of certain collateral.** A licensee of a
5 general intangible or a buyer, other than a secured party, of accounts,
6 electronic chattel paper, general intangibles, or investment property
7 other than a certificated security takes free of a security interest if
8 the licensee or buyer gives value without knowledge of the security
9 interest and before it is perfected.

10 (e) **Purchase-money security interest.** Except as otherwise provided
11 in RCW 62A.9A-320 and 62A.9A-321, if a person files a financing
12 statement with respect to a purchase-money security interest before or
13 within twenty days after the debtor receives delivery of the
14 collateral, the security interest takes priority over the rights of a
15 buyer, lessee, or lien creditor which arise between the time the
16 security interest attaches and the time of filing.

17 **Sec. 28.** RCW 62A.9A-322 and 2000 c 250 s 9A-322 are each amended
18 to read as follows:

19 PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN AND AGRICULTURAL
20 LIENS ON SAME COLLATERAL. (a) **General priority rules.** Except as
21 otherwise provided in this section, priority among conflicting security
22 interests and agricultural liens in the same collateral is determined
23 according to the following rules:

24 (1) Conflicting perfected security interests and agricultural liens
25 rank according to priority in time of filing or perfection. Priority
26 dates from the earlier of the time a filing covering the collateral is
27 first made or the security interest or agricultural lien is first
28 perfected, if there is no period thereafter when there is neither
29 filing nor perfection.

30 (2) A perfected security interest or agricultural lien has priority
31 over a conflicting unperfected security interest or agricultural lien.

32 (3) The first security interest or agricultural lien to attach or
33 become effective has priority if conflicting security interests and
34 agricultural liens are unperfected.

35 (b) **Time of perfection: Proceeds and supporting obligations.** For
36 the purposes (({ef})) of subsection (a)(1) of this section:

1 (1) The time of filing or perfection as to a security interest in
2 collateral is also the time of filing or perfection as to a security
3 interest in proceeds; and

4 (2) The time of filing or perfection as to a security interest in
5 collateral supported by a supporting obligation is also the time of
6 filing or perfection as to a security interest in the supporting
7 obligation.

8 (c) **Special priority rules: Proceeds and supporting obligations.**

9 Except as otherwise provided in subsection (f) of this section, a
10 security interest in collateral which qualifies for priority over a
11 conflicting security interest under RCW 62A.9A-327, 62A.9A-328,
12 62A.9A-329, 62A.9A-330, or 62A.9A-331 also has priority over a
13 conflicting security interest in:

14 (1) Any supporting obligation for the collateral; and

15 (2) Proceeds of the collateral if:

16 (A) The security interest in proceeds is perfected;

17 (B) The proceeds are cash proceeds or of the same type as the
18 collateral; and

19 (C) In the case of proceeds that are proceeds of proceeds, all
20 intervening proceeds are cash proceeds, proceeds of the same type as
21 the collateral, or an account relating to the collateral.

22 (d) **First-to-file priority rule for certain collateral.** Subject to
23 subsection (e) of this section and except as otherwise provided in
24 subsection (f) of this section, if a security interest in chattel
25 paper, deposit accounts, negotiable documents, instruments, investment
26 property, or letter-of-credit rights is perfected by a method other
27 than filing, conflicting perfected security interests in proceeds of
28 the collateral rank according to priority in time of filing.

29 (e) **Applicability of subsection (d) of this section.** Subsection
30 (d) of this section applies only if the proceeds of the collateral are
31 not cash proceeds, chattel paper, negotiable documents, instruments,
32 investment property, or letter-of-credit rights.

33 (f) **Limitations on subsections (a) through (e) of this section.**

34 Subsections (a) through (e) of this section are subject to:

35 (1) Subsection (g) of this section and the other provisions of this
36 part;

37 (2) RCW 62A.4-210 with respect to a security interest of a
38 collecting bank;

1 (3) RCW 62A.5-118 with respect to a security interest of an issuer
2 or nominated person; and

3 (4) RCW 62A.9A-110 with respect to a security interest arising
4 under Article 2 or 2A.

5 (g) **Priority under agricultural lien statute.** A perfected
6 agricultural lien on collateral has priority over a conflicting
7 security interest in or agricultural lien on the same collateral if the
8 statute creating the agricultural lien so provides. Conflicts as to
9 priority between and among security interests in crops and agricultural
10 liens subject to chapter 60.11 RCW are governed by the provisions of
11 that chapter.

12 **Sec. 29.** RCW 62A.9A-328 and 2000 c 250 s 9A-328 are each amended
13 to read as follows:

14 PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY. The
15 following rules govern priority among conflicting security interests in
16 the same investment property:

17 (1) A security interest held by a secured party having control of
18 investment property under RCW 62A.9A-106 has priority over a security
19 interest held by a secured party that does not have control of the
20 investment property.

21 (2) Except as otherwise provided in (~~subsections~~) subsections
22 (3) and (4) of this section, conflicting security interests held by
23 secured parties each of which has control under RCW 62A.9A-106 rank
24 according to priority in time of:

25 (a) If the collateral is a security, obtaining control;

26 (b) If the collateral is a security entitlement carried in a
27 securities account and:

28 (i) If the secured party obtained control under RCW
29 62A.8-106(~~(d)(1)~~~~[(4)(a)]~~) (4)(a), the secured party's becoming the
30 person for which the securities account is maintained;

31 (ii) If the secured party obtained control under RCW
32 62A.8-106(~~(d)(2)~~~~[(4)(b)]~~) (4)(b), the securities intermediary's
33 agreement to comply with the secured party's entitlement orders with
34 respect to security entitlements carried or to be carried in the
35 securities account; or

36 (iii) If the secured party obtained control through another person
37 under RCW 62A.8-106(~~(d)(3)~~~~[(4)(c)]~~) (4)(c), the time on which

1 priority would be based under this paragraph if the other person were
2 the secured party; or

3 (C) If the collateral is a commodity contract carried with a
4 commodity intermediary, the satisfaction of the requirement for control
5 specified in RCW 62A.9A-106(b)(2) with respect to commodity contracts
6 carried or to be carried with the commodity intermediary.

7 (3) A security interest held by a securities intermediary in a
8 security entitlement or a securities account maintained with the
9 securities intermediary has priority over a conflicting security
10 interest held by another secured party.

11 (4) A security interest held by a commodity intermediary in a
12 commodity contract or a commodity account maintained with the commodity
13 intermediary has priority over a conflicting security interest held by
14 another secured party.

15 (5) A security interest in a certificated security in registered
16 form which is perfected by taking delivery under RCW 62A.9A-313(a) and
17 not by control under RCW 62A.9A-314 has priority over a conflicting
18 security interest perfected by a method other than control.

19 (6) Conflicting security interests created by a broker, securities
20 intermediary, or commodity intermediary which are perfected without
21 control under RCW 62A.9A-106 rank equally.

22 (7) In all other cases, priority among conflicting security
23 interests in investment property is governed by RCW 62A.9A-322 and
24 62A.9A-323.

25 **Sec. 30.** RCW 62A.9A-331 and 2000 c 250 s 9A-331 are each amended
26 to read as follows:

27 PRIORITY OF RIGHTS OF PURCHASERS OF INSTRUMENTS, DOCUMENTS, AND
28 SECURITIES UNDER OTHER ARTICLES; PRIORITY OF INTERESTS IN FINANCIAL
29 ASSETS AND SECURITY ENTITLEMENTS UNDER ARTICLE 8. (a) **Rights under**
30 **Articles 3, 7, and 8 not limited.** This Article does not limit the
31 rights of a holder in due course of a negotiable instrument, a holder
32 to which a negotiable document of title has been duly negotiated, or a
33 protected purchaser of a security. These holders or purchasers take
34 priority over an earlier security interest, even if perfected, to the
35 extent provided in Articles 3, 7, and 8.

36 (b) **Protection under Article 8.** This Article does not limit the
37 rights of or impose liability on a person to the extent that the person

1 is protected against the assertion of (~~an adverse~~) a claim under
2 Article 8.

3 (c) **Filing not notice.** Filing under this Article does not
4 constitute notice of a claim or defense to the holders, or purchasers,
5 or persons described in subsections (a) and (b) of this section.

6 **Sec. 31.** RCW 62A.9A-333 and 2000 c 250 s 9A-333 are each amended
7 to read as follows:

8 PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW. (a)

9 **"Possessory lien."** In this section, "possessory lien" means an
10 interest, other than a security interest or an agricultural lien:

11 (1) Which secures payment or performance of an obligation for
12 services or materials furnished with respect to goods by a person in
13 the ordinary course of the person's business;

14 (2) Which is created by statute or rule of law in favor of the
15 person; and

16 (3) Whose effectiveness depends on the person's possession of the
17 goods.

18 (b) **Priority of possessory lien.** A possessory lien on goods has
19 priority over a security interest in the goods only if the lien is
20 created by a statute that expressly so provides (~~otherwise~~).

21 (c) A preparer lien or processor lien properly created pursuant to
22 chapter 60.13 RCW or a depositor's lien created pursuant to chapter
23 22.09 RCW takes priority over any perfected or unperfected security
24 interest.

25 **Sec. 32.** RCW 62A.9A-334 and 2000 c 250 s 9A-334 are each amended
26 to read as follows:

27 PRIORITY OF SECURITY INTERESTS IN FIXTURES AND CROPS. (a) **Security**
28 **interest in fixtures under this Article.** A security interest under
29 this Article may be created in goods that are fixtures or may continue
30 in goods that become fixtures. A security interest does not exist
31 under this Article in ordinary building materials incorporated into an
32 improvement on land.

33 (b) **Security interest in fixtures under real-property law.** This
34 Article does not prevent creation of an encumbrance upon fixtures under
35 real property law.

36 (c) **General rule: Subordination of security interest in fixtures.**
37 In cases not governed by subsections (d) through (h) of this section,

1 a security interest in fixtures is subordinate to a conflicting
2 interest of an encumbrancer or owner of the related real property other
3 than the debtor.

4 (d) **Fixtures purchase-money priority.** Except as otherwise provided
5 in subsection (h) of this section, a perfected security interest in
6 fixtures has priority over a conflicting interest of an encumbrancer or
7 owner of the real property if the debtor has an interest of record in,
8 or is in possession of, the real property and:

9 (1) The security interest is a purchase-money security interest;

10 (2) The interest of the encumbrancer or owner arises before the
11 goods become fixtures; and

12 (3) The security interest is perfected by a fixture filing before
13 the goods become fixtures or within twenty days thereafter.

14 (e) **Priority of security interest in fixtures over interests in**
15 **real property.** A perfected security interest in fixtures has priority
16 over a conflicting interest of an encumbrancer or owner of the real
17 property if:

18 (1) The debtor has an interest of record in the real property or is
19 in possession of the real property and the security interest:

20 (A) Is perfected by a fixture filing before the interest of the
21 encumbrancer or owner is of record; and

22 (B) Has priority over any conflicting interest of a predecessor in
23 title of the encumbrancer or owner;

24 (2) Before the goods become fixtures, the security interest is
25 perfected by any method permitted by this Article and the fixtures are
26 readily removable:

27 (A) Factory or office machines;

28 (B) Equipment that is not primarily used or leased for use in the
29 operation of the real property; or

30 (C) Replacements of domestic appliances that are consumer goods; or

31 (3) The conflicting interest is a lien on the real property
32 obtained by legal or equitable proceedings after the security interest
33 was perfected by any method permitted by this Article.

34 (f) **Priority based on consent, disclaimer, or right to remove.** A
35 security interest in fixtures, whether or not perfected, has priority
36 over a conflicting interest of an encumbrancer or owner of the real
37 property if:

1 (1) The encumbrancer or owner has, in an authenticated record,
2 consented to the security interest or disclaimed an interest in the
3 goods as fixtures; or

4 (2) The debtor has a right to remove the goods as against the
5 encumbrancer or owner.

6 (g) **Continuation of subsection (f)(2) priority.** The priority of
7 the security interest under subsection (f)(2) of this section continues
8 for a reasonable time if the debtor's right to remove the goods as
9 against the encumbrancer or owner terminates.

10 (h) **Priority of construction mortgage.** A mortgage is a
11 construction mortgage to the extent that it secures an obligation
12 incurred for the construction of an improvement on land, including the
13 acquisition cost of the land, if a recorded record of the mortgage so
14 indicates. Except as otherwise provided in subsections (e) and (f) of
15 this section, a security interest in fixtures is subordinate to a
16 construction mortgage if a record of the mortgage is recorded before
17 the goods become fixtures and the goods become fixtures before the
18 completion of the construction. A mortgage has this priority to the
19 same extent as a construction mortgage to the extent that it is given
20 to refinance a construction mortgage.

21 (i) **Priority of security interest in crops.** A perfected security
22 interest in crops growing on real property has priority over a
23 conflicting interest of an encumbrancer or owner of the real property
24 if the debtor has an interest of record in or is in possession of the
25 real property.

26 (j) **Subsection (i) prevails.** Subsection (i) of this section
27 prevails over inconsistent provisions of any other statute except RCW
28 60.11.050.

29 **Sec. 33.** RCW 62A.9A-336 and 2000 c 250 s 9A-336 are each amended
30 to read as follows:

31 **COMMINGLED GOODS.** (a) **"Commingled goods."** In this section,
32 "commingled goods" means goods that are physically united with other
33 goods in such a manner that their identity is lost in a product or
34 mass.

35 (b) **No security interest in commingled goods as such.** A security
36 interest does not exist in commingled goods as such. However, a
37 security interest may attach to a product or mass that results when
38 goods become commingled goods.

1 (c) **Attachment of security interest to product or mass.** If
2 collateral becomes commingled goods, a security interest attaches to
3 the product or mass.

4 (d) **Perfection of security interest.** If a security interest in
5 collateral is perfected before the collateral becomes commingled goods,
6 the security interest that attaches to the product or mass under
7 subsection (c) of this section is perfected.

8 (e) **Priority of security interest.** Except as otherwise provided in
9 subsection (f) of this section, the other provisions of this part
10 determine the priority of a security interest that attaches to the
11 product or mass under subsection (c) of this section.

12 (f) **Conflicting security interests in product or mass.** If more
13 than one security interest attaches to the product or mass under
14 subsection (c) of this section, the following rules determine priority:

15 (1) A security interest that is perfected under subsection (d) of
16 this section has priority over a security interest that is unperfected
17 at the time the collateral becomes commingled goods.

18 (2) If more than one security interest is perfected under
19 subsection (d) of this section, the security interests rank equally in
20 proportion to the value of the collateral at the time it became
21 commingled goods.

22 **Sec. 34.** RCW 62A.9A-406 and 2000 c 250 s 9A-406 are each amended
23 to read as follows:

24 DISCHARGE OF ACCOUNT DEBTOR; NOTIFICATION OF ASSIGNMENT;
25 IDENTIFICATION AND PROOF OF ASSIGNMENT; RESTRICTIONS ON ASSIGNMENT OF
26 ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, AND PROMISSORY NOTES
27 INEFFECTIVE. (a) **Discharge of account debtor; effect of notification.**
28 Subject to subsections (b) through (i) of this section, an account
29 debtor on an account, chattel paper, or a payment intangible may
30 discharge its obligation by paying the assignor until, but not after,
31 the account debtor receives a notification, authenticated by the
32 assignor or the assignee, that the amount due or to become due has been
33 assigned and that payment is to be made to the assignee. After receipt
34 of the notification, the account debtor may discharge its obligation by
35 paying the assignee and may not discharge the obligation by paying the
36 assignor.

1 (b) **When notification ineffective.** Subject to subsection (h) of
2 this section, notification is ineffective under subsection (a) of this
3 section:

4 (1) If it does not reasonably identify the rights assigned;

5 (2) To the extent that an agreement between an account debtor and
6 a seller of a payment intangible limits the account debtor's duty to
7 pay a person other than the seller and the limitation is effective
8 under law other than this Article; or

9 (3) At the option of an account debtor, if the notification
10 notifies the account debtor to make less than the full amount of any
11 installment or other periodic payment to the assignee, even if:

12 (A) Only a portion of the account, chattel paper, or (~~general~~)
13 payment intangible has been assigned to that assignee;

14 (B) A portion has been assigned to another assignee; or

15 (C) The account debtor knows that the assignment to that assignee
16 is limited.

17 (c) **Proof of assignment.** Subject to subsection (h) of this
18 section, if requested by the account debtor, an assignee shall
19 seasonably furnish reasonable proof that the assignment has been made.
20 Unless the assignee complies, the account debtor may discharge its
21 obligation by paying the assignor, even if the account debtor has
22 received a notification under subsection (a) of this section.

23 (d) **Term restricting assignment generally ineffective.** Except as
24 otherwise provided in subsection (e) of this section and RCW 62A.2A-303
25 and 62A.9A-407, and subject to subsection (h) of this section, a term
26 in an agreement between an account debtor and an assignor or in a
27 promissory note is ineffective to the extent that it:

28 (1) Prohibits, restricts, or requires the consent of the account
29 debtor or person obligated on the promissory note to the assignment or
30 transfer of, or the creation, attachment, perfection, or enforcement of
31 a security interest in, the account, chattel paper, payment intangible,
32 or promissory note; or

33 (2) Provides that the assignment or transfer or the creation,
34 attachment, perfection, or enforcement of the security interest may
35 give rise to a default, breach, right of recoupment, claim, defense,
36 termination, right of termination, or remedy under the account, chattel
37 paper, payment intangible, or promissory note.

1 (e) **Inapplicability of subsection (d) to certain sales.** Subsection
2 (d) of this section does not apply to the sale of a payment intangible
3 or promissory note.

4 (f) [Reserved]

5 (g) **Subsection (b)(3) not waivable.** Subject to subsection (h) of
6 this section, an account debtor may not waive or vary its option under
7 subsection (b)(3) of this section.

8 (h) **Rule for individual under other law.** This section is subject
9 to law other than this Article which establishes a different rule for
10 an account debtor who is an individual and who incurred the obligation
11 primarily for personal, family, or household purposes.

12 (i) **Inapplicability to health-care-insurance receivable.** This
13 section does not apply to an assignment of a health-care-insurance
14 receivable.

15 **Sec. 35.** RCW 62A.9A-407 and 2000 c 250 s 9A-407 are each amended
16 to read as follows:

17 RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN
18 LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST. (a) **Term**
19 **restricting assignment generally ineffective.** Except as otherwise
20 provided in subsection (b) of this section, a term in a lease agreement
21 is ineffective to the extent that it:

22 (1) Prohibits, restricts, or requires the consent of a party to the
23 lease to the assignment or transfer of, or the creation, attachment,
24 perfection, or enforcement of a security interest in, an interest of a
25 party under the lease contract or in the lessor's residual interest in
26 the goods; or

27 (2) Provides that the assignment or transfer or the creation,
28 attachment, perfection, or enforcement of the security interest may
29 give rise to a default, breach, right of recoupment, claim, defense,
30 termination, right of termination, or remedy under the lease.

31 (b) **Effectiveness of certain terms.** Except as otherwise provided
32 in RCW 62A.2A-303(7), a term described in subsection (a)(2) of this
33 section is effective to the extent that there is:

34 (1) A transfer by the lessee of the lessee's right of possession or
35 use of the goods in violation of the term; or

36 (2) A delegation of a material performance of either party to the
37 lease contract in violation of the term.

1 (c) **Security interest not material impairment.** The creation,
2 attachment, perfection, or enforcement of a security interest in the
3 lessor's interest under the lease contract or the lessor's residual
4 interest in the goods is not a transfer that materially impairs the
5 lessee's prospect of obtaining return performance or materially changes
6 the duty of or materially increases the burden or risk imposed on the
7 lessee within the purview of RCW 62A.2A-303(4) unless, and then only to
8 the extent that, enforcement actually results in a delegation of
9 material performance of the lessor.

10 **Sec. 36.** RCW 62A.9A-509 and 2000 c 250 s 9A-509 are each amended
11 to read as follows:

12 **PERSONS ENTITLED TO FILE A RECORD.** (a) **Person entitled to file**
13 **record.** A person may file an initial financing statement, amendment
14 that adds collateral covered by a financing statement, or amendment
15 that adds a debtor to a financing statement only if:

16 (1) The debtor authorizes the filing in an authenticated record or
17 pursuant to subsection (b) or (c) of this section; or

18 (2) The person holds an agricultural lien that has become effective
19 at the time of filing and the financing statement covers only
20 collateral in which the person holds an agricultural lien.

21 (b) **Security agreement as authorization.** By authenticating or
22 becoming bound as debtor by a security agreement, a debtor or new
23 debtor authorizes the filing of an initial financing statement, and an
24 amendment, covering:

25 (1) The collateral described in the security agreement; and

26 (2) Property that becomes collateral under RCW 62A.9A-315(a)(2),
27 whether or not the security agreement expressly covers proceeds.

28 (c) **Acquisition of collateral as authorization.** By acquiring
29 collateral in which a security interest or agricultural lien continues
30 under RCW 62A.9A-315(a)(1), a debtor authorizes the filing of an
31 initial financing statement, and an amendment, covering the collateral
32 and property that becomes collateral under RCW 62A.9A-315(a)(2).

33 (d) **Person entitled to file certain amendments.** A person may file
34 an amendment other than an amendment that adds collateral covered by a
35 financing statement or an amendment that adds a debtor to a financing
36 statement only if:

37 (1) The secured party of record authorizes the filing; or

1 (2) The amendment is a termination statement for a financing
2 statement as to which the secured party of record has failed to file or
3 send a termination statement as required by RCW 62A.9A-513 (a) or (c),
4 the debtor authorizes the filing, and the termination statement
5 indicates that the debtor authorized it to be filed.

6 (e) **Multiple secured parties of record.** If there is more than one
7 secured party of record for a financing statement, each secured party
8 of record may authorize the filing of an amendment under subsection (d)
9 of this section.

10 **Sec. 37.** RCW 62A.9A-513 and 2000 c 250 s 9A-513 are each amended
11 to read as follows:

12 **TERMINATION STATEMENT.** (a) **Consumer goods.** A secured party shall
13 cause the secured party of record for a financing statement to file a
14 termination statement for the financing statement if the financing
15 statement covers consumer goods and:

16 (1) There is no obligation secured by the collateral covered by the
17 financing statement and no commitment to make an advance, incur an
18 obligation, or otherwise give value; or

19 (2) The debtor did not authorize the filing of the initial
20 financing statement.

21 (b) **Time for compliance with subsection (a) of this section.** To
22 comply with subsection (a) of this section, a secured party shall cause
23 the secured party of record to file the termination statement:

24 (1) Within one month after there is no obligation secured by the
25 collateral covered by the financing statement and no commitment to make
26 an advance, incur an obligation, or otherwise give value; or

27 (2) If earlier, within twenty days after the secured party receives
28 an authenticated demand from a debtor.

29 (c) **Other collateral.** In cases not governed by subsection (a) of
30 this section, within twenty days after a secured party receives an
31 authenticated demand from a debtor, the secured party shall cause the
32 secured party of record for a financing statement to send to the debtor
33 a termination statement for the financing statement or file the
34 termination statement in the filing office if:

35 (1) Except in the case of a financing statement covering accounts
36 or chattel paper that has been sold or goods that are the subject of a
37 consignment, there is no obligation secured by the collateral covered

1 by the financing statement and no commitment to make an advance, incur
2 an obligation, or otherwise give value;

3 (2) The financing statement covers accounts or chattel paper that
4 has been sold but as to which the account debtor or other person
5 obligated has discharged its obligation;

6 (3) The financing statement covers goods that were the subject of
7 a consignment to the debtor but are not in the debtor's possession; or

8 (4) The debtor did not authorize the filing of the initial
9 financing statement.

10 (d) **Effect of filing termination statement.** Except as otherwise
11 provided in RCW 62A.9A-510, upon the filing of a termination statement
12 with the filing office, the financing statement to which the
13 termination statement relates ceases to be effective. Except as
14 otherwise provided in RCW 62A.9A-510, for purposes of RCW
15 62A.9A-519(g), 62A.9A-522(a), and 62A.9A-523(c), the filing with the
16 filing office of a termination statement relating to a financing
17 statement that indicates that the debtor is a transmitting utility also
18 causes the effectiveness of the financing statement to lapse.

19 **Sec. 38.** RCW 62A.9A-516 and 2000 c 250 s 9A-516 are each amended
20 to read as follows:

21 WHAT CONSTITUTES FILING; EFFECTIVENESS OF FILING. (a) **What**
22 **constitutes filing.** Except as otherwise provided in subsection (b) of
23 this section, communication of a record to a filing office and tender
24 of the filing fee or acceptance of the record by the filing office
25 constitutes filing.

26 (b) **Refusal to accept record; filing does not occur.** Filing does
27 not occur with respect to a record that a filing office refuses to
28 accept because:

29 (1) The record is not communicated by a method or medium of
30 communication authorized by the filing office;

31 (2) An amount equal to or greater than the applicable filing fee is
32 not tendered or, in the case of a filing office described in RCW
33 62A.9A-501(a)(1), an amount equal to the applicable filing fee is not
34 tendered;

35 (3) The filing office is unable to index the record because:

36 (A) In the case of an initial financing statement, the record does
37 not provide a name for the debtor;

1 (B) In the case of an amendment or correction statement, the
2 record:

3 (i) Does not identify the initial financing statement as required
4 by RCW 62A.9A-512 or 62A.9A-518, as applicable; or

5 (ii) Identifies an initial financing statement whose effectiveness
6 has lapsed under RCW 62A.9A-515;

7 (C) In the case of an initial financing statement that provides the
8 name of a debtor identified as an individual or an amendment that
9 provides a name of a debtor identified as an individual which was not
10 previously provided in the financing statement to which the record
11 relates, the record does not identify the debtor's last name; or

12 (D) In the case of a record filed or recorded in the filing office
13 described in RCW 62A.9A-501(a)(1), the record does not provide a name
14 for the debtor or a sufficient description of the real property to
15 which (~~it~~) the record relates;

16 (4) In the case of an initial financing statement or an amendment
17 that adds a secured party of record, the record does not provide a name
18 and mailing address for the secured party of record;

19 (5) In the case of an initial financing statement or an amendment
20 that provides a name of a debtor which was not previously provided in
21 the financing statement to which the amendment relates, the record does
22 not:

23 (A) Provide a mailing address for the debtor;

24 (B) Indicate whether the debtor is an individual or an
25 organization; or

26 (C) If the financing statement indicates that the debtor is an
27 organization, provide:

28 (i) A type of organization for the debtor;

29 (ii) A jurisdiction of organization for the debtor; or

30 (iii) An organizational identification number for the debtor or
31 indicate that the debtor has none;

32 (6) In the case of an assignment reflected in an initial financing
33 statement under RCW 62A.9A-514(a) or an amendment filed under RCW
34 62A.9A-514(b), the record does not provide a name and mailing address
35 for the assignee; or

36 (7) In the case of a continuation statement, the record is not
37 filed within the six-month period prescribed by RCW 62A.9A-515(d).

38 (c) **Rules applicable to subsection (b) of this section.** For
39 purposes of subsection (b) of this section:

1 (1) A record does not provide information if the filing office is
2 unable to read or decipher the information; and

3 (2) A record that does not indicate that it is an amendment or
4 identify an initial financing statement to which it relates, as
5 required by RCW 62A.9A-512, 62A.9A-514, or 62A.9A-518, is an initial
6 financing statement.

7 (d) **Refusal to accept record; record effective as filed record.** A
8 record that is communicated to the filing office with tender of the
9 filing fee, but which the filing office refuses to accept for a reason
10 other than one set forth in subsection (b) of this section, is
11 effective as a filed record except as against a purchaser of the
12 collateral which gives value in reasonable reliance upon the absence of
13 the record from the files.

14 **Sec. 39.** RCW 62A.9A-520 and 2000 c 250 s 9A-520 are each amended
15 to read as follows:

16 ACCEPTANCE AND REFUSAL TO ACCEPT RECORD. (a) **Mandatory refusal to**
17 **accept record.** ((A)) The filing office described in RCW 62A.9A-
18 501(a)(2) shall refuse to accept a record for filing for a reason set
19 forth in RCW 62A.9A-516(b) ((and)). A filing office described in RCW
20 62A.9A-501(a)(1) shall refuse to accept a record for filing for a
21 reason set forth in RCW 62A.9A-516(b) (1) through (4) and any filing
22 office may refuse to accept a record for filing only for a reason set
23 forth in RCW 62A.9A-516(b).

24 (b) **Communication concerning refusal.** If a filing office refuses
25 to accept a record for filing, it shall communicate to the person that
26 presented the record the fact of and reason for the refusal and the
27 date and time the record would have been filed had the filing office
28 accepted it. The communication must be made at the time and in the
29 manner prescribed by filing-office rule but, in the case of a filing
30 office described in RCW 62A.9A-501(a)(2), in no event more than two
31 business days after the filing office receives the record.

32 (c) **When filed financing statement effective.** A filed financing
33 statement satisfying RCW 62A.9A-502 (a) and (b) is effective, even if
34 the filing office is required to refuse to accept it for filing under
35 subsection (a) of this section. However, RCW 62A.9A-338 applies to a
36 filed financing statement providing information described in RCW
37 62A.9A-516(b)(5) which is incorrect at the time the financing statement
38 is filed.

1 (d) **Separate application to multiple debtors.** If a record
2 communicated to a filing office provides information that relates to
3 more than one debtor, this part applies as to each debtor separately.

4 **Sec. 40.** RCW 62A.9A-523 and 2000 c 250 s 9A-523 are each amended
5 to read as follows:

6 INFORMATION FROM FILING OFFICE; SALE OR LICENSE OF RECORDS. (a)
7 **Acknowledgment of filing written record.** If a person that files a
8 written record requests an acknowledgment of the filing, the filing
9 office shall send to the person an image of the record showing the
10 number assigned to the record pursuant to RCW 62A.9A-519(a)(1) and the
11 date and time of the filing of the record. However, if the person
12 furnishes a copy of the record to the filing office, the filing office
13 may instead:

14 (1) Note upon the copy the number assigned to the record pursuant
15 to RCW 62A.9A-519(a)(1) and the date and time of the filing of the
16 record; and

17 (2) Send the copy to the person.

18 (b) **Acknowledgment of filing other record.** If a person files a
19 record other than a written record, the filing office shall communicate
20 to the person an acknowledgment that provides:

21 (1) The information in the record;

22 (2) The number assigned to the record pursuant to RCW
23 62A.9A-519(a)(1); and

24 (3) The date and time of the filing of the record.

25 (c) **Communication of requested information.** The filing office
26 shall communicate or otherwise make available in a record the following
27 information to any person that requests it:

28 (1) Whether there is on file on a date and time specified by the
29 filing office, but not a date earlier than three business days before
30 the filing office receives the request, any financing statement that:

31 (A) Designates a particular debtor or, if the request so states,
32 designates a particular debtor at the address specified in the request;

33 (B) Has not lapsed under RCW 62A.9A-515 with respect to all secured
34 parties of record; and

35 (C) If the request so states, has lapsed under RCW 62A.9A-515 and
36 a record of which is maintained by the filing office under RCW
37 62A.9A-522(a);

38 (2) The date and time of filing of each financing statement; and

1 (3) The information provided in each financing statement.

2 (d) **Medium for communicating information.** In complying with its
3 duty under subsection (c) of this section, the filing office may
4 communicate information in any medium. However, if requested, the
5 filing office shall communicate information by issuing a record that
6 can be admitted into evidence in the courts of this state without
7 extrinsic evidence of its authenticity.

8 (e) **Timeliness of filing office performance.** The filing office
9 described in RCW 62A.9A-501(a)(2) shall perform the acts required by
10 subsections (a) through (d) of this section at the time and in the
11 manner prescribed by filing-office rule, but not later than two
12 business days after the filing office receives the request.

13 (f) **Public availability of records.** At least weekly, the filing
14 office described in RCW 62A.9A-501(a)(2) shall offer to sell or license
15 to the public on a nonexclusive basis, in bulk, copies of all records
16 filed in it under this part, in every medium from time to time
17 available to the filing office. If information provided pursuant to
18 this section includes a list of individuals, disclosure of the list is
19 specifically authorized.

20 **Sec. 41.** RCW 62A.9A-608 and 2000 c 250 s 9A-608 are each amended
21 to read as follows:

22 APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT; LIABILITY FOR
23 DEFICIENCY AND RIGHT TO SURPLUS. (a) **Application of proceeds, surplus,
24 and deficiency if obligation secured.** If a security interest or
25 agricultural lien secures payment or performance of an obligation, the
26 following rules apply:

27 (1) A secured party shall apply or pay over for application the
28 cash proceeds of collection or enforcement under (~~this section~~) RCW
29 62A.9A-607 in the following order to:

30 (A) The reasonable expenses of collection and enforcement and, to
31 the extent provided for by agreement and not prohibited by law,
32 reasonable attorneys' fees and legal expenses incurred by the secured
33 party;

34 (B) The satisfaction of obligations secured by the security
35 interest or agricultural lien under which the collection or enforcement
36 is made; and

37 (C) The satisfaction of obligations secured by any subordinate
38 security interest in or other lien on the collateral subject to the

1 security interest or agricultural lien under which the collection or
2 enforcement is made if the secured party receives an authenticated
3 demand for proceeds before distribution of the proceeds is completed.

4 (2) If requested by a secured party, a holder of a subordinate
5 security interest or other lien shall furnish reasonable proof of the
6 interest or lien within a reasonable time. Unless the holder complies,
7 the secured party need not comply with the holder's demand under (1)(C)
8 of this subsection.

9 (3) A secured party need not apply or pay over for application
10 noncash proceeds of collection and enforcement under (~~this section~~)
11 RCW 62A.9A-607 unless the failure to do so would be commercially
12 unreasonable. A secured party that applies or pays over for
13 application noncash proceeds shall do so in a commercially reasonable
14 manner.

15 (4) A secured party shall account to and pay a debtor for any
16 surplus, and the obligor is liable for any deficiency.

17 (b) **No surplus or deficiency in sales of certain rights to payment.**
18 If the underlying transaction is a sale of accounts, chattel paper,
19 payment intangibles, or promissory notes, the debtor is not entitled to
20 any surplus, and the obligor is not liable for any deficiency.

21 **Sec. 42.** RCW 62A.9A-613 and 2000 c 250 s 9A-613 are each amended
22 to read as follows:

23 CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL:
24 GENERAL. Except in a consumer-goods transaction, the following rules
25 apply:

26 (1) The contents of a notification of disposition are sufficient if
27 the notification:

28 (A) Describes the debtor and the secured party;

29 (B) Describes the collateral that is the subject of the intended
30 disposition;

31 (C) States the method of intended disposition;

32 (D) States that the debtor is entitled to an accounting of the
33 unpaid indebtedness and states the charge, if any, for an accounting;
34 and

35 (E) States the time and place of a public (~~sale~~) disposition or
36 the time after which any other disposition is to be made.

1 (2) Whether the contents of a notification that lacks any of the
2 information specified in (~~{subsection}~~) subsection (1) of this
3 section are nevertheless sufficient is a question of fact.

4 (3) The contents of a notification providing substantially the
5 information specified in (~~{subsection}~~) subsection (1) of this
6 section are sufficient, even if the notification includes:

7 (A) Information not specified by (~~{subsection}~~) subsection (1) of
8 this section; or

9 (B) Minor errors that are not seriously misleading.

10 (4) A particular phrasing of the notification is not required.

11 (5) The following form of notification and the form appearing in
12 RCW 62A.9A-614(3), when completed, each provides sufficient
13 information:

14 **NOTIFICATION OF DISPOSITION OF COLLATERAL**

15 To: [Name of debtor, obligor, or other person to which the
16 notification is sent]

17 From: [Name, address, and telephone number of secured party]

18 Name of Debtor(s): [Include only if debtor(s) are not an
19 addressee]

20 [For a public disposition:]

21 We will sell [or lease or license, as applicable] the [describe
22 collateral] [to the highest qualified bidder] in public as follows:

23 Day and Date: _____

24 Time: _____

25 Place: _____

26 [For a private disposition:]

27 We will sell [or lease or license, as applicable] the [describe
28 collateral] privately sometime after [day and date].

29 You are entitled to an accounting of the unpaid indebtedness
30 secured by the property that we intend to sell [or lease or license, as
31 applicable] [for a charge of \$_____]. You may request an
32 accounting by calling us at [telephone number].

33 **Sec. 43.** RCW 62A.9A-615 and 2000 c 250 s 9A-615 are each amended
34 to read as follows:

35 APPLICATION OF PROCEEDS OF DISPOSITION; LIABILITY FOR DEFICIENCY
36 AND RIGHT TO SURPLUS. (a) **Application of proceeds.** A secured party
37 shall apply or pay over for application the cash proceeds of
38 disposition under RCW 62A.9A-610 in the following order to:

1 (1) The reasonable expenses of retaking, holding, preparing for
2 disposition, processing, and disposing, and, to the extent provided for
3 by agreement and not prohibited by law, reasonable attorneys' fees and
4 legal expenses incurred by the secured party;

5 (2) The satisfaction of obligations secured by the security
6 interest or agricultural lien under which the disposition is made;

7 (3) The satisfaction of obligations secured by any subordinate
8 security interest in or other subordinate lien on the collateral if:

9 (A) The secured party receives from the holder of the subordinate
10 security interest or other lien an authenticated demand for proceeds
11 before distribution of the proceeds is completed; and

12 (B) In a case in which a consignor has an interest in the
13 collateral, the subordinate security interest or other lien is senior
14 to the interest of the consignor; and

15 (4) A secured party that is a consignor of the collateral if the
16 secured party receives from the consignor an authenticated demand for
17 proceeds before distribution of the proceeds is completed.

18 (b) **Proof of subordinate interest.** If requested by a secured
19 party, a holder of a subordinate security interest or other lien shall
20 furnish reasonable proof of the interest or lien within a reasonable
21 time. Unless the holder does so, the secured party need not comply
22 with the holder's demand under subsection (a)(3) of this section.

23 (c) **Application of noncash proceeds.** A secured party need not
24 apply or pay over for application noncash proceeds of disposition under
25 (~~this section~~) RCW 62A.9A-610 unless the failure to do so would be
26 commercially unreasonable. A secured party that applies or pays over
27 for application noncash proceeds shall do so in a commercially
28 reasonable manner.

29 (d) **Surplus or deficiency if obligation secured.** If the security
30 interest under which a disposition is made secures payment or
31 performance of an obligation, after making the payments and
32 applications required by subsection (a) of this section and permitted
33 by subsection (c) of this section:

34 (1) Unless subsection (a)(4) of this section requires the secured
35 party to apply or pay over cash proceeds to a consignor, the secured
36 party shall account to and pay a debtor for any surplus; and

37 (2) The obligor is liable for any deficiency.

1 (e) **No surplus or deficiency in sales of certain rights to payment.**

2 If the underlying transaction is a sale of accounts, chattel paper,
3 payment intangibles, or promissory notes:

4 (1) The debtor is not entitled to any surplus; and

5 (2) The obligor is not liable for any deficiency.

6 (f) [Reserved]

7 (g) **Cash proceeds received by junior secured party.** A secured
8 party that receives cash proceeds of a disposition in good faith and
9 without knowledge that the receipt violates the rights of the holder of
10 a security interest or other lien that is not subordinate to the
11 security interest or agricultural lien under which the disposition is
12 made:

13 (1) Takes the cash proceeds free of the security interest or other
14 lien;

15 (2) Is not obligated to apply the proceeds of the disposition to
16 the satisfaction of obligations secured by the security interest or
17 other lien; and

18 (3) Is not obligated to account to or pay the holder of the
19 security interest or other lien for any surplus.

20 **Sec. 44.** RCW 62A.9A-625 and 2000 c 250 s 9A-625 are each amended
21 to read as follows:

22 REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE. (a)
23 **Judicial orders concerning noncompliance.** If it is established that a
24 secured party is not proceeding in accordance with this Article, a
25 court may order or restrain collection, enforcement, or disposition of
26 collateral on appropriate terms and conditions.

27 (b) **Damages for noncompliance.** Subject to subsections (c), (d),
28 and (f) of this section, a person is liable for damages in the amount
29 of any loss caused by a failure to comply with this Article or by
30 filing a false statement under RCW 62A.9A-607(b) or 62A.9A-619. Loss
31 caused by a failure to comply (~~with a request under RCW 62A.9A-210~~)
32 may include loss resulting from the debtor's inability to obtain, or
33 increased costs of, alternative financing.

34 (c) **Persons entitled to recover damages; statutory damages in**
35 **consumer-goods transaction.** Except as otherwise provided in RCW
36 62A.9A-628:

37 (1) A person that, at the time of the failure, was a debtor, was an
38 obligor, or held a security interest in or other lien on the collateral

1 may recover damages under subsection (b) of this section for its loss;
2 and

3 (2) If the collateral is consumer goods, a person that was a debtor
4 or a secondary obligor at the time a secured party failed to comply
5 with this part may recover for that failure in any event an amount not
6 less than the credit service charge plus ten percent of the principal
7 amount of the obligation or the time-price differential plus ten
8 percent of the cash price.

9 (d) **Recovery when deficiency eliminated or reduced.** A debtor whose
10 deficiency is eliminated under RCW 62A.9A-626 may recover damages for
11 the loss of any surplus. However, a debtor or secondary obligor
12 (~~whose deficiency is eliminated or reduced under RCW 62A.9A-626~~) may
13 not (~~otherwise~~) recover under subsection (b) or (c)(2) of this
14 section for noncompliance with the provisions of this part relating to
15 collection, enforcement, disposition, or acceptance to the extent that
16 its deficiency is eliminated or reduced under RCW 62A.9A-626.

17 (e) **Statutory damages: Noncompliance with specified provisions.**
18 In addition to any damages recoverable under subsection (b) of this
19 section, the debtor, consumer obligor, or person named as a debtor in
20 a filed record, as applicable, may recover five hundred dollars in each
21 case from a person that:

22 (1) Fails to comply with RCW 62A.9A-208;

23 (2) Fails to comply with RCW 62A.9A-209;

24 (3) Files a record that the person is not entitled to file under
25 RCW 62A.9A-509(a);

26 (4) Fails to cause the secured party of record to file or send a
27 termination statement as required by RCW 62A.9A-513 (a) or (c) within
28 twenty days after the secured party receives an authenticated demand
29 from a debtor;

30 (5) Fails to comply with RCW 62A.9A-616(b)(1) and whose failure is
31 part of a pattern, or consistent with a practice, of noncompliance; or

32 (6) Fails to comply with RCW 62A.9A-616(b)(2).

33 (f) **Statutory damages: Noncompliance with RCW 62A.9A-210.** A
34 debtor or consumer obligor may recover damages under subsection (b) of
35 this section and, in addition, five hundred dollars in each case from
36 a person that, without reasonable cause, fails to comply with a request
37 under RCW 62A.9A-210. A recipient of a request under RCW 62A.9A-210
38 which never claimed an interest in the collateral or obligations that
39 are the subject of a request under RCW 62A.9A-210 has a reasonable

1 excuse for failure to comply with the request within the meaning of
2 this subsection.

3 (g) **Limitation of security interest: Noncompliance with RCW**
4 **62A.9A-210.** If a secured party fails to comply with a request
5 regarding a list of collateral or a statement of account under RCW
6 62A.9A-210, the secured party may claim a security interest only as
7 shown in the list or statement included in the request as against a
8 person that is reasonably misled by the failure.

9 **Sec. 45.** RCW 62A.9A-628 and 2000 c 250 s 9A-628 are each amended
10 to read as follows:

11 NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY;
12 LIABILITY OF SECONDARY OBLIGOR. (a) **Limitation of liability ((to**
13 **~~debtor or obligor~~)) of secured party for noncompliance with article.**
14 Unless a secured party knows that a person is a debtor or obligor,
15 knows the identity of the person, and knows how to communicate with the
16 person:

17 (1) The secured party is not liable to the person, or to a secured
18 party or lienholder that has filed a financing statement against the
19 person, for failure to comply with this Article; and

20 (2) The secured party's failure to comply with this Article does
21 not affect the liability of the person for a deficiency.

22 (b) **Limitation of liability ((to ~~debtor, obligor, another secured~~**
23 **~~party, or lienholder~~)) based on status as secured party.** A secured
24 party is not liable because of its status as secured party:

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

27 (A) That the person is a debtor or obligor;

28 (B) The identity of the person; and

29 (C) How to communicate with the person; or

30 (2) To a secured party or lienholder that has filed a financing
31 statement against a person, unless the secured party knows:

32 (A) That the person is a debtor; and

33 (B) The identity of the person.

34 (c) **Limitation of liability if reasonable belief that transaction**
35 **not a consumer-goods transaction or consumer transaction.** A secured
36 party is not liable to any person, and a person's liability for a
37 deficiency is not affected, because of any act or omission arising out
38 of the secured party's reasonable belief that a transaction is not a

1 consumer-goods transaction or a consumer transaction or that goods are
2 not consumer goods, if the secured party's belief is based on its
3 reasonable reliance on:

4 (1) A debtor's representation concerning the purpose for which
5 collateral was to be used, acquired, or held; or

6 (2) An obligor's representation concerning the purpose for which a
7 secured obligation was incurred.

8 (d) **Limitation of liability for statutory damages.** A secured party
9 is not liable to any person under RCW 62A.9A-625(c)(2) for its failure
10 to comply with RCW 62A.9A-616.

11 (e) **Limitation of multiple liability for statutory damages.** A
12 secured party is not liable under RCW 62A.9A-625(c)(2) more than once
13 with respect to any one secured obligation.

14 **Sec. 46.** RCW 62A.9A-702 and 2000 c 250 s 9A-702 are each amended
15 to read as follows:

16 SAVINGS CLAUSE. (a) **Preeffective-date transactions or liens.**
17 Except as otherwise provided in this section, (~~chapter 250, Laws of~~
18 ~~2000~~) Article 62A.9A RCW applies to a transaction or lien within its
19 scope, even if the transaction or lien was entered into or created
20 before July 1, 2001.

21 (b) **Continuing validity.** Except as otherwise provided in
22 subsection (c) of this section and RCW 62A.9A-703 through
23 (~~62A.9A-708~~) section 53 of this act:

24 (1) Transactions and liens that were not governed by Article 62A.9
25 RCW, were validly entered into or created before July 1, 2001, and
26 would be subject to (~~chapter 250, Laws of 2000~~) Article 62A.9A RCW if
27 they had been entered into or created after July 1, 2001, and the
28 rights, duties, and interests flowing from those transactions and liens
29 remain valid after July 1, 2001; and

30 (2) The transactions and liens may be terminated, completed,
31 consummated, and enforced as required or permitted by (~~chapter 250,~~
32 ~~Laws of 2000~~) Article 62A.9A RCW or by the law that otherwise would
33 apply if (~~chapter 250, Laws of 2000~~) Article 62A.9A RCW had not taken
34 effect.

35 (c) **Preeffective-date proceedings.** (~~Chapter 250, Laws of 2000~~)
36 Article 62A.9A RCW does not affect an action, case, or proceeding
37 commenced before July 1, 2001.

1 **Sec. 47.** RCW 62A.9A-703 and 2000 c 250 s 9A-703 are each amended
2 to read as follows:

3 SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE. (a) **Continuing**
4 **priority over lien creditor: Perfection requirements satisfied.** A
5 security interest that is enforceable immediately before July 1, 2001,
6 and would have priority over the rights of a person that becomes a lien
7 creditor at that time is a perfected security interest under (~~chapter~~
8 ~~250, Laws of 2000~~) Article 62A.9A RCW if, (~~when [on or before]~~) on
9 or before July 1, 2001, the applicable requirements for enforceability
10 and perfection under (~~chapter 250, Laws of 2000~~) Article 62A.9A RCW
11 are satisfied without further action.

12 (b) **Continuing priority over lien creditor: Perfection**
13 **requirements not satisfied.** Except as otherwise provided in RCW
14 62A.9A-705, if, immediately before July 1, 2001, a security interest is
15 enforceable and would have priority over the rights of a person that
16 becomes a lien creditor at that time, but the applicable requirements
17 for enforceability or perfection under (~~chapter 250, Laws of 2000~~)
18 Article 62A.9A RCW are not satisfied (~~when [on or before]~~) on or
19 before July 1, 2001, the security interest:

20 (1) Is a perfected security interest for one year after July 1,
21 2001;

22 (2) Remains enforceable thereafter only if the security interest
23 becomes enforceable under RCW 62A.9A-203 before the year expires; and

24 (3) Remains perfected thereafter only if the applicable
25 requirements for perfection under (~~chapter 250, Laws of 2000~~) Article
26 62A.9A RCW are satisfied before the year expires.

27 **Sec. 48.** RCW 62A.9A-704 and 2000 c 250 s 9A-704 are each amended
28 to read as follows:

29 SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE. A security
30 interest that is enforceable immediately before July 1, 2001, but which
31 would be subordinate to the rights of a person that becomes a lien
32 creditor at that time:

33 (1) Remains an enforceable security interest for one year after
34 July 1, 2001;

35 (2) Remains enforceable thereafter if the security interest becomes
36 enforceable under RCW 62A.9A-203 (~~when [on or before]~~) on or before
37 July 1, 2001, or within one year thereafter; and

38 (3) Becomes perfected:

1 (A) Without further action, (~~when [on or before]~~) on July 1,
2 2001, if the applicable requirements for perfection under (~~chapter~~
3 ~~250, Laws of 2000~~) Article 62A.9A RCW are satisfied before or at that
4 time; or

5 (B) When the applicable requirements for perfection are satisfied
6 if the requirements are satisfied after that time.

7 **Sec. 49.** RCW 62A.9A-705 and 2000 c 250 s 9A-705 are each amended
8 to read as follows:

9 EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. (a)
10 **Preeffective-date action; one-year perfection period unless**
11 **reperfected.** If action, other than the filing of a financing
12 statement, is taken before July 1, 2001, and the action would have
13 resulted in priority of a security interest over the rights of a person
14 that becomes a lien creditor had the security interest become
15 enforceable before July 1, 2001, the action is effective to perfect a
16 security interest that attaches under (~~chapter 250, Laws of 2000~~)
17 Article 62A.9A RCW within one year after July 1, 2001. An attached
18 security interest becomes unperfected one year after July 1, 2001,
19 unless the security interest becomes a perfected security interest
20 under (~~chapter 250, Laws of 2000~~) Article 62A.9A RCW before the
21 expiration of that period.

22 (b) **Preeffective-date filing.** The filing of a financing statement
23 before July 1, 2001, is effective to perfect a security interest to the
24 extent the filing would satisfy the applicable requirements for
25 perfection under (~~chapter 250, Laws of 2000~~) Article 62A.9A RCW.

26 (c) **Preeffective-date filing in jurisdiction formerly governing**
27 **perfection.** (~~Chapter 250, Laws of 2000~~) Article 62A.9A RCW does not
28 render ineffective an effective financing statement that, before July
29 1, 2001, is filed and satisfies the applicable requirements for
30 perfection under the law of the jurisdiction governing perfection as
31 provided in former RCW (~~62A.9A-103~~) 62A.9-103. However, except as
32 otherwise provided in subsections (d) and (e) of this section and RCW
33 62A.9A-706, the financing statement ceases to be effective at the
34 earlier of:

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

37 (2) June 30, 2006.

1 (d) **Continuation statement.** The filing of a continuation statement
2 after July 1, 2001, does not continue the effectiveness of the
3 financing statement filed before July 1, 2001. However, upon the
4 timely filing of a continuation statement after July 1, 2001, and in
5 accordance with the law of the jurisdiction governing perfection as
6 provided in Part 3, the effectiveness of a financing statement filed in
7 the same office in that jurisdiction before July 1, 2001, continues for
8 the period provided by the law of that jurisdiction.

9 (e) **Application of subsection (c)(2) of this section to**
10 **transmitting utility financing statement.** Subsection (c)(2) of this
11 section applies to a financing statement that, before July 1, 2001, is
12 filed against a transmitting utility and satisfies the applicable
13 requirements for perfection under the law of the jurisdiction governing
14 perfection as provided in former RCW ((~~62A.9A-103~~)) 62A.9-103 only to
15 the extent that Part 3 provides that the law of a jurisdiction other
16 than the jurisdiction in which the financing statement is filed governs
17 perfection of a security interest in collateral covered by the
18 financing statement.

19 (f) **Application of Part 5.** A financing statement that includes a
20 financing statement filed before July 1, 2001, and a continuation
21 statement filed after July 1, 2001, is effective only to the extent
22 that it satisfies the requirements of Part 5 for an initial financing
23 statement.

24 **Sec. 50.** RCW 62A.9A-706 and 2000 c 250 s 9A-706 are each amended
25 to read as follows:

26 WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS
27 OF FINANCING STATEMENT. (a) **Initial financing statement in lieu of**
28 **continuation statement.** The filing of an initial financing statement
29 in the office specified in RCW 62A.9A-501 continues the effectiveness
30 of a financing statement filed before July 1, 2001, if:

31 (1) The filing of an initial financing statement in that office
32 would be effective to perfect a security interest under ((~~chapter 250,~~
33 ~~Laws of 2000~~)) Article 62A.9A RCW;

34 (2) The preeffective-date financing statement was filed in an
35 office in another state or another office in this state; and

36 (3) The initial financing statement satisfies subsection (c) of
37 this section.

1 (b) **Period of continued effectiveness.** The filing of an initial
2 financing statement under subsection (a) of this section continues the
3 effectiveness of the preeffective-date financing statement:

4 (1) If the initial financing statement is filed before July 1,
5 2001, for the period provided in RCW 62A.9-403 with respect to a
6 financing statement; and

7 (2) If the initial financing statement is filed after July 1, 2001,
8 for the period provided in RCW 62A.9A-515 with respect to an initial
9 financing statement.

10 (c) **Requirements for initial financing statement under subsection**
11 **(a) of this section.** To be effective for purposes of subsection (a) of
12 this section, an initial financing statement must:

13 (1) Satisfy the requirements of Part 5 for an initial financing
14 statement;

15 (2) Identify the preeffective-date financing statement by
16 indicating the office in which the financing statement was filed and
17 providing the dates of filing and file numbers, if any, of the
18 financing statement and of the most recent continuation statement filed
19 with respect to the financing statement; and

20 (3) Indicate that the preeffective-date financing statement remains
21 effective.

22 **Sec. 51.** RCW 62A.9A-707 and 2000 c 250 s 9A-707 are each amended
23 to read as follows:

24 ~~((PERSONS ENTITLED TO FILE INITIAL FINANCING STATEMENT OR~~
25 ~~CONTINUATION STATEMENT. A person may file an initial financing~~
26 ~~statement or a continuation statement under this part if:~~

27 ~~(1) The secured party of record authorizes the filing; and~~

28 ~~(2) The filing is necessary under this part:~~

29 ~~(A) To continue the effectiveness of a financing statement filed~~
30 ~~before July 1, 2001; or~~

31 ~~(B) To perfect or continue the perfection of a security interest.))~~

32 AMENDMENT OF PREEFFECTIVE-DATE FINANCING STATEMENT. (a)

33 **Preeffective-date financing statement.** In this section, "preeffective-
34 date financing statement" means a financing statement filed before July
35 1, 2001.

36 **(b) Applicable law.** On or after July 1, 2001, a person may add or
37 delete collateral covered by, continue or terminate the effectiveness
38 of, or otherwise amend the information provided in, a preeffective-date

1 financing statement only in accordance with the law of the jurisdiction
2 governing perfection as provided in Part 3. However, the effectiveness
3 of a preeffective-date financing statement also may be terminated in
4 accordance with the law of the jurisdiction in which the financing
5 statement is filed.

6 (c) **Method of amending: General rule.** Except as otherwise
7 provided in subsection (d) of this section, if the law of this state
8 governs perfection of a security interest, the information in a
9 preeffective-date financing statement may be amended on or after July
10 1, 2001 only if:

11 (1) The preeffective-date financing statement and an amendment are
12 filed in the office specified in RCW 62A.9A-501;

13 (2) An amendment is filed in the office specified in RCW 62A.9A-501
14 concurrently with, or after the filing in that office of, an initial
15 financing statement that satisfies RCW 62A.9A-706(c); or

16 (3) An initial financing statement that provides the information as
17 amended and satisfies RCW 62A.9A-706(c) is filed in the office
18 specified in RCW 62A.9A-501.

19 (d) **Method of amending: Continuation.** If the law of this state
20 governs perfection of a security interest, the effectiveness of a
21 preeffective-date financing statement may be continued only under RCW
22 62A.9A-705 (d) and (f) or 62A.9A-706.

23 (e) **Method of amending: Additional termination rule.** Whether or
24 not the law of this state governs perfection of a security interest,
25 the effectiveness of a preeffective-date financing statement filed in
26 this state may be terminated on or after July 1, 2001, by filing a
27 termination statement in the office in which the preeffective-date
28 financing statement is filed, unless an initial financing statement
29 that satisfies RCW 62A.9A-706(c) has been filed in the office specified
30 by the law of the jurisdiction governing perfection as provided in Part
31 3 as the office in which to file a financing statement.

32 **Sec. 52.** RCW 62A.9A-708 and 2000 c 250 s 9A-708 are each amended
33 to read as follows:

34 ~~((PRIORITY. (a) **Law governing priority.** Chapter 250, Laws of 2000~~
35 ~~determines the priority of conflicting claims to collateral. However,~~
36 ~~if the relative priorities of the claims were established before July~~
37 ~~1, 2001, Article 62A.9 RCW determines priority.~~

1 ~~(b) **Priority if security interest becomes enforceable under RCW**~~
2 ~~**62A.9A-203.**~~ For purposes of RCW 62A.9A-322(a), the priority of a
3 security interest that becomes enforceable under RCW 62A.9A-203 dates
4 from July 1, 2001, if the security interest is perfected under chapter
5 250, Laws of 2000 by the filing of a financing statement before July 1,
6 2001, which would not have been effective to perfect the security
7 interest under Article 62A.9 RCW. This subsection does not apply to
8 conflicting security interests each of which is perfected by the filing
9 of such a financing statement.) PERSONS ENTITLED TO FILE INITIAL
10 FINANCING STATEMENT OR CONTINUATION STATEMENT. A person may file an
11 initial financing statement or a continuation statement under this part
12 if:

- 13 (1) The secured party of record authorizes the filing; and
14 (2) The filing is necessary under this part:
15 (A) To continue the effectiveness of a financing statement filed
16 before July 1, 2001; or
17 (B) To perfect or continue the perfection of a security interest.

18 NEW SECTION. Sec. 53. A new section is added to Article 62A.9A
19 RCW, to be codified as RCW 62A.9A-709, to read as follows:

20 PRIORITY. (a) **Law governing priority.** Article 62A.9A RCW
21 determines the priority of conflicting claims to collateral. However,
22 if the relative priorities of the claims were established before July
23 1, 2001, Article 62A.9 RCW determines priority.

24 (b) **Priority if security interest becomes enforceable under RCW**
25 **62A.9A-203.** For purposes of RCW 62A.9A-322(a), the priority of a
26 security interest that becomes enforceable under RCW 62A.9A-203 dates
27 from July 1, 2001, if the security interest is perfected under Article
28 62A.9A RCW by the filing of a financing statement before July 1, 2001,
29 which would not have been effective to perfect the security interest
30 under Article 62A.9 RCW. This subsection does not apply to conflicting
31 security interests each of which is perfected by the filing of such a
32 financing statement.

33 NEW SECTION. Sec. 54. RCW 60.11.9001 (Transition rule for
34 existing filings) and 2000 c 250 s 1 are each repealed.

35 NEW SECTION. Sec. 55. This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 July 1, 2001.

--- END ---