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Referred: Commerce and  
Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Code  
Revision Commission)

1 IN THE SENATE

2 SENATE BILL NO. 55

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to commercial transactions; and pro-  
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 45.05.010(b) is amended to read:

10 (b) Where one of the following provisions of this chapter speci-  
11 fies the applicable law, that provision governs and a contrary agreement  
12 is effective only to the extent permitted by the law (including the con-  
13 flict of laws rules) so specified:

14 Rights of creditors against sold goods (sec. 128)

15 Applicability of the article on bank deposits and collections  
16 (sec. 406)

17 Bulk transfers subject to the article on bulk transfers (sec.  
18 512)

19 Applicability of the article on investment securities (sec.  
20 622)

21 Perfection provisions of the article on secured transactions  
22 (sec. 694) [POLICY AND SCOPE OF THE ARTICLE ON SECURED TRANSACTIONS  
23 (SECS. 692 AND 694)]

24 \* Sec. 2. AS 45.05.020(9) is amended to read:

25 (9) "buyer in ordinary course of business" means a person  
26 who, in good faith and without knowledge that the sale to him is in  
27 violation of the ownership rights or security interest of a third party  
28 in the goods, buys in ordinary course from a person in the business of  
29 selling goods of that kind but does not include a pawnbroker; all

1 persons who sell minerals or the like (including oil and gas) at well-  
2 head or minehead are considered to be persons in the business of  
3 selling goods of that kind; "buying" may be for cash or by exchange of  
4 other property or on secured or unsecured credit and includes receiving  
5 goods or documents of title under a pre-existing contract for sale but  
6 does not include a transfer in bulk or as security for or in total or  
7 partial satisfaction of a money debt;

8 \* Sec. 3. AS 45.05.020(37) is amended to read:

9 (37) "security interest" means an interest in personal prop-  
10 erty or fixtures which secures payment or performance of an obligation;  
11 the retention or reservation of title by a seller of goods notwith-  
12 standing shipment or delivery to the buyer (sec. 126) is limited in  
13 effect to a reservation of a "security interest"; the term also includes  
14 an interest of a buyer of accounts or [,] chattel paper [, OR CONTRACT  
15 RIGHTS] which is subject to secs. 690 - 794 of this chapter; the special  
16 property interest of a buyer of goods on identification of the goods to  
17 a contract for sale under sec. 126 of this chapter is not a "security  
18 interest," but a buyer may also acquire a "security interest" by com-  
19 plying with secs. 690 - 794 of this chapter; unless a lease or consign-  
20 ment is intended as security, reservation of title under the lease or  
21 consignment is not a "security interest," but a consignment is in any  
22 event subject to the provisions on consignment sales (sec. 120); whether  
23 a lease is intended as security is to be determined by the facts of each  
24 case; however, (A) the inclusion of an option to purchase does not of  
25 itself make the lease one intended for security, and (B) an agreement  
26 that upon compliance with the terms of the lease the lessee shall become  
27 or has the option to become the owner of the property for no additional  
28 consideration or for a nominal consideration does make the lease one  
29 intended for security;

1 \* Sec. 4. AS 45.05.048(a) is amended to read:

2 (a) A contract for the sale of [TIMBER,] minerals [,] or the like  
3 (including oil and gas) [,] or a structure or its materials to be re-  
4 moved from realty is a contract for the sale of goods within secs.  
5 36 - 242 of this chapter if they are to be severed by the seller, but  
6 until severance a purported present sale which is not effective as a  
7 transfer of an interest in land is effective only as a contract to sell.

8 \* Sec. 5. AS 45.05.048(b) is amended to read:

9 (b) A contract for the sale apart from the land of growing crops  
10 or other things attached to a realty and capable of severance without  
11 material harm to them but not described in (a) of this section or of  
12 timber to be cut is a contract for the sale of goods within secs. 36 -  
13 242 of this chapter, whether the subject matter is to be severed by the  
14 buyer or by the seller even though it forms part of the realty at the  
15 time of contracting, and the parties can by identification effect a  
16 present sale before severance.

17 \* Sec. 6. AS 45.05.506(b) is amended to read:

18 (b) Even though the credit specifically states that it is non-  
19 transferable or nonassignable, the beneficiary may before performance of  
20 the conditions of the credit assign his right to proceeds. Such an  
21 assignment is an assignment of an account [A CONTRACT RIGHT] under secs.  
22 690 - 794 of this chapter on secured transactions and is governed by  
23 those sections, except that

24 (1) the assignment is ineffective until the letter of credit  
25 or advice of credit is delivered to the assignee which delivery consti-  
26 tutes perfection of the security interest under secs. 690 - 794 of this  
27 chapter;

28 (2) the issuer may honor drafts or demands for payment drawn  
29 under the credit until it receives a notification of the assignment

1 signed by the beneficiary which reasonably identifies the credit in-  
2 volved in the assignment and contains a request to pay the assignee; and  
3 (3) after what reasonably appears to be such a notification  
4 has been received, the issuer may, without dishonor, refuse to accept or  
5 pay even to a person otherwise entitled to honor until the letter of  
6 credit or advice of credit is exhibited to the issuer.

7 \* Sec. 7. AS 45.05.614(d)(1) is amended to read:

8 (1) at least 90 per cent of the capital stock of which is  
9 held by or for one or more persons (other than individuals), each of  
10 whom (A) is subject to supervision or regulation under the provisions of  
11 federal or state banking laws or state insurance laws, (B) is a broker  
12 or dealer or investment company registered under the Securities Exchange  
13 Act of 1934 or the Investment Company Act of 1940, or (C) is a national  
14 securities exchange or association, registered under a statute of the  
15 United States such as the Securities Exchange Act of 1934, and none of  
16 whom, other than a national securities exchange or association, holds in  
17 excess of 20 per cent of the capital stock of the corporation; and

18 \* Sec. 8. AS 45.05 is amended by adding a new section to read:

19 Sec. 45.05.623. SECURITIES DELIVERABLE; ACTION FOR PRICE. (a)  
20 Unless otherwise agreed and subject to any applicable law or regulation  
21 respecting short sales, a person obligated to deliver securities may  
22 deliver any security of the specified issue in bearer form or registered  
23 in the name of the transferee or endorsed to him or in blank.

24 (b) If the buyer fails to pay the price as it comes due under a  
25 contract of sale, the seller may recover the price

26 (1) of securities accepted by the buyer; and

27 (2) of other securities if efforts at their resale would be  
28 unduly burdensome or if there is no readily available market for their  
29 resale.

1 \* Sec. 9. AS 45.05.626(f) is amended to read:

2 (f) Nothing in this section may be construed to affect the right  
3 of a party to a "when, as, and if issued" or a "when distributed" con-  
4 tract to cancel the contract in the event of a material change in the  
5 character of the security which is the subject of the contract [TO THE  
6 CONTRACTOR] or in the plan or arrangement under which the security is to  
7 be issued or distributed.

8 \* Sec. 10. AS 45.05.638(a)(1) is amended to read:

9 (1) the security is genuine [AND IN PROPER FORM];

10 \* Sec. 11. AS 45.05.638(a)(3) is amended to read:

11 (3) he has reasonable grounds to believe that the security is  
12 in the form and within the amount the issuer is authorized to issue.

13 \* Sec. 12. AS 45.05.650(c) is amended to read:

14 (c) If a security is delivered by an intermediary known to be  
15 entrusted with delivery of the security on behalf of another or with  
16 collection of a draft or other claim against the delivery, the inter-  
17 mediary by the delivery warrants only his own good faith and authority  
18 even though he has purchased or made advances against the claim to be  
19 collected against the delivery. [A BROKER IS NOT AN INTERMEDIARY WITHIN  
20 THE MEANING OF THIS SUBSECTION.]

21 \* Sec. 13. AS 45.05.654(c)(2) is amended to read:

22 (2) if the person so specified is described as a fiduciary  
23 but is no longer serving in the described capacity, -- either that  
24 person or his successor;

25 \* Sec. 14. AS 45.05.677(a)(1) is amended to read:

26 (1) is in the custody of the [A] clearing corporation or of a  
27 custodian bank or a nominee of either subject to the instructions of the  
28 clearing corporation;

29 \* Sec. 15. AS 45.05.692(a) is amended to read:

1 (a) Except as otherwise provided in [SEC. 694 OF THIS CHAPTER ON  
2 MULTIPLE STATE TRANSACTIONS AND IN] sec. 696 of this chapter on excluded  
3 transactions, secs. 690 - 794 of this chapter apply [, AS FAR AS CON-  
4 CERNS PERSONAL PROPERTY AND FIXTURES IN THE JURISDICTION OF THE STATE,]

5 (1) to a transaction (regardless of its form) which is in-  
6 tended to create a security interest in personal property or fixtures  
7 including goods, documents, instruments, general intangibles, chattel  
8 paper, or accounts [, OR CONTRACT RIGHTS]; and

9 (2) to a sale of accounts [, CONTRACT RIGHTS,] or chattel  
10 paper.

11 \* Sec. 16. AS 45.05.694 is repealed and re-enacted to read:

12 Sec. 45.05.694. PERFECTION OF SECURITY INTERESTS IN MULTIPLE STATE  
13 TRANSACTION. (a) This subsection applies to documents and instruments  
14 and to goods other than those covered by a certificate of title de-  
15 scribed in (b) of this section, mobile goods described in (c) of this  
16 section, and minerals described in (e) of this section.

17 (1) Except as otherwise provided in this subsection, perfec-  
18 tion and the effect of perfection or nonperfection of a security inter-  
19 est in collateral are governed by the law of the jurisdiction where the  
20 collateral is when the last event occurs on which is based the assertion  
21 that the security interest is perfected or unperfected.

22 (2) If the parties to a transaction creating a purchase money  
23 security interest in goods in one jurisdiction understand at the time  
24 that the security interest attaches that the goods will be kept in  
25 another jurisdiction, then the law of the other jurisdiction governs the  
26 perfection and the effect of perfection or nonperfection of the security  
27 interest from the time it attaches until 30 days after the debtor re-  
28 ceives possession of the goods and thereafter if the goods are taken to  
29 the other jurisdiction before the end of the 30-day period.

1 (3) If collateral is brought into and kept in this state  
2 while subject to a security interest perfected under the law of the  
3 jurisdiction from which the collateral was removed, the security inter-  
4 est remains perfected, but if action is required by secs. 732 - 766 of  
5 this chapter to perfect the security interest,

6 (A) if the action is not taken before the expiration of  
7 the period of perfection in the other jurisdiction or the end of  
8 four months after the collateral is brought into this state, which-  
9 ever period first expires, the security interest becomes unper-  
10 fected at the end of that period and is thereafter considered to  
11 have been unperfected as against a person who became a purchaser  
12 after removal;

13 (B) if the action is taken before the expiration of the  
14 period specified in (A) of this paragraph, the security interest  
15 continues perfected thereafter;

16 (C) for the purpose of priority over a buyer of consumer  
17 goods (sec. 744(b) of this chapter), the period of the effective-  
18 ness of a filing in the jurisdiction from which the collateral is  
19 removed is governed by the rules with respect to perfection in (A)  
20 and (B) of this paragraph.

21 (b) This subsection applies to goods covered by a certificate of  
22 title issued under a statute of this state or of another jurisdiction  
23 under the law of which indication of a security interest on the certi-  
24 ficate is required as a condition of perfection.

25 (1) Except as otherwise provided in this subsection, perfec-  
26 tion and the effect of perfection or nonperfection of the security  
27 interest are governed by the law (including the conflict of laws rules)  
28 of the jurisdiction issuing the certificate until four months after the  
29 goods are removed from that jurisdiction and thereafter until the goods

1 are registered in another jurisdiction, but in any event not beyond  
2 surrender of the certificate. After the expiration of that period, the  
3 goods are not covered by the certificate of title within the meaning of  
4 this section.

5 (2) Except with respect to the rights of a buyer described in  
6 (3) of this subsection, a security interest, perfected in another juris-  
7 diction otherwise than by notation on a certificate of title, in goods  
8 brought into this state and thereafter covered by a certificate of title  
9 issued by this state is subject to the rules stated in (a)(3) of this  
10 section.

11 (3) If goods are brought into this state while a security  
12 interest in the goods is perfected in any manner under the law of the  
13 jurisdiction from which the goods are removed and a certificate of title  
14 is issued by this state and the certificate does not show that the goods  
15 are subject to the security interest or that they may be subject to  
16 security interests not shown on the certificate, the security interest  
17 is subordinate to the rights of a buyer of the goods who is not in the  
18 business of selling goods of that kind to the extent that he gives value  
19 and receives delivery of the goods after issuance of the certificate and  
20 without knowledge of the security interest.

21 (c) This subsection applies to accounts (other than an account  
22 described in (e) of this section) and general intangibles and to goods  
23 which are mobile and which are of a type normally used in more than one  
24 jurisdiction, such as motor vehicles, trailers, rolling stock, air-  
25 planes, shipping containers, road building and construction machinery  
26 and commercial harvesting machinery and the like, if the goods are  
27 equipment or are inventory leased or held for lease by the debtor to  
28 others, and are not covered by a certificate of title described in (b)  
29 of this section.

1 (1) The law (including the conflict of laws rules) of the  
2 jurisdiction in which the debtor is located governs the perfection and  
3 the effect of perfection or nonperfection of the security interest.

4 (2) If, however, the debtor is located in a jurisdiction  
5 which is not a part of the United States, and which does not provide for  
6 perfection of the security interest by filing or recording in that  
7 jurisdiction, the law of the jurisdiction in the United States in which  
8 the debtor has his major executive office in the United States governs  
9 the perfection and the effect of perfection or nonperfection of the  
10 security interest through filing. In the alternative, if the debtor is  
11 located in a jurisdiction which is not a part of the United States or  
12 Canada and the collateral is accounts or general intangibles for money  
13 due or to become due, the security interest may be perfected by notifi-  
14 cation to the account debtor. As used in this paragraph, "United  
15 States" includes its territories and possessions and the Commonwealth of  
16 Puerto Rico.

17 (3) A debtor shall be considered located at his place of  
18 business if he has one, at his chief executive office if he has more  
19 than one place of business, or otherwise at his residence. If, however,  
20 the debtor is a foreign air carrier under the Federal Aviation Act of  
21 1958, as amended, it shall be considered located at the designated  
22 office of the agent upon whom service of process may be made on behalf  
23 of the foreign air carrier.

24 (4) A security interest perfected under the law of the juris-  
25 diction of the location of the debtor is perfected until the expiration  
26 of four months after a change of the debtor's location to another juris-  
27 diction, or until perfection would have ceased by the law of the first  
28 jurisdiction, whichever period first expires. Unless perfected in the  
29 new jurisdiction before the end of that period, the security interest

1 becomes unperfected thereafter and is considered to have been unper-  
2 fected as against a person who became a purchaser after the change.

3 (d) The rules stated for (a) of this section apply to a possessory  
4 security interest in chattel paper. The rules stated for accounts in  
5 (c) of this section apply to a nonpossessory security interest in chat-  
6 tel paper, but the security interest may not be perfected by notifica-  
7 tion to the account debtor.

8 (e) Perfection and the effect of perfection or nonperfection of a  
9 security interest which is created by a debtor who has an interest in  
10 minerals or the like (including oil and gas) before extraction and which  
11 attaches to the product as extracted, or which attaches to an account  
12 resulting from the sale of the product at the wellhead or minehead are  
13 governed by the law (including the conflict of laws rules) of the juris-  
14 diction in which the wellhead or minehead is located.

15 \* Sec. 17. AS 45.05.696(5) is repealed and re-enacted to read:

16 (5) to a transfer of an interest in any deposit account (sec.  
17 698(a) of this chapter), except as provided with respect to proceeds  
18 (sec. 742 of this chapter) and priorities in proceeds (sec. 754 of this  
19 chapter);

20 \* Sec. 18. AS 45.05.696(6) is amended to read:

21 (6) to a sale of accounts [, CONTRACT RIGHTS,] or chattel  
22 paper as part of a sale of the business out of which they arose, or an  
23 assignment of accounts [, CONTRACT RIGHTS,] or chattel paper which is  
24 for the purpose of collection only, or a transfer of a right to pay-  
25 ment under a contract [RIGHT] to an assignee who is also to do the  
26 performance under the contract or a transfer of a single account to  
27 an assignee in whole or partial satisfaction of a preexisting indebted-  
28 ness;

29 \* Sec. 19. AS 45.05.696(7) is amended to read:

1 (7) to a transfer of an interest or claim in or under a  
2 policy of insurance, except as provided with respect to proceeds (sec.  
3 742 of this chapter) and priorities in proceeds (sec. 754 of this chap-  
4 ter);

5 \* Sec. 20. AS 45.05.696(8) is amended to read:

6 (8) to a right represented by a judgment (other than a judg-  
7 ment taken on a right to payment which was collateral);

8 \* Sec. 21. AS 45.05.696(11) is amended to read:

9 (11) to a transfer in whole or in part of [ANY OF THE FOL-  
10 LOWING:] a claim arising out of tort [; A DEPOSIT, SAVINGS, PASSBOOK, OR  
11 LIKE ACCOUNT MAINTAINED WITH A BANK, SAVINGS AND LOAN ASSOCIATION,  
12 CREDIT UNION, OR LIKE ORGANIZATION]; or

13 \* Sec. 22. AS 45.05.696(12) is repealed and re-enacted to read:

14 (12) to a transfer by a government or governmental subdivision  
15 or agency.

16 \* Sec. 23. AS 45.05.698 is amended to read:

17 Sec. 45.05.698. DEFINITIONS AND INDEX OF DEFINITIONS. (a) In  
18 secs. 690 - 794 of this chapter, unless the context otherwise requires:

19 (1) "account debtor" means the person who is obligated on an  
20 account, chattel paper, [CONTRACT RIGHT,] or general intangible;

21 (2) "chattel paper" means a writing or writings which evi-  
22 dence both a monetary obligation and a security interest in or a lease  
23 of specific goods, but a charter or other contract involving the use  
24 or hire of a vessel is not chattel paper; when a transaction is evi-  
25 denced both by such a security agreement or a lease and by an instrument  
26 or a series of instruments, the group of writings taken together consti-  
27 tutes chattel paper;

28 (3) "collateral" means the property subject to a security  
29 interest, and includes accounts [, CONTRACT RIGHTS,] and chattel paper

1 which have been sold;

2 (4) "debtor" means the person who owes payment or other per-  
3 formance of the obligation secured, whether or not he owns or has rights  
4 in the collateral, and includes the seller of accounts [, CONTRACT  
5 RIGHTS,] or chattel paper; where the debtor and the owner of the col-  
6 lateral are not the same person, the term "debtor" means the owner of  
7 the collateral in any provision of the article dealing with the col-  
8 lateral, the obligor in any provision dealing with the obligation, and  
9 may include both where the context so requires;

10 (5) "document" means document of title as defined in the  
11 general definitions of sec. 20 of this chapter, and a receipt of the  
12 kind described in sec. 542 of this chapter;

13 (6) "goods" includes all things which are movable at the time  
14 the security interest attaches or which are fixtures (sec. 756), but  
15 does not include money, documents, instruments, accounts, chattel paper,  
16 general tangibles, or minerals or the like (including oil and gas)  
17 before extraction [CONTRACT RIGHTS, AND OTHER THINGS IN ACTION]; "goods"  
18 also includes the unborn young of animals, [AND] growing crops, and  
19 standing timber which is to be cut and removed under a conveyance or  
20 contract for sale;

21 (7) "instrument" means a negotiable instrument (defined in  
22 sec. 252), or a security (defined in sec. 614), or any other writing  
23 which evidences a right to the payment of money and is not itself a  
24 security agreement or lease and is of a type which is in ordinary course  
25 of business transferred by delivery with any necessary endorsement or  
26 assignment;

27 (8) "security agreement" means an agreement which creates or  
28 provides for a security interest;

29 (9) "secured party" means a lender, seller, or other person

1 in whose favor there is a security interest, including a person to whom  
2 accounts [, CONTRACT RIGHTS,] or chattel paper have been sold; when the  
3 holders of obligations issued under an indenture of trust, equipment  
4 trust agreement, or the like are represented by a trustee or other  
5 person, the representative is the secured party;

6 (10) "deposit account" means a demand, time, savings, passbook  
7 or like account maintained with a bank, savings and loan association,  
8 credit union or like organization, other than an account evidenced by  
9 a certificate of deposit;

10 (11) "encumbrance" includes real estate mortgages and other  
11 liens on real estate and all other rights in real estate that are not  
12 ownership interests;

13 (12) "mortgage" means a consensual interest created by a real  
14 estate mortgage, a trust deed on real estate, or the like;

15 (13) an advance is made "pursuant to commitment" if the  
16 secured party has bound himself to make it, whether or not a subsequent  
17 event of default or other event not within his control has relieved or  
18 may relieve him from his obligation;

19 (14) "transmitting utility" means any person primarily  
20 engaged in the railroad, street railway or trolley bus business, the  
21 electric or electronics communications transmission business, the  
22 transmission of goods by pipeline, or the transmission or the produc-  
23 tion and transmission of electricity, steam, gas or water, or the  
24 provision of sewer service.

25 (b) Other definitions applying to secs. 690 - 794 of this chapter  
26 and the sections in which they appear are:

- 27 (1) "account" (sec. 700)  
28 (2) "consumer goods" (sec. 706(1))  
29 [(3) "CONTRACT RIGHT" (SEC. 700)]

- 1 (4) "equipment" (sec. 706(2))
- 2 (5) "farm products" (sec. 706(3))
- 3 (6) "general intangibles" (sec. 700)
- 4 (7) "inventory" (sec. 706(4))
- 5 (8) "lien creditor" (sec. 732(c))
- 6 (9) "proceeds" (sec. 742(a))
- 7 (10) "purchase money security interest" (sec. 702)
- 8 (11) "attach" (sec. 722)
- 9 (12) "construction mortgage" (sec. 756(a))
- 10 (13) "fixture" (sec. 756(a))
- 11 (14) "fixture filing" (sec. 756(a))
- 12 (15) "United States" (sec. 694)

13 (c) The following definitions in this chapter apply to secs.  
14 690 - 794 of this chapter:

- 15 (1) "check" (sec. 252)
- 16 (2) "contract for sale" (sec. 46)
- 17 (3) "holder in due course" (sec. 308)
- 18 (4) "note" (sec. 252)
- 19 (5) "sale" (sec. 46)

20 (d) In addition, secs. 1 - 34 of this chapter contain general  
21 definitions and principles of construction and interpretation applicable  
22 to secs. 690 - 794 of this chapter.

23 \* Sec. 24. AS 45.05.700 is amended to read:

24 Sec. 45.05.700. DEFINITIONS: "ACCOUNT"; ["CONTRACT RIGHT";]  
25 "GENERAL INTANGIBLES." "Account" means a right to payment for goods  
26 sold or leased or for services rendered which is not evidenced by an  
27 instrument or chattel paper, whether or not it has been earned by  
28 performance. ["CONTRACT RIGHT" MEANS A RIGHT TO PAYMENT UNDER A CON-  
29 TRACT NOT YET EARNED BY PERFORMANCE AND NOT EVIDENCED BY AN INSTRUMENT

1 OR CHATTEL PAPER.] "General intangibles" means personal property  
2 (including a thing in action) other than goods, accounts, [CONTRACT  
3 RIGHTS,] chattel paper, documents, [AND] instruments, and money. All  
4 rights to payment earned or unearned under a charter or other contract  
5 involving the use or hire of a vessel and all rights incident to the  
6 charter or contract are accounts.

7 \* Sec. 25. AS 45.05 is amended by adding a new section to read:

8 Sec. 45.05.715. CONSIGNMENT. (a) A person who delivers goods  
9 under a consignment which is not a security interest and who would be  
10 required to file under secs. 690 - 794 of this chapter by sec. 120(c)(3)  
11 of this chapter has priority over a secured party who is or becomes a  
12 creditor of the consignee and who would have a perfected security inter-  
13 est in the goods if they were the property of the consignee, and also  
14 has priority with respect to identifiable cash proceeds received on or  
15 before delivery of the goods to a buyer, if

16 (1) the consignor complies with the filing provision of sec.  
17 120(c)(3) of this chapter before the consignee receives possession of  
18 the goods;

19 (2) the consignor gives notification in writing to the holder  
20 of the security interest if the holder has filed a financing statement  
21 covering the same types of goods before the date of the filing made by  
22 the consignor;

23 (3) the holder of the security interest receives the noti-  
24 fication within five years before the consignee receives possession of  
25 the goods; and

26 (4) the notification states that the consignor expects to  
27 deliver goods on consignment to the consignee, describing the goods by  
28 item or type.

29 (b) In the case of a consignment which is not a security interest

1 and in which the requirements of (a) of this section have not been met,  
2 a person who delivers goods to another is subordinate to a person who  
3 would have a perfected security interest in the goods if they were the  
4 property of the debtor.

5 \* Sec. 26. AS 45.05.720 is repealed and re-enacted to read:

6 Sec. 45.05.720. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTER-  
7 EST; PROCEEDS; FORMAL REQUISITES. (a) Subject to the provisions of  
8 sec. 434 of this chapter on the security interest of a collecting bank  
9 and sec. 714 of this chapter on a security interest arising under secs.  
10 36 - 242 of this chapter, a security interest is not enforceable against  
11 the debtor or third parties with respect to the collateral and does not  
12 attach unless

13 (1) the collateral is in the possession of the secured party  
14 pursuant to agreement or the debtor has signed a security agreement  
15 which contains a description of the collateral, and, in addition, if the  
16 security interest covers crops growing or to be grown or timber to be  
17 cut, a description of the land concerned;

18 (2) value has been given; and

19 (3) the debtor has rights in the collateral.

20 (b) A security interest attaches when it becomes enforceable  
21 against the debtor with respect to the collateral. Attachment occurs as  
22 soon as all of the events specified in (a) of this section have taken  
23 place unless explicit agreement postpones the time of attaching.

24 (c) Unless otherwise agreed, a security agreement gives the se-  
25 cured party the rights to proceeds provided by sec. 742 of this chapter.

26 (d) A transaction, although subject to secs. 690 - 794 of this  
27 chapter, may also be subject to other statutes dealing with loans and  
28 retail installment sales, and in the case of conflict between secs.  
29 690 - 794 of this chapter and any such statutes, the provisions of such

1 statutes control. Failure to comply with an applicable statute has only  
2 the effect which is specified in it.

3 \* Sec. 27. AS 45.05.722 is repealed and re-enacted to read:

4 Sec. 45.05.722. AFTER-ACQUIRED PROPERTY; FUTURE ADVANCES. (a)  
5 Except as provided in (b) of this section, a security agreement may  
6 provide that any or all obligations covered by the security agreement  
7 are to be secured by after-acquired collateral.

8 (b) No security interest attaches under an after-acquired property  
9 clause to consumer goods other than accessions (sec. 758 of this chap-  
10 ter) when given as additional security unless the debtor acquires rights  
11 in them within 10 days after the secured party gives value.

12 (c) Obligations covered by a security agreement may include future  
13 advances or other value whether or not the advances or value are given  
14 pursuant to commitment (sec. 698(a) of this chapter).

15 \* Sec. 28. AS 45.05.724(a)(1) is amended to read:

16 (1) liberty in the debtor to (A) use, commingle, or dispose  
17 of all or part of the collateral (including returned or repossessed  
18 goods), (B) collect or compromise accounts [, CONTRACT RIGHTS,] or  
19 chattel paper, (C) accept the return of goods or make repossessions, or  
20 (D) use, commingle, or dispose of proceeds; or

21 \* Sec. 29. AS 45.05.726(a) is amended to read:

22 (a) Subject to a statute or decision which establishes a different  
23 rule for buyers or lessees of consumer goods, an agreement by a buyer  
24 or lessee that he will not assert against an assignee a claim or defense  
25 which he may have against the seller or lessor is enforceable by an  
26 assignee who takes his assignment for value, in good faith, and without  
27 notice of a claim or defense, except as to defenses of a type which may  
28 be asserted against a holder in due course of a negotiable instrument  
29 under secs. 246 - 402 of this chapter. A buyer who as part of one

1 transaction signs both a negotiable instrument and a security agreement  
2 makes such an agreement.

3 \* Sec. 30. AS 45.05.732 is amended to read:

4 Sec. 45.05.732. PERSONS WHO TAKE PRIORITY OVER UNPERFECTED SECUR-  
5 ITY INTERESTS; "LIEN CREDITOR." (a) Except as otherwise provided in  
6 (b) of this section, an unperfected security interest is subordinate to  
7 the rights of

8 (1) persons entitled to priority under sec. 754 of this  
9 chapter;

10 (2) a person who becomes a lien creditor [WITHOUT KNOWLEDGE  
11 OF THE SECURITY INTEREST AND] before it is perfected;

12 (3) in the case of goods, instruments, documents, and chattel  
13 paper, a person who is not a secured party and who is a transferee in  
14 bulk or other buyer not in ordinary course of business or is a buyer of  
15 farm products in ordinary course of business to the extent that he gives  
16 value and receives delivery of the collateral without knowledge of the  
17 security interest and before it is perfected;

18 (4) in the case of accounts [, CONTRACT RIGHTS,] and general  
19 intangibles, a person who is not a secured party and who is a transferee  
20 to the extent that he gives value without knowledge of the security  
21 interest and before it is perfected.

22 (b) If the secured party files with respect to a purchase money  
23 security interest before or within 10 days after the debtor receives  
24 possession of the collateral [COMES INTO POSSESSION OF THE DEBTOR], he  
25 takes priority over the rights of a transferee in bulk or of a lien  
26 creditor which arise between the time the security interest attaches and  
27 the time of filing.

28 (c) A "lien creditor" means a creditor who has acquired a lien on  
29 the property involved by attachment, levy, or the like and includes an

1 assignee for benefit of creditors from the time of assignment, and a  
2 trustee in bankruptcy from the date of the filing of the petition or a  
3 receiver in equity from the time of appointment. [UNLESS ALL THE CREDI-  
4 TORS REPRESENTED HAD KNOWLEDGE OF THE SECURITY INTEREST, SUCH A REPRESENTATIVE OF CREDITORS IS A LIEN CREDITOR WITHOUT KNOWLEDGE EVEN THOUGH  
5 HE PERSONALLY HAS KNOWLEDGE OF THE SECURITY INTEREST.]  
6

7 (d) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the  
8 extent that it secures advances made before he becomes a lien creditor  
9 or within 45 days thereafter or made without knowledge of the lien or  
10 under a commitment entered into without knowledge of the lien.  
11

12 \* Sec. 31. AS 45.05.734 is repealed and re-enacted to read:

13 Sec. 45.05.734. WHEN FILING IS REQUIRED TO PERFECT SECURITY INTEREST;  
14 SECURITY INTERESTS TO WHICH FILING PROVISIONS DO NOT APPLY. (a) A  
15 financing statement must be filed to perfect all security interests  
16 except the following:

17 (1) a security interest in collateral in possession of the  
18 secured party under sec. 740 of this chapter;

19 (2) a security interest temporarily perfected in instruments  
20 or documents without delivery under sec. 738 of this chapter or in  
21 proceeds for a 10-day period under sec. 742 of this chapter;

22 (3) a security interest created by an assignment of a beneficial  
23 interest in a trust or a decedent's estate;

24 (4) a purchase money security interest in consumer goods; but  
25 filing is required for a motor vehicle required to be registered; and  
26 fixture filing is required for priority over conflicting interests in  
27 fixtures to the extent provided in sec. 756 of this chapter;

28 (5) an assignment of accounts which does not alone or in  
29 conjunction with other assignments to the same assignee transfer a

1 significant part of the outstanding accounts of the assignor;

2 (6) a security interest of a collecting bank (sec. 434) or  
3 arising under secs. 36 - 242 of this chapter (see sec. 714) or covered  
4 in (c) of this section;

5 (7) as assignment for the benefit of all the creditors of the  
6 transferor, and subsequent transfers by the assignee.

7 (b) If a secured party assigns a perfected security interest, no  
8 filing under secs. 690 - 794 of this chapter is required in order to  
9 continue the perfected status of the security interest against creditors  
10 of and transferees from the original debtor.

11 (c) The filing of a financing statement otherwise required by  
12 secs. 690 - 794 of this chapter is not necessary or effective to perfect  
13 a security interest in property subject to

14 (1) a statute or treaty of the United States which provides  
15 for a national or international registration or a national or inter-  
16 national certificate of title or which specifies a place of filing  
17 different from that specified in secs. 690 - 794 of this chapter for  
18 filing of the security interest;

19 (2) the following statutes of this state: AS 28.10.010 -  
20 28.10.660; but during any period in which collateral is inventory held  
21 for sale by a person who is in the business of selling goods of that  
22 kind, the filing provisions of secs. 768 - 781 of this chapter apply to  
23 a security interest in that collateral created by him as debtor; or

24 (3) a certificate of title statute of another jurisdiction  
25 under the law of which indication of a security interest on the certi-  
26 ficate is required as a condition of perfection (sec. 694(b) of this  
27 chapter).

28 (d) Compliance with a statute or treaty described in (c) of this  
29 section is equivalent to the filing of a financing statement under secs.

1 690 - 794 of this chapter, and a security interest in property subject  
2 to the statute or treaty can be perfected only by compliance with the  
3 statute or treaty except as provided in sec. 694 of this chapter on  
4 multiple state transactions. Duration and renewal of perfection of a  
5 security interest perfected by compliance with the statute or treaty are  
6 governed by the provisions of the statute or treaty; in other respects  
7 the security interest is subject to secs. 690 - 794 of this chapter.

8 \* Sec. 32. AS 45.05.738(a) is amended to read:

9 (a) A security interest in chattel paper or negotiable documents  
10 may be perfected by filing. A security interest in money or instruments  
11 (other than instruments which constitute part of chattel paper) can be  
12 perfected only by the secured party's taking possession, except as  
13 provided in (d) and (e) of this section and sec. 742(b) and (c) of this  
14 chapter on proceeds.

15 \* Sec. 33. AS 45.05.738(e)(1) is amended to read:

16 (1) makes the goods or documents representing the goods  
17 available to the debtor for ultimate sale or exchange or to load, un-  
18 load, store, ship, transship, manufacture, process, or otherwise dealing  
19 with them in a manner preliminary to their sale or exchange, but pri-  
20 ority between conflicting security interests in the goods is subject to  
21 sec. 754(c) of this chapter; or

22 \* Sec. 34. AS 45.05.740 is amended to read:

23 Sec. 45.05.740. WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY  
24 INTEREST WITHOUT FILING. A security interest in letters of credit and  
25 advices of credit (sec. 506(b)(1)), goods, instruments, money, negoti-  
26 able documents, or chattel paper may be perfected by the secured party's  
27 taking possession of the collateral. If the collateral, other than  
28 goods covered by a negotiable document, is held by a bailee, the secured  
29 party is considered to have possession from the time the bailee receives

1 notification of the secured party's interest. A security interest is  
2 perfected by possession from the time possession is taken without rela-  
3 tion back and continues only so long as possession is retained unless  
4 otherwise specified in secs. 690 - 794 of this chapter. The security  
5 interest may be otherwise perfected as provided in secs. 690 -794 of  
6 this chapter before or after the period of possession by the secured  
7 party.

8 \* Sec. 35. AS 45.05.742(a) is amended to read:

9 (a) "Proceeds" includes what is received when collateral or pro-  
10 ceeds are sold, exchanged, collected, or otherwise disposed of. Insur-  
11 ance payable by reason of loss or damage to the collateral is proceeds,  
12 except to the extent that it is payable to a person other than a party  
13 to the security agreement [THE TERM ALSO INCLUDES THE ACCOUNT ARISING  
14 WHEN THE RIGHT TO PAYMENT IS EARNED UNDER A CONTRACT RIGHT]. Money,  
15 checks, deposit accounts, and the like are cash proceeds. All other  
16 proceeds are noncash proceeds.

17 \* Sec. 36. AS 45.05.742(b) is amended to read:

18 (b) Except where secs. 690 - 794 of this chapter otherwise pro-  
19 vide, a security interest continues in collateral notwithstanding sale,  
20 exchange, or other disposition of it [BY THE DEBTOR] unless the disposi-  
21 tion [HIS ACTION] was authorized by the secured party in the security  
22 agreement or otherwise, and also continues in identifiable proceeds  
23 including collections received by the debtor.

24 \* Sec. 37. AS 45.05.742(c) is amended to read:

25 (c) The security interest in proceeds is a continuously perfected  
26 security interest if the interest in the original collateral was per-  
27 fected, but it ceases to be a perfected security interest and becomes  
28 unperfected 10 days after receipt of the proceeds by the debtor unless

29 (1) a filed financing statement covers [COVERING] the ori-

1 ginal collateral and the proceeds are collateral in which a security  
2 interest may be perfected by filing in the office or offices where the  
3 financing statement has been filed and, if the proceeds are acquired  
4 with cash proceeds, the description of collateral in the financing  
5 statement indicates the types of property constituting the proceeds;  
6 [ALSO COVERS PROCEEDS; OR]

7 (2) the security interest in the proceeds is perfected before  
8 the expiration of the 10-day period; or

9 (3) a filed financing statement covers the original collat-  
10 eral and the proceeds are identifiable cash proceeds.

11 \* Sec. 38. AS 45.05.742(d) is amended to read:

12 (d) In the event of insolvency proceedings instituted by or  
13 against a debtor, a secured party with a perfected security interest in  
14 proceeds has a perfected security interest only in the following pro-  
15 ceeds:

16 (1) in identifiable noncash proceeds and in separate deposit  
17 accounts containing only proceeds;

18 (2) in identifiable cash proceeds in the form of money which  
19 is not commingled with other money or deposited in a deposit [BANK]  
20 account before the insolvency proceedings;

21 (3) in identifiable cash proceeds in the form of checks and  
22 the like which are not deposited in a deposit [BANK] account before the  
23 insolvency proceedings; and

24 (4) in all cash and deposit [BANK] accounts of the debtor  
25 in which proceeds have been commingled with other funds, [IF OTHER CASH  
26 PROCEEDS HAVE BEEN COMMINGLED OR DEPOSITED IN A BANK ACCOUNT,] but the  
27 perfected security interest under this paragraph is

28 (A) subject to a right of setoff; and

29 (B) limited to an amount not greater than the amount of

1 cash proceeds received by the debtor within 10 days before the  
2 institution of the insolvency proceedings less the sum of (i) the  
3 payments to the secured party on account of cash proceeds received  
4 by the debtor during the 10-day period, and (ii) the cash proceeds  
5 received by the debtor during the 10-day period to which the  
6 secured party is entitled under (d)(1) - (d)(3) of this section  
7 [AND COMMINGLED OR DEPOSITED IN A BANK ACCOUNT BEFORE THE INSOL-  
8 VENCY PROCEEDINGS LESS THE AMOUNT OF CASH PROCEEDS RECEIVED BY THE  
9 DEBTOR AND PAID OVER TO THE SECURED PARTY DURING THE 10-DAY  
10 PERIOD].

11 \* Sec. 39. AS 45.05.744(b) is amended to read:

12 (b) In the case of consumer goods [AND IN THE CASE OF FARM EQUIP-  
13 MENT HAVING AN ORIGINAL PURCHASE PRICE NOT IN EXCESS OF \$2,500 (OTHER  
14 THAN FIXTURES, SEE SEC. 756)], a buyer takes free of a security interest  
15 even though perfected if he buys without knowledge of the security  
16 interest, for value, and for his own personal, family, or household  
17 purposes [OR HIS OWN FARMING OPERATIONS] unless before the purchase the  
18 secured party has filed a financing statement covering the goods.

19 \* Sec. 40. AS 45.05.744 is amended by adding a new subsection to read:

20 (c) A buyer other than a buyer in ordinary course of business ((a)  
21 of this section) takes free of a security interest to the extent that it  
22 secures future advances made after the secured party acquires knowledge  
23 of the purchase, or more than 45 days after the purchase, whichever  
24 first occurs, unless made pursuant to a commitment entered into without  
25 knowledge of the purchase and before the expiration of the 45-day  
26 period.

27 \* Sec. 41. AS 45.05.746 is repealed and re-enacted to read:

28 Sec. 45.05.746. PURCHASE OF CHATTEL PAPER AND NONNEGOTIABLE  
29 INSTRUMENTS. A purchaser of chattel paper or an instrument who gives

1 new value and takes possession of it in the ordinary course of his  
2 business has priority over a security interest in the chattel paper or  
3 instrument

4 (1) which is perfected under sec. 738 of this chapter (per-  
5 missive filing and temporary perfection) or under sec. 742 of this  
6 chapter (perfection as to proceeds) if he acts without knowledge that  
7 the specific paper or instrument is subject to a security interest; or

8 (2) which is claimed merely as proceeds of inventory subject  
9 to a security interest (sec. 742 of this chapter) even though he knows  
10 that the specific paper or instrument is subject to the security inter-  
11 est.

12 \* Sec. 42. AS 45.05.754(a) is amended to read:

13 (a) The rules of priority stated in secs. 732 - 766 of this  
14 chapter and in the following sections govern where applicable: sec. 434  
15 of this chapter with respect to the security interest of collecting  
16 banks in items being collected, accompanying documents, and proceeds;  
17 sec. 694 of this chapter on security interests related to other juris-  
18 dictions; sec. 715 of this chapter on consignments [SEC. 732 OF THIS  
19 CHAPTER ON CERTAIN PRIORITIES; SEC. 738 OF THIS CHAPTER ON GOODS COVERED  
20 BY DOCUMENTS; SEC. 742 OF THIS CHAPTER ON PROCEEDS AND REPOSSESSIONS;  
21 SEC. 744 OF THIS CHAPTER ON BUYERS OF GOODS; SEC. 746 OF THIS CHAPTER ON  
22 POSSESSORY AGAINST NONPOSSESSORY INTERESTS IN CHATTEL PAPER OR NON-  
23 NEGOTIABLE INSTRUMENTS; SEC. 748 OF THIS CHAPTER ON SECURITY INTERESTS  
24 IN NEGOTIABLE INSTRUMENTS, DOCUMENTS, OR SECURITIES; SEC. 750 OF THIS  
25 CHAPTER ON PRIORITIES BETWEEN PERFECTED SECURITY INTERESTS AND LIENS BY  
26 OPERATION OF LAW; SEC. 756 OF THIS CHAPTER ON SECURITY INTERESTS IN  
27 FIXTURES AS AGAINST INTERESTS IN REAL ESTATE; SEC. 758 OF THIS CHAPTER  
28 ON SECURITY INTERESTS IN ACCESSIONS AS AGAINST INTEREST IN GOODS; SEC.  
29 760 OF THIS CHAPTER ON CONFLICTING SECURITY INTERESTS WHERE GOODS LOSE

1 THEIR IDENTITY OR BECOME PART OF A PRODUCT; AND SEC. 762 OF THIS CHAPTER  
2 ON CONTRACTUAL SUBORDINATION].

3 \* Sec. 43. AS 45.05.754(c) is amended to read:

4 (c) A perfected purchase money security interest in inventory  
5 [COLLATERAL] has priority over a conflicting security interest in the  
6 same inventory and also has priority in identifiable cash proceeds  
7 received on or before the delivery of the inventory to a buyer [COL-  
8 LATERAL] if

9 (1) the purchase money security interest is perfected at the  
10 time the debtor receives possession of the inventory [COLLATERAL]; and

11 (2) the purchase money secured party gives notification in  
12 writing to the holder of the conflicting security interest if the holder  
13 had filed a financing statement covering the same types of inventory  
14 (A) before the date of the filing made by the purchase money secured  
15 party, or (B) before the beginning of the 21-day period if the purchase  
16 money security interest is temporarily perfected without filing or  
17 possession (sec. 738(e) of this chapter) [ANY SECURED PARTY WHOSE SECUR-  
18 ITY INTEREST IS KNOWN TO THE HOLDER OF THE PURCHASE MONEY SECURITY  
19 INTEREST OR WHO, BEFORE THE DATE OF THE FILING MADE BY THE HOLDER OF THE  
20 PURCHASE MONEY SECURITY INTEREST, HAD FILED A FINANCING STATEMENT COVER-  
21 ING THE SAME ITEMS OR TYPE OF INVENTORY, HAS RECEIVED NOTIFICATION OF  
22 THE PURCHASE MONEY SECURITY INTEREST BEFORE THE DEBTOR RECEIVES POSSES-  
23 SION OF THE COLLATERAL COVERED BY THE PURCHASE MONEY SECURITY INTEREST];  
24 and

25 (3) this notification states that the person giving the  
26 notice has or expects to acquire a purchase money security interest in  
27 inventory of the debtor, describing the inventory by item or type; and

28 (4) the holder of the conflicting security interest receives  
29 the notification within five years before the debtor receives possession

1 of the inventory.

2 \* Sec. 44. AS 45.05.754(d) is amended to read:

3 (d) A purchase money security interest in collateral other than  
4 inventory has priority over a conflicting security interest in the same  
5 collateral or its proceeds if the purchase money security interest is  
6 perfected at the time the debtor receives possession of the collateral  
7 or within 10 days after the debtor receives possession.

8 \* Sec. 45. AS 45.05.754(e) is repealed and re-enacted to read:

9 (e) In all cases not governed by other rules stated in this sec-  
10 tion (including cases of purchase money security interests which do not  
11 qualify for the special priorities set out in (c) and (d) of this sec-  
12 tion), priority between conflicting security interests in the same  
13 collateral shall be determined according to the following rules:

14 (1) conflicting security interests rank according to priority  
15 in time of filing or perfection; priority dates from the time a filing  
16 is first made covering the collateral or the time the security interest  
17 is first perfected, whichever is earlier, if there is no period after  
18 the filing or perfection when there is neither filing nor perfection;

19 (2) so long as conflicting security interests are unper-  
20 fected, the first to attach has priority.

21 \* Sec. 46. AS 45.05.754(f) is repealed and re-enacted to read:

22 (f) For the purposes of (e) of this section, a date of filing or  
23 perfection as to collateral is also a date of filing or perfection as to  
24 proceeds.

25 \* Sec. 47. AS 45.05.754 is amended by adding a new subsection to read:

26 (g) If future advances are made while a security interest is per-  
27 fected by filing or the taking of possession, the security interest has  
28 the same priority for the purposes of (e) of this section with respect  
29 to the future advances as it does with respect to the first advance. If

1 a commitment is made before or while the security interest is so per-  
2 fected, the security interest has the same priority with respect to  
3 advances made under the commitment. In other cases a perfected security  
4 interest has priority from the date the advance is made.

5 \* Sec. 48. AS 45.05.756 is repealed and re-enacted to read:

6 Sec. 45.05.756. PRIORITY OF SECURITY INTERESTS IN FIXTURES. (a)

7 In this section and in the provisions of secs. 768 - 781 of this chapter  
8 referring to fixture filing, unless the context otherwise requires,

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

12 (2) a "fixture filing" is the filing in the office where a  
13 mortgage on the real estate would be filed or recorded of a financing  
14 statement covering goods which are or are to become fixtures and con-  
15 forming to the requirements of sec. 770(f) of this chapter;

16 (3) a "mortgage" is a "construction mortgage" to the extent  
17 that it secures an obligation incurred for the construction of an im-  
18 provement on land including the acquisition cost of the land, if the  
19 recorded writing so indicates.

20 (b) A security interest under secs. 690 - 794 of this chapter may  
21 be created in goods which are fixtures or may continue in goods which  
22 become fixtures, but no security interest exists under secs. 690 - 794  
23 of this chapter in ordinary building materials incorporated into an  
24 improvement on land.

25 (c) Sections 690 - 794 of this chapter do not prevent creation of  
26 an encumbrance upon fixtures under real estate law.

27 (d) A perfected security interest in fixtures has priority over  
28 the conflicting interest of an encumbrancer or owner of the real estate  
29 if

1 (1) the security interest is a purchase money security inter-  
2 est, the interest of the encumbrancer or owner arises before the goods  
3 become fixtures, the security interest if perfected by a fixture filing  
4 before the goods become fixtures or within 10 days after the goods  
5 become fixtures, and the debtor has an interest of record in the real  
6 estate or is in possession of the real estate;

7 (2) the security interest is perfected by a fixture filing  
8 before the interest of the encumbrancer or owner is of record, the  
9 security interest has priority over any conflicting interest of a prede-  
10 cessor in title of the encumbrancer or owner, and the debtor has an  
11 interest of record in the real estate or is in possession of the real  
12 estate;

13 (3) the fixtures are readily removable factory or office  
14 machines or readily removable replacements of domestic appliances which  
15 are consumer goods, and before the goods become fixtures the security  
16 interest is perfected by any method permitted by secs. 690 - 794 of this  
17 chapter; or

18 (4) the conflicting interest is a lien on the real estate  
19 obtained by legal or equitable proceedings after the security interest  
20 was perfected by any method permitted by secs. 690 - 794 of this chap-  
21 ter.

22 (e) A security interest in fixtures, whether or not perfected, has  
23 priority over the conflicting interest of an encumbrancer or owner of  
24 the real estate if

25 (1) the encumbrancer or owner has consented in writing to the  
26 security interest or has disclaimed an interest in the goods as fix-  
27 tures; or

28 (2) the debtor has a right to remove the goods as against the  
29 encumbrancer or owner; if the debtor's right terminates, the priority of

1 the security interest continues for a reasonable time.

2 (f) Notwithstanding (d)(1) of this section but otherwise subject  
3 to (d) and (e) of this section, a security interest in fixtures is sub-  
4 ordinate to a construction mortgage recorded before the goods become  
5 fixtures if the goods become fixtures before the completion of the  
6 construction. To the extent that it is given to refinance a construc-  
7 tion mortgage, a mortgage has this priority to the same extent as the  
8 construction mortgage.

9 (g) In cases not within the preceding subsections, a security  
10 interest in fixtures is subordinate to the conflicting interest of an  
11 encumbrancer or owner of the related real estate who is not the debtor.

12 (h) If the secured party has priority over all owners and encum-  
13 brancers of the real estate, he may, on default, subject to the provi-  
14 sions of secs. 782 - 794 of this chapter, remove his collateral from the  
15 real estate but he shall reimburse any encumbrancer or owner of the real  
16 estate who is not the debtor and who has not otherwise agreed for the  
17 cost of repair of any physical injury, but not for any diminution in  
18 value of the real estate caused by the absence of the goods removed or  
19 by any necessity of replacing them. A person entitled to reimbursement  
20 may refuse permission to remove until the secured party gives adequate  
21 security for the performance of this obligation.

22 \* Sec. 49. AS 45.05.766(b) is amended to read:

23 (b) So far as the right to payment or part payment under an  
24 assigned contract [RIGHT] has not been fully earned by performance  
25 [ALREADY BECOME AN ACCOUNT], and notwithstanding notification of the  
26 assignment, a modification of or substitution for the contract made in  
27 good faith and in accordance with reasonable commercial standards is  
28 effective against an assignee unless the account debtor has otherwise  
29 agreed, but the assignee acquires corresponding rights under the modi-

1 fied or substituted contract. The assignment may provide that the  
2 modification or substitution is a breach by the assignor.

3 \* Sec. 50. AS 45.05.766(c) is amended to read:

4 (c) The account debtor is authorized to pay the assignor until the  
5 account debtor receives notification that the amount due or to become  
6 due [ACCOUNT] has been assigned and that payment is to be made to the  
7 assignee. A notification which does not reasonably identify the rights  
8 assigned is ineffective. If requested by the account debtor, the assignee  
9 must seasonably furnish reasonable proof that the assignment has  
10 been made and unless he does so the account debtor may pay the assignor.

11 \* Sec. 51. AS 45.05.766(d) is amended to read:

12 (d) A term in a contract between an account debtor and an assignor  
13 is ineffective if it prohibits assignment of an account or prohibits  
14 creation of a security interest in a general intangible for money due  
15 or to become due or requires the account debtor's consent to such  
16 assignment or security interest [WHICH PROHIBITS ASSIGNMENT OF AN  
17 ACCOUNT OR CONTRACT RIGHT TO WHICH THEY ARE PARTIES IS INEFFECTIVE].

18 \* Sec. 52. AS 45.05.768(a) is amended to read:

19 (a) The proper place to file, in order to perfect a security  
20 interest, is as follows:

21 (1) if the collateral is consumer goods, or is equipment used  
22 in farming operations, or farm products, or accounts, [CONTRACT RIGHTS,]  
23 or general intangibles arising from or relating to the sale of farm  
24 products by a farmer, then in the office of the recorder in the record-  
25 ing district of the debtor's residence or, if the debtor is not a resi-  
26 dent of the state, then in the office of the recorder in the recording  
27 district where the goods are kept, and in addition when the collateral  
28 is crops growing or to be grown, in the office of the recorder in the  
29 recording district where the land [ON WHICH THE CROPS ARE GROWING OR TO

1 BE GROWN] is located;

2 (2) if the collateral is timber to be cut or is minerals or  
3 the like (including oil and gas) or accounts subject to sec. 694(e) of  
4 this chapter, or when the financing statement is filed as a fixture  
5 filing (sec. 756 of this chapter) and the collateral is goods which [AT  
6 THE TIME THE SECURITY INTEREST ATTACHES] are or are to become fixtures,  
7 then in the office where a mortgage on the real estate concerned would  
8 be filed or recorded;

9 (3) in all other cases, in the office of the Department of  
10 Administration.

11 \* Sec. 53. AS 45.05.768(d) is repealed and re-enacted to read:

12 (d) The rules stated in sec. 694 of this chapter determine whether  
13 filing is necessary in this state.

14 \* Sec. 54. AS 45.05.768 is amended by adding new subsections to read:

15 (e) Notwithstanding (a) - (d) of this section, and subject to sec.  
16 734(c) of this chapter, the proper place to file in order to perfect a  
17 security interest in collateral, including fixtures, of a transmitting  
18 utility is the office of the Department of Administration. This filing  
19 constitutes a fixture filing (sec. 756 of this chapter) as to the col-  
20 lateral described in the filing which is or is to become fixtures.

21 (f) For the purposes of this section, the residence of an organi-  
22 zation is its place of business if it has one or its chief executive  
23 office if it has more than one place of business.

24 \* Sec. 55. AS 45.05.770 is amended to read:

25 Sec. 45.05.770. FORMAL REQUISITES OF FINANCING STATEMENT; AMEND-  
26 MENTS. (a) A financing statement is sufficient if it gives the names  
27 of the debtor and the secured party, is signed by the debtor [AND THE  
28 SECURED PARTY], gives an address of the secured party from which infor-  
29 mation concerning the security interest may be obtained, gives a mailing

1 address of the debtor, and contains a statement indicating the types or  
2 describing the items of collateral. A financing statement may be filed  
3 before a security agreement is made or a security interest otherwise  
4 attaches. If the financing statement covers crops growing or to be  
5 grown [OR GOODS WHICH ARE OR ARE TO BECOME FIXTURES], the statement must  
6 also contain a description of the real estate concerned. If the finan-  
7 cing statement covers timber to be cut or covers minerals or the like  
8 (including oil and gas) or accounts subject to sec. 694(e) of this  
9 chapter, or if the financing statement is filed as a fixture filing  
10 (sec. 756 of this chapter) and the collateral is goods which are or are  
11 to become fixtures, the statement must also comply with (f) of this  
12 section. A copy of the security agreement is sufficient as a financing  
13 statement if it contains the information required in this subsection and  
14 is signed by the debtor [BOTH PARTIES]. A carbon, photographic or other  
15 reproduction of a security agreement or a financing statement is suffi-  
16 cient as a financing statement if the security agreement so provides or  
17 if the original has been filed in this state.

18 (b) A financing statement which otherwise complies with (a) of  
19 this section is sufficient, although it is signed [ONLY] by the secured  
20 party instead of the debtor, if it is filed to perfect a security inter-  
21 est in

22 (1) collateral already subject to a security interest in  
23 another jurisdiction when it is brought into this state, or when the  
24 debtor's location is changed to this state; the financing statement must  
25 state that the collateral was brought into this state or that the  
26 debtor's location was changed to this state under these circumstances;

27 (2) proceeds under sec. 742 of this chapter if the security  
28 interest in the original collateral was perfected; the financing state-  
29 ment must describe the original collateral;

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(3) collateral as to which the filing has lapsed; or  
(4) collateral acquired after a change of name, identity  
or corporate structure of the debtor ((h) of this section).

(c) A form substantially as follows is sufficient to comply with  
(a) of this section:

Name of debtor (or assignor) .....  
Address .....  
Name of secured party (or assignee) .....  
Address .....

(1) This financing statement covers the following types (or  
items) of property:

(Describe) .....

(2) (If collateral is crops) The crops described in (1) are  
growing or are to be grown on:

(Describe real estate) .....

(3) If the collateral is goods which are to become fixtures,  
timber to be cut, or minerals or the like (including oil and gas) or  
accounts to be financed at the wellhead or minehead of the well or mine  
[(IF COLLATERAL IS GOODS WHICH ARE OR ARE TO BECOME FIXTURES) THE GOODS  
DESCRIBED IN (1) ARE AFFIXED OR TO BE AFFIXED TO];

(Describe real estate) .....  
and this financing statement is to be filed for record in the real  
estate records. (If the debtor does not have an interest of record)  
The name of a record owner is .....

(4) (If [PROCEEDS OR] products of collateral are claimed)  
[PROCEEDS --] Products of the collateral are also covered.

Signature of debtor (or assignor)\* .....  
Signature of secured party (or assignee)\* .....

\* (use whichever is applicable)

1           (d) A financing statement may be amended by filing a writing  
2 signed by both the debtor and the secured party. An amendment does not  
3 extend the period of effectiveness of a financing statement. The term  
4 "financing statement" as used in secs. 690 - 794 of this chapter means  
5 the original financing statement and amendments, but if an amendment  
6 adds collateral, it is effective as to the added collateral only from  
7 the filing date of the amendment.

8           (e) A financing statement substantially complying with the re-  
9 quirements of this section is effective even though it contains minor  
10 errors which are not seriously misleading.

11           (f) A financing statement covering timber to be cut or covering  
12 minerals or the like (including oil and gas) or accounts subject to  
13 sec. 694(e) of this chapter, or a financing statement filed as a fix-  
14 ture filing (sec. 756 of this chapter) if the debtor is not a trans-  
15 mitting utility, must show that it covers this type of collateral,  
16 must recite that it is to be filed for record in the real estate  
17 records, and the financing statement must contain a description of the  
18 real estate sufficient if it were contained in a mortgage of the real  
19 estate to give constructive notice of the mortgage under the law of  
20 this state. If the debtor does not have an interest of record in the  
21 real estate, the financing statement must show the name of a record  
22 owner.

23           (g) A mortgage is effective as a financing statement filed as  
24 fixture filing from the date of its recording if (1) the goods are  
25 described in the mortgage by item or type; (2) the goods are or are  
26 to become fixtures related to the real estate described in the mortgage;  
27 (3) the mortgage complies with the requirements for a financing state-  
28 ment in this section other than a recital that it is to be filed in the  
29 real estate records; and (4) the mortgage is recorded. No fee with

1 reference to the financing statement is required other than the regular  
2 recording and satisfaction fees with respect to the mortgage.

3 (h) A financing statement sufficiently shows the name of the  
4 debtor if it gives the individual, partnership or corporate name of the  
5 debtor, whether or not it adds other trade names or names of partners.  
6 If the debtor changes his name or in the case of an organization its  
7 name, identity or corporate structure so that a filed financing state-  
8 ment becomes seriously misleading, the filing is not effective to per-  
9 fect a security interest in collateral acquired by the debtor more than  
10 four months after the change, unless a new appropriate financing state-  
11 ment is filed before the expiration of that time. A filed financing  
12 statement remains effective with respect to collateral transferred by  
13 the debtor even though the secured party knows of or consents to the  
14 transfer.

15 \* Sec. 56. AS 45.05.772(b) is amended to read:

16 (b) Except as provided in (f) of this section, a [A] filed finan-  
17 cing statement [WHICH STATES A MATURITY DATE OF THE OBLIGATION SECURED  
18 OF FIVE YEARS OR LESS] is effective [UNTIL THE MATURITY DATE AND AFTER-  
19 WARD FOR 60 DAYS. ANY OTHER FILED FINANCING STATEMENT IS EFFECTIVE] for  
20 a period of five years from the date of filing. The effectiveness of a  
21 filed financing statement lapses on the expiration of the [60-DAY PERIOD  
22 AFTER A STATED MATURITY DATE OR ON THE EXPIRATION OF THE] five-year  
23 period [, AS THE CASE MAY BE,] unless a continuation statement is filed  
24 before the lapse. If a security interest perfected by filing exists  
25 at the time insolvency proceedings are commenced by or against the  
26 debtor, the security interest remains perfected until termination of  
27 the insolvency proceedings and after the termination for a period of 60  
28 days or until expiration of the five-year period, whichever occurs  
29 later. Upon the lapse the security interest becomes unperfected, un-

1 less it is perfected without filing. If the security interest becomes  
2 unperfected upon lapse, it is considered to have been unperfected as  
3 against a person who became a purchaser or lien creditor before the  
4 lapse.

5 \* Sec. 57. AS 45.05.772(c) is amended to read:

6 (c) A continuation statement may be filed by the secured party  
7 [(1) WITHIN SIX MONTHS BEFORE AND 60 DAYS AFTER A STATED MATURITY DATE  
8 OF FIVE YEARS OR LESS, AND (2) OTHERWISE] within six months before the  
9 expiration of the five-year period specified in (b) of this section.  
10 The continuation statement must be signed by the secured party, identify  
11 the original statement by file number, and state that the original  
12 statement is still effective. A continuation statement signed by a  
13 person other than the secured party of record must be accompanied by a  
14 separate written statement of assignment signed by the secured party of  
15 record and complying with sec. 776(b) of this chapter, including pay-  
16 ment of the required fee. Upon timely filing of the continuation state-  
17 ment, the effectiveness of the original statement is continued for five  
18 years after the last date to which the filing was effective; it then  
19 lapses in the same manner as provided in (b) of this section unless  
20 another continuation statement is filed before the lapse. Succeeding  
21 continuation statements may be filed in the same manner to continue the  
22 effectiveness of the original statement. Unless a statute on disposi-  
23 tion of public records provides otherwise, the filing officer may remove  
24 a lapsed statement from the files and destroy it immediately if he has  
25 retained a microfilm or other photographic record, or in other cases  
26 after one year after the lapse. The filing officer shall so arrange  
27 matters by physical annexation of financing statements to continuation  
28 statements or other related filings, or by other means, that if he  
29 physically destroys the financing statements of a period more than five

1 years past, those which have been continued by a continuation statement  
2 or which are still effective under (f) of this section shall be re-  
3 tained.

4 \* Sec. 58. AS 45.05.772(d) is amended to read:

5 (d) Except as provided in (g) of this section, a [A] filing offi-  
6 cer shall mark each statement with a [CONSECUTIVE] file number and with  
7 the date and hour of filing and shall hold the statement or a microfilm  
8 or other photographic copy of the statement for public inspection. In  
9 addition, the filing officer shall index the statements according to the  
10 name of the debtor and shall note in the index the file number and the  
11 address of the debtor given in the statement.

12 \* Sec. 59. AS 45.05.772(e) is amended to read:

13 (e) The uniform fee for filing and indexing and for stamping a  
14 copy furnished by the secured party to show the date and place of filing  
15 [, INDEXING, AND FURNISHING FILING DATA] for an original financing  
16 statement or for a continuation statement is as prescribed by the admin-  
17 istrative director of courts. In addition, the administrative director  
18 of courts may establish extra uniform fees for

19 (1) statements not in the standard form prescribed by the  
20 director;

21 (2) statements subject to the provisions of sec. 770(f) of  
22 this chapter;

23 (3) each name more than one required to be indexed; and

24 (4) the exercise of a secured party's option to show a trade  
25 name for any person.

26 \* Sec. 60. AS 45.05.772 is amended by adding new subsections to read:

27 (f) If the debtor is a transmitting utility (sec. 768(e) of this  
28 chapter) and a filed financing statement so states, the financing state-  
29 ment is effective until a termination statement is filed. A real estate

1 mortgage which is effective as a fixture filing under sec. 770(g) of  
2 this chapter remains effective as a fixture filing until the mortgage is  
3 released or satisfied of record or its effectiveness otherwise termi-  
4 nates as to the real estate.

5 (g) If a financing statement covers timber to be cut or covers  
6 minerals or the like (including oil and gas) or accounts subject to sec.  
7 694(e) of this chapter, or is filed as a fixture filing, it shall be  
8 filed for record and the filing officer shall index it under the names  
9 of the debtor and any owner of record shown on the financing statement  
10 in the same fashion as if they were the mortgagors in a mortgage of the  
11 real estate described, and, to the extent that the law of this state  
12 provides for indexing of mortgages under the name of the mortgagee,  
13 under the name of the secured party as if he were the mortgagee under  
14 the mortgage, or, if indexing is by description, in the same fashion as  
15 if the financing statement were a mortgage of the real estate described.

16 \* Sec. 61. AS 45.05.774 is amended to read:

17 Sec. 45.05.774. TERMINATION STATEMENT. (a) If a financing state-  
18 ment covering consumer goods is filed on or after January 1, 1980, then  
19 within one month or within 10 days following written demand by the  
20 debtor after there is no outstanding secured obligation and no commit-  
21 ment to make advances, incur obligations or otherwise give value, the  
22 secured party must file with each filing officer with whom the finan-  
23 ing statement was filed, a termination statement to the effect that he  
24 no longer claims a security interest under the financing statement,  
25 which shall be identified by file number. In other cases if [IF] there  
26 is no outstanding secured obligation and no commitment to make advances,  
27 incur obligations, or otherwise give value, the secured party must, on  
28 written demand by the debtor, send the debtor, for each filing officer  
29 with whom the financing statement was filed, a termination [A] statement

1 that he no longer claims a security interest under the financing state-  
2 ment, which shall be identified by file number. A termination statement  
3 signed by a person other than the secured party of record must [INCLUDE  
4 OR] be accompanied by a separate written statement of assignment signed  
5 by the secured party of record and complying with sec. 776(b) of this  
6 chapter, including payment of the required fee [THE ASSIGNMENT OR A  
7 STATEMENT BY THE SECURED PARTY OF RECORD THAT HE HAS ASSIGNED THE SECUR-  
8 ITY INTEREST TO THE SIGNER OF THE TERMINATION STATEMENT. THE UNIFORM  
9 FEE FOR FILING AND INDEXING SUCH AN ASSIGNMENT OR STATEMENT IS AS PRE-  
10 SCRIBED BY THE ADMINISTRATIVE DIRECTOR OF COURTS]. If the affected  
11 secured party fails to file [SEND] the termination statement within 10  
12 days after proper demand for it, he is liable to the debtor for \$100,  
13 and in addition, for any loss caused to the debtor by this failure.

14 (b) On presentation to the filing officer of the termination  
15 statement he must note it in the index. If he has received the termina-  
16 tion statement in duplicate, he shall return one copy of the termina-  
17 tion statement to the secured party stamped to show the time of receipt  
18 of the statement. If the filing officer has a microfilm or other photo-  
19 graphic record of the financing statement and of any related continua-  
20 tion statement, statement of assignment and statement of release, he  
21 may remove the originals from the files at any time after receipt of  
22 the termination statement, or if he has no such record, he may remove  
23 them from the files at any time after one year after receipt of the  
24 termination statement [THE FILING OFFICER SHALL REMOVE FROM THE FILES,  
25 MARK "TERMINATED," AND SEND OR DELIVER TO THE SECURED PARTY THE FI-  
26 NANCING STATEMENT AND ANY CONTINUATION STATEMENT, STATEMENT OF ASSIGN-  
27 MENT, OR STATEMENT OF RELEASE PERTAINING TO THE FINANCING STATEMENT].

28 (c) The uniform fee for filing and indexing a termination state-  
29 ment [INCLUDING SENDING OR DELIVERING THE FINANCING STATEMENT] is as

1 prescribed by the administrative director of courts. In addition, the  
2 administrative director of courts may establish extra uniform fees for

3 (1) termination statements not in the standard form pre-  
4 scribed by the director; and

5 (2) each name more than one against which the termination  
6 statement is required to be indexed.

7 \* Sec. 62. AS 45.05.776 is amended to read:

8 Sec. 45.05.776. ASSIGNMENT OF SECURITY INTEREST; DUTIES OF FILING  
9 OFFICER; FEES. (a) A financing statement may disclose an assignment of  
10 a security interest in the collateral described in the statement by  
11 indication in the statement of the name and address of the assignee or  
12 by an assignment itself or a copy of an assignment on the face or back  
13 of the statement. [EITHER THE ORIGINAL SECURED PARTY OR THE ASSIGNEE  
14 MAY SIGN THIS STATEMENT AS THE SECURED PARTY.] On presentation to the  
15 filing officer of this financing statement, the filing officer shall  
16 mark the same as provided in sec. 772(d) of this chapter. The uniform  
17 fee for filing, indexing, and furnishing filing data for a financing  
18 statement so indicating an assignment is as prescribed by the adminis-  
19 trative director of courts. In addition, the administrative director  
20 of courts may establish extra uniform fees for

21 (1) financing statements not in the standard form prescribed  
22 by the director; and

23 (2) each name more than one against which the financing  
24 statement is required to be indexed.

25 (b) A secured party may assign of record all or a part of his  
26 rights under a financing statement by the filing in the place where the  
27 original financing statement was filed of a separate written statement  
28 of assignment signed by the secured party of record and setting out the  
29 name of the secured party of record and the debtor, the file number, and

1 the date of filing of the financing statement and the name and address  
2 of the assignee and containing a description of the collateral assigned.  
3 A copy of the assignment is sufficient as a separate statement if it  
4 complies with the preceding sentence. On presentation to the filing  
5 officer of the separate statement, the filing officer shall mark the  
6 separate statement with the date and hour of the filing. He shall note  
7 the assignment on the index of the financing statement, or in the case  
8 of a fixture filing, or a filing covering timber to be cut, or cover-  
9 ing minerals or the like (including oil and gas) or accounts subject  
10 to sec. 694(e) of this chapter, he shall index the assignment under  
11 the name of the assignor as grantor and, to the extent that the law of  
12 this state provides for indexing the assignment of a mortgage under  
13 the name of the assignee, he shall index the assignment of the finan-  
14 cing statement under the name of the assignee. The uniform fee for  
15 filing, indexing, and furnishing filing data about the separate state-  
16 ment of assignment is as prescribed by the administrative director of  
17 courts. In addition, the administrative director of courts may estab-  
18 lish extra uniform fees for (1) separate statements not in the form  
19 prescribed by the director; and (2) each name more than one against  
20 which the statement of assignment is required to be indexed. Notwith-  
21 standing the provisions of this subsection, an assignment of record  
22 of a security interest in a fixture contained in a mortgage effective  
23 as a fixture filing (sec. 770(g) of this chapter) may be made only by  
24 an assignment of the mortgage in the manner provided by the law of the  
25 state other than this chapter.

26 (c) After the disclosure or [OF] filing of an assignment under  
27 this section, the assignee is the secured party of record.

28 \* Sec. 63. AS 45.05.778 is amended to read:

29 Sec. 45.05.778. RELEASE OF COLLATERAL; DUTIES OF FILING OFFICER;

1 FEES. A secured party of record may, by his signed statement, release  
2 all or a part of collateral described in a filed financing statement.  
3 The statement of release is sufficient if it contains a description of  
4 the collateral being released, the name and address of the debtor, the  
5 name and address of the secured party, and the file number of the fi-  
6 nancing statement. A statement of release signed by a person other  
7 than the secured party of record must be accompanied by a separate  
8 written statement of assignment signed by the secured party of record  
9 and complying with sec. 776(b) of this chapter, including payment of the  
10 required fee. Upon presentation of the statement to the filing officer,  
11 he shall mark the statement with the hour and date of filing and shall  
12 note this information upon the margin of the index of the filing of the  
13 financing statement. The uniform fee for filing and noting the state-  
14 ment of release is as prescribed by the administrative director of  
15 courts. In addition, the administrative director of courts may estab-  
16 lish extra uniform fees for

17 (1) statements of release not in the standard form prescribed  
18 by the director; and

19 (2) each name more than one against which the statement of  
20 release is required to be indexed.

21 \* Sec. 64. AS 45.05.780(b) is amended to read:

22 (b) Upon request of a person, the filing officer shall issue his  
23 certificate showing whether there is on file, on the date and hour  
24 stated in it, a presently effective financing statement naming a parti-  
25 cular debtor and a statement of assignment of it, and if there is,  
26 giving the date and hour of filing of each such statement and the names  
27 and addresses of each secured party in it. The uniform fee for the  
28 certificate is as prescribed by the administrative director of courts  
29 for each financing statement and for each statement of assignment re-

1     ported therein, the administrative director of courts may establish  
2     an extra uniform fee for requests for certificates which are not in the  
3     standard form prescribed by the director. Upon request, the filing  
4     officer shall furnish a copy of a filed financing statement or statement  
5     of assignment for a uniform fee as prescribed by the administrative  
6     director of courts.

7     \* Sec. 65. AS 45.05 is amended by adding a new section to read:

8             Sec. 45.05.781. FINANCING STATEMENTS COVERING CONSIGNED OR LEASED  
9     GOODS. A consignor or lessor of goods may file a financing statement  
10    using the terms "consignor", "consignee", "lessor", "lessee", or the  
11    like instead of the terms specified in sec. 770 of this chapter. The  
12    provisions of secs. 768 - 781 of this chapter apply as appropriate to  
13    the financing statement, but its filing may not of itself be a factor in  
14    determining whether or not the consignment or lease is intended as  
15    security (sec. 20(37) of this chapter). However, if it is determined  
16    for other reasons that the consignment or lease is so intended, a secur-  
17    ity interest of the consignor or lessor which attaches to the consigned  
18    or leased goods is perfected by the filing.

19    \* Sec. 66. AS 45.05.782(c) is amended to read:

20             (c) To the extent that they give rights to the debtor and impose  
21    duties on the secured party, the rules stated in the subsections re-  
22    ferred to below may not be waived or varied except as provided with  
23    respect to compulsory disposition of collateral (secs. 788(c) and 790  
24    [(790(a))]) and with respect to redemption of collateral (sec. 792), but  
25    the parties may by agreement determine the standards by which the ful-  
26    fillment of these rights and duties is to be measured if such standards  
27    are not manifestly unreasonable:

28             (1) sec. 784(b) of this chapter and sec. 788(b) of this  
29    chapter insofar as they require accounting for surplus proceeds of

1 collateral;

2 (2) sec. 788(c) of this chapter and sec. 790(a) of this  
3 chapter which deal with disposition of collateral;

4 (3) sec. 790(b) of this chapter which deals with acceptance  
5 of collateral as discharge of obligation;

6 (4) sec. 792 of this chapter which deals with redemption of  
7 collateral; and

8 (5) sec. 794(a) of this chapter which deals with the secured  
9 party's liability for failure to comply with secs. 782 - 794 of this  
10 chapter.

11 \* Sec. 67. AS 45.05.784(b) is amended to read:

12 (b) A secured party who by agreement is entitled to charge back  
13 uncollected collateral or otherwise to full or limited recourse against  
14 the debtor and who undertakes to collect from the account debtors or  
15 obligors must proceed in a commercially reasonable manner and may deduct  
16 his reasonable expenses of realization from the collections. If the  
17 security agreement secures an indebtedness, the secured party must  
18 account to the debtor for a surplus, and unless otherwise agreed, the  
19 debtor is liable for a deficiency. But, if the underlying transaction  
20 was a sale of accounts [, CONTRACT RIGHTS,] or chattel paper, the debtor  
21 is entitled to a surplus or is liable for a deficiency only if the  
22 security agreement so provides.

23 \* Sec. 68. AS 45.05.788(a)(1) is amended to read:

24 (1) the reasonable expenses of retaking, holding, preparing  
25 for sale or lease, selling, leasing and the like and, to the extent  
26 provided for in the agreement and not prohibited by law, the reasonable  
27 attorney fees and legal expenses incurred by the secured party;

28 \* Sec. 69. AS 45.05.788(c) is amended to read:

29 (c) Disposition of the collateral may be by public or private

1 proceedings and may be made by way of one or more contracts. Sale or  
2 other disposition may be as a unit or in parcels and at any time and  
3 place and on any terms, but every aspect of the disposition including  
4 the method, manner, time, place, and terms must be commercially reason-  
5 able. Unless collateral is perishable or threatens to decline speedily  
6 in value or is of a type customarily sold on a recognized market, rea-  
7 sonable notification of the time and place of a public sale or reason-  
8 able notification of the time after which a private sale or other in-  
9 tended disposition is to be made shall be sent by the secured party to  
10 the debtor, if he has not signed after default a statement renouncing  
11 or modifying his right to notification of sale. In the case of consumer  
12 goods no other notification need be sent. In other cases notification  
13 shall be sent to any other secured party from whom the secured party  
14 has received (before sending his notification to the debtor or before  
15 the debtor's renunciation of his rights) written notice of a claim of  
16 an interest in the collateral [AND, EXCEPT IN THE CASE OF CONSUMER  
17 GOODS, TO ANY OTHER PERSON WHO HAS A SECURITY INTEREST IN THE COLLATERAL  
18 AND WHO HAS DULY FILED A FINANCING STATEMENT INDEXED IN THE NAME OF THE  
19 DEBTOR IN THE STATE OR WHO IS KNOWN BY THE SECURED PARTY TO HAVE A  
20 SECURITY INTEREST IN THE COLLATERAL]. The secured party may buy at a  
21 public sale, and, if the collateral is of a type customarily sold in a  
22 recognized market or is of a type which is the subject of widely dis-  
23 tributed standard price quotations, he may buy at private sale.

24 \* Sec. 70. AS 45.05.790(b) is amended to read:

25 (b) In any other case involving consumer goods or any other col-  
26 lateral, a secured party in possession may, after default, propose to  
27 retain the collateral in satisfaction of the obligation. Written notice  
28 of the proposal shall be sent to the debtor if he has not signed after  
29 default a statement renouncing or modifying his rights under this sub-

1 section. In the case of consumer goods no other notice need be given.  
2 In other cases notice shall be sent to any other secured party from  
3 whom the secured party has received (before sending his notice to the  
4 debtor or before the debtor's renunciation of his rights) written  
5 notice of a claim of an interest in the collateral. If the secured  
6 party receives objection in writing from a person entitled to receive  
7 notification within 21 days after the notice was sent [AND, EXCEPT IN  
8 THE CASE OF CONSUMER GOODS, TO ANY OTHER SECURED PARTY WHO HAS A SECUR-  
9 ITY INTEREST IN THE COLLATERAL AND WHO HAS DULY FILED A FINANCING STATE-  
10 MENT INDEXED IN THE NAME OF THE DEBTOR IN THIS STATE OR IS KNOWN BY THE  
11 SECURED PARTY IN POSSESSION TO HAVE A SECURITY INTEREST IN IT. IF THE  
12 DEBTOR OR OTHER PERSON ENTITLED TO RECEIVE NOTIFICATION OBJECTS IN  
13 WRITING WITHIN 30 DAYS FROM THE RECEIPT OF THE NOTIFICATION OR IF ANY  
14 OTHER SECURED PARTY OBJECTS IN WRITING WITHIN 30 DAYS AFTER THE SECURED  
15 PARTY OBTAINS POSSESSION], the secured party must dispose of the collat-  
16 eral under sec. 788 of this chapter. In the absence of this written  
17 objection, the secured party may retain the collateral in satisfaction  
18 of the debtor's obligation.

19 \* Sec. 71. TRANSITION PROVISIONS. (a) Transactions validly entered into  
20 after December 31, 1962 and before January 1, 1980, and which were subject to  
21 the provisions of AS 45.05.690 - 45.05.794 and which would be subject to  
22 AS 45.05.690 - 45.05.794 on or after January 1, 1980 if they had been entered  
23 into on or after January 1, 1980, and the rights, duties and interests flow-  
24 ing from the transactions remain valid on and after January 1, 1980, and may  
25 be terminated, completed, consummated or enforced as required or permitted by  
26 the provisions of AS 45.05.690 - 45.05.794. Security interests arising out  
27 of the transactions which are perfected as of January 1, 1980 shall remain  
28 perfected until they lapse as provided in AS 45.05.690 - 45.05.794, and may  
29 be continued as permitted by AS 45.05.690 - 45.05.794, except as stated in

1 (c) - (f) of this section.

2 (b) A security interest for the perfection of which filing or the  
3 taking of possession was required under AS 45.05.690 - 45.05.794 before  
4 January 1, 1980, and which attached before January 1, 1980, but was not  
5 perfected shall be considered perfected on January 1, 1980 if AS 45.05.-  
6 690 - 45.05.794 permits perfection without filing or authorizes filing in the  
7 office or offices where a prior ineffective filing was made.

8 (c) A financing statement or continuation statement filed before Janu-  
9 ary 1, 1980 which shall not have lapsed before January 1, 1980 shall remain  
10 effective for the period provided in AS 45.05.690 - 45.05.794, as it read  
11 before January 1, 1980, but not less than five years after the filing.

12 (d) With respect to any collateral acquired by the debtor after Janu-  
13 ary 1, 1980, any effective financing statement or continuation statement  
14 described in (c) - (f) of this section shall apply only if the filing or  
15 filings are in the office or offices appropriate to perfect the security  
16 interests in the new collateral under AS 45.05.690 - 45.05.794.

17 (e) The effectiveness of any financing statement or continuation state-  
18 ment filed before January 1, 1980 may be continued by a continuation state-  
19 ment as permitted by AS 45.05.690 - 45.05.794, except that if AS 45.05.690 -  
20 45.05.794 requires a filing in an office where there was no previous finan-  
21 cing statement, a new financing statement conforming to (g) - (j) of this  
22 section shall be filed in that office.

23 (f) If the record of a mortgage of real estate would have been effec-  
24 tive as a fixture filing of goods described in the mortgage if AS 45.05.-  
25 690 - 45.05.794, as those sections read after January 1, 1980, had been in  
26 effect on the date of recording the mortgage, the mortgage shall be con-  
27 sidered effective as a fixture filing as to the goods under AS 45.05.770(g)  
28 on January 1, 1980.

29 (g) If a security interest is perfected or has priority as of

1 January 1, 1980 as to all persons or as to certain persons without any filing  
2 or recording, and if the filing of a financing statement would be required  
3 for the perfection or priority of the security interest against those persons  
4 under AS 45.05.690 - 45.05.794, the perfection and priority rights of the  
5 security interest continue until January 1, 1983. The perfection will then  
6 lapse unless a financing statement is filed as provided in (j) of this sec-  
7 tion or unless the security interest is perfected otherwise than by filing.

8 (h) If a security interest is perfected as of January 1, 1980 under a  
9 law, other than AS 45.05.690 - 45.05.794, which requires no further filing,  
10 refiling or recording to continue its perfection, perfection continues until  
11 and will lapse January 1, 1983 unless a financing statement is filed as  
12 provided in (j) of this section or unless the security interest is perfected  
13 otherwise than by filing, or unless under AS 45.05.734(c) the other law  
14 continues to govern filing.

15 (i) If a security interest is perfected by a filing, refiling or re-  
16 cording under a law repealed by this Act which required further filing,  
17 refiling or recording to continue its perfection, perfection continues and  
18 will lapse on the date provided by the law repealed for the further filing,  
19 refiling or recording unless a financing statement is filed as provided in  
20 (j) of this section or unless the security interest is perfected otherwise  
21 than by filing.

22 (j) A financing statement may be filed within six months before the  
23 perfection of a security interest would otherwise lapse. The financing  
24 statement may be signed by either the debtor or the secured party. It must  
25 identify the security agreement, statement or notice (however denominated in  
26 any statute or other law repealed or modified by secs. 1 - 6 and 15 - 70 of  
27 this Act), state the office where and the date when the last filing, refiling  
28 or recording, if any, was made with respect to the statement, and the filing  
29 number, if any, or book and page, if any, of recording and further state that

1 the security agreement, statement or notice, however denominated, in another  
2 filing office under AS 45.05.690 - 45.05.794 or under any statute or other  
3 law repealed or modified by secs. 1 - 6 and 15 - 70 of this Act is still  
4 effective. AS 45.05.768 and 45.05.694 determine the proper place to file the  
5 financing statement. Except as specified in this subsection, the provisions  
6 of AS 45.05.772(c) for continuation statements apply to the financing state-  
7 ment.

8 \* Sec. 72. AS 45.05.614(b) is repealed.

9 \* Sec. 73. This Act takes effect January 1, 1980.

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