

---

SENATE BILL 5053

---

State of Washington

57th Legislature

2001 Regular Session

By Senators Constantine and Johnson

Read first time 01/10/2001. Referred to Committee on Judiciary.

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-608, 62A.9A-613, 62A.9A-615, 62A.9A-625, 62A.9A-628, 62A.9A-702,  
10 62A.9A-703, 62A.9A-704, 62A.9A-705, 62A.9A-706, 62A.9A-707, and 62A.9A-  
11 708; reenacting and amending RCW 60.13.040; adding a new section to  
12 Article 62A.9A RCW; repealing RCW 60.11.9001; providing an effective  
13 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-608 and 2000 c 250 s 9A-608 are each amended  
20 to read as follows:

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

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

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

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

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



1 enforcement is made if the secured party receives an authenticated  
2 demand for proceeds before distribution of the proceeds is completed.

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

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

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

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

20 **Sec. 39.** RCW 62A.9A-613 and 2000 c 250 s 9A-613 are each amended  
21 to read as follows:

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

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

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

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

30 (C) States the method of intended disposition;

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

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

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

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

4 (A) Information not specified by (~~(subsection)~~) subsection (1) of  
5 this section; or

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

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

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

11 **NOTIFICATION OF DISPOSITION OF COLLATERAL**

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

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

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

17 [For a public disposition:]

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

20 Day and Date: \_\_\_\_\_

21 Time: \_\_\_\_\_

22 Place: \_\_\_\_\_

23 [For a private disposition:]

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

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

30 **Sec. 40.** RCW 62A.9A-615 and 2000 c 250 s 9A-615 are each amended  
31 to read as follows:

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

36 (1) The reasonable expenses of retaking, holding, preparing for  
37 disposition, processing, and disposing, and, to the extent provided for

1 by agreement and not prohibited by law, reasonable attorneys' fees and  
2 legal expenses incurred by the secured party;

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

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

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

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

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

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

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

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

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

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

36 (e) **No surplus or deficiency in sales of certain rights to payment.**  
37 If the underlying transaction is a sale of accounts, chattel paper,  
38 payment intangibles, or promissory notes:

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

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

2 (f) [Reserved]

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

9 (1) Takes the cash proceeds free of the security interest or other  
10 lien;

11 (2) Is not obligated to apply the proceeds of the disposition to  
12 the satisfaction of obligations secured by the security interest or  
13 other lien; and

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

16 **Sec. 41.** RCW 62A.9A-625 and 2000 c 250 s 9A-625 are each amended  
17 to read as follows:

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

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

30 (c) **Persons entitled to recover damages; statutory damages in**  
31 **consumer-goods transaction.** Except as otherwise provided in RCW  
32 62A.9A-628:

33 (1) A person that, at the time of the failure, was a debtor, was an  
34 obligor, or held a security interest in or other lien on the collateral  
35 may recover damages under subsection (b) of this section for its loss;  
36 and

37 (2) If the collateral is consumer goods, a person that was a debtor  
38 or a secondary obligor at the time a secured party failed to comply

1 with this part may recover for that failure in any event an amount not  
2 less than the credit service charge plus ten percent of the principal  
3 amount of the obligation or the time-price differential plus ten  
4 percent of the cash price.

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

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

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

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

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

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

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

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

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

38 (g) **Limitation of security interest: Noncompliance with RCW**  
39 **62A.9A-210.** If a secured party fails to comply with a request

1 regarding a list of collateral or a statement of account under RCW  
2 62A.9A-210, the secured party may claim a security interest only as  
3 shown in the list or statement included in the request as against a  
4 person that is reasonably misled by the failure.

5 **Sec. 42.** RCW 62A.9A-628 and 2000 c 250 s 9A-628 are each amended  
6 to read as follows:

7 NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY;  
8 LIABILITY OF SECONDARY OBLIGOR. (a) **Limitation of liability ((to**  
9 **~~debtor or obligor~~)) of secured party for noncompliance with article.**

10 Unless a secured party knows that a person is a debtor or obligor,  
11 knows the identity of the person, and knows how to communicate with the  
12 person:

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

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

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

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

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

24 (B) The identity of the person; and

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

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

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

29 (B) The identity of the person.

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

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

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

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

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

11 **Sec. 43.** RCW 62A.9A-702 and 2000 c 250 s 9A-702 are each amended  
12 to read as follows:

13 SAVINGS CLAUSE. (a) **Preeffective-date transactions or liens.**  
14 Except as otherwise provided in this section, (~~chapter 250, Laws of~~  
15 ~~2000~~) Article 62A.9A RCW applies to a transaction or lien within its  
16 scope, even if the transaction or lien was entered into or created  
17 before July 1, 2001.

18 (b) **Continuing validity.** Except as otherwise provided in  
19 subsection (c) of this section and RCW 62A.9A-703 through  
20 (~~62A.9A-708~~) section 50 of this act:

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

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

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

35 **Sec. 44.** RCW 62A.9A-703 and 2000 c 250 s 9A-703 are each amended  
36 to read as follows:

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

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

18 (1) Is a perfected security interest for one year after July 1,  
19 2001;

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

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

25 **Sec. 45.** RCW 62A.9A-704 and 2000 c 250 s 9A-704 are each amended  
26 to read as follows:

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

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

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

36 (3) Becomes perfected:

37 (A) Without further action, (~~when [on or before]~~) on July 1,  
38 2001, if the applicable requirements for perfection under (~~chapter~~



1 250, ~~Laws of 2000~~) Article 62A.9A RCW are satisfied before or at that  
2 time; or

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

5 **Sec. 46.** RCW 62A.9A-705 and 2000 c 250 s 9A-705 are each amended  
6 to read as follows:

7 EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. (a)

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

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

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

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

35 (2) June 30, 2006.

36 (d) **Continuation statement.** The filing of a continuation statement  
37 after July 1, 2001, does not continue the effectiveness of the  
38 financing statement filed before July 1, 2001. However, upon the

1 timely filing of a continuation statement after July 1, 2001, and in  
2 accordance with the law of the jurisdiction governing perfection as  
3 provided in Part 3, the effectiveness of a financing statement filed in  
4 the same office in that jurisdiction before July 1, 2001, continues for  
5 the period provided by the law of that jurisdiction.

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

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

21 **Sec. 47.** RCW 62A.9A-706 and 2000 c 250 s 9A-706 are each amended  
22 to read as follows:

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

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

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

33 (3) The initial financing statement satisfies subsection (c) of  
34 this section.

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

1 (1) If the initial financing statement is filed before July 1,  
2 2001, for the period provided in RCW 62A.9-403 with respect to a  
3 financing statement; and

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

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

10 (1) Satisfy the requirements of Part 5 for an initial financing  
11 statement;

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

17 (3) Indicate that the preeffective-date financing statement remains  
18 effective.

19 **Sec. 48.** RCW 62A.9A-707 and 2000 c 250 s 9A-707 are each amended  
20 to read as follows:

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

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

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

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

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

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

30 **Preeffective-date financing statement.** In this section, "preeffective-  
31 date financing statement" means a financing statement filed before July  
32 1, 2001.

33 **(b) Applicable law.** On or after July 1, 2001, a person may add or  
34 delete collateral covered by, continue or terminate the effectiveness  
35 of, or otherwise amend the information provided in, a preeffective-date  
36 financing statement only in accordance with the law of the jurisdiction  
37 governing perfection as provided in Part 3. However, the effectiveness  
38 of a preeffective-date financing statement also may be terminated in

1 accordance with the law of the jurisdiction in which the financing  
2 statement is filed.

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

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

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

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

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

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

29 **Sec. 49.** RCW 62A.9A-708 and 2000 c 250 s 9A-708 are each amended  
30 to read as follows:

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

35 ~~(b) **Priority if security interest becomes enforceable under RCW**~~  
36 ~~**62A.9A-203.** For purposes of RCW 62A.9A-322(a), the priority of a~~  
37 ~~security interest that becomes enforceable under RCW 62A.9A-203 dates~~  
38 ~~from July 1, 2001, if the security interest is perfected under chapter~~

1 ~~250, Laws of 2000 by the filing of a financing statement before July 1,~~  
2 ~~2001, which would not have been effective to perfect the security~~  
3 ~~interest under Article 62A.9 RCW. This subsection does not apply to~~  
4 ~~conflicting security interests each of which is perfected by the filing~~  
5 ~~of such a financing statement.)~~ PERSONS ENTITLED TO FILE INITIAL  
6 FINANCING STATEMENT OR CONTINUATION STATEMENT. A person may file an  
7 initial financing statement or a continuation statement under this part  
8 if:

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

10 (2) The filing is necessary under this part:

11 (A) To continue the effectiveness of a financing statement filed  
12 before July 1, 2001; or

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

14 NEW SECTION. Sec. 50. A new section is added to Article 62A.9A  
15 RCW, to be codified as RCW 62A.9A-709, to read as follows:

16 PRIORITY. (a) Law governing priority. Article 62A.9A RCW  
17 determines the priority of conflicting claims to collateral. However,  
18 if the relative priorities of the claims were established before July  
19 1, 2001, Article 62A.9 RCW determines priority.

20 (b) Priority if security interest becomes enforceable under RCW  
21 62A.9A-203. For purposes of RCW 62A.9A-322(a), the priority of a  
22 security interest that becomes enforceable under RCW 62A.9A-203 dates  
23 from July 1, 2001, if the security interest is perfected under Article  
24 62A.9A RCW by the filing of a financing statement before July 1, 2001,  
25 which would not have been effective to perfect the security interest  
26 under Article 62A.9 RCW. This subsection does not apply to conflicting  
27 security interests each of which is perfected by the filing of such a  
28 financing statement.

29 NEW SECTION. Sec. 51. RCW 60.11.9001 (Transition rule for  
30 existing filings) and 2000 c 250 s 1 are each repealed.

31 NEW SECTION. Sec. 52. This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 July 1, 2001.

--- END ---