

SECOND REGULAR SESSION

HOUSE BILL NO. 1712

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MONACO, CARNAHAN, RICHARDSON, MAYER,
WILLOUGHBY AND CROWELL (Co-sponsors).

Read 1st time January 30, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3731L.01I

AN ACT

To repeal sections 400.9-102, 400.9-109, 400.9-303, 400.9-311, 400.9-313, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, and 400.9-710, RSMo, and to enact in lieu thereof twenty-two new sections relating to matters regulated by the secretary of state.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 400.9-102, 400.9-109, 400.9-303, 400.9-311, 400.9-313, 400.9-317, 2 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 3 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, and 400.9-710, 4 RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 5 400.9-102, 400.9-109, 400.9-303, 400.9-311, 400.9-313, 400.9-317, 400.9-323, 400.9-406, 6 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 7 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, and 400.9-710, to read as follows:

400.9-102. (a) In this article:

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

4 (2) "Account", except as used in "account for", means a right to payment of a monetary
5 obligation, whether or not earned by performance, (i) for property that has been or is to be sold,
6 leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered,
7 (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or
8 to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 a charter or other contract, (vii) arising out of the use of a credit or charge card or information
10 contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance
11 operated or sponsored by a state, governmental unit of a state, or person licensed or authorized
12 to operate the game by a state or governmental unit of a state. The term includes
13 health-care-insurance receivables. The term does not include (i) rights to payment evidenced by
14 chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment
15 property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or
16 funds advanced or sold, other than rights arising out of the use of a credit or charge card or
17 information contained on or for use with the card;

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

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

22 (A) Authenticated by a secured party;

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

25 (C) Identifying the components of the obligations in reasonable detail;

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

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

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

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

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

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

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

35 (C) Whose effectiveness does not depend on the person's possession of the personal
36 property;

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

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

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

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

41 (B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other
42 minerals in which the debtor had an interest before extraction;

43 (7) "Authenticate" means:

44 (A) To sign; or

45 (B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in
46 whole or in part, with the present intent of the authenticating person to identify the person and
47 adopt or accept a record;

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

50 (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the
51 like;

52 (10) "Certificate of title" means a certificate of title with respect to which a statute
53 provides for the security interest in question to be indicated on the certificate as a condition or
54 result of the security interest's obtaining priority over the rights of a lien creditor with respect to
55 the collateral;

56 (11) "Chattel paper" means a record or records that evidence both a monetary obligation
57 and a security interest in specific goods, a security interest in specific goods and software used
58 in the goods, **a security interest in specific goods and license of software used in the goods,**
59 **a lease of specific goods,** or a lease of specific goods **and license of software used in the**
60 **goods. In this paragraph, "monetary obligation" means a monetary obligation secured by**
61 **the goods or owed under a lease of the goods and includes a monetary obligation with**
62 **respect to software used in the goods.** The term does not include (i) charters or other contracts
63 involving the use or hire of a vessel or (ii) **records that evidence a right to payment arising**
64 **out of the use of a credit or charge card or information contained on or for use with the**
65 **card.** If a transaction is evidenced [both by a security agreement or lease and] by **records that**
66 **include** an instrument or series of instruments, the group of records taken together constitutes
67 chattel paper;

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

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

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

73 (C) Goods that are the subject of a consignment;

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

75 (A) The claimant is an organization; or

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

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

78 (ii) Does not include damages arising out of personal injury to or the death of an
79 individual;

80 (14) "Commodity account" means an account maintained by a commodity intermediary

81 in which a commodity contract is carried for a commodity customer;

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

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

86 (B) Traded on a foreign commodity board of trade, exchange, or market, and is carried
87 on the books of a commodity intermediary for a commodity customer;

88 (16) "Commodity customer" means a person for which a commodity intermediary carries
89 a commodity contract on its books;

90 (17) "Commodity intermediary" means a person that:

91 (A) Is registered as a futures commission merchant under federal commodities law; or

92 (B) In the ordinary course of its business provides clearance or settlement services for
93 a board of trade that has been designated as a contract market pursuant to federal commodities
94 law;

95 (18) "Communicate" means:

96 (A) To send a written or other tangible record;

97 (B) To transmit a record by any means agreed upon by the persons sending and receiving
98 the record; or

99 (C) In the case of transmission of a record to or by a filing office, to transmit a record
100 by any means prescribed by filing-office rule;

101 (19) "Consignee" means a merchant to which goods are delivered in a consignment;

102 (20) "Consignment" means a transaction, regardless of its form, in which a person
103 delivers goods to a merchant for the purpose of sale and:

104 (A) The merchant:

105 (i) Deals in goods of that kind under a name other than the name of the person making
106 delivery;

107 (ii) Is not an auctioneer; and

108 (iii) Is not generally known by its creditors to be substantially engaged in selling the
109 goods of others;

110 (B) With respect to each delivery, the aggregate value of the goods is one thousand
111 dollars or more at the time of delivery;

112 (C) The goods are not consumer goods immediately before delivery; and

113 (D) The transaction does not create a security interest that secures an obligation;

114 (21) "Consignor" means a person that delivers goods to a consignee in a consignment;

115 (22) "Consumer debtor" means a debtor in a consumer transaction;

116 (23) "Consumer goods" means goods that are used or bought for use primarily for

117 personal, family, or household purposes;

118 (24) "Consumer-goods transaction" means a consumer transaction in which:

119 (A) An individual incurs an obligation primarily for personal, family, or household
120 purposes; and

121 (B) A security interest in consumer goods secures the obligation;

122 (25) "Consumer obligor" means an obligor who is an individual and who incurred the
123 obligation as part of a transaction entered into primarily for personal, family, or household
124 purposes;

125 (26) "Consumer transaction" means a transaction in which (i) an individual incurs an
126 obligation primarily for personal, family, or household purposes, (ii) a security interest secures
127 the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or
128 household purposes. The term includes consumer-goods transactions;

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

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

131 (B) Indicates that it is a continuation statement for, or that it is filed to continue the
132 effectiveness of, the identified financing statement;

133 (28) "Debtor" means:

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

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

137 (C) A consignee;

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

141 (30) "Document" means a document of title or a receipt of the type described in section
142 400.7-201(2);

143 (31) "Electronic chattel paper" means chattel paper evidenced by a record or records
144 consisting of information stored in an electronic medium;

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

147 (33) "Equipment" means goods other than inventory, farm products, or consumer goods;

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

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

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

152 (ii) Aquatic goods produced in aquacultural operations;

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

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

156 (D) Products of crops or livestock in their unmanufactured states;

157 (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or
158 any other farming, livestock, or aquacultural operation;

159 (36) "File number" means the number assigned to an initial financing statement pursuant
160 to section 400.9-519(a);

161 (37) "Filing office" means an office designated in section 400.9-501 as the place to file
162 a financing statement;

163 (38) "Filing-office rule" means a rule adopted pursuant to section 400.9-526;

164 (39) "Financing statement" means a record or records composed of an initial financing
165 statement and any filed record relating to the initial financing statement;

166 (40) "Fixture filing" means the filing of a financing statement covering goods that are
167 or are to become fixtures and satisfying section 400.9-502(a) and (b). The term includes the
168 filing of a financing statement covering goods of a transmitting utility which are or are to become
169 fixtures;

170 (41) "Fixtures" means goods that have become so related to particular real property that
171 an interest in them arises under real property law;

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

176 (43) "Good faith" means honesty in fact;

177 (44) "Goods" means all things that are movable when a security interest attaches. The
178 term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance
179 or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown,
180 even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term
181 also includes a computer program embedded in goods and any supporting information provided
182 in connection with a transaction relating to the program if (i) the program is associated with the
183 goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming
184 the owner of the goods, a person acquires a right to use the program in connection with the
185 goods. The term does not include a computer program embedded in goods that consist solely
186 of the medium in which the program is embedded. The term also does not include accounts,
187 chattel paper, commercial tort claims, deposit accounts, documents, general intangibles,
188 instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or

189 other minerals before extraction;

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

195 (46) "Health-care-insurance receivable" means an interest in or claim under a policy of
196 insurance which is a right to payment of a monetary obligation for health-care goods or services
197 provided;

198 (47) "Instrument" means a negotiable instrument or any other writing that evidences a
199 right to the payment of a monetary obligation, is not itself a security agreement or lease, and is
200 of a type that in ordinary course of business is transferred by delivery with any necessary
201 indorsement or assignment. The term does not include (i) investment property, (ii) letters of
202 credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge
203 card or information contained on or for use with the card;

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

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

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

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

208 (D) Consist of raw materials, work in process, or materials used or consumed in a
209 business;

210 (49) "Investment property" means a security, whether certificated or uncertificated,
211 security entitlement, securities account, commodity contract, or commodity account;

212 (50) "Jurisdiction of organization", with respect to a registered organization, means the
213 jurisdiction under whose law the organization is organized;

214 (51) "Letter-of-credit right" means a right to payment or performance under a letter of
215 credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment
216 or performance. The term does not include the right of a beneficiary to demand payment or
217 performance under a letter of credit;

218 (52) "Lien creditor" means:

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

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

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

223 (D) A receiver in equity from the time of appointment;

224 (53) "Manufactured home" means a structure, transportable in one or more sections,

225 which, in the traveling mode, is eight body feet or more in width or forty body feet or more in
226 length, or, when erected on site, is three hundred twenty or more square feet, and which is built
227 on a permanent chassis and designed to be used as a dwelling with or without a permanent
228 foundation when connected to the required utilities, and includes the plumbing, heating,
229 air-conditioning, and electrical systems contained therein. The term includes any structure that
230 meets all of the requirements of this paragraph except the size requirements and with respect to
231 which the manufacturer voluntarily files a certification required by the United States Secretary
232 of Housing and Urban Development and complies with the standards established under Title 42
233 of the United States Code;

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

235 (A) That creates a purchase-money security interest in a manufactured home, other than
236 a manufactured home held as inventory; or

237 (B) In which a manufactured home, other than a manufactured home held as inventory,
238 is the primary collateral;

239 (55) "Mortgage" means a consensual interest in real property, including fixtures, which
240 secures payment or performance of an obligation;

241 (56) "New debtor" means a person that becomes bound as debtor under section
242 400.9-203(d) by a security agreement previously entered into by another person;

243 (57) "New value" means (i) money, (ii) money's worth in property, services, or new
244 credit, or (iii) release by a transferee of an interest in property previously transferred to the
245 transferee. The term does not include an obligation substituted for another obligation;

246 (58) "Noncash proceeds" means proceeds other than cash proceeds;

247 (59) ["Notice" means a properly filed financing statement;

248 (60)] "Obligor" means a person that, with respect to an obligation secured by a security
249 interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the
250 obligation, (ii) has provided property other than the collateral to secure payment or other
251 performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment
252 or other performance of the obligation. The term does not include issuers or nominated persons
253 under a letter of credit;

254 [(61)] **(60)** "Original debtor", **except as used in section 400.9-310(c)**, means a person
255 that, as debtor, entered into a security agreement to which a new debtor has become bound under
256 section 400.9-203(d);

257 [(62)] **(61)** "Payment intangible" means a general intangible under which the account
258 debtor's principal obligation is a monetary obligation;

259 [(63)] **(62)** "Person related to", with respect to an individual, means:

260 (A) The spouse of the individual;

261 (B) A brother, brother-in-law, sister, or sister-in-law of the individual;
262 (C) An ancestor or lineal descendant of the individual or the individual's spouse; or
263 (D) Any other relative, by blood or marriage, of the individual or the individual's spouse
264 who shares the same home with the individual;

265 [(64)] **(63)** "Person related to", with respect to an organization, means:
266 (A) A person directly or indirectly controlling, controlled by, or under common control
267 with the organization;
268 (B) An officer or director of, or a person performing similar functions with respect to,
269 the organization;
270 (C) An officer or director of, or a person performing similar functions with respect to,
271 a person described in subparagraph (A);
272 (D) The spouse of an individual described in subparagraph (A), (B), or (C); or
273 (E) An individual who is related by blood or marriage to an individual described in
274 subparagraph (A), (B), (C), or (D) and shares the same home with the individual;

275 [(65)] **(64)** "Proceeds", **except as used in section 400.9-609(b)**, means the following
276 property:
277 (A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of
278 collateral;
279 (B) Whatever is collected on, or distributed on account of, collateral;
280 (C) Rights arising out of collateral;
281 (D) To the extent of the value of collateral, claims arising out of the loss, nonconformity,
282 or interference with the use of, defects or infringement of rights in, or damage to, the collateral;
283 or
284 (E) To the extent of the value of collateral and to the extent payable to the debtor or the
285 secured party, insurance payable by reason of the loss or nonconformity of, defects or
286 infringement of rights in, or damage to, the collateral;

287 [(66)] **(65)** "Promissory note" means an instrument that evidences a promise to pay a
288 monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment
289 by a bank that the bank has received for deposit a sum of money or funds;

290 [(67)] **(66)** "Proposal" means a record authenticated by a secured party which includes
291 the terms on which the secured party is willing to accept collateral in full or partial satisfaction
292 of the obligation it secures pursuant to sections 400.9-620, 400.9-621 and 400.9-622;

293 [(68)] **(67)** "Pursuant to commitment", with respect to an advance made or other value
294 given by a secured party, means pursuant to the secured party's obligation, whether or not a
295 subsequent event of default or other event not within the secured party's control has relieved or
296 may relieve the secured party from its obligation;

297 [(69)] **(68)** "Record", except as used in "for record", "of record", "record or legal title",
298 and "record owner", means information that is inscribed on a tangible medium or which is stored
299 in an electronic or other medium and is retrievable in perceivable form;

300 [(70)] **(69)** "Registered organization" means an organization organized solely under the
301 law of a single state or the United States and as to which the state or the United States must
302 maintain a public record showing the organization to have been organized;

303 [(71)] **(70)** "Secondary obligor" means an obligor to the extent that:

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

305 (B) The obligor has a right of recourse with respect to an obligation secured by collateral
306 against the debtor, another obligor, or property of either;

307 [(72)] **(71)** "Secured party" means:

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

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

311 (C) A consignor;

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

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

316 (F) A person that holds a security interest arising under sections 400.2-401, 400.2-505,
317 400.2-711(3), 400.2A-508(5), 400.4-210 or 400.5-118;

318 [(73)] **(72)** "Security agreement" means an agreement that creates or provides for a
319 security interest;

320 [(74)] **(73)** "Send", in connection with a record or notification, means:

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

324 (B) To cause the record or notification to be received within the time that it would have
325 been received if properly sent under subparagraph (A);

326 [(75)] **(74)** "Software" means a computer program and any supporting information
327 provided in connection with a transaction relating to the program. The term does not include a
328 computer program that is included in the definition of goods;

329 [(76)] **(75)** "State" means a state of the United States, the District of Columbia, Puerto
330 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
331 jurisdiction of the United States;

332 [(77)] **(76)** "Supporting obligation" means a letter-of-credit right or secondary obligation

333 that supports the payment or performance of an account, chattel paper, a document, a general
334 intangible, an instrument, or investment property;

335 [(78)] **(77)** "Tangible chattel paper" means chattel paper evidenced by a record or records
336 consisting of information that is inscribed on a tangible medium;

337 [(79)] **(78)** "Termination statement" means an amendment of a financing statement
338 which:

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

340 (B) Indicates either that it is a termination statement or that the identified financing
341 statement is no longer effective;

342 [(80)] **(79)** "Transmitting utility" means a person primarily engaged in the business of:

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

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

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

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

347 (b) The following definitions in other articles apply to this article:

348 "Applicant" Section 400.5-102.

349 "Beneficiary" Section 400.5-102.

350 "Broker" Section 400.8-102.

351 "Certificated security" Section 400.8-102.

352 "Check" Section 400.3-104.

353 "Clearing corporation" Section 400.8-102.

354 "Contract for sale" Section 400.2-106.

355 "Customer" Section 400.4-104.

356 "Entitlement holder" Section 400.8-102.

357 "Financial asset" Section 400.8-102.

358 "Holder in due course" Section 400.3-302.

359 "Issuer" (with respect to a letter of
360 credit or letter-of-credit right) Section 400.5-102.

361 "Issuer" (with respect to a security) Section 400.8-201.

362 "Lease" Section 400.2A-103.

363 "Lease agreement" Section 400.2A-103.

364 "Lease contract" Section 400.2A-103.

365 "Leasehold interest" Section 400.2A-103.

366 "Lessee" Section 400.2A-103.

367 "Lessee in ordinary course of
368 business" Section 400.2A-103.

369	"Lessor"	Section 400.2A-103.
370	"Lessor's residual interest"	Section 400.2A-103.
371	"Letter of credit"	Section 400.5-102.
372	"Merchant"	Section 400.2-104.
373	"Negotiable instrument"	Section 400.3-104.
374	"Nominated person"	Section 400.5-102.
375	"Note"	Section 400.3-104.
376	"Proceeds of a letter of credit"	Section 400.5-114.
377	"Prove"	Section 400.3-103.
378	"Sale"	Section 400.2-106.
379	"Securities account"	Section 400.8-501.
380	"Securities intermediary"	Section 400.8-102.
381	"Security"	Section 400.8-102.
382	"Security certificate"	Section 400.8-102.
383	"Security entitlement"	Section 400.8-102.
384	"Uncertificated security"	Section 400.8-102.

385 (c) This section contains general definitions and principles of construction and
386 interpretation applicable throughout sections 400.9-103 to 400.9-708.

400.9-109. (a) Except as otherwise provided in subsections (c) and (d), this article
2 applies to:

- 3 (1) A transaction, regardless of its form, that creates a security interest in personal
4 property or fixtures by contract;
- 5 (2) An agricultural lien;
- 6 (3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
- 7 (4) A consignment;
- 8 (5) A security interest arising under section 400.2-401, 400.2-505, 400.2-711(3) or
9 400.2A-508(5), as provided in section 400.9-110; and
- 10 (6) A security interest arising under section 400.4-210 or 400.5-118.

11 (b) The application of this article to a security interest in a secured obligation is not
12 affected by the fact that the obligation is itself secured by a transaction or interest to which this
13 article does not apply.

14 (c) This article does not apply to the extent that:

- 15 (1) A statute, regulation, or treaty of the United States preempts this article;
- 16 (2) **Another statute of this state expressly governs the creation, perfection, priority,**
17 **or enforcement of a security interest created by this state or a governmental unit of this**
18 **state;**

19 (3) A statute of another state, a foreign country, or a governmental unit of another state
20 or a foreign country, other than a statute generally applicable to security interests, expressly
21 governs creation, perfection, priority, or enforcement of a security interest created by the state,
22 country, or governmental unit; or

23 [(3)] (4) The rights of a transferee beneficiary or nominated person under a letter of
24 credit are independent and superior under section 400.5-114.

25 (d) This article does not apply to:

26 (1) A landlord's lien, other than an agricultural lien;

27 (2) A lien, other than an agricultural lien, given by statute or other rule of law for
28 services or materials, but section 400.9-333 applies with respect to priority of the lien;

29 (3) An assignment of a claim for wages, salary, or other compensation of an employee;

30 (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part
31 of a sale of the business out of which they arose;

32 (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes
33 which is for the purpose of collection only;

34 (6) An assignment of a right to payment under a contract to an assignee that is also
35 obligated to perform under the contract;

36 (7) An assignment of a single account, payment intangible, or promissory note to an
37 assignee in full or partial satisfaction of a preexisting indebtedness;

38 (8) A transfer of an interest in or an assignment of a claim under a policy of insurance,
39 other than an assignment by or to a health-care provider of a health-care-insurance receivable and
40 any subsequent assignment of the right to payment, but sections 400.9-315 and 400.9-322 apply
41 with respect to proceeds and priorities in proceeds;

42 (9) An assignment of a right represented by a judgment, other than a judgment taken on
43 a right to payment that was collateral;

44 (10) A right of recoupment or set-off, but:

45 (A) Section 400.9-340 applies with respect to the effectiveness of rights of recoupment
46 or set-off against deposit accounts; and

47 (B) Section 400.9-404 applies with respect to defenses or claims of an account debtor;

48 (11) The creation or transfer of an interest in or lien on real property, including a lease
49 or rents thereunder, except to the extent that provision is made for:

50 (A) Liens on real property in sections 400.9-203 and 400.9-308;

51 (B) Fixtures in section 400.9-334;

52 (C) Fixture filings in sections 400.9-501, 400.9-502, 400.9-512, 400.9-516 and
53 400.9-519; and

54 (D) Security agreements covering personal and real property in section 400.9-604;

55 (12) An assignment of a claim arising in tort, other than a commercial tort claim, but
56 sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; or

57 (13) An assignment of a deposit account in a consumer transaction, but sections
58 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds[; or

59 (14) An assignment of a claim or right to receive compensation for injuries or sickness
60 as described in 26 U.S.C. Section 104(a)(1) or (2), as amended from time to time; or

61 (15) An assignment of a claim or right to receive benefits under a special needs trust as
62 described in 42 U.S.C. Section 1396p(d)(4), as amended from time to time; or

63 (16) A transfer by a government or governmental subdivision or agency].

400.9-303. (a) This section applies to goods covered by a certificate of title, even if there
2 is no other relationship between the jurisdiction under whose certificate of title the goods are
3 covered and the goods or the debtor.

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

9 (c) The local law of the jurisdiction under whose certificate of title the goods are covered
10 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest
11 in goods covered by a certificate of title from the time the goods become covered by the
12 certificate of title until the goods cease to be covered by the certificate of title.

13 (d) When a notice of lien is filed in accordance with chapter 301 or 306, RSMo, then the
14 lien is perfected and this chapter shall not govern perfection or nonperfection or the priority of
15 the lien even though a valid application for a certificate of title and the applicable fee was not
16 delivered to the appropriate authority or the certificate of title was not issued by such authority.

17 (e) **When notice of lien is filed in accordance with sections 700.350 to 700.390,**
18 **RSMo, then the lien is perfected and this chapter shall not govern perfection or**
19 **nonperfection or the priority of the lien even though a valid application for a certificate of**
20 **title and the applicable fee was not delivered to the appropriate authority or the certificate**
21 **of title was not issued by such authority. All transactions involving liens or encumbrances**
22 **on manufactured homes perfected pursuant to sections 700.350 to 700.390, RSMo, after**
23 **June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing**
24 **from them are and shall remain valid thereafter and may be terminated, completed,**
25 **consummated, or enforced as required or permitted by this section and section 700.350,**
26 **RSMo.**

400.9-311. (a) Except as otherwise provided in subsection (d), the filing of a financing

2 statement is not necessary or effective to perfect a security interest in property subject to:

3 (1) A statute, regulation, or treaty of the United States whose requirements for a security
4 interest's obtaining priority over the rights of a lien creditor with respect to the property preempt
5 section 400.9-310(a);

6 (2) Sections 301.600 to 301.661, RSMo, and section 400.2A-304; or

7 (3) A certificate-of-title statute of another jurisdiction which provides for a security
8 interest to be indicated on the certificate as a condition or result of the security interest's
9 obtaining priority over the rights of a lien creditor with respect to the property.

10 (b) Compliance with the requirements of a statute, regulation, or treaty described in
11 subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing
12 of a financing statement under this article. Except as otherwise provided in subsection (d) and
13 sections 400.9-313 and 400.9-316(d) and (e) for goods covered by a certificate of title, a security
14 interest in property subject to a statute, regulation, or treaty described in subsection (a) may be
15 perfected only by compliance with those requirements, and a security interest so perfected
16 remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

17 (c) Except as otherwise provided in subsection (d) and section 400.9-316(d) and (e),
18 duration and renewal of perfection of a security interest perfected by compliance with the
19 requirements prescribed by a statute, regulation, or treaty described in subsection (a) are
20 governed by the statute, regulation, or treaty. In other respects, the security interest is subject to
21 this article.

22 (d) During any period in which collateral **subject to a statute specified in subsection**
23 **(a)(2)** is inventory held for sale or lease by a person or leased by that person as lessor and that
24 person is in the business of selling [or leasing] goods of that kind, this section does not apply to
25 a security interest in that collateral created by that person [as debtor].

400.9-313. (a) Except as otherwise provided in subsection (b), a secured party may
2 perfect a security interest in negotiable documents, goods, instruments, money, or tangible
3 chattel paper by taking possession of the collateral. A secured party may perfect a security
4 interest in certificated securities by taking delivery of the certificated securities under section
5 [400.8-301] **400.9-301**.

6 (b) With respect to goods covered by a certificate of title issued by this state, a secured
7 party may perfect a security interest in the goods by taking possession of the goods only in the
8 circumstances described in section 400.9-316(d).

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

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

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

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

20 (e) A security interest in a certificated security in registered form is perfected by delivery
21 when delivery of the certificated security occurs under section 400.8-301 and remains perfected
22 by delivery until the debtor obtains possession of the security certificate.

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

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

26 (1) The acknowledgment is effective under subsection (c) or section 400.8-301(a), even
27 if the acknowledgment violates the rights of a debtor; and

28 (2) Unless the person otherwise agrees or law other than this article otherwise provides,
29 the person does not owe any duty to the secured party and is not required to confirm the
30 acknowledgment to another person.

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

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

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

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

 400.9-317. (a) [An unperfected] A security interest or agricultural lien is subordinate
2 to the rights of:

3 (1) A person entitled to priority under section 400.9-322; and

4 (2) **Except as otherwise provided in subsection (e),** a person that becomes a lien
5 creditor before the earlier of the time:

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

7 (B) **One of the conditions specified in section 400.9-203(b)(3) is met and** a financing
8 statement covering the collateral is filed.

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

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

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

20 (e) Except as otherwise provided in sections 400.9-320 and 400.9-321, if a person files
21 a financing statement with respect to a purchase-money security interest before or within twenty
22 days after the debtor receives delivery of the collateral, the security interest takes priority over
23 the rights of a buyer, lessee, or lien creditor which arise between the time the security interest
24 attaches and the time of filing.

400.9-323. (a) Except as otherwise provided in subsection (c), for purposes of
2 determining the priority of a perfected security interest under section 400.9-322(a)(1), perfection
3 of the security interest dates from the time an advance is made to the extent that the security
4 interest secures an advance that:

5 (1) Is made while the security interest is perfected only:

6 (A) Under section 400.9-309 when it attaches; or

7 (B) Temporarily under section 400.9-312(e), (f), or (g); and

8 (2) Is not made pursuant to a commitment entered into before or while the security
9 interest is perfected by a method other than under section 400.9-309 or 400.9-312(e), (f), or (g).

10 (b) Except as otherwise provided in subsection (c), a security interest is subordinate to
11 the rights of a person that becomes a lien creditor [while the security interest is perfected only]
12 to the extent that [it] **the security interest** secures [advances] **an advance** made more than
13 forty-five days after the person becomes a lien creditor unless the advance is made:

14 (1) Without knowledge of the lien; or

15 (2) Pursuant to a commitment entered into without knowledge of the lien.

16 (c) Subsections (a) and (b) do not apply to a security interest held by a secured party that
17 is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

18 (d) Except as otherwise provided in subsection (e), a buyer of goods other than a buyer
19 in ordinary course of business takes free of a security interest to the extent that it secures
20 advances made after the earlier of:

21 (1) The time the secured party acquires knowledge of the buyer's purchase; or

22 (2) Forty-five days after the purchase.

23 (e) Subsection (d) does not apply if the advance is made pursuant to a commitment
24 entered into without knowledge of the buyer's purchase and before the expiration of the
25 forty-five-day period.

26 (f) Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee
27 in ordinary course of business, takes the leasehold interest free of a security interest to the extent
28 that it secures advances made after the earlier of:

29 (1) The time the secured party acquires knowledge of the lease; or

30 (2) Forty-five days after the lease contract becomes enforceable.

31 (g) Subsection (f) does not apply if the advance is made pursuant to a commitment
32 entered into without knowledge of the lease and before the expiration of the forty-five-day
33 period.

400.9-406. (a) Subject to subsections (b) through (i), an account debtor on an account,
2 chattel paper, or a payment intangible may discharge its obligation by paying the assignor until,
3 but not after, the account debtor receives a notification, authenticated by the assignor or the
4 assignee, that the amount due or to become due has been assigned and that payment is to be
5 made to the assignee. After receipt of the notification, the account debtor may discharge its
6 obligation by paying the assignee and may not discharge the obligation by paying the assignor.

7 (b) Subject to subsection (h), notification is ineffective under subsection (a):

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

9 (2) To the extent that an agreement between an account debtor and a seller of a payment
10 intangible limits the account debtor's duty to pay a person other than the seller and the limitation
11 is effective under law other than this article; or

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

15 (A) Only a portion of the account, chattel paper, or general intangible has been assigned
16 to that assignee;

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

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

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

23 (d) Except as otherwise provided in subsection (e) and sections 400.2A-303 and

24 400.9-407, and subject to subsection (h), a term in an agreement between an account debtor and
25 an assignor or in a promissory note is ineffective to the extent that it:

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

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

34 (e) Subsection (d) does not apply to the sale of a payment intangible or promissory note.

35 (f) Except as otherwise provided in sections 400.2A-303 and 400.9- 407, and subject to
36 subsections (h) and (i), a rule of law, statute, or regulation, that prohibits, restricts, or requires
37 the consent of a government, governmental body or official, or account debtor to the assignment
38 or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the
39 extent that the rule of law, statute, or regulation:

40 (1) Prohibits, restricts, or requires the consent of the government, governmental body
41 or official, or account debtor to the assignment or transfer of, or the creation, attachment,
42 perfection, or enforcement of a security interest in, the account or chattel paper; or

43 (2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or
44 enforcement of the security interest may give rise to a default, breach, right of recoupment,
45 claim, defense, termination, right of termination, or remedy under the account or chattel paper.

46 (g) Subject to subsection (h), an account debtor may not waive or vary its option under
47 subsection (b)(3).

48 (h) This section is subject to law other than this article which establishes a different rule
49 for an account debtor who is an individual and who incurred the obligation primarily for
50 personal, family, or household purposes.

51 (i) This section does not apply to an assignment of a health-care-insurance receivable.

52 (j) This section prevails over any inconsistent provisions of any statutes, rules, and
53 regulations.

400.9-407. (a) Except as otherwise provided in subsection (b), a term in a lease
2 agreement is ineffective to the extent that it:

3 (1) Prohibits, restricts, or requires the consent of a party to the lease to the **assignment**
4 **or transfer of, or the** creation, attachment, perfection, or enforcement of a security interest in
5 an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

6 (2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or

7 enforcement of the security interest may give rise to a default, breach, right of recoupment,
8 claim, defense, termination, right of termination, or remedy under the lease.

9 (b) Except as otherwise provided in section 400.2A-303(7), a term described in
10 subsection (a)(2) is effective to the extent that there is:

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

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

15 (c) The creation, attachment, perfection, or enforcement of a security interest in the
16 lessor's interest under the lease contract or the lessor's residual interest in the goods is not a
17 transfer that materially impairs the lessee's prospect of obtaining return performance or materially
18 changes the duty of or materially increases the burden or risk imposed on the lessee within the
19 purview of section 400.2A-303(4) unless, and then only to the extent that, enforcement actually
20 results in a delegation of material performance of the lessor. [Even in that event, the creation,
21 attachment, perfection, and enforcement of the security interest remain effective.]

400.9-408. (a) Except as otherwise provided in subsection (b), a term in a promissory
2 note or in an agreement between an account debtor and a debtor which relates to a
3 health-care-insurance receivable or a general intangible, including a contract, permit, license, or
4 franchise, and which term prohibits, restricts, or requires the consent of the person obligated on
5 the promissory note or the account debtor to, the assignment or transfer of, or creation,
6 attachment, or perfection of a security interest in, the promissory note, health-care-insurance
7 receivable, or general intangible, is ineffective to the extent that the term:

8 (1) Would impair the creation, attachment, or perfection of a security interest; or

9 (2) Provides that the **assignment or transfer or the** creation, attachment, or perfection
10 of the security interest may give rise to a default, breach, right of recoupment, claim, defense,
11 termination, right of termination, or remedy under the promissory note, health-care-insurance
12 receivable, or general intangible.

13 (b) Subsection (a) applies to a security interest in a payment intangible or promissory
14 note only if the security interest arises out of a sale of the payment intangible or promissory note.

15 (c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent
16 of a government, governmental body or official, person obligated on a promissory note, or
17 account debtor to the assignment or transfer of, or creation of a security interest in, a promissory
18 note, health-care-insurance receivable, or general intangible, including a contract, permit, license,
19 or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of
20 law, statute, or regulation:

21 (1) Would impair the creation, attachment, or perfection of a security interest; or

22 (2) Provides that the **assignment or transfer or the** creation, attachment, or perfection
23 of the security interest may give rise to a default, breach, right of recoupment, claim, defense,
24 termination, right of termination, or remedy under the promissory note, health-care-insurance
25 receivable, or general intangible.

26 (d) To the extent that a term in a promissory note or in an agreement between an account
27 debtor and a debtor which relates to a health-care-insurance receivable or general intangible or
28 a rule of law, statute, or regulation described in subsection (c) would be effective under law other
29 than this article but is ineffective under subsection (a) or (c), the creation, attachment, or
30 perfection of a security interest in the promissory note, health-care-insurance receivable, or
31 general intangible:

32 (1) Is not enforceable against the person obligated on the promissory note or the account
33 debtor;

34 (2) Does not impose a duty or obligation on the person obligated on the promissory note
35 or the account debtor;

36 (3) Does not require the person obligated on the promissory note or the account debtor
37 to recognize the security interest, pay or render performance to the secured party, or accept
38 payment or performance from the secured party;

39 (4) Does not entitle the secured party to use or assign the debtor's rights under the
40 promissory note, health-care-insurance receivable, or general intangible, including any related
41 information or materials furnished to the debtor in the transaction giving rise to the promissory
42 note, health-care-insurance receivable, or general intangible;

43 (5) Does not entitle the secured party to use, assign, possess, or have access to any trade
44 secrets or confidential information of the person obligated on the promissory note or the account
45 debtor; and

46 (6) Does not entitle the secured party to enforce the security interest in the promissory
47 note, health-care-insurance receivable, or general intangible.

48 (e) This section prevails over any inconsistent provisions of any statutes, rules, and
49 regulations.

400.9-409. (a) A term in a letter of credit or a rule of law, statute, regulation, custom,
2 or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of
3 an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security
4 interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute,
5 regulation, custom, or practice:

6 (1) Would impair the creation, attachment, or perfection of a security interest in the
7 letter-of-credit right; or

8 (2) Provides that the **assignment or the** creation, attachment, or perfection of the

9 security interest may give rise to a default, breach, right of recoupment, claim, defense,
10 termination, right of termination, or remedy under the letter-of-credit right.

11 (b) To the extent that a term in a letter of credit is ineffective under subsection (a) but
12 would be effective under law other than this article or a custom or practice applicable to the letter
13 of credit, to the transfer of a right to draw or otherwise demand performance under the letter of
14 credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment,
15 or perfection of a security interest in the letter-of-credit right:

16 (1) Is not enforceable against the applicant, issuer, nominated person, or transferee
17 beneficiary;

18 (2) Imposes no duties or obligations on the applicant, issuer, nominated person, or
19 transferee beneficiary; and

20 (3) Does not require the applicant, issuer, nominated person, or transferee beneficiary
21 to recognize the security interest, pay or render performance to the secured party, or accept
22 payment or other performance from the secured party.

400.9-504. A financing statement sufficiently indicates the collateral that it covers [only]
2 if the financing statement provides:

3 (1) A description of the collateral pursuant to section 400.9-108; or

4 (2) An indication that the financing statement covers all assets or all personal property.

400.9-509. (a) A person may file an initial financing statement, amendment that adds
2 collateral covered by a financing statement, or amendment that adds a debtor to a financing
3 statement only if:

4 (1) The debtor authorizes the filing in an authenticated record **or pursuant to subsection**
5 **(b) or (c);** or

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

8 (b) By authenticating or becoming bound as debtor by a security agreement, a debtor or
9 new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

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

11 (2) Property that becomes collateral under section 400.9-315(a)(2), whether or not the
12 security agreement expressly covers proceeds.

13 (c) **By acquiring collateral in which a security interest or agricultural lien continues**
14 **under section 400.9-315(a)(1), a debtor authorizes the filing of an initial financing**
15 **statement, and an amendment, covering the collateral and property that becomes collateral**
16 **under section 400.9-315(a)(2).**

17 (d) A person may file an amendment other than an amendment that adds collateral
18 covered by a financing statement or an amendment that adds a debtor to a financing statement

19 only if:

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

21 (2) The amendment is a termination statement for a financing statement as to which the
22 secured party of record has failed to file or send a termination statement as required by section
23 400.9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that
24 the debtor authorized it to be filed.

25 [(d)] (e) If there is more than one secured party of record for a financing statement, each
26 secured party of record may authorize the filing of an amendment under subsection [(c)] (d).

400.9-513. (a) A secured party shall cause the secured party of record for a financing
2 statement to file a termination statement for the financing statement if the financing statement
3 covers consumer goods and:

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

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

7 (b) To comply with subsection (a), a secured party shall cause the secured party of record
8 to file the termination statement:

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

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

14 (c) In cases not governed by subsection (a), within twenty days after a secured party
15 receives an authenticated demand from a debtor, the secured party shall cause the secured party
16 of record for a financing statement to send to the debtor a termination statement for the financing
17 statement or file the termination statement in the filing office if:

18 (1) Except in the case of a financing statement covering accounts or chattel paper that
19 has been sold or goods that are the subject of a consignment, there is no obligation secured by
20 the collateral covered by the financing statement and no commitment to make an advance, incur
21 an obligation, or otherwise give value;

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

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

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

27 (d) Except as otherwise provided in section 400.9-510, upon the filing of a termination
28 statement with the filing office, the financing statement to which the termination statement

29 relates ceases to be effective. Except as otherwise provided in section 400.9-510, for purposes
30 of sections 400.9-519(g), 400.9-522(a), and 400.9-523(c), [upon] the filing **with the filing office**
31 of a termination statement [with the filing office, a financing statement indicating that the debtor
32 is a transmitting utility to which the termination statement relates ceases to be effective] **relating**
33 **to a financing statement that indicates that the debtor is a transmitting utility also causes**
34 **the effectiveness of the financing statement to lapse.**

400.9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and
2 indexing a record under this part, other than an initial financing statement of the kind described
3 in section 400.9-502(c), is [the amount specified in subsection (c), if applicable, plus]:

4 (1) If the filing office is the secretary of state's office, then twelve dollars for the first
5 page and one dollar for each subsequent page if the record is communicated in writing or by
6 another medium authorized by filing-office rule, of which fee seven dollars is received and
7 collected by the secretary of state on behalf of the **counties of this state for deposit with the**
8 county employees' retirement fund established pursuant to section 50.1010, RSMo, provided,
9 however, that in any charter county or city not within a county whose employees are not
10 members of the county employees' retirement fund, the fee collected for the county employees'
11 retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue
12 fund of that charter county or city not within a county; or

13 (2) If the filing office is other than the secretary of state's office, then the fee otherwise
14 allowed by law.

15 (b) Except as otherwise provided in subsection (e), the fee for filing and indexing an
16 initial financing statement of the kind described in section 400.9-502(c) is [the amount specified
17 in subsection (c), if applicable, plus]:

18 (1) If the filing office is the secretary of state's office, then twelve dollars for the first
19 page and one dollar for each subsequent page if the record is communicated in writing or by
20 another medium authorized by filing-office rule, of which fee seven dollars is received and
21 collected by the secretary of state on behalf of the **counties of this state for deposit with the**
22 county employees' retirement fund established pursuant to section 50.1010, RSMo, provided,
23 however, that in any charter county or city not within a county whose employees are not
24 members of the county employees' retirement fund, the fee collected for the county employees'
25 retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue
26 fund of that charter county or city not within a county; or

27 (2) If the filing office is other than the secretary of state's office, then the fee otherwise
28 allowed by law.

29 (c) The number of names required to be indexed does not affect the amount of the fee
30 in subsections (a) and (b).

31 (d) The fee for responding to a request for information from the filing office, including
32 for communicating whether there is on file any financing statement naming a particular debtor,
33 is:

34 (1) If the filing office is the secretary of state's office, then twenty-two dollars for the first
35 page and one dollar for each subsequent page if the record is communicated in writing or by
36 another medium authorized by filing-office rule, of which fee seven dollars is received and
37 collected by the secretary of state on behalf of the **counties of this state for deposit with** county
38 employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however,
39 that in any charter county or city not within a county whose employees are not members of the
40 county employees' retirement fund, the fee collected for the county employees' retirement fund
41 established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that
42 charter county or city not within a county; or

43 (2) If the filing office is other than the secretary of state's office, then the fee otherwise
44 allowed by law.

45 (e) This section does not require a fee with respect to a record of a mortgage which is
46 effective as a financing statement filed as a fixture filing or as a financing statement covering
47 as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording
48 and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

49 (f) The [secretary of state] **department of revenue** shall administer a special trust fund,
50 which is hereby established, to be known as the "Uniform Commercial Code Transition Fee
51 Trust Fund", and which shall be funded by seven dollars of each of the fees received and
52 collected pursuant to subdivisions (a), (b) and [(c)] **(d)** of this section on behalf of the **counties**
53 **of this state for deposit with the** county employees' retirement fund established pursuant to
54 section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a
55 county whose employees are not members of the county employees' retirement fund.

56 (1) The secretary of state shall keep **and provide to the department of revenue**
57 accurate record of the moneys **to be deposited** in the uniform commercial code transition fee
58 trust fund allocated to each county and city not within a county on the basis of where such
59 record, financing statement or other document would have been filed prior to July 1, 2001, and
60 **the department of revenue** shall distribute the moneys pursuant to subdivision (2) of this
61 subsection on that basis.

62 (2) The moneys in the uniform commercial code transition fee trust fund shall be
63 distributed to the county employees' retirement fund established pursuant to section 50.1010,
64 RSMo, or the general revenue fund of any charter county or city not within a county whose
65 employees are not members of the county employees' retirement fund

66 (3) The moneys in the uniform commercial code transition fee trust fund shall [not] be

67 deemed to be [state funds] "**nonstate funds**" to be administered by the department of
68 **revenue**, provided, however that interest, if any, earned by the money in the trust fund shall be
69 deposited into the general revenue fund in the state treasury.

400.9-602. Except as otherwise provided in section 400.9-624, to the extent that they
2 give rights to a debtor or obligor and impose duties on a secured party, [a secured party may not
3 require] the debtor or obligor [to] **may not** waive or vary the rules stated in the following listed
4 sections:

5 (1) Section 400.9-207(b)(4)(C), which deals with use and operation of the collateral by
6 the secured party;

7 (2) Section 400.9-210, which deals with requests for an accounting and requests
8 concerning a list of collateral and statement of account;

9 (3) Section 400.9-607(c), which deals with collection and enforcement of collateral;

10 (4) Sections 400.9-608(a) and 400.9-615(c) to the extent that they deal with application
11 or payment of noncash proceeds of collection, enforcement, or disposition;

12 (5) Sections 400.9-608(a) and 400.9-615(d) to the extent that they require accounting for
13 or payment of surplus proceeds of collateral;

14 (6) Section 400.9-609 to the extent that it imposes upon a secured party that takes
15 possession of collateral without judicial process the duty to do so without breach of the peace;

16 (7) Sections 400.9-610(b), 400.9-611, 400.9-613 and 400.9-614, which deal with
17 disposition of collateral;

18 (8) **Section 400.9-615(f), which deals with calculation of a deficiency or surplus**
19 **when a disposition is made to the secured party, a person related to the secured party, or**
20 **a secondary obligor;**

21 (9) Section 400.9-616, which deals with explanation of the calculation of a surplus or
22 deficiency;

23 [(9)] (10) Sections 400.9-620, 400.9-621 and 400.9-622, which deal with acceptance of
24 collateral in satisfaction of obligation;

25 [(10)] (11) Section 400.9-623, which deals with redemption of collateral;

26 [(11)] (12) Section 400.9-624, which deals with permissible waivers; and

27 [(12)] (13) Sections 400.9-625 and 400.9-626, which deal with the secured party's
28 liability for failure to comply with this article.

400.9-608. (a) If a security interest or agricultural lien secures payment or performance
2 of an obligation, the following rules apply:

3 (1) A secured party shall apply or pay over for application the cash proceeds of collection
4 or enforcement under [this] section **400.9-607** in the following order to:

5 (A) The reasonable expenses of collection and enforcement and, to the extent provided

6 for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses
7 incurred by the secured party;

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

10 (C) The satisfaction of obligations secured by any subordinate security interest in or
11 other lien on the collateral subject to the security interest or agricultural lien under which the
12 collection or enforcement is made if the secured party receives an authenticated demand for
13 proceeds before distribution of the proceeds is completed;

14 (2) If requested by a secured party, a holder of a subordinate security interest or other lien
15 shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder
16 complies, the secured party need not comply with the holder's demand under paragraph (1)(C);

17 (3) A secured party need not apply or pay over for application noncash proceeds of
18 collection and enforcement under [this] section **400.9-607** unless the failure to do so would be
19 commercially unreasonable. A secured party that applies or pays over for application noncash
20 proceeds shall do so in a commercially reasonable manner;

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

23 (b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles,
24 or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any
25 deficiency.

400.9-611. (a) In this section, "notification date" means the earlier of the date on which:

2 (1) A secured party sends to the debtor and any secondary obligor an authenticated
3 notification of disposition; or

4 (2) The debtor and any secondary obligor waive the right to notification.

5 (b) Except as otherwise provided in subsection (d), a secured party that disposes of
6 collateral under section 400.9-610 shall send to the persons specified in subsection (c) a
7 reasonable authenticated notification of disposition.

8 (c) To comply with subsection (b), the secured party shall send an authenticated
9 notification of disposition to:

10 (1) The debtor;

11 (2) Any secondary obligor; and

12 (3) If the collateral is other than consumer goods:

13 (A) Any other person from which the secured party has received, before the notification
14 date, an authenticated notification of a claim of an interest in the collateral;

15 (B) Any other secured party or lienholder that, ten days before the notification date, held
16 a security interest in or other lien on the collateral perfected by the filing of a financing statement

17 that:

18 (i) Identified the collateral;

19 (ii) Was indexed under the debtor's name as of that date; and

20 (iii) Was filed in the office in which to file a financing statement against the debtor
21 covering the collateral as of that date; and

22 (C) Any other secured party that, ten days before the notification date, held a security
23 interest in the collateral perfected by compliance with a statute, regulation, or treaty described
24 in section 400.9-311(a).

25 (d) Subsection (b) does not apply if the collateral is perishable or threatens to decline
26 speedily in value or is of a type customarily sold on a recognized market.

27 (e) A secured party complies with the requirement for notification prescribed by
28 subsection (c)(3)(B) if:

29 (1) Not later than twenty days or earlier than thirty days before the notification date, the
30 secured party requests, in a commercially reasonable manner, information concerning financing
31 statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

32 (2) Before the notification date, the secured party:

33 (A) Did not receive a response to the request for information; or

34 (B) Received a response to the request for information and sent an authenticated
35 notification of disposition to each secured party **or other lienholder** named in that response
36 whose financing statement covered the collateral.

400.9-613. Except in a consumer-goods transaction, the following rules apply:

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

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

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

5 (C) States the method of intended disposition;

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

8 (E) States the time and place of a public [sale] **disposition** or the time after which any
9 other disposition is to be made;

10 (2) Whether the contents of a notification that lacks any of the information specified in
11 paragraph (1) are nevertheless sufficient is a question of fact;

12 (3) The contents of a notification providing substantially the information specified in
13 paragraph (1) are sufficient, even if the notification includes:

14 (A) Information not specified by that paragraph; or

15 (B) Minor errors that are not seriously misleading;

16 (4) A particular phrasing of the notification is not required;

17 (5) The following form of notification and the form appearing in section 400.9-614(3),
18 when completed, each provides sufficient information:

19 NOTIFICATION OF DISPOSITION OF COLLATERAL

20 To: (Name of debtor, obligor, or other person to which the notification is sent)

21 From: (Name, address, and telephone number of secured party)

22 Name of Debtor(s): (Include only if debtor(s) are not an addressee)

23 (For a public disposition:)

24 We will sell (or lease or license, as applicable) the (describe collateral) (to the highest
25 qualified bidder) in public as follows:

26 Day and Date: _____

27 Time: _____

28 Place: _____

29 (For a private disposition:)

30 We will sell (or lease or license, as applicable) the (describe collateral) privately
31 sometime after (day and date).

32 You are entitled to an accounting of the unpaid indebtedness secured by the property that
33 we intend to sell (or lease or license, as applicable) (for a charge of \$). You may request an
34 accounting by calling us at (telephone number)

35 (End of Form)

400.9-615. (a) A secured party shall apply or pay over for application the cash proceeds
2 of disposition **under section 400.9-610** in the following order to:

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

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

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

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

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

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

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

21 (c) A secured party need not apply or pay over for application noncash proceeds of
22 disposition under [this] section **400.9-610** unless the failure to do so would be commercially
23 unreasonable. A secured party that applies or pays over for application noncash proceeds shall
24 do so in a commercially reasonable manner.

25 (d) If the security interest under which a disposition is made secures payment or
26 performance of an obligation, after making the payments and applications required by subsection
27 (a) and permitted by subsection (c):

28 (1) Unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds
29 to a consignor, the secured party shall account to and pay a debtor for any surplus; and

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

31 (e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles,
32 or promissory notes:

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

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

35 (f) The surplus or deficiency following a disposition is calculated based on the amount
36 of proceeds that would have been realized in a disposition complying with this part to a
37 transferee other than the secured party, a person related to the secured party, or a secondary
38 obligor if:

39 (1) The transferee in the disposition is the secured party, a person related to the secured
40 party, or a secondary obligor; and

41 (2) The amount of proceeds of the disposition is significantly below the range of
42 proceeds that a complying disposition to a person other than the secured party, a person related
43 to the secured party, or a secondary obligor would have brought.

44 (g) A secured party that receives cash proceeds of a disposition in good faith and without
45 notice that the receipt violates the rights of the holder of a security interest or other lien that is
46 not subordinate to the security interest under which the disposition is made:

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

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

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

400.9-625. (a) If it is established that a secured party is not proceeding in accordance
2 with this article, a court may order or restrain collection, enforcement, or disposition of collateral

3 on appropriate terms and conditions.

4 (b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount
5 of any loss caused by a failure to comply with this article. Loss caused by a failure to comply
6 [with a request under section 400.9-210] may include loss resulting from the debtor's inability
7 to obtain, or increased costs of, alternative financing.

8 (c) Except as otherwise provided in section 400.9-628:

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

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

16 (d) A debtor whose deficiency is eliminated under section 400.9-626 may recover
17 damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency
18 is eliminated or reduced under section 400.9-626 may not otherwise recover under subsection
19 (b) for noncompliance with the provisions of this part relating to collection, enforcement,
20 disposition, or acceptance.

21 (e) In addition to any damages recoverable under subsection (b), the debtor, consumer
22 obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred
23 dollars in each case from a person that:

24 (1) Fails to comply with section 400.9-208;

25 (2) Fails to comply with section 400.9-209;

26 (3) Files a record that the person is not entitled to file under section 400.9-509(a);

27 (4) Fails to cause the secured party of record to file or send a termination statement as
28 required by section 400.9-513(a) or (c);

29 (5) Fails to comply with section 400.9-616(b)(1) and whose failure is part of a pattern,
30 or consistent with a practice, of noncompliance; or

31 (6) Fails to comply with section 400.9-616(b)(2).

32 (f) A debtor or consumer obligor may recover damages under subsection (b) and, in
33 addition, five hundred dollars in each case from a person that, without reasonable cause, fails to
34 comply with a request under section 400.9-210. A recipient of a request under section 400.9-210
35 which never claimed an interest in the collateral or obligations that are the subject of a request
36 under that section has a reasonable excuse for failure to comply with the request within the
37 meaning of this subsection.

38 (g) If a secured party fails to comply with a request regarding a list of collateral or a

39 statement of account under section 400.9-210, the secured party may claim a security interest
40 only as shown in the **list or** statement included in the request as against a person that is
41 reasonably misled by the failure.

42 (h) This section shall apply on and after January 1, 2003.

400.9-710. (a) In this section:

2 (1) "Former article 9 records" means:

3 a. Financing statements and other records that have been filed in the local-filing office
4 before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index
5 maintained, as of July 1, 2001, by the local-filing office for financing statements and other
6 records filed in the local-filing office before July 1, 2001; and

7 b. The index as of July 1, 2001.

8

9 The term does not include records presented to a local-filing office for filing after July 1, 2001,
10 whether or not the records relate to financing statements filed in the local-filing office before
11 July 1, 2001.

12 (2) "Local-filing office" means a filing office, other than the office of the secretary of
13 state, that is designated as the proper place to file a financing statement under 400.9-401 of
14 former article 9. The term applies only with respect to a record that covers a type of collateral
15 as to which the filing office is designated in that section as the proper place to file.

16 (b) **Except for a record terminating a former article 9 record, a local filing office**
17 **shall not accept a record presented after June 30, 2001, whether or not the record relates**
18 **to a financing statement filed in the local filing office before July 1, 2001. If the record**
19 **terminating such former article 9 record is in the standard form prescribed by the**
20 **secretary of state, the uniform fee for filing and indexing the termination statement in the**
21 **office of a county recorder shall be the same fee as set out in the former article 9 before the**
22 **effective date of this act.**

23 (c) Until June 30, [2006] **2008**, each local-filing office must maintain all former article
24 9 records in accordance with former article 9. A former article 9 record that is not reflected on
25 the index maintained on July 1, 2001, by the local-filing office must be processed and indexed,
26 and reflected on the index as of July 1, 2001, as soon as practicable but in any event no later than
27 thirty days after July 1, 2001.

28 [(c)] (d) Until at least June 30, 2008, each local-filing office must respond to requests
29 for information with respect to former article 9 records relating to a debtor and issue certificates,
30 in accordance with former article 9. The fees charged for responding to requests for information
31 relating to a debtor and issuing certificates with respect to former article 9 records must be the
32 fees in effect under former article 9 on July 1, 2001.

33 [(d)] (e) After June 30, [2006] **2008**, each local-filing office may remove and destroy,
34 in accordance with any then applicable record retention law of this state, all former article 9
35 records, including the related index.

36 [(e)] (f) This section does not apply, with respect to financing statements and other
37 records, to a filing office in which mortgages or records of mortgages on real property are
38 required to be filed or recorded, if:

39 (1) The collateral is timber to be cut or as-extracted collateral; or

40 (2) The record is or relates to a financing statement filed as a fixture and the collateral
41 is goods that are or are to become fixtures.