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1 IN THE SENATE

BY THE RULES COMMITTEE

2

HOUSE CS FOR SENATE BILL NO. 77 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to commercial transactions; and providing for an effective date."

7

8

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

9

* Section 1. AS 45.01.105(b) is amended to read:

10

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

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Rights of creditors against sold goods (AS 45.02.402)

15

Applicability of the article on bank deposits and collections

16

(AS 45.04.102)

17

Bulk transfers subject to the article on bulk transfers

18

(AS 45.06.102)

19

Applicability of the article on investment securities (AS 45.-

20

08.106)

21

Perfection provisions of the article on secured transactions

22

(AS 45.09.103) [POLICY AND SCOPE OF THE ARTICLE ON SECURED TRANSACTIONS

23

(AS 45.09.102 - 45.09.103)]

24

* Sec. 2. AS 45.01.201(9) is amended to read:

25

(9) "buyer in ordinary course of business" means a person

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who, in good faith and without knowledge that the sale to him is in

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violation of the ownership rights or security interest of a third party

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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 45.01.201(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 (AS 45.02.401) 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 AS 45.09.101 - 45.09.507; the special
16 property interest of a buyer of goods on identification of the goods to
17 a contract for sale under AS 45.02.401 is not a "security interest,"
18 but a buyer may also acquire a "security interest" by complying with
19 AS 45.09.101 - 45.09.507; unless a lease or consignment is intended as
20 security, reservation of title under the lease or consignment is not a
21 "security interest," but a consignment is in any event subject to the
22 provisions on consignment sales (AS 45.02.326); whether a lease is
23 intended as security is to be determined by the facts of each case;
24 however, (A) the inclusion of an option to purchase does not of itself
25 make the lease one intended for security, and (B) an agreement that
26 upon compliance with the terms of the lease the lessee shall become or
27 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 45.02.107(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 AS 45.02.-
5 101 - 45.02.725 if they are to be severed by the seller, but until
6 severance a purported present sale which is not effective as a transfer
7 of an interest in land is effective only as a contract to sell.

8 * Sec. 5. AS 45.02.107(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 AS 45.02.-
13 101 - 45.02.725, 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 45.05.116(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
20 of the conditions of the credit assign his right to proceeds. Such an
21 assignment is an assignment of an account [A CONTRACT RIGHT] under
22 AS 45.09.101 - 45.09.507 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 AS 45.09.101 - 45.09.507;

27 (2) the issuer may honor drafts or demands for payment drawn
28 under the credit until it receives a notification of the assignment
29 signed by the beneficiary which reasonably identifies the credit in-

1 volved in the assignment and contains a request to pay the assignee;
2 and

3 (3) after what reasonably appears to be such a notification
4 has been received, the issuer may, without dishonor, refuse to accept
5 or 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 45.08.102(d)(1) is amended to read:

8 (1) at least 90 percent 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
11 of federal or state banking laws or state insurance laws, (B) is a
12 broker or dealer or investment company registered under the Securities
13 Exchange Act of 1934 or the Investment Company Act of 1940, or (C) is a
14 national securities exchange or association, registered under a statute
15 of the United States such as the Securities Exchange Act of 1934, and
16 none of whom, other than a national securities exchange or association,
17 holds in excess of 20 percent of the capital stock of the corporation;
18 and

19 * Sec. 8. AS 45.08 is amended by adding a new section to article 1 to
20 read:

21 Sec. 45.08.107. SECURITIES DELIVERABLE; ACTION FOR PRICE. (a)
22 Unless otherwise agreed and subject to an applicable law or regulation
23 respecting short sales, a person obligated to deliver securities may
24 deliver a security of the specified issue in bearer form or registered
25 in the name of the transferee or endorsed to him or in blank.

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

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

29 (2) of other securities if efforts at their resale would be

1 unduly burdensome or if there is no readily available market for their
2 resale.

3 * Sec. 9. AS 45.08.202(F) is amended to read:

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

10 * Sec. 10. AS 45.08.208(a)(1) is amended to read:

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

12 * Sec. 11. AS 45.08.208(a)(3) is amended to read:

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

15 * Sec. 12. AS 45.08.306(c) is amended to read:

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

23 * Sec. 13. AS 45.08.308(c)(2) is amended to read:

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

27 * Sec. 14. AS 45.08.320(a)(1) is amended to read:

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

1 the clearing corporation;

2 * Sec. 15. AS 45.09.102(a) is amended to read:

3 (a) Except as otherwise provided in [AS 45.09.103 ON MULTIPLE
4 STATE TRANSACTIONS AND IN] AS 45.09.104 on excluded transactions,
5 AS 45.09.101 - 45.09.507 apply [, AS FAR AS CONCERNS PERSONAL PROPERTY
6 AND FIXTURES IN THE JURISDICTION OF THE STATE,]

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

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

13 * Sec. 16. AS 45.09.103 is repealed and reenacted to read:

14 Sec. 45.09.103. PERFECTION OF SECURITY INTERESTS IN MULTIPLE
15 STATE TRANSACTION. (a) This subsection applies to documents and
16 instruments and to goods other than those covered by a certificate of
17 title described in (b) of this section, mobile goods described in (c)
18 of this section, and minerals described in (e) of this section.

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

24 (2) If the parties to a transaction creating a purchase
25 money security interest in goods in one jurisdiction understand at the
26 time that the security interest attaches that the goods will be kept in
27 another jurisdiction, then the law of the other jurisdiction governs
28 the perfection and the effect of perfection or nonperfection of the
29 security interest from the time it attaches until 30 days after the

1 debtor receives possession of the goods and thereafter if the goods are
2 taken to the other jurisdiction before the end of the 30-day period.

3 (3) If collateral is brought into and kept in this state
4 while subject to a security interest perfected under the law of the
5 jurisdiction from which the collateral was removed, the security inter-
6 est remains perfected, but if action is required by AS 45.09.301 -
7 45.09.318 to perfect the security interest,

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

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

18 (C) for the purpose of priority over a buyer of consumer
19 goods (AS 45.09.307), the period of the effectiveness of a filing
20 in the jurisdiction from which the collateral is removed is
21 governed by the rules with respect to perfection in (A) and (B) of
22 this paragraph.

23 (b) This subsection applies to goods covered by a certificate of
24 title issued under a statute of this state or 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.

27 (1) Except as otherwise provided in this subsection, perfec-
28 tion and the effect of perfection or nonperfection of the security
29 interest are governed by the law (including the conflict of laws rules)

1 of the jurisdiction issuing the certificate until four months after the
2 goods are removed from that jurisdiction and thereafter until the goods
3 are registered in another jurisdiction, but in any event not beyond
4 surrender of the certificate. After the expiration of that period, the
5 goods are not covered by the certificate of title within the meaning of
6 this section.

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

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

23 (c) This subsection applies to accounts (other than an account
24 described in (e) of this section) and general intangibles and to goods
25 which are mobile and which are of a type normally used in more than one
26 jurisdiction, such as motor vehicles, trailers, rolling stock, air-
27 planes, shipping containers, road building and construction machinery
28 and commercial harvesting machinery and the like, if the goods are
29 equipment or are inventory leased or held for lease by the debtor to

1 others, and are not covered by a certificate of title described in (b)
2 of this section.

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

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

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

26 (4) A security interest perfected under the law of the
27 jurisdiction of the location of the debtor is perfected until the
28 expiration of four months after a change of the debtor's location to
29 another jurisdiction, or until perfection would have ceased by the law

1 of the first jurisdiction, whichever period first expires. Unless
2 perfected in the new jurisdiction before the end of that period, the
3 security interest becomes unperfected thereafter and is considered to
4 have been unperfected as against a person who became a purchaser after
5 the change.

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

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

18 * Sec. 17. AS 45.09.104(5) is repealed and reenacted to read:

19 (5) to a transfer of an interest in a deposit account
20 (AS 45.09.105), except as provided with respect to proceeds (AS 45.09.-
21 306) and priorities in proceeds (AS 45.09.312));

22 * Sec. 18. AS 45.09.104(6) is amended to read:

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

1 ness;

2 * Sec. 19. AS 45.09.104(7) is amended to read:

3 (7) to a transfer of an interest or claim in or under a
4 policy of insurance, except as provided with respect to proceeds
5 (AS 45.09.306 and priorities in proceeds (AS 45.09.312));

6 * Sec. 20. AS 45.09.104(8) is amended to read:

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

9 * Sec. 21. AS 45.09.104(11) is amended to read:

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

14 * Sec. 22. AS 45.09.104(12) is repealed and reenacted to read:

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

17 * Sec. 23. AS 45.09.105 is amended to read:

18 Sec. 45.09.105. DEFINITIONS AND INDEX OF DEFINITIONS. (a) In
19 this chapter, unless the context otherwise requires:

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

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

29 (3) "collateral" means the property subject to a security

1 interest, and includes accounts [, CONTRACT RIGHTS,] and chattel paper
2 which have been sold;

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

11 (5) "document" means document of title as defined in the
12 general definitions of AS 45.01.201, and a receipt of the kind described
13 in AS 45.07.201;

14 (6) "goods" includes all things which are movable at the
15 time the security interest attaches or which are fixtures (AS 45.09.-
16 313), but does not include money, documents, instruments, accounts,
17 chattel paper, general tangibles, or minerals or the like (including oil
18 and gas) before extraction [CONTRACT RIGHTS, AND OTHER THINGS IN
19 ACTION]; "goods" also includes the unborn young of animals, [AND]
20 growing crops, and standing timber which is to be cut and removed under
21 a conveyance or contract for sale;

22 (7) "instrument" means a negotiable instrument (defined in
23 AS 45.03.104), or a security (defined in AS 45.08.102), or any other
24 writing which evidences a right to the payment of money and is not
25 itself a security agreement or lease and is of a type which is in
26 ordinary course of business transferred by delivery with any necessary
27 endorsement or assignment;

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

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

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

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

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

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

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

26 (b) Other definitions applying to this chapter and the sections
27 in which they appear are:

- 28 (1) "account" (AS 45.09.106)
29 (2) "consumer goods" (AS 45.09.109(1))

- 1 [(3) "CONTRACT RIGHT" (AS 45.09.106)]
- 2 (4) "equipment" (AS 45.09.109(2))
- 3 (5) "farm products" (AS 45.09.109(3))
- 4 (6) "general intangibles" (AS 45.09.106)
- 5 (7) "inventory" (AS 45.09.109(4))
- 6 (8) "lien creditor" (AS 45.09.301(c))
- 7 (9) "proceeds" (AS 45.09.306(a))
- 8 (10) "purchase money security interest" (AS 45.09.107)
- 9 (11) "attach" (AS 45.09.204)
- 10 (12) "construction mortgage" (AS 45.09.313)
- 11 (13) "fixture" (AS 45.09.313(a))
- 12 (14) "fixture filing" (AS 45.09.313(a))
- 13 (15) "United States" (AS 45.09.103)

14 (c) The following definitions apply to this chapter:

- 15 (1) "check" (AS 45.03.104)
- 16 (2) "contract for sale" (AS 45.02.106)
- 17 (3) "holder in due course" (AS 45.03.302)
- 18 (4) "note" (AS 45.03.104)
- 19 (5) "sale" (AS 45.02.106)

20 (d) In addition, AS 45.01.101 - 45.01.208 contain general defini-
21 tions and principles of construction and interpretation applicable to
22 AS 45.09.101 - 45.09.507.

23 * Sec. 24. AS 45.09.106 is amended to read:

24 Sec. 45.09.106. 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 45.09 is amended by adding a new section to read:

8 Sec. 45.09.114. 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 AS 45.09.101 - 45.09.507 by AS 45.02.326(c)(3)
11 has priority over a secured party who is or becomes a creditor of the
12 consignee and who would have a perfected security interest in the goods
13 if they were the property of the consignee, and also has priority with
14 respect to identifiable cash proceeds received on or before delivery of
15 the goods to a buyer, if

16 (1) the consignor complies with the filing provision of of
17 AS 45.02.326(c)(3) before the consignee receives possession of the
18 goods;

19 (2) the consignor gives notification in writing to the
20 holder of the security interest if the holder has filed a financing
21 statement covering the same types of goods before the date of the
22 filing made by 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 45.09.203 is repealed and reenacted to read:

6 Sec. 45.09.203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTER-
7 EST; PROCEEDS; FORMAL REQUISITES. (a) Subject to the provisions of
8 AS 45.04.208 on the security interest of a collecting bank and AS 45.-
9 09.113 on a security interest arising under AS 45.02.101 - 45.02.725, a
10 security interest is not enforceable against the debtor or third parties
11 with respect to the collateral and does not attach unless

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

17 (2) value has been given; and

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

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

23 (c) Unless otherwise agreed, a security agreement gives the se-
24 cured party the rights to proceeds provided by AS 45.09.306.

25 (d) A transaction, although subject to AS 45.09.101 - 45.09.507,
26 may also be subject to other statutes dealing with loans and retail
27 installment sales, and in the case of conflict between AS 45.09.101 -
28 45.09.507 and other statutes, the provisions of the other statutes
29 control. Failure to comply with an applicable statute has only the

1 effect which is specified in it.

2 * Sec. 27. AS 45.09.204 is repealed and reenacted to read:

3 Sec. 45.09.204. AFTER-ACQUIRED PROPERTY; FUTURE ADVANCES. (a)
4 Except as provided in (b) of this section, a security agreement may
5 provide that any or all obligations covered by the security agreement
6 are to be secured by after-acquired collateral.

7 (b) No security interest attaches under an after-acquired property
8 clause to consumer goods other than accessions (AS 45.09.314) when
9 given as additional security unless the debtor acquires rights in them
10 within 10 days after the secured party gives value.

11 (c) Obligations covered by a security agreement may include
12 future advances or other value whether or not the advances or value are
13 given pursuant to commitment (AS 45.09.105).

14 * Sec. 28. AS 45.09.205(a)(1) is amended to read:

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

20 * Sec. 29. AS 45.09.206(a) is amended to read:

21 (a) Subject to a statute or decision which establishes a different
22 rule for buyers or lessees of consumer goods, an agreement by a buyer
23 or lessee that he will not assert against an assignee a claim or defense
24 which he may have against the seller or lessor is enforceable by an
25 assignee who takes his assignment for value, in good faith, and without
26 notice of a claim or defense, except as to defenses of a type which may
27 be asserted against a holder in due course of a negotiable instrument
28 under AS 45.03.101 - 45.03.805. A buyer who as part of one transaction
29 signs both a negotiable instrument and a security agreement makes such

1 an agreement.

2 * Sec. 30. AS 45.09.301 is amended to read:

3 Sec. 45.09.301. PERSONS WHO TAKE PRIORITY OVER UNPERFECTED SECUR-
4 ITY INTERESTS; "LIEN CREDITOR." (a) Except as otherwise provided in
5 (b) of this section, an unperfected security interest is subordinate to
6 the rights of

7 (1) persons entitled to priority under AS 45.09.312;

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

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

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

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

26 (c) A "lien creditor" means a creditor who has acquired a lien on
27 the property involved by attachment, levy, or the like and includes an
28 assignee for benefit of creditors from the time of assignment, and a
29 trustee in bankruptcy from the date of the filing of the petition or a

1 receiver in equity from the time of appointment. [UNLESS ALL THE
2 CREDITORS REPRESENTED HAD KNOWLEDGE OF THE SECURITY INTEREST, SUCH A
3 REPRESENTATIVE OF CREDITORS IS A LIEN CREDITOR WITHOUT KNOWLEDGE EVEN
4 THOUGH HE PERSONALLY HAS KNOWLEDGE OF THE SECURITY INTEREST.]

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

10 * Sec. 31. AS 45.09.302 is repealed and reenacted to read:

11 Sec. 45.09.302. WHEN FILING IS REQUIRED TO PERFECT SECURITY
12 INTEREST; SECURITY INTERESTS TO WHICH FILING PROVISIONS DO NOT APPLY.

13 (a) A financing statement must be filed to perfect all security inter-
14 ests except the following:

15 (1) a security interest in collateral in possession of the
16 secured party under AS 45.09.305;

17 (2) a security interest temporarily perfected in instruments
18 or documents without delivery under AS 45.09.304 or in proceeds for a
19 10-day period under AS 45.09.306;

20 (3) a security interest created by an assignment of a bene-
21 ficial interest in a trust or a decedent's estate;

22 (4) a purchase money security interest in consumer goods;
23 but filing is required for a motor vehicle required to be registered;
24 and fixture filing is required for priority over conflicting interests
25 in fixtures to the extent provided in AS 45.09.313;

26 (5) an assignment of accounts which does not alone or in
27 conjunction with other assignments to the same assignee transfer a
28 significant part of the outstanding accounts of the assignor;

29 (6) a security interest of a collecting bank (see AS 45.04.-

1 208) or arising under AS 45.02.101 - 45.02.725 (see AS 45.09.113) or
2 covered in (c) of this section;

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

5 (b) If a secured party assigns a perfected security interest, no
6 filing under AS 45.09.101 - 45.09.507 is required in order to continue
7 the perfected status of the security interest against creditors of and
8 transferees from the original debtor.

9 (c) The filing of a financing statement otherwise required by
10 AS 45.09.101 - 45.09.507 is not necessary or effective to perfect a
11 security interest in property subject to

12 (1) a statute or treaty of the United States which provides
13 for a national or international registration or a national or inter-
14 national certificate of title or which specifies a place of filing
15 different from that specified in AS 45.09.101 - 45.09.507 for filing of
16 the security interest;

17 (2) the following statutes of this state: AS 28.10.011 -
18 28.10.502; but during any period in which collateral is inventory held
19 for sale by a person who is in the business of selling goods of that
20 kind, the filing provisions of AS 45.09.401 - 45.09.407 apply to a
21 security interest in that collateral created by him as debtor; or

22 (3) a certificate of title statute 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 (AS 45.09.103(b)).

25 (d) Compliance with a statute or treaty described in (c) of this
26 section is equivalent to the filing of a financing statement under
27 AS 45.09.101 - 45.09.507, and a security interest in property subject
28 to the statute or treaty can be perfected only by compliance with the
29 statute or treaty except as provided in AS 45.09.103 on multiple state

1 transactions. Duration and renewal of perfection of a security interest
2 perfected by compliance with the statute or treaty are governed by the
3 provisions of the statute or treaty; in other respects the security
4 interest is subject to AS 45.09.101 - 45.09.507.

5 * Sec. 32. AS 45.09.304(a) is amended to read:

6 (a) A security interest in chattel paper or negotiable documents
7 may be perfected by filing. A security interest in money or instruments
8 (other than instruments which constitute part of chattel paper) can be
9 perfected only by the secured party's taking possession, except as
10 provided in (d) and (e) of this section and AS 45.09.306(b) and (c) on
11 proceeds.

12 * Sec. 33. AS 45.09.304(e)(1) is amended to read:

13 (1) makes the goods or documents representing the goods
14 available to the debtor for ultimate sale or exchange or to load, un-
15 load, store, ship, transship, manufacture, process, or otherwise dealing
16 with them in a manner preliminary to their sale or exchange, but pri-
17 ority between conflicting security interests in the goods is subject to
18 AS 45.09.312; or

19 * Sec. 34. AS 45.09.305 is amended to read:

20 Sec. 45.09.305. WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY
21 INTEREST WITHOUT FILING. A security interest in letters of credit and
22 advices of credit (AS 45.05.116(b)(1)), goods, instruments, money,
23 negotiable documents, or chattel paper may be perfected by the secured
24 party's taking possession of the collateral. If the collateral, other
25 than goods covered by a negotiable document, is held by a bailee, the
26 secured party is considered to have possession from the time the bailee
27 receives notification of the secured party's interest. A security
28 interest is perfected by possession from the time possession is taken
29 without relation back and continues only so long as possession is

1 retained unless otherwise specified in AS 45.09.101 - 45.09.507. The
2 security interest may be otherwise perfected as provided in AS 45.09.-
3 101 - 45.09.507 before or after the period of possession by the secured
4 party.

5 * Sec. 35. AS 45.09.306(a) is amended to read:

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

14 * Sec. 36. AS 45.09.306(b) is amended to read:

15 (b) Except where AS 45.09.101 - 45.09.507 otherwise provide, a
16 security interest continues in collateral notwithstanding sale, ex-
17 change, or other disposition of it [BY THE DEBTOR] unless the disposi-
18 tion [HIS ACTION] was authorized by the secured party in the security
19 agreement or otherwise, and also continues in identifiable proceeds
20 including collections received by the debtor.

21 * Sec. 37. AS 45.09.306(c) is amended to read:

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

26 (1) a filed financing statement covers [COVERING] the ori-
27 ginal collateral and the proceeds are collateral in which a security
28 interest may be perfected by filing in the office or offices where the
29 financing statement has been filed and, if the proceeds are acquired

1 with cash proceeds, the description of collateral in the financing
2 statement indicates the types of property constituting the proceeds;
3 [ALSO COVERS PROCEEDS; OR]

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

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

8 * Sec. 38. AS 45.09.306(d) is amended to read:

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

13 (1) in identifiable noncash proceeds and in separate deposit
14 accounts containing only proceeds;

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

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

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

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

26 (B) limited to an amount not greater than the amount of
27 cash proceeds received by the debtor within 10 days before the
28 institution of the insolvency proceedings less the sum of (i) the
29 payments to the secured party on account of cash proceeds received

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

8 * Sec. 39. AS 45.09.307(b) is amended to read:

9 (b) In the case of consumer goods [AND IN THE CASE OF FARM EQUIP-
10 MENT HAVING AN ORIGINAL PURCHASE PRICE NOT IN EXCESS OF \$2,500 (OTHER
11 THAN FIXTURES, SEE AS 45.09.313)], a buyer takes free of a security
12 interest even though perfected if he buys without knowledge of the
13 security interest, for value, and for his own personal, family, or
14 household purposes [OR HIS OWN FARMING OPERATIONS] unless before the
15 purchase the secured party has filed a financing statement covering the
16 goods.

17 * Sec. 40. AS 45.09.307 is amended by adding a new subsection to read:

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

25 * Sec. 41. AS 45.09.308 is repealed and reenacted to read:

26 Sec. 45.09.308. PURCHASE OF CHATTEL PAPER AND NONNEGOTIABLE
27 INSTRUMENTS. A purchaser of chattel paper or an instrument who gives
28 new value and takes possession of it in the ordinary course of his
29 business has priority over a security interest in the chattel paper or

1 instrument

2 (1) which is perfected under AS 45.09.304 (permissive filing
3 and temporary perfection) or under AS 45.09.306 (perfection as to
4 proceeds) if he acts without knowledge that the specific paper or
5 instrument is subject to a security interest; or

6 (2) which is claimed merely as proceeds of inventory subject
7 to a security interest (AS 45.09.306) even though he knows that the
8 specific paper or instrument is subject to the security interest.

9 * Sec. 42. AS 45.09.312(a) is amended to read:

10 (a) The rules of priority stated in AS 45.09.301 - 45.09.318 and
11 in the following sections govern where applicable: AS 45.04.208 with
12 respect to the security interest of collecting banks in items being
13 collected, accompanying documents, and proceeds; AS 45.09.103 on
14 security interests related to other jurisdictions; AS 45.09.114 on con-
15 signments [AS 45.09.301 ON CERTAIN PRIORITIES; AS 45.09.304 ON GOODS
16 COVERED BY DOCUMENTS; AS 45.09.306 ON PROCEEDS AND REPOSSESSIONS;
17 AS 45.09.307 ON BUYERS OF GOODS; AS 45.09.308 ON POSSESSORY AGAINST
18 NONPOSSESSORY INTERESTS IN CHATTEL PAPER OR NONNEGOTIABLE INSTRUMENTS;
19 AS 45.09.309 ON SECURITY INTERESTS IN NEGOTIABLE INSTRUMENTS, DOCUMENTS,
20 OR SECURITIES; AS 45.09.310 ON PRIORITIES BETWEEN PERFECTED SECURITY
21 INTERESTS AND LIENS BY OPERATION OF LAW; AS 45.09.313 ON SECURITY
22 INTERESTS IN FIXTURES AS AGAINST INTERESTS IN REAL ESTATE; AS 45.09.314
23 ON SECURITY INTERESTS IN ACCESSIONS AS AGAINST INTEREST IN GOODS;
24 AS 45.09.315 ON CONFLICTING SECURITY INTERESTS WHERE GOODS LOSE THEIR
25 IDENTITY OR BECOME PART OF A PRODUCT; AND AS 45.09.316 ON CONTRACTUAL
26 SUBORDINATION].

27 * Sec. 43. AS 45.09.312(c) is amended to read:

28 (c) A perfected purchase money security interest in inventory
29 [COLLATERAL] has priority over a conflicting security interest in the

1 same inventory and also has priority in identifiable cash proceeds re-
2 ceived on or before the delivery of the inventory to a buyer [COLLATER-
3 AL] if

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

6 (2) the purchase money secured party gives notification in
7 writing to the holder of the conflicting security interest if the holder
8 had filed a financing statement covering the same types of inventory

9 (A) before the date of the filing made by the purchase money secured
10 party, or (B) before the beginning of the 21-day period if the purchase
11 money security interest is temporarily perfected without filing or
12 possession (AS 45.09.304) [ANY SECURED PARTY WHOSE SECURITY INTEREST IS
13 KNOWN TO THE HOLDER OF THE PURCHASE MONEY SECURITY INTEREST OR WHO,
14 BEFORE THE DATE OF THE FILING MADE BY THE HOLDER OF THE PURCHASE MONEY
15 SECURITY INTEREST, HAD FILED A FINANCING STATEMENT COVERING THE SAME
16 ITEMS OR TYPE OF INVENTORY, HAS RECEIVED NOTIFICATION OF THE PURCHASE
17 MONEY SECURITY INTEREST BEFORE THE DEBTOR RECEIVES POSSESSION OF THE
18 COLLATERAL COVERED BY THE PURCHASE MONEY SECURITY INTEREST]; and

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

22 (4) the holder of the conflicting security interest receives
23 the notification within five years before the debtor receives possession
24 of the inventory.

25 * Sec. 44. AS 45.09.312(d) is amended to read:

26 (d) A purchase money security interest in collateral other than
27 inventory has priority over a conflicting security interest in the same
28 collateral or its proceeds if the purchase money security interest is
29 perfected at the time the debtor receives possession of the collateral

1 or within 10 days after the debtor receives possession.

2 * Sec. 45. AS 45.09.312(e) is repealed and reenacted to read:

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

8 (1) conflicting security interests rank according to prior-
9 ity in time of filing or perfection; priority dates from the time a
10 filing is first made covering the collateral or the time the security
11 interest is first perfected, whichever is earlier, if there is no
12 period after the filing or perfection when there is neither filing nor
13 perfection;

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

16 * Sec. 46. AS 45.09.312(f) is repealed and reenacted to read:

17 (f) For the purposes of (e) of this section, a date of filing or
18 perfection as to collateral is also a date of filing or perfection as
19 to proceeds.

20 * Sec. 47. AS 45.09.312 is amended by adding a new subsection to read:

21 (g) If future advances are made while a security interest is per-
22 fected by filing or the taking of possession, the security interest has
23 the same priority for the purposes of (e) of this section with respect
24 to the future advances as it does with respect to the first advance.
25 If a commitment is made before or while the security interest is so
26 perfected, the security interest has the same priority with respect to
27 advances made under the commitment. In other cases a perfected security
28 interest has priority from the date the advance is made.

29 * Sec. 48. AS 45.09.313 is repealed and reenacted to read:

1 Sec. 45.09.313. PRIORITY OF SECURITY INTERESTS IN FIXTURES. (a)
2 In this section and in the provisions of AS 45.09.401 - 45.09.407
3 referring to fixture filing, unless the context otherwise requires,

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

7 (2) a "fixture filing" is the filing in the office where a
8 mortgage on the real estate would be filed or recorded of a financing
9 statement covering goods which are or are to become fixtures and con-
10 forming to the requirements of AS 45.09.402;

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

15 (b) A security interest under AS 45.09.101 - 45.09.507 may be
16 created in goods which are fixtures or may continue in goods which
17 become fixtures, but no security interest exists under AS 45.09.101 -
18 45.09.507 in ordinary building materials incorporated into an improve-
19 ment on land.

20 (c) AS 45.09.101 - 45.09.507 do not prevent creation of an encum-
21 brance upon fixtures under real estate law.

22 (d) A perfected security interest in fixtures has priority over
23 the conflicting interest of an encumbrancer or owner of the real estate
24 if

25 (1) the security interest is a purchase money security
26 interest, the interest of the encumbrancer or owner arises before the
27 goods become fixtures, the security interest is perfected by a fixture
28 filing before the goods become fixtures or within 10 days after the
29 goods become fixtures, and the debtor has an interest of record in the

1 real estate or is in possession of the real estate;

2 (2) the security interest is perfected by a fixture filing
3 before the interest of the encumbrancer or owner is of record, the
4 security interest has priority over any conflicting interest of a
5 predecessor in title of the encumbrancer or owner, and the debtor has
6 an interest of record in the real estate or is in possession of the
7 real estate;

8 (3) the fixtures are readily removable factory or office
9 machines or readily removable replacements of domestic appliances which
10 are consumer goods, and before the goods become fixtures the security
11 interest is perfected by any method permitted by AS 45.09.101 - 45.09.-
12 507; or

13 (4) the conflicting interest is a lien on the real estate
14 obtained by legal or equitable proceedings after the security interest
15 was perfected by any method permitted by AS 45.09.101 - 45.09.507.

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

19 (1) the encumbrancer or owner has consented in writing to
20 the security interest or has disclaimed an interest in the goods as
21 fixtures; or

22 (2) the debtor has a right to remove the goods as against
23 the encumbrancer or owner; if the debtor's right terminates, the prior-
24 ity of the security interest continues for a reasonable time.

25 (f) Notwithstanding (d)(1) of this section but otherwise subject
26 to (d) and (e) of this section, a security interest in fixtures is sub-
27 ordinate to a construction mortgage recorded before the goods become
28 fixtures if the goods become fixtures before the completion of the
29 construction. To the extent that it is given to refinance a construc-

1 tion mortgage, a mortgage has this priority to the same extent as the
2 construction mortgage.

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

6 (h) If the secured party has priority over all owners and encum-
7 brancers of the real estate, he may, on default, subject to the provi-
8 sions of AS 45.09.501 - 45.09.507, remove his collateral from the real
9 estate but he shall reimburse any encumbrancer or owner of the real
10 estate who is not the debtor and who has not otherwise agreed for the
11 cost of repair of any physical injury, but not for any diminution in
12 value of the real estate caused by the absence of the goods removed or
13 by any necessity of replacing them. A person entitled to reimbursement
14 may refuse permission to remove until the secured party gives adequate
15 security for the performance of this obligation.

16 * Sec. 49. AS 45.09.318(b) is amended to read:

17 (b) So far as the right to payment or part payment under an
18 assigned contract [RIGHT] has not been fully earned by performance
19 [ALREADY BECOME AN ACCOUNT], and notwithstanding notification of the
20 assignment, a modification of or substitution for the contract made in
21 good faith and in accordance with reasonable commercial standards is
22 effective against an assignee unless the account debtor has otherwise
23 agreed, but the assignee acquires corresponding rights under the modi-
24 fied or substituted contract. The assignment may provide that the
25 modification or substitution is a breach by the assignor.

26 * Sec. 50. AS 45.09.318(c) is amended to read:

27 (c) The account debtor is authorized to pay the assignor until
28 the account debtor receives notification that the amount due or to
29 become due [ACCOUNT] has been assigned and that payment is to be made

1 to the assignee. A notification which does not reasonably identify the
2 rights assigned is ineffective. If requested by the account debtor,
3 the assignee must seasonably furnish reasonable proof that the assign-
4 ment has been made and unless he does so the account debtor may pay the
5 assignor.

6 * Sec. 51. AS 45.09.318(d) is amended to read:

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

13 * Sec. 52. AS 45.09.401(a) is amended to read:

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

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

26 (2) if the collateral is timber to be cut or is minerals or
27 the like (including oil and gas) or accounts subject to AS 45.09.103(e).
28 or when the financing statement is filed as a fixture filing (AS 45.09.-
29 313) and the collateral is goods which [AT THE TIME THE SECURITY INTER-

1 EST ATTACHES] are or are to become fixtures, then in the office where a
2 mortgage on the real estate concerned would be filed or recorded;

3 (3) in all other cases, in the office of the Department of
4 Natural Resources.

5 * Sec. 53. AS 45.09.401(d) is repealed and reenacted to read:

6 (d) The rules stated in AS 45.09.103 determines whether filing is
7 necessary in this state.

8 * Sec. 54. AS 45.09.401 is amended by adding new subsections to read:

9 (e) Notwithstanding (a) - (d) of this section, and subject to
10 AS 45.09.302(c), the proper place to file in order to perfect a security
11 interest in collateral, including fixtures, of a transmitting utility is
12 the office of the Department of Natural Resources. This filing consti-
13 tutes a fixture filing (AS 45.09.313) as to the collateral described in
14 the filing which is or is to become fixtures.

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

18 * Sec. 55. AS 45.09.402 is amended to read:

19 Sec. 45.09.402. FORMAL REQUISITES OF FINANCING STATEMENT; AMEND-
20 MENTS. (a) A financing statement is sufficient if it gives the names
21 of the debtor and the secured party, is signed by the debtor [AND THE
22 SECURED PARTY], gives an address of the secured party from which infor-
23 mation concerning the security interest may be obtained, gives a mailing
24 address of the debtor, and contains a statement indicating the types or
25 describing the items of collateral. A financing statement may be filed
26 before a security agreement is made or a security interest otherwise
27 attaches. If the financing statement covers crops growing or to be
28 grown [OR GOODS WHICH ARE OR ARE TO BECOME FIXTURES], the statement must
29 also contain a description of the real estate concerned. If the finan-

1 cing statement covers timber to be cut or covers minerals or the like
2 (including oil and gas) or accounts subject to AS 45.09.103(e), or if
3 the financing statement is filed as a fixture filing (AS 45.09.313) and
4 the collateral is goods which are or are to become fixtures, the state-
5 ment must also comply with (f) of this section. A copy of the security
6 agreement is sufficient as a financing statement if it contains the
7 information required in this subsection and is signed by the debtor
8 [BOTH PARTIES]. A carbon, photographic or other reproduction of a
9 security agreement or a financing statement is sufficient as a financing
10 statement if the security agreement so provides or if the original has
11 been filed in this state.

12 (b) A financing statement which otherwise complies with (a) of
13 this section is sufficient, although it is signed [ONLY] by the secured
14 party instead of the debtor, if it is filed to perfect a security
15 interest in

16 (1) collateral already subject to a security interest in
17 another jurisdiction when it is brought into this state, or when the
18 debtor's location is changed to this state; the financing statement
19 must state that the collateral was brought into this state or that the
20 debtor's location was changed to this state under these circumstances;

21 (2) proceeds under AS 45.09.306 if the security interest in
22 the original collateral was perfected; the financing statement must
23 describe the original collateral;

24 (3) collateral as to which the filing has lapsed; or

25 (4) collateral acquired after a change of name, identity
26 or corporate structure of the debtor ((h) of this section).

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

29 Name of debtor (or assignor)

1 Address

2 Name of secured party (or assignee)

3 Address

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

6 (Describe)

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

9 (Describe real estate)

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

15 (Describe real estate)

16 and this financing statement is to be filed for record in the real
17 estate records. (If the debtor does not have an interest of record)

18 The name of a record owner is

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

21 Signature of debtor (or assignor)*

22 Signature of secured party (or assignee)*

23 * (use whichever is applicable)

24 (d) A financing statement may be amended by filing a writing
25 signed by both the debtor and the secured party. An amendment does not
26 extend the period of effectiveness of a financing statement. The term
27 "financing statement" as used in AS 45.09.101 - 45.09.507 means the
28 original financing statement and amendments, but if an amendment adds
29 collateral, it is effective as to the added collateral only from the

1 filing date of the amendment.

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

5 (f) A financing statement covering timber to be cut or covering
6 minerals or the like (including oil and gas) or accounts subject to
7 AS 45.09.103(e), or a financing statement filed as a fixture filing
8 (AS 45.09.313) if the debtor is not a transmitting utility, must show
9 that it covers this type of collateral, must recite that it is to be
10 filed for record in the real estate records, and the financing statement
11 must contain a description of the real estate sufficient if it were
12 contained in a mortgage of the real estate to give constructive notice
13 of the mortgage under the law of this state. If the debtor does not
14 have an interest of record in the real estate, the financing statement
15 must show the name of a record owner.

16 (g) A mortgage is effective as a financing statement filed as a
17 fixture filing from the date of its recording if (1) the goods are
18 described in the mortgage by item or type; (2) the goods are or are
19 to become fixtures related to the real estate described in the mortgage;
20 (3) the mortgage complies with the requirements for a financing state-
21 ment in this section other than a recital that it is to be filed in the
22 real estate records; and (4) the mortgage is recorded. No fee with
23 reference to the financing statement is required other than the regular
24 recording and satisfaction fees with respect to the mortgage.

25 (h) A financing statement sufficiently shows the name of the
26 debtor if it gives the individual, partnership, or corporate name of the
27 debtor, whether or not it adds other trade names or names of partners.
28 If the debtor changes his name or in the case of an organization its
29 name, identity, or corporate structure so that a filed financing state-

1 ment becomes seriously misleading, the filing is not effective to per-
2 fect a security interest in collateral acquired by the debtor more than
3 four months after the change, unless a new appropriate financing state-
4 ment is filed before the expiration of that time. A filed financing
5 statement remains effective with respect to collateral transferred by
6 the debtor even though the secured party knows of or consents to the
7 transfer.

8 * Sec. 56. AS 45.09.403(b) is amended to read:

9 (b) Except as provided in (f) of this section, a [A] filed finan-
10 cing statement [WHICH STATES A MATURITY DATE OF THE OBLIGATION SECURED
11 OF FIVE YEARS OR LESS] is effective [UNTIL THE MATURITY DATE AND AFTER-
12 WARD FOR 60 DAYS. ANY OTHER FILED FINANCING STATEMENT IS EFFECTIVE]
13 for a period of five years from the date of filing. The effectiveness
14 of a filed financing statement lapses on the expiration of the [60-DAY
15 PERIOD AFTER A STATED MATURITY DATE OR ON THE EXPIRATION OF THE] five-
16 year period [, AS THE CASE MAY BE,] unless a continuation statement is
17 filed before the lapse. If a security interest perfected by filing
18 exists at the time insolvency proceedings are commenced by or against
19 the debtor, the security interest remains perfected until termination of
20 the insolvency proceedings and after the termination for a period of 60
21 days or until expiration of the five-year period, whichever occurs
22 later. Upon the lapse the security interest becomes unperfected, un-
23 less it is perfected without filing. If the security interest becomes
24 unperfected upon lapse, it is considered to have been unperfected as
25 against a person who became a purchaser or lien creditor before the
26 lapse.

27 * Sec. 57. AS 45.09.403(c) is amended to read:

28 (c) A continuation statement may be filed by the secured party
29 [(1) WITHIN SIX MONTHS BEFORE AND 60 DAYS AFTER A STATED MATURITY DATE

1 OF FIVE YEARS OR LESS, AND (2) OTHERWISE] within six months before the
2 expiration of the five-year period specified in (b) of this section.
3 The continuation statement must be signed by the secured party, identify
4 the original statement by file number, and state that the original
5 statement is still effective. A continuation statement signed by a
6 person other than the secured party of record must be accompanied by a
7 separate written statement of assignment signed by the secured party of
8 record and complying with AS 45.09.405(b), including payment of the
9 required fee. Upon timely filing of the continuation statement, the
10 effectiveness of the original statement is continued for five years
11 after the last date to which the filing was effective; it then lapses
12 in the same manner as provided in (b) of this section unless another
13 continuation statement is filed before the lapse. Succeeding continua-
14 tion statements may be filed in the same manner to continue the effec-
15 tiveness of the original statement. Unless a statute on disposition of
16 public records provides otherwise, the filing officer may remove a
17 lapsed statement from the files and destroy it immediately if he has
18 retained a microfilm or other photographic record, or in other cases
19 after one year after the lapse. The filing officer shall so arrange
20 matters by physical annexation of financing statements to continuation
21 statements or other related filings, or by other means, that if he
22 physically destroys the financing statements of a period more than five
23 years past, those which have been continued by a continuation statement
24 or which are still effective under (f) of this section shall be re-
25 tained.

26
27 * Sec. 58. AS 45.09.403(d) is amended to read:

28 (d) Except as provided in (g) of this section, a [A] filing offi-
29 cer shall mark each statement with a [CONSECUTIVE] file number and with
30 the date and hour of filing and shall hold the statement or a microfilm

1 or other photographic copy of the statement for public inspection. In
2 addition, the filing officer shall index the statements according to the
3 name of the debtor and shall note in the index the file number and the
4 address of the debtor given in the statement.

5 * Sec. 59. AS 45.09.403(e) is amended to read:

6 (e) The uniform fee for filing and indexing and for stamping a
7 copy furnished by the secured party to show the date and place of filing
8 [, INDEXING, AND FURNISHING FILING DATA] for an original financing
9 statement or for a continuation statement is as prescribed by the Depart-
10 ment of Natural Resources [ADMINISTRATIVE DIRECTOR OF COURTS]. In addi-
11 tion, the Department of Natural Resources may establish extra uniform
12 fees for

13 (1) statements not in the standard form prescribed by the
14 department;

15 (2) statements subject to the provisions of AS 45.09.402(f);

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

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

19 * Sec. 60. AS 45.09.403 is amended by adding new subsections to read:

20 (f) If the debtor is a transmitting utility (AS 45.09.401(e) and a
21 filed financing statement so states, the financing statement is effec-
22 tive until a termination statement is filed. A real estate mortgage
23 which is effective as a fixture filing under AS 45.09.402(g) remains
24 effective as a fixture filing until the mortgage is released or satis-
25 fied of record or its effectiveness otherwise terminates as to the real
26 estate.

27 (g) If a financing statement covers timber to be cut or covers
28 minerals or the like (including oil and gas) or accounts subject to
29 AS 45.09.103(e), or is filed as a fixture filing, it shall be filed for

1 record and the filing officer shall index it under the names of the
2 debtor and any owner of record shown on the financing statement in the
3 same fashion as if they were the mortgagors in a mortgage of the real
4 estate described, and, to the extent that the law of this state provides
5 for indexing of mortgages under the name of the mortgagee, under the
6 name of the secured party as if he were the mortgagee under the mort-
7 gage, or, if indexing is by description, in the same fashion as if the
8 financing statement were a mortgage of the real estate described.

9 * Sec. 61. AS 45.09.404 is amended to read:

10 Sec. 45.09.404. TERMINATION STATEMENT. (a) If a financing state-
11 ment covering consumer goods is filed on or after July 1, 1983, then
12 within one month or within 10 days following written demand by the
13 debtor after there is no outstanding secured obligation and no commit-
14 ment to make advances, incur obligations or otherwise give value, the
15 secured party must file with each filing officer with whom the financ-
16 ing statement was filed, a termination statement to the effect that he
17 no longer claims a security interest under the financing statement,
18 which shall be identified by file number. In other cases if [IF] there
19 is no outstanding secured obligation and no commitment to make advances,
20 incur obligations, or otherwise give value, the secured party must, on
21 written demand by the debtor, send the debtor, for each filing officer
22 with whom the financing statement was filed, a termination [A] statement
23 that he no longer claims a security interest under the financing state-
24 ment, which shall be identified by file number. A termination statement
25 signed by a person other than the secured party of record must [INCLUDE
26 OR] be accompanied by a separate written statement of assignment signed
27 by the secured party of record and complying with AS 45.09.405(b),
28 including payment of the required fee [THE ASSIGNMENT OR A STATEMENT BY
29 THE SECURED PARTY OF RECORD THAT HE HAS ASSIGNED THE SECURITY INTEREST

1 TO THE SIGNER OF THE TERMINATION STATEMENT. THE UNIFORM FEE FOR FILING
2 AND INDEXING SUCH AN ASSIGNMENT OR STATEMENT IS AS PRESCRIBED BY THE
3 ADMINISTRATIVE DIRECTOR OF COURTS]. If the affected secured party fails
4 to file [SEND] the termination statement within 10 days after proper
5 demand for it, he is liable to the debtor for \$100, and in addition, for
6 any loss caused to the debtor by this failure.

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

21 (c) The uniform fee for filing and indexing a termination state-
22 ment [INCLUDING SENDING OR DELIVERING THE FINANCING STATEMENT] is as
23 prescribed by the Department of Natural Resources [ADMINISTRATIVE DIREC-
24 TOR OF COURTS]. In addition, the Department of Natural Resources may
25 establish extra uniform fees for

26 (1) termination statements not in the standard form pre-
27 scribed by the department; and

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

1 * Sec. 62. AS 45.09.405 is amended to read:

2 Sec. 45.09.405. ASSIGNMENT OF SECURITY INTEREST; DUTIES OF FILING
3 OFFICER; FEES. (a) A financing statement may disclose an assignment of
4 a security interest in the collateral described in the statement by
5 indication in the statement of the name and address of the assignee or
6 by an assignment itself or a copy of an assignment on the face or back
7 of the statement. [EITHER THE ORIGINAL SECURED PARTY OR THE ASSIGNEE
8 MAY SIGN THIS STATEMENT AS THE SECURED PARTY.] On presentation to the
9 filing officer of this financing statement, the filing officer shall
10 mark the same as provided in AS 45.09.403(d). The uniform fee for
11 filing, indexing, and furnishing filing data for a financing statement
12 so indicating an assignment is as prescribed by the Department of Natural
13 Resources [ADMINISTRATIVE DIRECTOR OF COURTS]. In addition, the Depart-
14 ment of Natural Resources may establish extra uniform fees for

15 (1) financing statements not in the standard form prescribed
16 by the department; and

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

19 (b) A secured party may assign of record all or a part of his
20 rights under a financing statement by the filing in the place where the
21 original financing statement was filed of a separate written statement
22 of assignment signed by the secured party of record and setting out the
23 name of the secured party of record and the debtor, the file number, and
24 the date of filing of the financing statement and the name and address
25 of the assignee and containing a description of the collateral assigned.
26 A copy of the assignment is sufficient as a separate statement if it
27 complies with the preceding sentence. On presentation to the filing
28 officer of the separate statement, the filing officer shall mark the
29 separate statement with the date and hour of the filing. He

1 shall note the assignment on the index of the financing statement, or
2 in the case of a fixture filing, or a filing covering timber to be cut,
3 or covering minerals or the like (including oil and gas) or accounts
4 subject to AS 45.09.103(e), he shall index the assignment under the
5 name of the assignor as grantor and, to the extent that the law of
6 this state provides for indexing the assignment of a mortgage under
7 the name of the assignee, he shall index the assignment of the finan-
8 cing statement under the name of the assignee. The uniform fee for
9 filing, indexing, and furnishing filing data about the separate state-
10 ment of assignment is as prescribed by the Department of Natural
11 Resources [ADMINISTRATIVE DIRECTOR OF COURTS]. In addition, the Depart-
12 ment of Natural Resources may establish extra uniform fees for (1)
13 separate statements not in the form prescribed by the department; and
14 (2) each name more than one against which the statement of assignment
15 is required to be indexed. Notwithstanding the provisions of this sub-
16 section, an assignment of record of a security interest in a fixture
17 contained in a mortgage effective as a fixture filing (AS 45.09.402(g))
18 may be made only by an assignment of the mortgage in the manner pro-
19 vided by the law of the state other than this chapter.

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

22 * Sec. 63. AS 45.09.406 is amended to read:

23 Sec. 45.09.406. RELEASE OF COLLATERAL; DUTIES OF FILING OFFICER;
24 FEES. A secured party of record may, by his signed statement, release
25 all or a part of collateral described in a filed financing statement.
26 The statement of release is sufficient if it contains a description of
27 the collateral being released, the name and address of the debtor, the
28 name and address of the secured party, and the file number of the fi-
29 nancing statement. A statement of release signed by a person other

1 than the secured party of record must be accompanied by a separate
2 written statement of assignment signed by the secured party of record
3 and complying with AS 45.09.405(b), including payment of the required
4 fee. Upon presentation of the statement to the filing officer, he shall
5 mark the statement with the hour and date of filing and shall note this
6 information upon the margin of the index of the filing of the financing
7 statement. The uniform fee for filing and noting the statement of
8 release is as prescribed by the Department of Natural Resources [ADMIN-
9 ISTRATIVE DIRECTOR OF COURTS]. In addition, the Department of Natural
10 Resources may establish extra uniform fees for

11 (1) statements of release not in the standard form prescribed
12 by the department; and

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

15 * Sec. 64. AS 45.09.407(b) is amended to read:

16 (b) Upon request of a person, the filing officer shall issue his
17 certificate showing whether there is on file, on the date and hour
18 stated in it, a presently effective financing statement naming a parti-
19 cular debtor and a statement of assignment of it, and if there is,
20 giving the date and hour of filing of each such statement and the names
21 and addresses of each secured party in it. The uniform fee for the
22 certificate is as prescribed by the Department of Natural Resources
23 [ADMINISTRATIVE DIRECTOR OF COURTS] for each financing statement and for
24 each statement of assignment reported in the financing statement; the
25 Department of Natural Resources may establish an extra uniform fee for
26 requests for certificates which are not in the standard form prescribed
27 by the department [THEREIN]. Upon request, the filing officer shall
28 furnish a copy of a filed financing statement or statement of assignment
29 for a uniform fee as prescribed by the Department of Natural Resources

1 [ADMINISTRATIVE DIRECTOR OF COURTS].

2 * Sec. 65. AS 45.09 is amended by adding a new section to read:

3 Sec. 45.09.408. FINANCING STATEMENTS COVERING CONSIGNED OR LEASED
4 GOODS. A consignor or lessor of goods may file a financing statement
5 using the terms "consignor", "consignee", "lessor", "lessee", or the
6 like instead of the terms specified in AS 45.09.402. The provisions of
7 AS 45.09.401 - 45.09.408 apply as appropriate to the financing state-
8 ment, but its filing may not of itself be a factor in determining
9 whether or not the consignment or lease is intended as security (AS 45.-
10 01.201(37)). However, if it is determined for other reasons that the
11 consignment or lease is so intended, a security interest of the con-
12 signor or lessor which attaches to the consigned or leased goods is
13 perfected by the filing.

14 * Sec. 66. AS 45.09.501(c) is amended to read:

15 (c) To the extent that they give rights to the debtor and impose
16 duties on the secured party, the rules stated in the subsections re-
17 ferred to below may not be waived or varied except as provided with
18 respect to compulsory disposition of collateral (AS 45.09.504(c) -
19 45.09.505) [(AS 45.09.505(a))] and with respect to redemption of col-
20 lateral (AS 45.09.506), but the parties may by agreement determine the
21 standards by which the fulfillment of these rights and duties is to be
22 measured if such standards are not manifestly unreasonable:

23 (1) AS 45.09.502(b) and 45.09.504(b) insofar as they require
24 accounting for surplus proceeds of collateral;

25 (2) AS 45.09.504(c) and 45.09.505(a) which deal with
26 disposition of collateral;

27 (3) AS 45.09.505(b) which deals with acceptance of collateral
28 as discharge of obligation;

29 (4) AS 45.09.506 which deals with redemption of collateral;

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and

(5) AS 45.09.507(a) which deals with the secured party's liability for failure to comply with AS 45.09.501 - 45.09.507.

* Sec. 67. AS 45.09.502(b) is amended to read:

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

* Sec. 68. AS 45.09.504(a)(1) is amended to read:

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

* Sec. 69. AS 45.09.504(c) is amended to read:

(c) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms, but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of a public sale or reason-

1 able notification of the time after which a private sale or other in-
2 tended disposition is to be made shall be sent by the secured party to
3 the debtor, if he has not signed after default a statement renouncing
4 or modifying his right to notification of sale. In the case of consumer
5 goods no other notification need be sent. In other cases notification
6 shall be sent to any other secured party from whom the secured party
7 has received (before sending his notification to the debtor or before
8 the debtor's renunciation of his rights) written notice of a claim of
9 an interest in the collateral [AND, EXCEPT IN THE CASE OF CONSUMER
10 GOODS, TO ANY OTHER PERSON WHO HAS A SECURITY INTEREST IN THE COLLATERAL
11 AND WHO HAS DULY FILED A FINANCING STATEMENT INDEXED IN THE NAME OF THE
12 DEBTOR IN THE STATE OR WHO IS KNOWN BY THE SECURED PARTY TO HAVE A
13 SECURITY INTEREST IN THE COLLATERAL]. The secured party may buy at a
14 public sale, and, if the collateral is of a type customarily sold in a
15 recognized market or is of a type which is the subject of widely dis-
16 tributed standard price quotations, he may buy at private sale.

17 * Sec. 70. AS 45.09.505(b) is amended to read:

18 (b) In any other case involving consumer goods or any other col-
19 lateral, a secured party in possession may, after default, propose to
20 retain the collateral in satisfaction of the obligation. Written
21 notice of the proposal shall be sent to the debtor if he has not signed
22 after default a statement renouncing or modifying his rights under this
23 subsection. In the case of consumer goods no other notice need be
24 given. In other cases notice shall be sent to any other secured party
25 from whom the secured party has received (before sending his notice to
26 the debtor or before the debtor's renunciation of his rights) written
27 notice of a claim of an interest in the collateral. If the secured
28 party receives objection in writing from a person entitled to receive
29 notification within 21 days after the notice was sent [AND, EXCEPT IN

1 THE CASE OF CONSUMER GOODS, TO ANY OTHER SECURED PARTY WHO HAS A SECUR-
2 ITY INTEREST IN THE COLLATERAL AND WHO HAS DULY FILED A FINANCING STATE-
3 MENT INDEXED IN THE NAME OF THE DEBTOR IN THIS STATE OR IS KNOWN BY THE
4 SECURED PARTY IN POSSESSION TO HAVE A SECURITY INTEREST IN IT. IF THE
5 DEBTOR OR OTHER PERSON ENTITLED TO RECEIVE NOTIFICATION OBJECTS IN
6 WRITING WITHIN 30 DAYS FROM THE RECEIPT OF THE NOTIFICATION OR IF ANY
7 OTHER SECURED PARTY OBJECTS IN WRITING WITHIN 30 DAYS AFTER THE SECURED
8 PARTY OBTAINS POSSESSION], the secured party must dispose of the collat-
9 eral under AS 45.09.504. In the absence of this written objection, the
10 secured party may retain the collateral in satisfaction of the debtor's
11 obligation.

12 * Sec. 71. TRANSITION PROVISIONS. (a) Transactions validly entered into
13 after December 31, 1962, and before July 1, 1983, that were subject to the
14 provisions of AS 45.09.101 - 45.09.507 and that would be subject to AS 45.-
15 09.101 - 45.09.507 on or after July 1, 1983 if they had been entered into on
16 or after July 1, 1983, and the rights, duties and interests flowing from the
17 transactions remain valid on and after July 1, 1983, and may be terminated,
18 completed, consummated, or enforced as required or permitted by the provisions
19 of AS 45.09.101 - 45.09.507. Security interests arising out of the transac-
20 tions that are perfected as of July 1, 1983, shall remain perfected until
21 they lapse as provided in AS 45.09.101 - 45.09.507, and may be continued as
22 permitted by AS 45.09.101 - 45.09.507, except as stated in (c) - (f) of this
23 section.

24 (b) A security interest for the perfection of which filing or the
25 taking of possession was required under AS 45.09.101 - 45.09.507 before
26 July 1, 1983, and which attached before July 1, 1983, but was not perfected
27 shall be considered perfected on July 1, 1983, if AS 45.09.101 - 45.09.507
28 permits perfection without filing or authorizes filing in the office or
29 offices where a prior ineffective filing was made.

1 (c) A financing statement or continuation statement filed before July 1,
2 1983 that has not lapsed before July 1, 1983 shall remain effective for the
3 period provided in AS 45.09.101 - 45.09.507, as it read before July 1, 1983,
4 but not less than five years after the filing.

5 (d) With respect to any collateral acquired by the debtor after July 1,
6 1983, any effective financing statement or continuation statement described
7 in (c) - (f) of this section shall apply only if the filing or filings are in
8 the office or offices appropriate to perfect the security interests in the
9 new collateral under AS 45.09.101 - 45.09.507.

10 (e) The effectiveness of a financing statement or continuation state-
11 ment filed before July 1, 1983, may be continued by a continuation statement
12 as permitted by AS 45.09.101 - 45.09.507, except that if AS 45.09.101 -
13 45.09.507 requires a filing in an office where there was no previous finan-
14 cing statement, a new financing statement conforming to (g) - (j) of this
15 section shall be filed in that office.

16 (f) If the record of a mortgage of real estate would have been effec-
17 tive as a fixture filing of goods described in the mortgage if AS 45.09.101 -
18 45.09.507, as those sections read after July 1, 1983, had been in effect on
19 the date of recording the mortgage, the mortgage is considered effective as a
20 fixture filing as to the goods under AS 45.09.402(g) on July 1, 1983.

21 (g) If a security interest is perfected or has priority as of July 1,
22 1983, as to all persons or as to certain persons without any filing or record-
23 ing, and if the filing of a financing statement would be required for the
24 perfection or priority of the security interest against those persons under
25 AS 45.09.101 - 45.09.507, the perfection and priority rights of the security
26 interest continue until July 1, 1986. The perfection will then lapse unless
27 a financing statement is filed as provided in (j) of this section or unless
28 the security interest is perfected otherwise than by filing.

29 (h) If a security interest is perfected as of July 1, 1983, under a

1 law, other than AS 45.09.101 - 45.09.507, that requires no further filing,
2 refiling, or recording to continue its perfection, perfection continues until
3 and will lapse July 1, 1986 unless a financing statement is filed as provided
4 in (j) of this section or unless the security interest is perfected otherwise
5 than by filing, or unless under AS 45.09.302(c) the other law continues to
6 govern filing.

7 (i) If a security interest is perfected by a filing, refiling or re-
8 cording under a law repealed by this Act that required further filing, refil-
9 ing, or recording to continue its perfection, perfection continues and will
10 lapse on the date provided by the law repealed for the further filing, refil-
11 ing, or recording unless a financing statement is filed as provided in (j) of
12 this section or unless the security interest is perfected otherwise than by
13 filing.

14 (j) A financing statement may be filed within six months before the
15 perfection of a security interest would otherwise lapse. The financing
16 statement may be signed by either the debtor or the secured party. It must
17 identify the security agreement, statement or notice (however denominated in
18 any statute or other law repealed or modified by secs. 1 - 6 and 15 - 70 of
19 this Act), state the office where and the date when the last filing, refil-
20 ing, or recording, if any, was made with respect to the statement, and the
21 filing number, if any, or book and page, if any, of recording and further
22 state that the security agreement, statement or notice, however denominated,
23 in another filing office under AS 45.09.101 - 45.09.507 or under any statute
24 or other law repealed or modified by secs. 1 - 6 and 15 - 70 of this Act is
25 still effective. AS 45.09.401 and 45.09.103 determine the proper place to
26 file the financing statement. Except as specified in this subsection, the
27 provisions of AS 45.09.403(c) for continuation statements apply to the
28 financing statement.

29 * Sec. 72. AS 45.08.102(b) is repealed.

1 * Sec. 73. This Act takes effect July 1, 1983.
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