

TITLE 28
COMMERCIAL TRANSACTIONS

CHAPTER 9
SECURED TRANSACTIONS

PART 1.
GENERAL PROVISIONS

28-9-101. SHORT TITLE. This chapter may be cited as "Uniform Commercial Code -- Secured Transactions."

[28-9-101, added 2001, ch. 208, sec. 2, p. 708.]

28-9-102. DEFINITIONS AND INDEX OF DEFINITIONS. (a) In this chapter:

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

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance: (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; (ii) for services rendered or to be rendered; (iii) for a policy of insurance issued or to be issued; (iv) for a secondary obligation incurred or to be incurred; (v) for energy provided or to be provided; (vi) for the use or hire of a vessel under a charter or other contract; (vii) arising out of the use of a credit or charge card or information contained on or for use with the card; or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or a person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health care insurance receivables. The term does not include: (i) rights to payment evidenced by chattel paper or an instrument; (ii) commercial tort claims; (iii) deposit accounts; (iv) investment property; (v) letter of credit rights or letters of credit; or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

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

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

- (A) authenticated by a secured party;
- (B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and
- (C) identifying the components of the obligations in reasonable detail.

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

- (A) which secures payment or performance of an obligation for:
 - (i) goods or services furnished in connection with a debtor's farming operation; or
 - (ii) rent on real property leased by a debtor in connection with its farming operation;

- (B) which is created by statute in favor of a person that:
 - (i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
 - (ii) leased real property to a debtor in connection with the debtor's farming operation; and
 - (C) whose effectiveness does not depend on the person's possession of the personal property.
- (6) "As-extracted collateral" means:
- (A) oil, gas, or other minerals that are subject to a security interest that:
 - (i) is created by a debtor having an interest in the minerals before extraction; and
 - (ii) attaches to the minerals as extracted; or
 - (B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.
- (7) "Authenticate" means:
- (A) to sign; or
 - (B) with the intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol or process.
- (8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions and trust companies.
- (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.
- (10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.
- (11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.
- (12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

- (A) proceeds to which a security interest attaches;
 - (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
 - (C) goods that are the subject of a consignment.
- (13) "Commercial tort claim" means a claim arising in tort with respect to which:
- (A) the claimant is an organization; or
 - (B) the claimant is an individual and the claim:
 - (i) arose in the course of the claimant's business or profession; and
 - (ii) does not include damages arising out of personal injury to or the death of an individual.
- (14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.
- (15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:
- (A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
 - (B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.
- (16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.
- (17) "Commodity intermediary" means a person that:
- (A) is registered as a futures commission merchant under federal commodities law; or
 - (B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.
- (18) "Communicate" means:
- (A) to send a written or other tangible record;
 - (B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or
 - (C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing office rule.
- (19) "Consignee" means a merchant to which goods are delivered in a consignment.
- (20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:
- (A) the merchant:
 - (i) deals in goods of that kind under a name other than the name of the person making delivery;
 - (ii) is not an auctioneer; and
 - (iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;
 - (B) with respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;

- (C) the goods are not consumer goods immediately before delivery; and
 - (D) the transaction does not create a security interest that secures an obligation.
- (21) "Consignor" means a person that delivers goods to a consignee in a consignment.
- (22) "Consumer debtor" means a debtor in a consumer transaction.
- (23) "Consumer goods" means goods that are used or bought for use primarily for personal, family or household purposes.
- (24) "Consumer goods transaction" means a consumer transaction in which:
- (A) an individual incurs an obligation primarily for personal, family or household purposes; and
 - (B) a security interest in consumer goods secures the obligation.
- (25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes.
- (26) "Consumer transaction" means a transaction in which: (i) an individual incurs an obligation primarily for personal, family or household purposes; (ii) a security interest secures the obligation; and (iii) the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer goods transactions.
- (27) "Continuation statement" means an amendment of a financing statement which:
- (A) identifies, by its file number, the initial financing statement to which it relates; and
 - (B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
- (28) "Debtor" means:
- (A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
 - (B) a seller of accounts, chattel paper, payment intangibles or promissory notes; or
 - (C) a consignee.
- (29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
- (30) "Document" means a document of title or a receipt of the type described in section [28-7-201](#)(b), Idaho Code.
- (31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.
- (32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.
- (33) "Equipment" means goods other than inventory, farm products or consumer goods.
- (34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
- (A) crops grown, growing, or to be grown, including:

- (i) crops produced on trees, vines and bushes; and
 - (ii) aquatic goods produced in aquacultural operations;
 - (B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;
 - (C) supplies used or produced in a farming operation; or
 - (D) products of crops or livestock in their unmanufactured states.
- (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.
- (36) "File number" means the number assigned to an initial financing statement pursuant to section [28-9-519](#) (a), Idaho Code.
- (37) "Filing office" means an office designated in section [28-9-501](#), Idaho Code, as the place to file a financing statement.
- (38) "Filing office rule" means a rule adopted pursuant to section [28-9-526](#), Idaho Code.
- (39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
- (40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section [28-9-502](#) (a) and (b), Idaho Code. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.
- (41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.
- (42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter of credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.
- (43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- (44) "Goods" means all things that are movable when a security interest attaches. The term includes: (i) fixtures; (ii) standing timber that is to be cut and removed under a conveyance or contract for sale; (iii) the unborn young of animals; (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines or bushes; and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if: (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods; or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter of credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.
- (45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the

United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

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

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

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

(A) are leased by a person as lessor;

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

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

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

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

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

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

(52) "Lien creditor" means:

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

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

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

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

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and

urban development and complies with the standards established under title 42 of the United States Code.

- (54) "Manufactured home transaction" means a secured transaction:
- (A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or
 - (B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.
- (55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.
- (56) "New debtor" means a person that becomes bound as debtor under section [28-9-203](#)(d), Idaho Code, by a security agreement previously entered into by another person.
- (57) "New value" means: (i) money; (ii) money's worth in property, services or new credit; or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.
- (58) "Noncash proceeds" means proceeds other than cash proceeds.
- (59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral: (i) owes payment or other performance of the obligation; (ii) has provided property other than the collateral to secure payment or other performance of the obligation; or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.
- (60) "Original debtor," except as used in section [28-9-310](#)(c), Idaho Code, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section [28-9-203](#)(d), Idaho Code.
- (61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.
- (62) "Person related to," with respect to an individual, means:
- (A) the spouse of the individual;
 - (B) a brother, brother-in-law, sister, or sister-in-law of the individual;
 - (C) an ancestor or lineal descendant of the individual or the individual's spouse; or
 - (D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.
- (63) "Person related to," with respect to an organization, means:
- (A) a person directly or indirectly controlling, controlled by, or under common control with the organization;
 - (B) an officer or director of, or a person performing similar functions with respect to, the organization;
 - (C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A) of this paragraph;
 - (D) the spouse of an individual described in subparagraph (A), (B) or (C) of this paragraph; or
 - (E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C) or (D) of this paragraph and shares the same home with the individual.

- (64) "Proceeds" means the following property:
- (A) whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;
 - (B) whatever is collected on, or distributed on account of, collateral;
 - (C) rights arising out of collateral;
 - (D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
 - (E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.
- (65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.
- (66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections [28-9-620](#), [28-9-621](#) and [28-9-622](#), Idaho Code.
- (67) "Public-finance transaction" means a secured transaction in connection with which:
- (A) debt securities are issued;
 - (B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and
 - (C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.
- (68) "Public organic record" means a record that is available to the public for inspection and that is:
- (A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;
 - (B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or
 - (C) a record consisting of legislation enacted by the legislature of a state or the congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization.
- (69) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.
- (70) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed

on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(71) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

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

(A) the obligor's obligation is secondary; or

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

(73) "Secured party" means:

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

(B) a person that holds an agricultural lien;

(C) a consignor;

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

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

(F) a person that holds a security interest arising under section [28-2-401](#), [28-2-505](#), [28-2-711](#)(3), [28-4-210](#), [28-5-120](#) or [28-12-508](#)(5), Idaho Code.

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

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

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

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A) of this paragraph.

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

(77) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

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

(80) "Termination statement" means an amendment of a financing statement which:

- (A) identifies, by its file number, the initial financing statement to which it relates; and
- (B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) "Transmitting utility" means a person primarily engaged in the business of:

- (A) operating a railroad, subway, street railway, or trolley bus;
- (B) transmitting communications electrically, electromagnetically or by light;
- (C) transmitting goods by pipeline or sewer; or
- (D) transmitting or producing and transmitting electricity, steam, gas or water.

(b) "Control" as provided in section [28-7-106](#), Idaho Code, and the following definitions in other chapters apply to this chapter:

"Applicant"	section 28-5-102 , Idaho Code.
"Beneficiary"	section 28-5-102 , Idaho Code.
"Broker"	section 28-8-102 , Idaho Code.
"Certificated security"	section 28-8-102 , Idaho Code.
"Check"	section 28-3-104 , Idaho Code.
"Clearing corporation"	section 28-8-102 , Idaho Code.
"Contract for sale"	section 28-2-106 , Idaho Code.
"Customer"	section 28-4-104 , Idaho Code.
"Entitlement holder"	section 28-8-102 , Idaho Code.
"Financial asset"	section 28-8-102 , Idaho Code.
"Holder in due course"	section 28-3-302 , Idaho Code.
"Issuer" (with respect to a letter of credit or letter of credit right)	section 28-5-102 , Idaho Code.
"Issuer" (with respect to a security)	section 28-8-201 , Idaho Code.
"Issuer" (with respect to documents of title)	section 28-7-102 , Idaho Code.
"Lease"	section 28-12-103 , Idaho Code.
"Lease agreement"	section 28-12-103 , Idaho Code.
"Lease contract"	section 28-12-103 , Idaho Code.
"Leasehold interest"	section 28-12-103 , Idaho Code.
"Lessee"	section 28-12-103 , Idaho Code.
"Lessee in ordinary course of business"	section 28-12-103 , Idaho Code.
"Lessor"	section 28-12-103 , Idaho Code.
"Lessor's residual interest"	section 28-12-103 , Idaho Code.
"Letter of credit"	section 28-5-102 , Idaho Code.
"Merchant"	section 28-2-104 , Idaho Code.
"Negotiable instrument"	section 28-3-104 , Idaho Code.
"Nominated person"	section 28-5-102 , Idaho Code.
"Note"	section 28-3-104 , Idaho Code.

"Proceeds of a letter of credit"	section 28-5-114 , Idaho Code.
"Prove"	section 28-3-103 , Idaho Code.
"Sale"	section 28-2-106 , Idaho Code.
"Securities account"	section 28-8-501 , Idaho Code.
"Securities intermediary"	section 28-8-102 , Idaho Code.
"Security"	section 28-8-102 , Idaho Code.
"Security certificate"	section 28-8-102 , Idaho Code.
"Security entitlement"	section 28-8-102 , Idaho Code.
"Uncertificated security"	section 28-8-102 , Idaho Code.

(c) [Chapter 1, title 28](#), contains general definitions and principles of construction and interpretation applicable throughout this chapter.

[28-9-102, added 2001, ch. 208, sec. 2, p. 708; am. 2002, ch. 107, sec. 1, p. 291; am. 2004, ch. 42, sec. 21, p. 116; am. 2012, ch. 145, sec. 1, p. 381.]

28-9-103. PURCHASE-MONEY SECURITY INTEREST -- APPLICATION OF PAYMENTS -- BURDEN OF ESTABLISHING. (a) In this section:

(1) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(2) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(b) A security interest in goods is a purchase-money security interest:

(1) To the extent that the goods are purchase-money collateral with respect to that security interest;

(2) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) In accordance with any reasonable method of application to which the parties agree;

(2) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(A) to obligations that are not secured; and

(B) if more than one (1) obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) A purchase-money security interest does not lose its status as such, even if:

(1) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(2) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(3) The purchase-money obligation has been renewed, refinanced, consolidated or restructured.

(g) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

[28-9-103, added 2001, ch. 208, sec. 2, p. 718.]

28-9-104. CONTROL OF DEPOSIT ACCOUNT. (a) A secured party has control of a deposit account if:

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

(2) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

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

(b) A secured party that has satisfied subsection (a) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

[28-9-104, added 2001, ch. 208, sec. 2, p. 719.]

28-9-105. CONTROL OF ELECTRONIC CHATTEL PAPER. (a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies subsection (a) of this section, and a secured party has control of electronic chattel paper, if the record or records comprising the chattel paper are created, stored and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5) and (6) of this subsection, unalterable;

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

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

(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party;

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

(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

[28-9-105, added 2001, ch. 208, sec. 2, p. 719; am. 2012, ch. 145, sec. 2, p. 390.]

28-9-106. CONTROL OF INVESTMENT PROPERTY. (a) A person has control of a certificated security, uncertificated security, or security entitlement as provided in section [28-8-106](#).

(b) A secured party has control of a commodity contract if:

(1) The secured party is the commodity intermediary with which the commodity contract is carried; or

(2) The commodity customer, secured party and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

[28-9-106, added 2001, ch. 208, sec. 2, p. 719.]

28-9-107. CONTROL OF LETTER OF CREDIT RIGHT. A secured party has control of a letter of credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under section [28-5-114](#)(3) or otherwise applicable law or practice.

[28-9-107, added 2001, ch. 208, sec. 2, p. 720.]

28-9-108. SUFFICIENCY OF DESCRIPTION. (a) Except as otherwise provided in subsections (c), (d) and (e) of this section, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) Except as otherwise provided in subsection (d) of this section, a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) Specific listing;

(2) Category;

(3) Except as otherwise provided in subsection (e) of this section, a type of collateral defined in the uniform commercial code;

(4) Quantity;

(5) Computational or allocational formula or procedure; or

(6) Except as otherwise provided in subsection (c) of this section, any other method, if the identity of the collateral is objectively determinable.

(c) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(d) Except as otherwise provided in subsection (e) of this section, a description of a security entitlement, securities account or commodity account is sufficient if it describes:

- (1) The collateral by those terms or as investment property; or
- (2) The underlying financial asset or commodity contract.

(e) A description only by type of collateral defined in the uniform commercial code is an insufficient description of:

- (1) A commercial tort claim; or
- (2) In a consumer transaction, consumer goods, a security entitlement, a securities account or a commodity account.

[28-9-108, added 2001, ch. 208, sec. 2, p. 720.]

28-9-109. SCOPE. (a) Except as otherwise provided in subsections (c) and (d), this chapter applies to:

- (1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) An agricultural lien;
- (3) A sale of accounts, chattel paper, payment intangibles or promissory notes;
- (4) A consignment;
- (5) A security interest arising under section [28-2-401](#), [28-2-505](#), [28-2-711](#) (3) or [28-12-508](#) (5), as provided in section [28-9-110](#); and
- (6) A security interest arising under section [28-4-210](#) or [28-5-120](#).

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

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

- (1) A statute, regulation, or treaty of the United States preempts this chapter;
- (2) Another statute of this state expressly governs the creation, perfection, priority or enforcement of a security interest created by this state or a governmental unit of this state;
- (3) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority or enforcement of a security interest created by the state, country or governmental unit; or
- (4) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section [28-5-114](#).

(d) This chapter does not apply to:

- (1) A landlord's lien, other than an agricultural lien;
- (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section [28-9-333](#) applies with respect to priority of the lien;
- (3) An assignment of a claim for wages, salary or other compensation of an employee;
- (4) A sale of accounts, chattel paper, payment intangibles or promissory notes as part of a sale of the business out of which they arose;
- (5) An assignment of accounts, chattel paper, payment intangibles or promissory notes which is for the purpose of collection only;
- (6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

- (7) An assignment of a single account, payment intangible or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
- (8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health care provider of a health care insurance receivable and any subsequent assignment of the right to payment, but sections [28-9-315](#) and [28-9-322](#) apply with respect to proceeds and priorities in proceeds;
- (9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;
- (10) A right of recoupment or set-off, but:
- (A) section [28-9-340](#) applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and
 - (B) section [28-9-404](#) applies with respect to defenses or claims of an account debtor;
- (11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
- (A) liens on real property in sections [28-9-203](#) and [28-9-308](#);
 - (B) fixtures in section [28-9-334](#);
 - (C) fixture filings in sections [28-9-501](#), [28-9-502](#), [28-9-512](#), [28-9-516](#) and [28-9-519](#); and
 - (D) security agreements covering personal and real property in section [28-9-604](#);
- (12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections [28-9-315](#) and [28-9-322](#) apply with respect to proceeds and priorities in proceeds;
- (13) (A) A claim or right to receive compensation for injuries or sickness as described in (i) 26 U.S.C. section 104(a) (1) and (ii) on and after the effective date of this chapter, in 26 U.S.C. section 104(a) (2), as those sections may be amended from time to time. Notwithstanding the foregoing, this chapter (other than sections [28-9-406](#)(d) and [28-9-408](#)(a) and (c), Idaho Code, in the case of transfers made on and after the effective date of this chapter) shall apply to such compensation as described in 26 U.S.C. section 104(a) (2) if the sale, pledge, assignment or other transfer of rights to receive such compensation under a structured settlement is approved by the final order of a court pursuant to, and otherwise complies with, the requirements of paragraph (B) of this subsection.
- (B) (i) Definitions. For purposes of this subsection:
- 1. "annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement;
 - 2. "dependents" include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony;
 - 3. "discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present

value of an annuity, as issued by the United States internal revenue service;

4. "gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration;

5. "independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser;

6. "interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under such structured settlement;

7. "net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under paragraph (B) (ii) 5. of this subsection;

8. "payee" means an individual who is receiving tax free payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

9. "periodic payments" includes both recurring payments and scheduled future lump sum payments;

10. "qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of 26 U.S.C. section 130, as amended from time to time;

11. "settled claim" means the original tort claim resolved by a structured settlement;

12. "structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim;

13. "structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement;

14. "structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement;

15. "structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

A. the payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state; or

B. the structured settlement agreement was approved by a court in this state; or

C. the structured settlement agreement is expressly governed by the laws of this state;

16. "terms of the structured settlement" include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement;

17. "transfer" means any sale, assignment, pledge, hypothecation or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration; provided that the term "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights;

18. "transfer agreement" means the agreement providing for a transfer of structured settlement payment rights;

19. "transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney's fees, escrow fees, lien recordation fees, judgment and lien search fees, finder's fees, commissions, and other payments to a broker or other intermediary; "transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer;

20. "transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

(ii) Required disclosures to payee. Not less than three (3) days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen (14) points, setting forth:

1. the amounts and due dates of the structured settlement payments to be transferred;
2. the aggregate amount of such payments;
3. the discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the applicable fed-

eral rate used in calculating such discounted present value;

4. the gross advance amount;
5. an itemized listing of all applicable transfer expenses, other than attorney's fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements;
6. the net advance amount;
7. the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee; and
8. a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

(iii) Approval of transfers of structured settlement payment rights.

1. No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

- A. the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents;
- B. the payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing; and
- C. the transfer does not contravene any applicable statute or the order of any court or other government authority.

(iv) Effects of transfer of structured settlement payment rights. Following a transfer of structured settlement payment rights under this subsection:

1. The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;
2. The transferee shall be liable to the structured settlement obligor and the annuity issuer:
 - A. if the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer; and
 - B. for any other liabilities or costs, including reasonable costs and attorney's fees, aris-

ing from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this subsection;

3. Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two (2) or more transferees or assignees; and

4. Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this subsection.

(v) Procedure for approval of transfers.

1. An application under this subsection for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or in any court which approved the structured settlement agreement.

2. Not less than twenty (20) days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under paragraph (B) (iii) of this subsection, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

- A. a copy of the transferee's application;
- B. a copy of the transfer agreement;
- C. a copy of the disclosure statement required under paragraph (B) (ii) of this subsection;
- D. a listing of each of the payee's dependents, together with each dependent's age;
- E. notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing; and
- F. notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed (which shall be not less than fifteen (15) days after service of the transferee's notice) in order to be considered by the court.

(vi) General provisions -- construction.

1. The provisions of this subsection may not be waived by any payee.

2. Any transfer agreement entered into on or after the effective date of this subsection by a payee who resides in this state shall provide that disputes under

such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

3. No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for (i) periodically confirming the payee's survival, and (ii) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

4. No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this subsection.

5. Nothing contained in this subsection shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this subsection is valid or invalid.

6. Compliance with the requirements set forth in paragraph (B) (ii) of this subsection and fulfillment of the conditions set forth in paragraph (B) (iii) of this subsection shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, noncompliance with such requirements or failure to fulfill such conditions.

(vii) Effective date. This subsection shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the thirtieth day after the date of enactment of this subsection; provided however, that nothing contained herein shall imply that any transfer under a transfer agreement reached prior to such date is either effective or ineffective; or

(14) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. section 1396p(d) (4), as amended from time to time.

[28-9-109, added 2001, ch. 208, sec. 2, p. 720; am. 2001, ch. 299, sec. 1, p. 1078.]

28-9-110. SECURITY INTERESTS ARISING UNDER CHAPTER 2 OR 12, [TITLE 28](#), IDAHO CODE. A security interest arising under section [28-2-401](#), [28-2-505](#),

[28-2-711](#)(3) or [28-12-508](#)(5) is subject to this chapter. However, until the debtor obtains possession of the goods:

- (1) The security interest is enforceable, even if section [28-9-203](#)(b)(3) has not been satisfied;
- (2) Filing is not required to perfect the security interest;
- (3) The rights of the secured party after default by the debtor are governed by chapter 2 or 12, [title 28](#), Idaho Code; and
- (4) The security interest has priority over a conflicting security interest created by the debtor.

[28-9-110, added 2001, ch. 208, sec. 2, p. 722.]

PART 2.

EFFECTIVENESS OF SECURITY AGREEMENT -- ATTACHMENT OF SECURITY INTEREST -- RIGHTS OF PARTIES TO SECURITY AGREEMENT

28-9-201. GENERAL EFFECTIVENESS OF SECURITY AGREEMENT. (a) Except as otherwise provided in the uniform commercial code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) A transaction subject to this chapter is subject to any applicable rule of law which establishes a different rule for consumers, to the Idaho credit code, chapters 41 through 49, [title 28](#), Idaho Code, and any rules promulgated thereunder and to the Idaho credit union act, [chapter 21, title 26](#), Idaho Code, and any rules promulgated thereunder.

(c) In case of conflict between this chapter and a rule of law, statute or rule described in subsection (b) of this section, the rule of law, statute or rule controls. Failure to comply with a statute or rule described in subsection (b) of this section has only the effect the statute or rule specifies.

(d) This chapter does not:

- (1) Validate any rate, charge, agreement or practice that violates a rule of law, statute or rule described in subsection (b) of this section; or
- (2) Extend the application of the rule of law, statute or rule to a transaction not otherwise subject to it.

[28-9-201, added 2001, ch. 208, sec. 2, p. 722.]

28-9-202. TITLE TO COLLATERAL IMMATERIAL. Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles or promissory notes, the provisions of this chapter with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

[28-9-202, added 2001, ch. 208, sec. 2, p. 723.]

28-9-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST -- PROCEEDS -- SUPPORTING OBLIGATIONS -- FORMAL REQUISITES. (a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

- (1) Value has been given;
- (2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
- (3) One (1) of the following conditions is met:
 - (A) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;
 - (B) the collateral is not a certificated security and is in the possession of the secured party under section [28-9-313](#) pursuant to the debtor's security agreement;
 - (C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section [28-8-301](#) pursuant to the debtor's security agreement; or
 - (D) the collateral is deposit accounts, electronic chattel paper, investment property, letter of credit rights, or electronic documents, and the secured party has control under section [28-7-106](#), [28-9-104](#), [28-9-105](#), [28-9-106](#) or [28-9-107](#) pursuant to the debtor's security agreement.

(c) Subsection (b) of this section is subject to section [28-4-210](#) on the security interest of a collecting bank, section [28-5-120](#) on the security interest of a letter of credit issuer or nominated person, section [28-9-110](#) on a security interest arising under chapter 2 or 12, [title 28](#), and section [28-9-206](#) on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this chapter or by contract:

- (1) The security agreement becomes effective to create a security interest in the person's property; or
- (2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

- (1) The agreement satisfies subsection (b) (3) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and
- (2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section [28-9-315](#) and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

[28-9-203, added 2001, ch. 208, sec. 2, p. 723; am. 2004, ch. 42, sec. 22, p. 125.]

28-9-204. AFTER-ACQUIRED PROPERTY -- FUTURE ADVANCES. (a) Except as otherwise provided in subsection (b) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(b) A security interest does not attach under a term constituting an after-acquired property clause to:

(1) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten (10) days after the secured party gives value; or

(2) A commercial tort claim.

(c) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

[28-9-204, added 2001, ch. 208, sec. 2, p. 724.]

28-9-205. USE OR DISPOSITION OF COLLATERAL PERMISSIBLE. (a) A security interest is not invalid or fraudulent against creditors solely because:

(1) The debtor has the right or ability to:

(A) use, commingle or dispose of all or part of the collateral, including returned or repossessed goods;

(B) collect, compromise, enforce or otherwise deal with collateral;

(C) accept the return of collateral or make repossessions; or

(D) use, commingle or dispose of proceeds; or

(2) The secured party fails to require the debtor to account for proceeds or replace collateral.

(b) This section does not relax the requirements of possession if attachment, perfection or enforcement of a security interest depends upon possession of the collateral by the secured party.

[28-9-205, added 2001, ch. 208, sec. 2, p. 724.]

28-9-206. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET. (a) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(1) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(2) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) The security interest described in subsection (a) of this section secures the person's obligation to pay for the financial asset.

(c) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(1) The security or other financial asset:

(A) in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

(B) is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(2) The agreement calls for delivery against payment.

(d) The security interest described in subsection (c) of this section secures the obligation to make payment for the delivery.

[28-9-206, added 2001, ch. 208, sec. 2, p. 724.]

28-9-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL. (a) Except as otherwise provided in subsection (d) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subsection (d) of this section, if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in subsection (d) of this section, a secured party having possession of collateral or control of collateral under section [28-7-106](#), [28-9-104](#), [28-9-105](#), [28-9-106](#) or [28-9-107](#):

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) of this section does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this section do not apply.

[28-9-207, added 2001, ch. 208, sec. 2, p. 725; am. 2004, ch. 42, sec. 23, p. 126.]

28-9-208. ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL. (a) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten (10) days after receiving an authenticated demand by the debtor:

(1) A secured party having control of a deposit account under section [28-9-104](#)(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under section [28-9-104](#)(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account;
or

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

(3) A secured party, other than a buyer, having control of electronic chattel paper under section [28-9-105](#) shall:

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

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

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

(4) A secured party having control of investment property under section [28-8-106](#)(4)(b) or [28-9-106](#)(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) A secured party having control of a letter of credit right under section [28-9-107](#) shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

(6) A secured party having control of an electronic document shall:

(A) Give control of the electronic document to the debtor or its designated custodian;

(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to

the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

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

[28-9-208, added 2001, ch. 208, sec. 2, p. 726; am. 2004, ch. 42, sec. 24, p. 127.]

28-9-209. DUTIES OF SECURED PARTY IF ACCOUNT DEBTOR HAS BEEN NOTIFIED OF ASSIGNMENT. (a) Except as otherwise provided in subsection (c), this section applies if:

(1) There is no outstanding secured obligation; and

(2) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten (10) days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under section [28-9-406](#) (a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) This section does not apply to an assignment constituting the sale of an account, chattel paper or payment intangible.

[28-9-209, added 2001, ch. 208, sec. 2, p. 727.]

28-9-210. REQUEST FOR ACCOUNTING -- REQUEST REGARDING LIST OF COLLATERAL OR STATEMENT OF ACCOUNT. (a) In this section:

(1) "Request" means a record of a type described in paragraph (2), (3) or (4) of this subsection.

(2) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Subject to subsections (c), (d), (e) and (f) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen (14) days after receipt:

(1) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(2) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(c) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within fourteen (14) days after receipt.

(d) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

- (1) Disclaiming any interest in the collateral; and
- (2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

- (1) Disclaiming any interest in the obligations; and
- (2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) A debtor is entitled without charge to one (1) response to a request under this section during any six (6) month period. The secured party may require payment of a charge not exceeding twenty-five dollars (\$25.00) for each additional response.

[28-9-210, added 2001, ch. 208, sec. 2, p. 727.]

PART 3. PERFECTION AND PRIORITY

28-9-301. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS. Except as otherwise provided in sections [28-9-303](#) through [28-9-306](#), the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

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

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

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

- (A) Perfection of a security interest in the goods by filing a fixture filing;
- (B) Perfection of a security interest in timber to be cut; and

(C) The effect of perfection or nonperfection and the priority of a non-possessory security interest in the collateral.

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

[28-9-301, added 2001, ch. 208, sec. 2, p. 728; am. 2004, ch. 42, sec. 25, p. 129.]

28-9-302. LAW GOVERNING PERFECTION AND PRIORITY OF AGRICULTURAL LIENS. While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

[28-9-302, added 2001, ch. 208, sec. 2, p. 728.]

28-9-303. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY A CERTIFICATE OF TITLE. (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

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

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

[28-9-303, added 2001, ch. 208, sec. 2, p. 728.]

28-9-304. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS. (a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and its customer governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this chapter, or the uniform commercial code, that jurisdiction is the bank's jurisdiction.

(2) If paragraph (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither paragraph (1) nor (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding paragraphs apply, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding paragraphs apply, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

[28-9-304, added 2001, ch. 208, sec. 2, p. 729; am. 2002, ch. 107, sec. 2, p. 300.]

28-9-305. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY. (a) Except as otherwise provided in subsection (c) of this section, the following rules apply:

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

(2) The local law of the issuer's jurisdiction as specified in section [28-8-110](#)(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in section [28-8-110](#)(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

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

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this chapter, or the uniform commercial code, that jurisdiction is the commodity intermediary's jurisdiction.

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

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

(4) If none of the preceding paragraphs apply, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding paragraphs apply, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

- (1) Perfection of a security interest in investment property by filing;
- (2) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and
- (3) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

[28-9-305, added 2001, ch. 208, sec. 2, p. 729.]

28-9-306. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN LETTER OF CREDIT RIGHTS. (a) Subject to subsection (c) of this section, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter of credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter of credit right as provided in section [28-5-116](#).

(c) This section does not apply to a security interest that is perfected only under section [28-9-308](#) (d).

[28-9-306, added 2001, ch. 208, sec. 2, p. 730.]

28-9-307. LOCATION OF DEBTOR. (a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

- (1) A debtor who is an individual is located at the individual's principal residence.
- (2) A debtor that is an organization and has only one (1) place of business is located at its place of business.
- (3) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(c) Subsection (b) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) of this section does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c) of this section.

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

- (1) In the state that the law of the United States designates, if the law designates a state of location;
- (2) In the state that the registered organization, branch or agency designates, if the law of the United States authorizes the registered

organization, branch or agency to designate its state of location, including by designating its main office, home office or other comparable office; or

(3) In the District of Columbia, if neither paragraph (1) nor paragraph (2) of this subsection applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) of this section notwithstanding:

(1) The suspension, revocation, forfeiture or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) The dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one (1) state.

(j) A foreign air carrier under the federal aviation act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of this part.

[28-9-307, added 2001, ch. 208, sec. 2, p. 731; am. 2012, ch. 145, sec. 3, p. 391.]

28-9-308. WHEN SECURITY INTEREST OR AGRICULTURAL LIEN IS PERFECTED -- CONTINUITY OF PERFECTION. (a) Except as otherwise provided in this section and section [28-9-309](#), a security interest is perfected if it has attached and all of the applicable requirements for perfection in sections [28-9-310](#) through [28-9-316](#) have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in section [28-9-310](#) have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) A security interest or agricultural lien is perfected continuously if it is originally perfected by one (1) method under this chapter and is later perfected by another method under this chapter, without an intermediate period when it was unperfected.

(d) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage or other lien on personal or real property securing the right.

(f) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

[28-9-308, added 2001, ch. 208, sec. 2, p. 732.]

28-9-309. SECURITY INTEREST PERFECTED UPON ATTACHMENT. The following security interests are perfected when they attach:

- (1) A purchase-money security interest in consumer goods, except as otherwise provided in section [28-9-311](#)(b) with respect to consumer goods that are subject to a statute or treaty described in section [28-9-311](#)(a);
- (2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;
- (3) A sale of a payment intangible;
- (4) A sale of a promissory note;
- (5) A security interest created by the assignment of a health care insurance receivable to the provider of the health care goods or services;
- (6) A security interest arising under section [28-2-401](#), [28-2-505](#), [28-2-711](#)(3) or [28-12-508](#)(5), until the debtor obtains possession of the collateral;
- (7) A security interest of a collecting bank arising under section [28-4-210](#);
- (8) A security interest of an issuer or nominated person arising under section [28-5-120](#);
- (9) A security interest arising in the delivery of a financial asset under section [28-9-206](#)(c);
- (10) A security interest in investment property created by a broker or securities intermediary;
- (11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;
- (12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder;
- (13) A security interest created by an assignment of a beneficial interest in a decedent's estate; and
- (14) A sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance.

[28-9-309, added 2001, ch. 208, sec. 2, p. 732; am. 2002, ch. 107, sec. 3, p. 301.]

28-9-310. WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN -- SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY. (a) Except as otherwise provided in subsection (b) of this section and section [28-9-312](#)(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

- (1) That is perfected under section [28-9-308](#)(d), (e), (f) or (g);
- (2) That is perfected under section [28-9-309](#) when it attaches;
- (3) In property subject to a statute, regulation or treaty described in section [28-9-311](#)(a);
- (4) In goods in possession of a bailee which is perfected under section [28-9-312](#)(d)(1) or (2);
- (5) In certificated securities, documents, goods or instruments which is perfected without filing, control, or possession under section [28-9-312](#)(e), (f) or (g);
- (6) In collateral in the secured party's possession under section [28-9-313](#);

(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under section [28-9-313](#);

(8) In deposit accounts, electronic chattel paper, electronic documents, investment property, or letter of credit rights which is perfected by control under section [28-9-314](#);

(9) In proceeds which is perfected under section [28-9-315](#);

(10) That is perfected under section [28-9-316](#); or

(11) In timber sold by the state of Idaho.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

[28-9-310, added 2001, ch. 208, sec. 2, p. 733; am. 2004, ch. 42, sec. 26, p. 129; am. 2010, ch. 154, sec. 1, p. 329.]

28-9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS AND TREATIES. (a) Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section [28-9-310](#) (a), Idaho Code;

(2) Section [49-510](#), Idaho Code; or

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

(b) Compliance with the requirements of a statute, regulation or treaty described in subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection (d) of this section and sections [28-9-313](#) and [28-9-316](#) (d) and (e), Idaho Code, for goods covered by a certificate of title, a security interest in property subject to a statute, regulation or treaty described in subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) of this section and section [28-9-316](#) (d) and (e), Idaho Code, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation or treaty described in subsection (a) of this section are governed by the statute, regulation or treaty. In other respects, the security interest is subject to this chapter.

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

[28-9-311, added 2001, ch. 208, sec. 2, p. 733; am. 2012, ch. 145, sec. 4, p. 392.]

28-9-312. PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER OF CREDIT RIGHTS AND MONEY -- PERFECTION BY PERMISSIVE FILING -- TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. (a) A security interest in chattel paper, negotiable documents, instruments or investment property may be perfected by filing.

(b) Except as otherwise provided in section [28-9-315](#)(c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under section [28-9-314](#);

(2) And except as otherwise provided in section [28-9-308](#)(d), a security interest in a letter of credit right may be perfected only by control under section [28-9-314](#); and

(3) A security interest in money may be perfected only by the secured party's taking possession under section [28-9-313](#).

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a non-negotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) A security interest in certificated securities, negotiable documents or instruments is perfected without filing or the taking of possession or control for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) Ultimate sale or exchange; or

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal or registration of transfer.

(h) After the twenty (20) day period specified in subsection (e), (f) or (g) of this section expires, perfection depends upon compliance with this chapter.

[28-9-312, added 2001, ch. 208, sec. 2, p. 734; am. 2004, ch. 42, sec. 27, p. 130.]

28-9-313. WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. (a) Except as otherwise provided in subsection (b) of this section, a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section [28-8-301](#).

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section [28-9-316](#)(d).

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

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

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

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

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section [28-8-301](#), and remains perfected by delivery until the debtor obtains possession of the security certificate.

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

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

(1) The acknowledgment is effective under subsection (c) of this section or section [28-8-301](#)(1), even if the acknowledgment violates the rights of a debtor; and

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

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

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

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

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

[28-9-313, added 2001, ch. 208, sec. 2, p. 735; am. 2004, ch. 42, sec. 28, p. 131.]

28-9-314. PERFECTION BY CONTROL. (a) A security interest in investment property, deposit accounts, letter of credit rights, electronic chattel paper, or electronic documents may be perfected by control of the collateral under section [28-7-106](#), [28-9-104](#), [28-9-105](#), [28-9-106](#) or [28-9-107](#).

(b) A security interest in deposit accounts, electronic chattel paper, letter of credit rights, or electronic documents is perfected by control under section [28-7-106](#), [28-9-104](#), [28-9-105](#) or [28-9-107](#), when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under section [28-9-106](#) from the time the secured party obtains control and remains perfected by control until:

- (1) The secured party does not have control; and
- (2) One (1) of the following occurs:
 - (A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;
 - (B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or
 - (C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

[28-9-314, added 2001, ch. 208, sec. 2, p. 736; am. 2004, ch. 42, sec. 29, p. 132.]

28-9-315. SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL AND IN PROCEEDS. (a) Except as otherwise provided in this chapter and in section [28-2-403](#) (2):

- (1) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and
- (2) A security interest attaches to any identifiable proceeds of collateral.

(b) Proceeds that are commingled with other property are identifiable proceeds:

- (1) If the proceeds are goods, to the extent provided by section [28-9-336](#); and
- (2) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this chapter with respect to commingled property of the type involved.

(c) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) The following conditions are satisfied:

(A) a filed financing statement covers the original collateral;

(B) the proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

(C) the proceeds are not acquired with cash proceeds;

(2) The proceeds are identifiable cash proceeds; or

(3) The security interest in the proceeds is perfected other than under subsection (c) of this section when the security interest attaches to the proceeds or within twenty (20) days thereafter.

(e) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (d) (1) of this section becomes unperfected at the later of:

(1) When the effectiveness of the filed financing statement lapses under section [28-9-515](#) or is terminated under section [28-9-513](#); or

(2) The twenty-first day after the security interest attaches to the proceeds.

[28-9-315, added 2001, ch. 208, sec. 2, p. 737.]

28-9-316. EFFECT OF CHANGE IN GOVERNING LAW. (a) A security interest perfected pursuant to the law of the jurisdiction designated in section [28-9-301](#) (1) or [28-9-305](#) (c), Idaho Code, remains perfected until the earliest of:

(1) The time perfection would have ceased under the law of that jurisdiction;

(2) The expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(3) The expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) The collateral is located in one (1) jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) Thereafter the collateral is brought into another jurisdiction; and

(3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in subsection (e) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected

until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section [28-9-311](#)(b) or [28-9-313](#), Idaho Code, are not satisfied before the earlier of:

- (1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or
- (2) The expiration of four (4) months after the goods had become so covered.

(f) A security interest in deposit accounts, letter of credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

- (1) The time the security interest would have become unperfected under the law of that jurisdiction; or
- (2) The expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) The following rules apply to collateral to which a security interest attaches within four (4) months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in section [28-9-301](#)(1) or [28-9-305](#)(c), Idaho Code, is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral if the debtor had not changed its location.

(2) If a security interest that is perfected by a financing statement that is effective under paragraph (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section [28-9-301](#)(1) or [28-9-305](#)(c), Idaho Code, or the expiration of the four (4) month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in section [28-9-301](#)(1) or [28-9-305](#)(c), Idaho Code, and the new debtor is located in another jurisdiction, the following rules apply:

- (1) The financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires rights before or

within four (4) months after the new debtor becomes bound under section [28-9-203](#)(d), Idaho Code, if the financing statement would have been effective to perfect a security interest in the collateral if the collateral had been acquired by the original debtor.

(2) A security interest that is perfected by the financing statement and that becomes perfected under the law of the other jurisdiction before the earlier of the expiration of the four (4) month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated in section [28-9-301](#)(1) or [28-9-305](#)(c), Idaho Code, remains perfected thereafter. A security interest that is perfected by the financing statement but that does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

[28-9-316, added 2001, ch. 208, sec. 2, p. 737; am. 2012, ch. 145, sec. 5, p. 392.]

28-9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. (a) A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under section [28-9-322](#), Idaho Code; and

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

(A) the security interest or agricultural lien is perfected; or

(B) one (1) of the conditions specified in section [28-9-203](#)(b)(3), Idaho Code, is met and a financing statement covering the collateral is filed.

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

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

(d) A licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections [28-9-320](#) and [28-9-321](#), Idaho Code, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

[28-9-317, added 2001, ch. 208, sec. 2, p. 738; am. 2004, ch. 42, sec. 30, p. 132; am. 2012, ch. 145, sec. 6, p. 394.]

28-9-318. NO INTEREST RETAINED IN RIGHT TO PAYMENT THAT IS SOLD -- RIGHTS AND TITLE OF SELLER OF ACCOUNT OR CHATTEL PAPER WITH RESPECT TO CREDITORS AND PURCHASERS. (a) A debtor that has sold an account, chattel paper, payment intangible or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

[28-9-318, added 2001, ch. 208, sec. 2, p. 739.]

28-9-319. RIGHTS AND TITLE OF CONSIGNEE WITH RESPECT TO CREDITORS AND PURCHASERS. (a) Except as otherwise provided in subsection (b) of this section, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(b) For purposes of determining the rights of a creditor of a consignee, law other than this chapter determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

[28-9-319, added 2001, ch. 208, sec. 2, p. 739.]

28-9-320. BUYER OF GOODS. (a) Except as otherwise provided in subsection (e) of this section, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence. A buyer who, in the ordinary course of business, buys farm products from a person engaged in farming operations or a commission merchant or selling agent who in the ordinary course of business sells farm products for a person engaged in farming operations shall take and sell free of a security interest created by his seller, even though the security interest is perfected and the buyer or commission merchant or selling agent knows of the existence of such interest, if he has registered with the secretary of state pursuant to section [28-9-523](#)(h) and the security interest is not listed on the most recent master list or cumulative supplement distributed by the secretary of state pursuant to section [28-9-523](#)(i), unless he has received written notification, as that term is used in applicable federal law and regulation, of the security interest from the secretary of state, his seller or the secured party.

(b) Except as otherwise provided in subsection (e) of this section, a buyer of goods from a person who used or bought the goods for use primarily for personal, family or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) Without knowledge of the security interest;
 - (2) For value;
 - (3) Primarily for the buyer's personal, family or household purposes;
- and
- (4) Before the filing of a financing statement covering the goods.

(c) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b) of this section, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by section [28-9-316](#) (a) and (b).

(d) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Subsections (a) and (b) of this section do not affect a security interest in goods in the possession of the secured party under section [28-9-313](#).

[28-9-320, added 2001, ch. 208, sec. 2, p. 740.]

28-9-321. LICENSEE OF GENERAL INTANGIBLE AND LESSEE OF GOODS IN ORDINARY COURSE OF BUSINESS. (a) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

[28-9-321, added 2001, ch. 208, sec. 2, p. 740.]

28-9-322. PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN AND AGRICULTURAL LIENS ON SAME COLLATERAL. (a) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

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

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

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

(b) For the purposes of subsection (a) (1) of this section:

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

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

(c) Except as otherwise provided in subsection (f) of this section, a security interest in collateral which qualifies for priority over a conflicting security interest under section [28-9-327](#), [28-9-328](#), [28-9-329](#), [28-9-330](#) or [28-9-331](#) also has priority over a conflicting security interest in:

- (1) Any supporting obligation for the collateral; and
- (2) Proceeds of the collateral if:
 - (A) the security interest in proceeds is perfected;
 - (B) the proceeds are cash proceeds or of the same type as the collateral; and
 - (C) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) Subject to subsection (e) of this section and except as otherwise provided in subsection (f) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter of credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Subsection (d) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property or letter of credit rights.

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

- (1) Subsection (g) of this section and the other provisions of this part;
- (2) Section [28-4-210](#) with respect to a security interest of a collecting bank;
- (3) Section [28-5-120](#) with respect to a security interest of an issuer or nominated person; and
- (4) Section [28-9-110](#) with respect to a security interest arising under chapter 2 or 12.

(g) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

[28-9-322, added 2001, ch. 208, sec. 2, p. 741.]

28-9-322A. SECURITY INTERESTS IN CROPS FOR PROVISION OF AGRICULTURAL CHEMICALS. (a) As used in this section:

- (1) "Agricultural chemical" means fertilizers and other chemicals applied to crops or land which is to be used for the raising of crops, including pesticides, soil amendments and plant regulators.
- (2) "Fall agricultural chemical security interest" means a security interest in specific crops growing or to be grown granted by a grower to a supplier to secure the grower's obligation to repay value given by the supplier to enable the grower to purchase from the supplier (A) agricultural chemicals to apply to such crops or to land on which such crops will be grown, and (B) application of such agricultural chemicals if such application is performed by the supplier. To qualify as a fall agricultural chemical security interest, the security interest must also satisfy the following conditions:

(i) Before supplying the agricultural chemicals to the grower, the supplier and grower provide the lender with a notification statement and opportunity to respond in accordance with this section;

(ii) The security interest is perfected within twenty (20) days after the agricultural chemicals are delivered to the grower; and

(iii) The agricultural chemicals are actually applied to the grower's land or crops during the period September 1 through December 15.

(3) "Grower" shall mean a specified debtor of a lender.

(4) "Lender" shall mean the holder of an existing perfected security interest in crops of a grower.

(5) "Letter of response" shall mean a statement by a lender containing the information specified in subsection (j) of this section.

(6) "Notification statement" shall mean a statement by a supplier containing the information specified in subsection (h) of this section.

(7) "Supplier" shall mean a person who supplies agricultural chemicals to a grower.

(b) A supplier may obtain a fall agricultural chemical security interest as provided in this section. To the extent not otherwise expressly provided in this section, the provisions of this chapter apply to a fall agricultural chemical security interest. The amount secured by a fall agricultural security interest shall be the lesser of: (i) the agreed charges for the agricultural chemicals and application costs provided pursuant to the notification statement; or (ii) the amount of the anticipated charges as reflected in the notification statement.

(c) A fall agricultural chemical security interest attaches to the existing crops upon the land where the agricultural chemical is applied, or if crops are not planted at the time of the application, to the next production crop from that land. It does not attach to crops already harvested or which are harvested before December 15 from such land, or to crops to be grown on such land after the next production crop, or to crops grown on other land than that identified in the notification statement.

(d) A fall agricultural chemical security interest is perfected by filing a financing statement.

(e) A fall agricultural chemical security interest shall have priority over a conflicting security interest in the same crops and identifiable proceeds thereof except for a prior perfected fall agricultural chemical security interest. In the event of any commingling of crops or proceeds covered by a fall agricultural chemical security interest with other crops or proceeds, the burden of proving the applicability of the fall agricultural chemical security interest to any particular crops or proceeds is on the supplier asserting it.

(f) Nothing in this section is intended to limit the priority of agricultural liens established by the statutes creating such liens, and a perfected agricultural lien shall have priority over a conflicting security interest (including a fall agricultural chemical security interest) if the statute creating the agricultural lien provides such priority.

(g) A supplier may notify the lender that the supplier intends to supply agricultural chemicals to the grower and that the supplier requests the lender to issue a letter of response. In order to so notify the lender, the supplier shall provide a notification statement to the lender in an envelope marked CROP SECURITY INTEREST NOTIFICATION STATEMENT, sent by certi-

fied mail addressed to the lender at the address for such lender shown on such lender's most recently filed UCC-1F financing statement regarding that grower.

(h) A notification statement shall contain:

- (1) The name, address and signature of the supplier providing the notification statement;
- (2) The date the notification statement was prepared;
- (3) The name and address of the lender;
- (4) The name and address of the person to whom the lender's response to the supplier should be addressed;
- (5) A description and anticipated date of the application of agricultural chemicals and the anticipated charges for the agricultural chemicals, including anticipated application costs;
- (6) The name, address and signature of the grower to whom the supplier furnished or intends to furnish agricultural chemicals;
- (7) A reasonable description of the real estate sufficient to identify the same where the agricultural chemicals are to be applied;
- (8) The name and address of the owner (if other than the grower) of such real property;
- (9) A description of the crops growing or to be grown on such real property as to which the supplier intends to supply agricultural chemicals and upon which the supplier claims or intends to obtain a security interest;
- (10) The social security number or federal tax identification number of the grower to whom the supplier intends to provide agricultural chemicals; and
- (11) The social security number or federal tax identification number of the supplier providing the notice.

(i) Within fifteen (15) days after actual receipt of a notification statement, the lender shall deposit in the U.S. mail, certified, a letter of response to the supplier. A copy of the lender's letter of response shall be sent to the grower.

(j) A letter of response shall contain the name, address and signature of the lender, and either

- (1) A statement by the lender that there is an outstanding commitment for operating financing from the lender to the grower, and that the lender shall reserve the amount in the notification statement for the purpose of honoring drafts or other demands for payment by the supplier accompanied by invoices signed by the grower or other proof of delivery signed by the grower; or
- (2) A statement by the lender that the lender shall subordinate the priority of its security interest in specified crops of the grower to the priority of the security interest in such crops obtained or to be obtained by the supplier, and specifying that the maximum amount of such subordination shall be the amount stated in the notification statement; or
- (3) A statement by the lender that it declines to either reserve funds or subordinate its security interest.

(k) If the lender's letter of response states that the lender declines to either reserve funds or subordinate its security interest, the respective rights of the lender and the supplier are not affected by this section and the relative priority between the lender's security interest in crops, and any security interest obtained by the supplier in such crops, shall be deter-

mined according to the ordinary rules governing the priority of conflicting security interests in the same collateral, unless the supplier's security interest is a fall agricultural chemical security interest.

(l) If the lender does not mail its letter of response to the supplier within fifteen (15) days after receiving the notification statement, and the supplier has perfected a security interest in such crops or perfects such security interest within ten (10) days after the expiration of the fifteen (15) day period for the lender to respond, the supplier's perfected security interest in such crops shall take priority over the lender's perfected security interest in such crops, but only to the extent of the lesser of (1) the amount stated in the notification statement, or (2) the unpaid agreed charges for the agricultural chemicals identified in the notification statement and actually applied to, or for the benefit of, such crops.

(m) Any amounts repaid by any person on the grower's obligation for which the supplier has obtained an agricultural chemical security interest shall reduce the value of the agricultural chemical security interest on a dollar-for-dollar basis, and amounts may not be reborrowed or readvanced under the same notification statement. If the supplier receives proceeds of any collateral of the lender (other than proceeds of the crops covered by the fall agricultural security interest), such proceeds shall be turned over to the lender. In order to obtain the benefits of this section, any additional sales of agricultural chemicals not included in the original notification statement must be the subject of a new notification statement, to which the lender may issue a new letter of response.

(n) No one but the supplier shall be entitled to rely on a letter of response. Rights (if any) under a letter of response are not assignable, except in connection with an assignment by the supplier of the entire security interest to which such letter of response relates. By issuing a letter of response and performing thereunder, the lender does not become a partner, joint venturer or fiduciary of either the grower or the supplier.

(o) (1) The secretary of state shall publish a form substantially as follows:

Name of supplier
Address
SSN/TIN
Date notification statement was prepared

Name of lender
Address

Name of person to whom lender's response to supplier should be addressed
Address

Description and anticipated date of the application of agricultural chemicals

Anticipated charges for the agricultural chemicals

Anticipated charges for application, if not included in charges for chemicals

Name of grower

Address
SSN/TIN

Reasonable description of the real estate where the agricultural
chemicals are to be applied

Name of owner of real property (if other than grower)
Address

Crops growing or to be grown on such real property as to which the
supplier intends to supply agricultural chemicals and upon which
supplier intends to obtain a security interest

Signature of supplier

Signature of grower

(2) On the reverse side of the form described in subsection (1) of this
section, the secretary of state shall provide a form for the lender's
letter of response, substantially as follows:

Name of lender
Address

Lender responds to notification statement as follows (choose one):

- An outstanding commitment for operating financing exists for
this grower. Of that commitment, lender hereby reserves the
amount specified in the notification statement for the purpose of
honoring drafts or other demands for payment by supplier, accompa-
nied by invoices signed by grower or other proof of delivery signed
by grower.
- Lender hereby subordinates the priority of its security
interest in (specify crops) of grower to the
priority of the security interest in such crops obtained or to be
obtained by supplier, such subordination to be in the amount spec-
ified in the notification statement.
- Lender declines to either reserve funds or subordinate its
security interest.

Signature of lender

(3) Suppliers and lenders are required to use the form published by the
secretary of state.

[28-9-322A, added 2001, ch. 208, sec. 2, p. 742.]

28-9-323. FUTURE ADVANCES. (a) Except as otherwise provided in sub-
section (c) of this section, for purposes of determining the priority of a

perfected security interest under section [28-9-322](#) (a) (1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

- (1) Is made while the security interest is perfected only:
 - (A) under section [28-9-309](#) when it attaches; or
 - (B) temporarily under section [28-9-312](#) (e), (f) or (g); and
- (2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section [28-9-309](#) or [28-9-312](#) (e), (f) or (g).

(b) Except as otherwise provided in subsection (c) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:

- (1) Without knowledge of the lien; or
- (2) Pursuant to a commitment entered into without knowledge of the lien.

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

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

- (1) The time the secured party acquires knowledge of the buyer's purchase; or
- (2) Forty-five (45) days after the purchase.

(e) Subsection (d) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.

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

- (1) The time the secured party acquires knowledge of the lease; or
- (2) Forty-five (45) days after the lease contract becomes enforceable.

(g) Subsection (f) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

[28-9-323, added 2001, ch. 208, sec. 2, p. 746.]

28-9-324. PRIORITY OF PURCHASE-MONEY SECURITY INTERESTS. (a) Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods and, except as otherwise provided in section [28-9-327](#), a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.

(b) Subject to subsection (c) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in

chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section [28-9-330](#), and, except as otherwise provided in section [28-9-327](#), also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

- (1) The purchase-money security interest is perfected when the debtor receives possession of the inventory;
- (2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
- (3) The holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and
- (4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subsections (b) (2) through (b) (4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

- (1) If the purchase-money security interest is perfected by filing, before the date of the filing; or
- (2) If the purchase-money security interest is temporarily perfected without filing or possession under section [28-9-312](#) (f), before the beginning of the twenty (20) day period thereunder.

(d) Subject to subsection (e) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock and, except as otherwise provided in section [28-9-327](#), a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

- (1) The purchase-money security interest is perfected when the debtor receives possession of the livestock;
- (2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
- (3) The holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and
- (4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Subsections (d) (2) through (d) (4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

- (1) If the purchase-money security interest is perfected by filing, before the date of the filing; or
- (2) If the purchase-money security interest is temporarily perfected without filing or possession under section [28-9-312](#) (f), before the beginning of the twenty (20) day period thereunder.

(f) Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral and, except as otherwise provided in section [28-9-327](#), a perfected security interest

in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one (1) security interest qualifies for priority in the same collateral under subsection (a), (b), (d) or (f) of this section:

- (1) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and
- (2) In all other cases, section [28-9-322](#) (a) applies to the qualifying security interests.

[28-9-324, added 2001, ch. 208, sec. 2, p. 747.]

28-9-325. PRIORITY OF SECURITY INTERESTS IN TRANSFERRED COLLATERAL. (a) Except as otherwise provided in subsection (b) of this section, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

- (1) The debtor acquired the collateral subject to the security interest created by the other person;
- (2) The security interest created by the other person was perfected when the debtor acquired the collateral; and
- (3) There is no period thereafter when the security interest is unperfected.

(b) Subsection (a) of this section subordinates a security interest only if the security interest:

- (1) Otherwise would have priority solely under section [28-9-322](#) (a) or [28-9-324](#); or
- (2) Arose solely under section [28-2-711](#) (3) or [28-12-508](#) (5).

[28-9-325, added 2001, ch. 208, sec. 2, p. 748.]

28-9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR. (a) Subject to subsection (b) of this section, a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and perfected by a filed financing statement that would be ineffective to perfect the security interest but for the application of sections [28-9-316](#) (i) (1) and [28-9-508](#), Idaho Code, is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement.

(b) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in subsection (a) of this section. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

[28-9-326, added 2001, ch. 208, sec. 2, p. 749; am. 2012, ch. 145, sec. 7, p. 395.]

28-9-327. PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNT. The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under section [28-9-104](#) has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4) of this section, security interests perfected by control under section [28-9-314](#) rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4) of this section, a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under section [28-9-104](#) (a) (3) has priority over a security interest held by the bank with which the deposit account is maintained.

[28-9-327, added 2001, ch. 208, sec. 2, p. 749.]

28-9-328. PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY. The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under section [28-9-106](#) has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under section [28-9-106](#) rank according to priority in time of:

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

(B) If the collateral is a security entitlement carried in a securities account and:

(i) if the secured party obtained control under section [28-8-106](#) (4) (a), the secured party's becoming the person for which the securities account is maintained;

(ii) if the secured party obtained control under section [28-8-106](#) (4) (b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(iii) if the secured party obtained control through another person under section [28-8-106](#) (4) (c), the time on which priority would be based under this paragraph if the other person were the secured party; or

(C) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in section [28-9-106](#) (b) (2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

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

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

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under section [28-9-313](#) (a) and not by control under section [28-9-314](#) has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary or commodity intermediary which are perfected without control under section [28-9-106](#) rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by sections [28-9-322](#) and [28-9-323](#).

[28-9-328, added 2001, ch. 208, sec. 2, p. 749.]

28-9-329. PRIORITY OF SECURITY INTERESTS IN LETTER OF CREDIT RIGHT. The following rules govern priority among conflicting security interests in the same letter of credit right:

(1) A security interest held by a secured party having control of the letter of credit right under section [28-9-107](#) has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under section [28-9-314](#) rank according to priority in time of obtaining control.

[28-9-329, added 2001, ch. 208, sec. 2, p. 750.]

28-9-330. PRIORITY OF PURCHASER OF CHATTEL PAPER OR INSTRUMENT. (a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section [28-9-105](#); and

(2) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section [28-9-105](#) in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Except as otherwise provided in section [28-9-327](#), a purchaser having priority in chattel paper under subsection (a) or (b) of this section also has priority in proceeds of the chattel paper to the extent that:

(1) Section [28-9-322](#) provides for priority in the proceeds; or

(2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Except as otherwise provided in section [28-9-331](#) (a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) For purposes of subsections (a) and (b) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) For purposes of subsections (b) and (d) of this section, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

[28-9-330, added 2001, ch. 208, sec. 2, p. 750.]

28-9-331. PRIORITY OF RIGHTS OF PURCHASERS OF INSTRUMENTS, DOCUMENTS AND SECURITIES UNDER OTHER CHAPTERS -- PRIORITY OF INTERESTS IN FINANCIAL ASSETS AND SECURITY ENTITLEMENTS UNDER CHAPTER 8. (a) This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in chapters 3, 7 and 8.

(b) This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under chapter 8.

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

[28-9-331, added 2001, ch. 208, sec. 2, p. 751.]

28-9-332. TRANSFER OF MONEY -- TRANSFER OF FUNDS FROM DEPOSIT ACCOUNT. (a) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

[28-9-332, added 2001, ch. 208, sec. 2, p. 751.]

28-9-333. PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW. (a) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

- (1) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;
- (2) Which is created by statute or rule of law in favor of the person; and
- (3) Whose effectiveness depends on the person's possession of the goods.

(b) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

[28-9-333, added 2001, ch. 208, sec. 2, p. 752.]

28-9-334. PRIORITY OF SECURITY INTERESTS IN FIXTURES AND CROPS. (a) A security interest under this chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this chapter in ordinary building materials incorporated into an improvement on land.

(b) This chapter does not prevent creation of an encumbrance upon fixtures under real property law.

(c) In cases not governed by subsections (d) through (h) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Except as otherwise provided in subsection (h) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (1) The security interest is a purchase-money security interest;
- (2) The interest of the encumbrancer or owner arises before the goods become fixtures; and
- (3) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty (20) days thereafter.

(e) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

- (1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:
 - (A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and
 - (B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;
- (2) Before the goods become fixtures, the security interest is perfected by any method permitted by this chapter and the fixtures are readily removable:
 - (A) factory or office machines;
 - (B) equipment that is not primarily used or leased for use in the operation of the real property; or
 - (C) replacements of domestic appliances that are consumer goods;
- (3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this chapter; or
- (4) The security interest is:
 - (A) created in a manufactured home in a manufactured home transaction; and
 - (B) perfected pursuant to a statute described in section [28-9-311](#) (a) (2).

(f) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

- (1) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or
- (2) The debtor has a right to remove the goods as against the encumbrancer or owner.

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

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

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

[28-9-334, added 2001, ch. 208, sec. 2, p. 752.]

28-9-335. ACCESSIONS. (a) A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Except as otherwise provided in subsections (d) and (g) of this section, the other provisions of this part determine the priority of a security interest in an accession.

(d) Except as otherwise provided in subsection (g) of this section, a security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate of title statute under section [28-9-311](#) (b).

(e) After default, subject to part 6, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) A secured party that removes an accession from other goods under subsection (e) of this section shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

(g) A security interest in an accession has priority over a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under subsection (b) of section [28-9-311](#), Idaho Code, if the security interest in the accession is a purchase money security interest that is perfected when the debtor receives possession of the accession or within twenty (20) days thereafter.

[28-9-335, added 2001, ch. 208, sec. 2, p. 753.]

28-9-336. COMMINGLED GOODS. (a) In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) If collateral becomes commingled goods, a security interest attaches to the product or mass.

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

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

(f) If more than one (1) security interest attaches to the product or mass under subsection (c) of this section, the following rules determine priority:

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

(2) If more than one (1) security interest is perfected under subsection (d) of this section, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

[28-9-336, added 2001, ch. 208, sec. 2, p. 754.]

28-9-337. PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under section [28-9-311](#)(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

[28-9-337, added 2001, ch. 208, sec. 2, p. 754.]

28-9-338. PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in section [28-9-516](#)(b)(5) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

[28-9-338, added 2001, ch. 208, sec. 2, p. 755; am. 2004, ch. 42, sec. 31, p. 133.]

28-9-339. PRIORITY SUBJECT TO SUBORDINATION. This article does not preclude subordination by agreement by a person entitled to priority.

[28-9-339, added 2001, ch. 208, sec. 2, p. 755.]

28-9-340. EFFECTIVENESS OF RIGHT OF RECOUPMENT OR SET-OFF AGAINST DEPOSIT ACCOUNT. (a) Except as otherwise provided in subsection (c) of this section, a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(b) Except as otherwise provided in subsection (c) of this section, the application of this chapter to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(c) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under section [28-9-104](#) (a) (3), if the set-off is based on a claim against the debtor.

[28-9-340, added 2001, ch. 208, sec. 2, p. 755.]

28-9-341. BANK'S RIGHTS AND DUTIES WITH RESPECT TO DEPOSIT ACCOUNT. Except as otherwise provided in section [28-9-340](#) (c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended or modified by:

(1) The creation, attachment or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

[28-9-341, added 2001, ch. 208, sec. 2, p. 755.]

28-9-342. BANK'S RIGHT TO REFUSE TO ENTER INTO OR DISCLOSE EXISTENCE OF CONTROL AGREEMENT. This chapter does not require a bank to enter into an agreement of the kind described in section [28-9-104](#) (a) (2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

[28-9-342, added 2001, ch. 208, sec. 2, p. 755.]

28-9-401. ALIENABILITY OF DEBTOR'S RIGHTS. (a) Except as otherwise provided in subsection (b) of this section and sections [28-9-406](#), [28-9-407](#), [28-9-408](#) and [28-9-409](#), whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this chapter.

(b) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

[28-9-401, added 2001, ch. 208, sec. 2, p. 756.]

28-9-402. SECURED PARTY NOT OBLIGATED ON CONTRACT OF DEBTOR OR IN TORT. The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

[28-9-402, added 2001, ch. 208, sec. 2, p. 756.]

28-9-403. AGREEMENT NOT TO ASSERT DEFENSES AGAINST ASSIGNEE. (a) In this section, "value" has the meaning provided in section [28-3-303](#)(1).

(b) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

- (1) For value;
- (2) In good faith;
- (3) Without notice of a claim of a property or possessory right to the property assigned; and
- (4) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under section [28-3-305](#)(1).

(c) Subsection (b) of this section does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under section [28-3-305](#)(2).

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

- (1) The record has the same effect as if the record included such a statement; and
- (2) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

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

(f) Except as otherwise provided in subsection (d) of this section, this section does not displace law other than this chapter which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

[28-9-403, added 2001, ch. 208, sec. 2, p. 756.]

28-9-404. RIGHTS ACQUIRED BY ASSIGNEE -- CLAIMS AND DEFENSES AGAINST ASSIGNEE. (a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e) of this section, the rights of an assignee are subject to:

(1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) Subject to subsection (c) of this section and except as otherwise provided in subsection (d) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) of this section only to reduce the amount the account debtor owes.

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

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

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

[28-9-404, added 2001, ch. 208, sec. 2, p. 757.]

28-9-405. MODIFICATION OF ASSIGNED CONTRACT. (a) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d) of this section.

(b) Subsection (a) of this section applies to the extent that:

(1) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(2) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under section [28-9-406](#) (a).

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

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

[28-9-405, added 2001, ch. 208, sec. 2, p. 757.]

28-9-406. DISCHARGE OF ACCOUNT DEBTOR -- NOTIFICATION OF ASSIGNMENT -- IDENTIFICATION AND PROOF OF ASSIGNMENT -- RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE. (a) Subject to subsections (b) through (i) of this section, an account

debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h) of this section, notification is ineffective under subsection (a) of this section:

- (1) If it does not reasonably identify the rights assigned;
- (2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this chapter; or
- (3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:
 - (A) only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;
 - (B) a portion has been assigned to another assignee; or
 - (C) the account debtor knows that the assignment to that assignee is limited.

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

(d) Except as otherwise provided in subsection (e) of this section and sections [28-9-407](#) and [28-12-303](#), Idaho Code, and subject to subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

- (1) Prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or
- (2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible or promissory note.

(e) Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section [28-9-610](#), Idaho Code, or an acceptance of collateral under section [28-9-620](#), Idaho Code.

(f) Except as otherwise provided in sections [28-9-407](#) and [28-12-303](#), Idaho Code, and subject to subsections (h) and (i) of this section, a rule of law, statute, rule or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, rule or regulation:

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

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

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

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

(i) This section does not apply to an assignment of a health care insurance receivable, an award of compensation made pursuant to the crime victims compensation act, [chapter 10, title 72](#), Idaho Code, or a lottery prize subject to the provisions of [chapter 74, title 67](#), Idaho Code.

[28-9-406, added 2001, ch. 208, sec. 2, p. 758; am. 2012, ch. 145, sec. 8, p. 395.]

28-9-407. RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST. (a) Except as otherwise provided in subsection (b) of this section, a term in a lease agreement is ineffective to the extent that it:

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

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

(b) Except as otherwise provided in section [28-12-303](#)(7), a term described in subsection (a) (2) of this section is effective to the extent that there is:

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

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

(c) The creation, attachment, perfection or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section [28-12-303](#)(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

[28-9-407, added 2001, ch. 208, sec. 2, p. 759.]

28-9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE. (a)

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

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

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

(b) Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section [28-9-610](#), Idaho Code, or an acceptance of collateral under section [28-9-620](#), Idaho Code.

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

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

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

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

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

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

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

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health care insurance receivable,

or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health care insurance receivable, or general intangible;

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

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

[28-9-408, added 2001, ch. 208, sec. 2, p. 760; am. 2012, ch. 145, sec. 9, p. 396.]

28-9-409. RESTRICTIONS ON ASSIGNMENT OF LETTER OF CREDIT RIGHTS INEFFECTIVE. (a) A term in a letter of credit or a rule of law, statute, rule, regulation, custom or practice applicable to the letter of credit which prohibits, restricts or requires the consent of an applicant, issuer or nominated person to a beneficiary's assignment of or creation of a security interest in a letter of credit right is ineffective to the extent that the term or rule of law, statute, rule, regulation, custom or practice:

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

(2) Provides that the assignment or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter of credit right.

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

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

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

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

[28-9-409, added 2001, ch. 208, sec. 2, p. 761.]

PART 5. FILING

28-9-501. FILING OFFICE. (a) Except as otherwise provided in subsection (b) of this section, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut;
or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) The office of the secretary of state or any office duly authorized by the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become a fixture.

[28-9-501, added 2001, ch. 208, sec. 2, p. 761.]

28-9-502. CONTENTS OF FINANCING STATEMENT -- RECORD OF MORTGAGE AS FINANCING STATEMENT -- TIME OF FILING FINANCING STATEMENT -- FARM PRODUCTS. (a) Subject to subsection (b) of this section, a financing statement is sufficient only if it:

(1) Provides the name of the debtor;

(2) Provides the name of the secured party or a representative of the secured party; and

(3) Indicates the collateral covered by the financing statement.

(b) Except as otherwise provided in section [28-9-501](#)(b), Idaho Code, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) of this section and also:

(1) Indicate that it covers this type of collateral;

(2) Indicate that it is to be filed in the real property records;

(3) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

(4) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) The record indicates the goods or accounts that it covers;

(2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) The record satisfies the requirements for a financing statement in this section, but:

(A) the record need not indicate that it is to be filed in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section [28-9-503](#)(a)(4), Idaho Code, applies; and

- (4) The record is recorded.
- (d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
- (e) A financing statement covering farm products is sufficient if it:
- (1) Contains the names and addresses of both the debtor and the secured party;
 - (2) Is signed, authorized or otherwise authenticated by the debtor;
 - (3) Contains the debtor's social security number or other unique number, combination of numbers and letters, or other identifier selected by the secretary of state using a selection system or method approved by the secretary of agriculture, or in the case of a debtor doing business other than as an individual, the debtor's internal revenue service taxpayer identification number or other approved unique identifier;
 - (4) Contains a description by category of the farm products subject to the security interest and the amount of such products, where applicable;
 - (5) Indicates the county or counties in which the farm products are produced or located.
- (f) A financing statement covering farm products must be amended in writing and similarly signed, authorized or authenticated, and filed, to reflect any material changes. In the event such form is not incorporated within the financing statement, the effectiveness and continuation of that form is to be treated as if it were a part of the financing statement with which it is filed.
- (g) If the financing statement covering farm products, or an amendment to such statement, is filed electronically, neither the debtor's nor the secured party's signature shall be required.
- (h) In order to terminate a financing statement covering farm products, the amendment must be terminated in writing and signed or authenticated by the secured party.

[28-9-502, added 2001, ch. 208, sec. 2, p. 762; am. 2007, ch. 317, sec. 1, p. 945; am. 2012, ch. 145, sec. 10, p. 398.]

28-9-503. NAME OF DEBTOR AND SECURED PARTY. (a) A financing statement sufficiently provides the name of the debtor:

- (1) Except as otherwise provided in paragraph (3) of this subsection, if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend or restate the registered organization's name;
- (2) Subject to subsection (f) of this section, if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;
- (3) If the collateral is held in a trust that is not a registered organization, only if the financing statement:
 - (A) provides, as the name of the debtor:

- (i) if the organic record of the trust specifies a name for the trust, the name so specified; or
 - (ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and
- (B) in a separate part of the financing statement:
- (i) if the name is provided in accordance with subparagraph (A) (i) of this paragraph, indicates that the collateral is held in a trust; or
 - (ii) if the name is provided in accordance with subparagraph (A) (ii) of this paragraph, provides additional information sufficient to distinguish the trust from other trusts having one (1) or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;
- (4) Subject to subsection (g) of this section, if the debtor is an individual to whom this state has issued a driver's license or an Idaho identification card that has not expired, only if it provides the name of the individual which is indicated on the driver's license or the Idaho identification card;
- (5) If the debtor is an individual to whom paragraph (4) of this subsection does not apply, only if it provides the individual name of the debtor or the surname and first personal name of the debtor; and
- (6) In other cases:
- (A) if the debtor has a name, only if it provides the organizational name of the debtor; and
 - (B) if the debtor does not have a name, only if it provides the names of the partners, members, associates or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.
- (b) A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:
- (1) A trade name or other name of the debtor; or
 - (2) Unless required under subsection (a) (6) (B) of this section, names of partners, members, associates or other persons comprising the debtor.
 - (c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.
 - (d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.
 - (e) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.
 - (f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (a) (2) of this section.
 - (g) If this state has issued to an individual more than one (1) driver's license or Idaho identification card of a kind described in subsection (a) (4) of this section, the one that was issued most recently is the one to which subsection (a) (4) of this section refers.
 - (h) The "name of the settlor or testator" means:

(1) If the settlor is a registered organization, the name of the registered organization indicated on the public organic record filed with or issued or enacted by the registered organization's jurisdiction of organization; or

(2) In other cases, the name of the settlor or testator indicated in the trust's organic record.

[28-9-503, added 2001, ch. 208, sec. 2, p. 763; am. 2012, ch. 145, sec. 11, p. 399.]

28-9-504. INDICATION OF COLLATERAL. A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to section [28-9-108](#); or

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

[28-9-504, added 2001, ch. 208, sec. 2, p. 764.]

28-9-505. FILING AND COMPLIANCE WITH OTHER STATUTES AND TREATIES FOR CONSIGNMENTS, LEASES, OTHER BAILMENTS, AND OTHER TRANSACTIONS. (a) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in section [28-9-311](#)(a), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(b) This part applies to the filing of a financing statement under subsection (a) of this section and, as appropriate, to compliance that is equivalent to filing a financing statement under section [28-9-311](#)(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner or buyer which attaches to the collateral is perfected by the filing or compliance.

[28-9-505, added 2001, ch. 208, sec. 2, p. 764.]

28-9-506. EFFECT OF ERRORS OR OMISSIONS. (a) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with section [28-9-503](#)(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section [28-9-503](#)(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of section [28-9-508](#)(b), the "debtor's correct name" in subsection (c) of this section means the correct name of the new debtor.

[28-9-506, added 2001, ch. 208, sec. 2, p. 764.]

28-9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT. (a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) of this section and section [28-9-508](#), Idaho Code, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section [28-9-506](#), Idaho Code.

(c) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under section [28-9-503](#)(a), Idaho Code, so that the financing statement becomes seriously misleading under section [28-9-506](#), Idaho Code:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the filed financing statement becomes seriously misleading; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after that event.

[28-9-507, added 2001, ch. 208, sec. 2, p. 764; am. 2012, ch. 145, sec. 12, p. 400.]

28-9-508. EFFECTIVENESS OF FINANCING STATEMENT IF NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT. (a) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) of this section to be seriously misleading under section [28-9-506](#):

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four (4) months after, the new debtor becomes bound under section [28-9-203](#)(d); and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four (4) months after the new debtor becomes bound under section [28-9-203](#)(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under section [28-9-507](#)(a).

[28-9-508, added 2001, ch. 208, sec. 2, p. 765.]

28-9-509. PERSONS ENTITLED TO FILE A RECORD. (a) A person may file an initial financing statement, amendment that adds collateral covered by a fi-

ancing statement, or amendment that adds a debtor to a financing statement only if:

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

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

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

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

(2) Property that becomes collateral under section [28-9-315](#)(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under section [28-9-315](#)(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section [28-9-315](#)(a)(2).

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

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

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section [28-9-513](#)(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d) of this section.

[28-9-509, added 2001, ch. 208, sec. 2, p. 765.]

28-9-510. EFFECTIVENESS OF FILED RECORD. (a) A filed record is effective only to the extent that it was filed by a person that may file it under section [28-9-509](#).

(b) A record authorized by one (1) secured party of record does not affect the financing statement with respect to another secured party of record.

(c) A continuation statement that is not filed within the six (6) month period prescribed by section [28-9-515](#)(d) is ineffective.

[28-9-510, added 2001, ch. 208, sec. 2, p. 766.]

28-9-511. SECURED PARTY OF RECORD. (a) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under section [28-9-514](#)(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amend-

ment is filed under section [28-9-514](#) (b), the assignee named in the amendment is a secured party of record.

(c) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

[28-9-511, added 2001, ch. 208, sec. 2, p. 766.]

28-9-512. AMENDMENT OF FINANCING STATEMENT. (a) Subject to section [28-9-509](#), a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) If the amendment relates to an initial financing statement filed or recorded in a filing office described in section [28-9-501](#) (a) (1), provides the information specified in section [28-9-502](#) (b).

(b) Except as otherwise provided in section [28-9-515](#), the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) An amendment is ineffective to the extent it:

(1) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

[28-9-512, added 2001, ch. 208, sec. 2, p. 766.]

28-9-513. TERMINATION STATEMENT. (a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

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

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

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

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

(2) If earlier, within twenty (20) days after the secured party receives an authenticated demand from a debtor.

(c) In cases not governed by subsection (a) of this section, within twenty (20) days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the

financing statement or file the termination statement in the filing office if:

- (1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;
- (2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;
- (3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or
- (4) The debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in section [28-9-510](#), upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section [28-9-510](#), for purposes of sections [28-9-519](#)(g), [28-9-522](#)(a) and [28-9-523](#)(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

[28-9-513, added 2001, ch. 208, sec. 2, p. 767.]

28-9-514. ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD. (a) Except as otherwise provided in subsection (c) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) Except as otherwise provided in subsection (c) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

- (1) Identifies, by its file number, the initial financing statement to which it relates;
- (2) Provides the name of the assignor; and
- (3) Provides the name and mailing address of the assignee.

(c) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under section [28-9-502](#)(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than the uniform commercial code.

[28-9-514, added 2001, ch. 208, sec. 2, p. 768.]

28-9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT -- EFFECT OF LAPSED FINANCING STATEMENT. (a) Except as otherwise provided in section [28-9-705](#)(g), Idaho Code, and subsections (b), (e), (f) and (g) of this section, a filed financing statement is effective for a period of five (5) years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f) and (g) of this section, an initial financing statement filed in connection with a public

finance transaction or manufactured home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public finance transaction or manufactured home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) Except as otherwise provided in section [28-9-705\(g\)](#), Idaho Code, a continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (a) of this section or the thirty (30) year period specified in subsection (b) of this section, whichever is applicable.

(e) Except as otherwise provided in sections [28-9-510](#) and [28-9-705\(g\)](#), Idaho Code, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (c) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section [28-9-502\(c\)](#), Idaho Code, remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

[28-9-515, added 2001, ch. 208, sec. 2, p. 768; am. 2002, ch. 107, sec. 4, p. 302; am. 2012, ch. 145, sec. 13, p. 401.]

28-9-516. WHAT CONSTITUTES FILING -- EFFECTIVENESS OF FILING. (a) Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

- (1) The record is not communicated by a method or medium of communication authorized by the filing office;
- (2) An amount equal to or greater than the applicable filing fee is not tendered;
- (3) The filing office is unable to index the record because:
 - (A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or information statement, the record:

(i) does not identify the initial financing statement as required by section [28-9-512](#) or [28-9-518](#), Idaho Code, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section [28-9-515](#), Idaho Code;

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

(D) in the case of a record filed, or recorded, in the filing office described in section [28-9-501](#) (a) (1), Idaho Code, the record does not provide a sufficient description of the real property to which it relates;

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

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, except for financing statements covering farm products and amendments of such financing statements, the record does not:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization;

(6) In the case of an assignment reflected in an initial financing statement under section [28-9-514](#) (a), Idaho Code, or an amendment filed under section [28-9-514](#) (b), Idaho Code, the record does not provide a name and mailing address for the assignee;

(7) In the case of a continuation statement, the record is not filed within the six (6) month period prescribed by section [28-9-515](#) (d), Idaho Code;

(8) In the case of a financing statement covering farm products, the financing statement does not contain all of the information specified in section [28-9-502](#) (e), Idaho Code, and does not conform to the official form for farm products financing statements published by the secretary of state; or

(9) In the case of an amendment or correction statement relating to a financing statement covering farm products, the amendment or correction statement does not conform to the official form for amendment or correction statements relating to financing statements covering farm products published by the secretary of state.

(10) The filing office is prohibited from accepting the filing pursuant to the provisions of section [28-9-516A](#), Idaho Code.

(c) For purposes of subsection (b) of this section:

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

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by sec-

tion [28-9-512](#), [28-9-514](#) or [28-9-518](#), Idaho Code, is an initial financing statement.

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

[28-9-516, added 2001, ch. 208, sec. 2, p. 769; am. 2004, ch. 304, sec. 1, p. 852; am. 2012, ch. 145, sec. 14, p. 402.]

28-9-516A. FILING OFFICER DUTIES. (1) The filing officer shall not file an initial financing statement or financing statement amendment:

(a) Which contains an assumed business name for either an individual or a business entity other than a general partnership if the assumed business name is designated as an assumed business name and the true name of the person using the assumed business name is not included.

(b) When an individual debtor and an individual secured party would, as a result of the filing, appear to be the same individual on the financing statement.

(2) The filing officer may require, prior to filing, reasonable proof from the secured party that an individual debtor is in fact a "transmitting utility" as defined in section [28-9-102](#), Idaho Code, if a filing indicates that the debtor is a transmitting utility.

(3) The filing officer may, prior to filing, cause to be unreadable any signatures, social security account numbers, taxpayer identification numbers, and employer identification numbers that appear on financing statements or financing statement amendments.

(4) The secretary of state may petition the district court in Ada county for an order to show cause why filings not in compliance with subsections (1) and (2) of this section should not be deleted from the files and records of the secretary of state.

[28-9-516A, added 2003, ch. 206, sec. 1, p. 549; am. 2012, ch. 145, sec. 15, p. 403.]

28-9-517. EFFECT OF INDEXING ERRORS. The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

[28-9-517, added 2001, ch. 208, sec. 2, p. 770.]

28-9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD. (a) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) An information statement under subsection (a) of this section must:

(1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) Indicate that it is an information statement; and

(3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section [28-9-509](#) (d), Idaho Code.

(d) An information statement under subsection (c) of this section must:

- (1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
- (2) Indicate that it is an information statement; and
- (3) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under section [28-9-509](#) (d), Idaho Code.

(e) The filing of an information statement does not affect the effectiveness of an initial financing statement or other filed record.

(f) An information statement may be filed in connection with the previous filing of a financing statement covering farm products under section [28-9-502](#), Idaho Code.

[28-9-518, added 2001, ch. 208, sec. 2, p. 770; am. 2007, ch. 317, sec. 2, p. 946; am. 2012, ch. 145, sec. 16, p. 404.]

28-9-519. NUMBERING, MAINTAINING, AND INDEXING RECORDS -- COMMUNICATING INFORMATION PROVIDED IN RECORDS. (a) For each record filed in a filing office, the filing office shall:

- (1) Assign a unique number to the filed record;
- (2) Create a record that bears the number assigned to the filed record and the date and time of filing;
- (3) Maintain the filed record for public inspection; and
- (4) Index the filed record in accordance with subsections (c), (d) and (e) of this section.

(b) A file number assigned after January 1, 2002, must include a digit that:

- (1) Is mathematically derived from or related to the other digits of the file number; and
- (2) Aids the filing office in determining whether a number communicated as the file number includes a single digit or transpositional error.

(c) Except as otherwise provided in subsections (d) and (e) of this section, the filing office shall:

- (1) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

- (2) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it:

- (1) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and
- (2) To the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of

the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section [28-9-514](#)(a) or an amendment filed under section [28-9-514](#)(b):

(1) Under the name of the assignor as grantor; and

(2) To the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) The filing office shall maintain a capability:

(1) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) The filing office may not remove a debtor's name from the index until one (1) year after the effectiveness of a financing statement naming the debtor lapses under section [28-9-515](#) with respect to all secured parties of record.

(h) The filing office shall perform the acts required by subsections (a) through (e) of this section at the time and in the manner prescribed by filing office rule, but not later than two (2) business days after the filing office receives the record in question.

(i) Subsections (b) and (h) of this section do not apply to a filing office described in section [28-9-501](#)(a)(1).

[28-9-519, added 2001, ch. 208, sec. 2, p. 771.]

28-9-520. ACCEPTANCE AND REFUSAL TO ACCEPT RECORD. (a) A filing office shall refuse to accept a record for filing for a reason set forth in section [28-9-516](#)(b) and may refuse to accept a record for filing only for a reason set forth in section [28-9-516](#)(b).

(b) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing office rule but, in the case of a filing office described in section [28-9-501](#)(a)(2), in no event more than two (2) business days after the filing office receives the record.

(c) A filed financing statement satisfying section [28-9-502](#)(a) and (b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a) of this section. However, section [28-9-338](#) applies to a filed financing statement providing information described in section [28-9-516](#)(b)(5) which is incorrect at the time the financing statement is filed.

(d) If a record communicated to a filing office provides information that relates to more than one (1) debtor, this part applies as to each debtor separately.

[28-9-520, added 2001, ch. 208, sec. 2, p. 772.]

28-9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT. (a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format as prescribed by the secretary of state that is in compliance with the standards of the uniform commercial code, except for a reason set forth in section [28-9-516](#)(b), Idaho Code.

(b) A filing office that accepts written records may not refuse to accept a written record in the form and format as prescribed by the secretary of state that is in compliance with the standards of the uniform commercial code, except for a reason set forth in section [28-9-516](#)(b), Idaho Code.

[28-9-521, added 2012, ch. 145, sec. 18, p. 404; am. 2025, ch. 111, sec. 1, p. 591.]

28-9-522. MAINTENANCE AND DESTRUCTION OF RECORDS. (a) The filing office shall maintain a record of the information provided in a filed financing statement for at least one (1) year after the effectiveness of the financing statement has lapsed under section [28-9-515](#) with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a) of this section.

[28-9-522, added 2001, ch. 208, sec. 2, p. 777.]

28-9-523. INFORMATION FROM FILING OFFICE -- SALE OR LICENSE OF RECORDS -- FARM PRODUCTS -- MASTER LISTS. (a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section [28-9-519](#)(a) (1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) Note upon the copy the number assigned to the record pursuant to section [28-9-519](#)(a) (1) and the date and time of the filing of the record; and

(2) Send the copy to the person.

(b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) The information in the record;

(2) The number assigned to the record pursuant to section [28-9-519](#)(a) (1); and

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

(c) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor;

(B) has not lapsed under section [28-9-515](#) with respect to all secured parties of record; and

(C) if the request so states, has lapsed under section [28-9-515](#) and a record of which is maintained by the filing office under section [28-9-522](#) (a);

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

(3) The information provided in each financing statement.

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

(e) The filing office shall perform the acts required by subsections (a) through (d) of this section at the time and in the manner prescribed by filing office rule, but in the case of a filing office described in section [28-9-501](#) (a) (2), not later than two (2) business days after the filing office receives the request.

(f) At least weekly, the filing office shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

(g) The secretary of state shall maintain a central filing system containing the information filed with his office pursuant to section [28-9-502](#) (e). Under this system the secretary shall record the date and time of filing and compile the information into a master list organized according to farm products. The list shall be organized within each farm product category in alphabetical order according to the last name of the borrower or, in the case of borrowers doing business other than as individuals, the first word in the name of such borrower. The list shall be further organized according to and contain information required by federal law and regulation. The secretary of state shall, by duly adopted administrative rule, designate the categories of farm products to be used in compiling the master list. The secretary of state may establish and maintain, pursuant to duly adopted administrative rule, a separate system for filing of financing statements and search, retrieval and dissemination of information relating to financing statements for farm products, and require separate search requests for such information pursuant to a fee schedule to be established in such administrative rule.

(h) The secretary of state shall maintain a list of all buyers of farm products, commission merchants, and selling agents who register with the secretary of state indicating an interest in receiving the lists described in subsection (i) of this section.

(i) The secretary of state shall distribute complete master lists for each farm product category at least quarterly to each buyer, commission merchant and selling agent registered under subsection (h) of this section and distribute either complete lists or cumulative supplements, which supplements shall be issued not less frequently than semimonthly, of financing statements covering farm products filed subsequent to the last date of filing for financing statements on the last preceding quarterly master list, which the buyer, commission merchant or selling agent has requested. The date of receipt for lists and supplements shall be the third calendar day following the date of mailing by the secretary of state, or in the event the mail is not delivered on that day, the first day thereafter on which mail is delivered.

(j) Upon the request of any person the secretary of state shall provide, within twenty-four (24) hours, an oral confirmation of the filing of the financing statement covering farm products followed by a written confirmation.

(k) Upon request of any person, the filing officer shall furnish copies of particular filed financing statements covering farm products or statements of assignment covering farm products at a uniform cost of one dollar (\$1.00) per page if the requestor provides the filing officer with the file numbers of the statement to be copied.

[28-9-523, added 2001, ch. 208, sec. 2, p. 777.]

28-9-524. DELAY BY FILING OFFICE. Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

[28-9-524, added 2001, ch. 208, sec. 2, p. 778.]

28-9-525. FEES. (a) Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section [28-9-502](#)(c), is:

(1) Six dollars (\$6.00) if the record is communicated in writing and consists of one (1) or two (2) pages;

(2) Twelve dollars (\$12.00) if the record is communicated in writing and consists of more than two (2) pages; and

(3) Three dollars (\$3.00) if the record is communicated by another medium authorized by filing office rule.

(b) Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing an initial financing statement of the kind described in section [28-9-502](#)(c) is the amount specified in subsection (c) of this section, if applicable.

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

(d) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is twelve dollars (\$12.00).

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section [28-9-502](#)(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) The secretary of state shall, by administrative rule, establish a fee schedule for filing and indexing and other matters relating to filing of financing statements covering farm products and for public access to the secretary of state's files which are open to public inspection. A secured party shall provide an itemization of fees paid by the secured party for

filing, searches or other matters related to filing of financing statements covering farm products pertaining to that debtor.

[28-9-525, added 2001, ch. 208, sec. 2, p. 779.]

28-9-526. FILING OFFICE RULES. (a) The secretary of state shall promulgate rules to implement this chapter. The filing office rules must be:

- (1) Consistent with this chapter; and
- (2) Promulgated in accordance with the administrative procedure act, [chapter 52, title 67](#), Idaho Code.

(b) To keep the filing office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies and provisions of this chapter, in adopting, amending and repealing filing office rules, shall:

- (1) Consult with filing offices in other jurisdictions that enact substantially this part; and
- (2) Consult the most recent version of the model rules promulgated by the international association of corporate administrators or any successor organization; and
- (3) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

[28-9-526, added 2001, ch. 208, sec. 2, p. 779.]

PART 6. DEFAULT

28-9-601. RIGHTS AFTER DEFAULT -- JUDICIAL ENFORCEMENT -- CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES OR PROMISSORY NOTES. (a) After default, a secured party has the rights provided in this part and, except as otherwise provided in section [28-9-602](#), those provided by agreement of the parties. A secured party:

- (1) May reduce a claim to judgment, foreclose or otherwise enforce the claim, security interest or agricultural lien by any available judicial procedure; and
- (2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under section [28-7-106](#), [28-9-104](#), [28-9-105](#), [28-9-106](#) or [28-9-107](#) has the rights and duties provided in section [28-9-207](#).

(c) The rights under subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subsection (g) of this section and section [28-9-605](#), after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

- (1) The date of perfection of the security interest or agricultural lien in the collateral;
- (2) The date of filing a financing statement covering the collateral;
- or
- (3) Any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

(g) Except as otherwise provided in section [28-9-607](#)(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

[28-9-601, added 2001, ch. 208, sec. 2, p. 780; am. 2004, ch. 42, sec. 32, p. 133.]

28-9-602. WAIVER AND VARIANCE OF RIGHTS AND DUTIES. Except as otherwise provided in section [28-9-624](#), to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

- (1) Section [28-9-207](#)(b)(4)(C), which deals with use and operation of the collateral by the secured party;
- (2) Section [28-9-210](#), which deals with requests for an accounting and requests concerning a list of collateral and statement of account;
- (3) Section [28-9-607](#)(c), which deals with collection and enforcement of collateral;
- (4) Sections [28-9-608](#)(a) and [28-9-615](#)(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;
- (5) Sections [28-9-608](#)(a) and [28-9-615](#)(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;
- (6) Section [28-9-609](#) to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;
- (7) Sections [28-9-610](#)(b), [28-9-611](#), [28-9-613](#) and [28-9-614](#), which deal with disposition of collateral;
- (8) Section [28-9-615](#)(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;
- (9) Section [28-9-616](#), which deals with explanation of the calculation of a surplus or deficiency;
- (10) Sections [28-9-620](#), [28-9-621](#) and [28-9-622](#), which deal with acceptance of collateral in satisfaction of obligation;
- (11) Section [28-9-623](#), which deals with redemption of collateral;
- (12) Section [28-9-624](#), which deals with permissible waivers; and
- (13) Sections [28-9-625](#) and [28-9-626](#), which deal with the secured party's liability for failure to comply with this chapter.

[28-9-602, added 2001, ch. 208, sec. 2, p. 780.]

28-9-603. AGREEMENT ON STANDARDS CONCERNING RIGHTS AND DUTIES. (a) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under

a rule stated in section [28-9-602](#) if the standards are not manifestly unreasonable.

(b) Subsection (a) of this section does not apply to the duty under section [28-9-609](#) to refrain from breaching the peace.

[28-9-603, added 2001, ch. 208, sec. 2, p. 781.]

28-9-604. PROCEDURE IF SECURITY AGREEMENT COVERS REAL PROPERTY OR FIXTURES. (a) If a security agreement covers both personal and real property, a secured party may proceed:

(1) Under this part as to the personal property without prejudicing any rights with respect to the real property; or

(2) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(b) Subject to subsection (c) of this section, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) Under this part; or

(2) In accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(c) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

[28-9-604, added 2001, ch. 208, sec. 2, p. 781.]

28-9-605. UNKNOWN DEBTOR OR SECONDARY OBLIGOR. A secured party does not owe a duty based on its status as secured party:

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

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

(B) The identity of the person; and

(C) How to communicate with the person; or

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

(A) That the person is a debtor; and

(B) The identity of the person.

[28-9-605, added 2001, ch. 208, sec. 2, p. 782.]

28-9-606. TIME OF DEFAULT FOR AGRICULTURAL LIEN. For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

[28-9-606, added 2001, ch. 208, sec. 2, p. 782.]

28-9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY. (a) If so agreed, and in any event after default, a secured party:

- (1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;
- (2) May take any proceeds to which the secured party is entitled under section [28-9-315](#), Idaho Code;
- (3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;
- (4) If it holds a security interest in a deposit account perfected by control under section [28-9-104](#)(a) (1), Idaho Code, may apply the balance of the deposit account to the obligation secured by the deposit account; and
- (5) If it holds a security interest in a deposit account perfected by control under section [28-9-104](#)(a) (2) or (3), Idaho Code, may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise, under subsection (a) (3) of this section, the right of a debtor to enforce a mortgage non-judicially, the secured party may record in the office in which a record of the mortgage is recorded:

- (1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and
- (2) The secured party's sworn affidavit in recordable form stating that:
 - (A) a default has occurred with respect to the obligation secured by the mortgage; and
 - (B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

- (1) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and
- (2) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

[28-9-607, added 2001, ch. 208, sec. 2, p. 782; am. 2012, ch. 145, sec. 19, p. 409.]

28-9-608. APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT -- LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. (a) If a security interest or

agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under section [28-9-607](#) in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

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

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

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

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under section [28-9-607](#) unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

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

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

[28-9-608, added 2001, ch. 208, sec. 2, p. 783.]

28-9-609. SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT. (a) After default, a secured party:

(1) May take possession of the collateral; and

(2) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under section [28-9-610](#).

(b) A secured party may proceed under subsection (a) of this section:

(1) Pursuant to judicial process; or

(2) Without judicial process, if it proceeds without breach of the peace.

(c) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

[28-9-609, added 2001, ch. 208, sec. 2, p. 784.]

28-9-610. DISPOSITION OF COLLATERAL AFTER DEFAULT. (a) After default, a secured party may sell, lease, license or otherwise dispose of any or all of

the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one (1) or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) A secured party may purchase collateral:

(1) At a public disposition; or

(2) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) A secured party may disclaim or modify warranties under subsection (d) of this section:

(1) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) A record is sufficient to disclaim warranties under subsection (e) of this section if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

[28-9-610, added 2001, ch. 208, sec. 2, p. 784.]

28-9-611. NOTIFICATION BEFORE DISPOSITION OF COLLATERAL. (a) In this section, "notification date" means the earlier of the date on which:

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

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

(b) Except as otherwise provided in subsection (d) of this section, a secured party that disposes of collateral under section [28-9-610](#) shall send to the persons specified in subsection (c) of this section a reasonable authenticated notification of disposition.

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

(1) The debtor;

(2) Any secondary obligor; and

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

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

(B) any other secured party or lienholder that, ten (10) days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) identified the collateral;

(ii) was indexed under the debtor's name as of that date; and
 (iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, ten (10) days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section [28-9-311](#)(a).

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

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

(1) Not later than twenty (20) days or earlier than thirty (30) days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c) (3) (B) of this section; and

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

- (A) did not receive a response to the request for information; or
- (B) received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

[28-9-611, added 2001, ch. 208, sec. 2, p. 784.]

28-9-612. TIMELINESS OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL. (a) Except as otherwise provided in subsection (b) of this section, whether a notification is sent within a reasonable time is a question of fact.

(b) A notification of disposition sent after default and ten (10) days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

[28-9-612, added 2001, ch. 208, sec. 2, p. 785.]

28-9-613. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL -- GENERAL. Except in a consumer goods transaction, the following rules apply:

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

- (A) Describes the debtor and the secured party;
- (B) Describes the collateral that is the subject of the intended disposition;
- (C) States the method of intended disposition;
- (D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
- (E) States the time and place of a public disposition or the time after which any other disposition is to be made.

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

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

- (A) Information not specified by subsection (1) of this section; or
- (B) Minor errors that are not seriously misleading.
- (4) A particular phrasing of the notification is not required.
- (5) The following form of notification and the form appearing in section [28-9-614](#) (3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

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

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

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

(For a public disposition:)

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

Day and Date:

Time:

Place:

(For a private disposition:)

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

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

[28-9-613, added 2001, ch. 208, sec. 2, p. 786.]

28-9-614. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL -- CONSUMER GOODS TRANSACTION. In a consumer goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in section [28-9-613](#) (1);

(B) A description of any liability for a deficiency of the person to which the notification is sent;

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under section [28-9-623](#) is available; and

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

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

(3) The following form of notification, when completed, provides sufficient information:

..... (Name and address of secured party)
..... (Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

..... (Name and address of any obligor who is also a debtor)
Subject: (Identification of Transaction)

We have your(describe collateral)....., because you broke promises in our agreement.

(For a public disposition:)

We will sell(describe collateral)..... at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:
Time:
Place:

You may attend the sale and bring bidders if you want.

(For a private disposition:)

We will sell(describe collateral)..... at private sale sometime after(date)..... A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you(will or will not, as applicable)..... still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at(telephone number).....

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at(telephone number)..... (or write us at(secured party's address).....) and request a written explanation. (We will charge you \$..... for the explanation if we sent you another written explanation of the amount you owe us within the last six months.)

If you need more information about the sale call us at(telephone number)..... (or write us at(secured party's address).....). We are sending this notice to the following other people who have an interest in(describe collateral)..... or who owe money under your agreement:(Names of all other debtors and obligors, if any).....

(4) A notification in the form of subsection (3) of this section is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) of this section is sufficient, even if it includes errors in information not required by subsection (1) of this section, unless the error is misleading with respect to rights arising under this chapter.

(6) If a notification under this section is not in the form of subsection (3) of this section, law other than this chapter determines the effect of including information not required by subsection (1) of this section.

[28-9-614, added 2001, ch. 208, sec. 2, p. 786.]

28-9-615. APPLICATION OF PROCEEDS OF DISPOSITION -- LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. (a) A secured party shall apply or pay over for application the cash proceeds of disposition under section [28-9-610](#) in the following order to:

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

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

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

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

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

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

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

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under section [28-9-610](#) unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

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

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

(2) The obligor is liable for any deficiency.

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

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

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

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

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

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

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

- (1) Takes the cash proceeds free of the security interest or other lien;
- (2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and
- (3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

[28-9-615, added 2001, ch. 208, sec. 2, p. 788.]

28-9-616. EXPLANATION OF CALCULATION OF SURPLUS OR DEFICIENCY. (a) In this section:

- (1) "Explanation" means a writing that:
 - (A) states the amount of the surplus or deficiency;
 - (B) provides an explanation in accordance with subsection (c) of this section of how the secured party calculated the surplus or deficiency;
 - (C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and
 - (D) provides a telephone number or mailing address from which additional information concerning the transaction is available.
- (2) "Request" means a record:
 - (A) authenticated by a debtor or consumer obligor;
 - (B) requesting that the recipient provide an explanation; and
 - (C) sent after disposition of the collateral under section [28-9-610](#).

(b) In a consumer goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section [28-9-615](#), the secured party shall:

- (1) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:
 - (A) before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and
 - (B) within fourteen (14) days after receipt of a request; or
- (2) In the case of a consumer obligor who is liable for a deficiency, within fourteen (14) days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) To comply with subsection (a) (1) (B) of this section, a writing must provide the following information in the following order:

- (1) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than thirty-five (35) days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five (35) days before the disposition;

(2) The amount of proceeds of the disposition;

(3) The aggregate amount of the obligations after deducting the amount of proceeds;

(4) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (1) of this subsection; and

(6) The amount of the surplus or deficiency.

(d) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(e) A debtor or consumer obligor is entitled without charge to one (1) response to a request under this section during any six (6) month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b) (1) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars (\$25.00) for each additional response.

[28-9-616, added 2001, ch. 208, sec. 2, p. 789.]

28-9-617. RIGHTS OF TRANSFEREE OF COLLATERAL. (a) A secured party's disposition of collateral after default:

(1) Transfers to a transferee for value all of the debtor's rights in the collateral;

(2) Discharges the security interest under which the disposition is made; and

(3) Discharges any subordinate security interest or other subordinate lien.

(b) A transferee that acts in good faith takes free of the rights and interests described in subsection (a) of this section, even if the secured party fails to comply with this chapter or the requirements of any judicial proceeding.

(c) If a transferee does not take free of the rights and interests described in subsection (a) of this section, the transferee takes the collateral subject to:

(1) The debtor's rights in the collateral;

(2) The security interest or agricultural lien under which the disposition is made; and

(3) Any other security interest or other lien.

[28-9-617, added 2001, ch. 208, sec. 2, p. 790.]

28-9-618. RIGHTS AND DUTIES OF CERTAIN SECONDARY OBLIGORS. (a) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

- (1) Receives an assignment of a secured obligation from the secured party;
- (2) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or
- (3) Is subrogated to the rights of a secured party with respect to collateral.

(b) An assignment, transfer or subrogation described in subsection (a) of this section:

- (1) Is not a disposition of collateral under section [28-9-610](#); and
- (2) Relieves the secured party of further duties under this chapter.

[28-9-618, added 2001, ch. 208, sec. 2, p. 791.]

28-9-619. TRANSFER OF RECORD OR LEGAL TITLE. (a) In this section, "transfer statement" means a record authenticated by a secured party stating:

- (1) That the debtor has defaulted in connection with an obligation secured by specified collateral;
- (2) That the secured party has exercised its postdefault remedies with respect to the collateral;
- (3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and
- (4) The name and mailing address of the secured party, debtor and transferee.

(b) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate of title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

- (1) Accept the transfer statement;
- (2) Promptly amend its records to reflect the transfer; and
- (3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) A transfer of the record or legal title to collateral to a secured party under subsection (b) of this section or otherwise is not of itself a disposition of collateral under this chapter and does not of itself relieve the secured party of its duties under this chapter.

[28-9-619, added 2001, ch. 208, sec. 2, p. 791.]

28-9-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION -- COMPULSORY DISPOSITION OF COLLATERAL. (a) A secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

- (1) The debtor consents to the acceptance under subsection (c) of this section;
- (2) The secured party does not receive, within the time set forth in subsection (d) of this section, a notification of objection to the proposal authenticated by:

(A) a person to which the secured party was required to send a proposal under section [28-9-621](#); or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal; and

(3) Subsection (e) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to section [28-9-624](#).

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) The conditions of subsection (a) of this section are met.

(c) For purposes of this section:

(1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within twenty (20) days after the proposal is sent.

(d) To be effective under subsection (a) (2) of this section, a notification of objection must be received by the secured party:

(1) In the case of a person to which the proposal was sent pursuant to section [28-9-621](#), within twenty (20) days after notification was sent to that person; and

(2) In other cases:

(A) within twenty (20) days after the last notification was sent pursuant to section [28-9-621](#); or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c) of this section.

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to section [28-9-610](#) within the time specified in subsection (f) of this section if:

(1) Sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) Sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a nonpurchase-money security interest in consumer goods.

(f) To comply with subsection (e) of this section, the secured party shall dispose of the collateral:

(1) Within ninety (90) days after taking possession; or

(2) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

28-9-621. NOTIFICATION OF PROPOSAL TO ACCEPT COLLATERAL. (a) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) Any other secured party or lienholder that, ten (10) days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) Any other secured party that, ten (10) days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section [28-9-311](#) (a).

(b) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a) of this section.

[28-9-621, added 2001, ch. 208, sec. 2, p. 793.]

28-9-622. EFFECT OF ACCEPTANCE OF COLLATERAL. (a) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) Discharges the obligation to the extent consented to by the debtor;

(2) Transfers to the secured party all of a debtor's rights in the collateral;

(3) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) Terminates any other subordinate interest.

(b) A subordinate interest is discharged or terminated under subsection (a) of this section, even if the secured party fails to comply with this chapter.

[28-9-622, added 2001, ch. 208, sec. 2, p. 793.]

28-9-623. RIGHT TO REDEEM COLLATERAL. (a) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) To redeem collateral, a person shall tender:

(1) Fulfillment of all obligations secured by the collateral; and

(2) The reasonable expenses and attorney's fees described in section [28-9-615](#) (a) (1).

(c) A redemption may occur at any time before a secured party:

(1) Has collected collateral under section [28-9-607](#);

(2) Has disposed of collateral or entered into a contract for its disposition under section [28-9-610](#); or

(3) Has accepted collateral in full or partial satisfaction of the obligation it secures under section [28-9-622](#).

[28-9-623, added 2001, ch. 208, sec. 2, p. 794.]

28-9-624. WAIVER. (a) A debtor or secondary obligor may waive the right to notification of disposition of collateral under section [28-9-611](#) only by an agreement to that effect entered into and authenticated after default.

(b) A debtor may waive the right to require disposition of collateral under section [28-9-620](#) (e) only by an agreement to that effect entered into and authenticated after default.

(c) Except in a consumer goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under section [28-9-623](#) only by an agreement to that effect entered into and authenticated after default.

[28-9-624, added 2001, ch. 208, sec. 2, p. 794.]

28-9-625. REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH CHAPTER. (a) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c) and (d) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in section [28-9-628](#):

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

(2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event, an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time price differential plus ten percent (10%) of the cash price.

(d) A debtor whose deficiency is eliminated under section [28-9-626](#) may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under section [28-9-626](#) may not otherwise recover under subsection (b) of this section for noncompliance with the provisions of this part relating to collection, enforcement, disposition or acceptance.

(e) In addition to any damages recoverable under subsection (b) of this section, the debtor, consumer obligor or person named as a debtor in a filed record, as applicable, may recover one hundred dollars (\$100) in each case from a person that:

(1) Files a record that the person is not entitled to file under section [28-9-509](#) (a);

(2) Fails to cause the secured party of record to file or send a termination statement as required by section [28-9-513](#) (a) or (c).

(f) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section [28-9-210](#), the secured party may claim a security interest only as shown in the statement included in the request as against a person that is reasonably misled by the failure.

[28-9-625, added 2001, ch. 208, sec. 2, p. 794.]

28-9-626. ACTION IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE. In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition or acceptance was conducted in accordance with this part.

(c) Except as otherwise provided in section [28-9-628](#), if a secured party fails to prove that the collection, enforcement, disposition or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses and attorney's fees exceeds the greater of:

(1) The proceeds of the collection, enforcement, disposition or acceptance; or

(2) The amount of proceeds that would have been realized had the non-complying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition or acceptance.

(d) For purposes of subsection (c) (2) of this section, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses and attorney's fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under section [28-9-615](#)(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

[28-9-626, added 2001, ch. 208, sec. 2, p. 795; am. 2002, ch. 107, sec. 5, p. 302.]

28-9-627. DETERMINATION OF WHETHER CONDUCT WAS COMMERCIALY REASONABLE. (a) The fact that a greater amount could have been obtained by a collection, enforcement, disposition or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition or acceptance was made in a commercially reasonable manner.

(b) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(1) In the usual manner on any recognized market;

(2) At the price current in any recognized market at the time of the disposition; or

(3) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) A collection, enforcement, disposition or acceptance is commercially reasonable if it has been approved:

(1) In a judicial proceeding;

(2) By a bona fide creditors' committee;

- (3) By a representative of creditors; or
- (4) By an assignee for the benefit of creditors.
- (d) Approval under subsection (c) of this section need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition or acceptance is not commercially reasonable.

[28-9-627, added 2001, ch. 208, sec. 2, p. 795.]

28-9-628. NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY -- LIABILITY OF SECONDARY OBLIGOR. (a) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

- (1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this chapter; and
- (2) The secured party's failure to comply with this chapter does not affect the liability of the person for a deficiency.
- (b) A secured party is not liable because of its status as secured party:

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

- (A) that the person is a debtor or obligor;
- (B) the identity of the person; and
- (C) how to communicate with the person; or

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

- (A) that the person is a debtor; and
- (B) the identity of the person.

- (c) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

- (1) A debtor's representation concerning the purpose for which collateral was to be used, acquired or held; or
- (2) An obligor's representation concerning the purpose for which a secured obligation was incurred.

- (d) A secured party is not liable to any person under section [28-9-625](#)(c) (2) for its failure to comply with section [28-9-616](#).

- (e) A secured party is not liable under section [28-9-625](#)(c) (2) more than once with respect to any one (1) secured obligation.

[28-9-628, added 2001, ch. 208, sec. 2, p. 796.]

PART 7. TRANSITION

28-9-701. [RESERVED].

28-9-702. SAVINGS CLAUSE. (a) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(b) Except as otherwise provided in subsection (c) of this section and sections [28-9-703](#) through [28-9-709](#):

(1) Transactions and liens that were not governed by former [chapter 9, title 28](#), Idaho Code, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(2) The transactions and liens may be terminated, completed, consummated and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) This act does not affect an action, case or proceeding commenced before this act takes effect.

[28-9-702, added 2001, ch. 208, sec. 2, p. 797.]

28-9-703. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE. (a) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(b) Except as otherwise provided in section [28-9-705](#), if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(1) Is a perfected security interest for one (1) year after this act takes effect;

(2) Remains enforceable thereafter only if the security interest becomes enforceable under section [28-9-203](#) before the year expires; and

(3) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

[28-9-703, added 2001, ch. 208, sec. 2, p. 797.]

28-9-704. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE. A security interest that is enforceable immediately before this act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) Remains an enforceable security interest for one (1) year after this act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under section [28-9-203](#) when this act takes effect or within one (1) year thereafter; and

(3) Becomes perfected:

(A) Without further action, when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or

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

[28-9-704, added 2001, ch. 208, sec. 2, p. 797.]

28-9-705. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. (a) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within one (1) year after this act takes effect. An attached security interest becomes unperfected one (1) year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section [28-9-103](#). However, except as otherwise provided in subsections (d) and (e) of this section and section [28-9-706](#), the financing statement ceases to be effective at the earlier of:

- (1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or
- (2) June 30, 2006.

(d) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(e) Subsection (c) (2) of this section applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section [28-9-103](#) only to the extent that part 3 provides that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement.

(g) A financing statement filed as a fixture, timber or mineral filing before July 1, 2001 (except for a record of mortgage which is effective as a financing statement filed as a fixture filing) shall cease to be effective after June 30, 2006. The effectiveness of such a financing statement may be continued by filing a continuation statement between January 1, 2006, and June 30, 2006, inclusive. The new five (5) year effective period for such a financing statement, as provided in section [28-9-515](#), shall commence on the date of filing such continuation statement.

[28-9-705, added 2001, ch. 208, sec. 2, p. 798; am. 2002, ch. 107, sec. 6, p. 303.]

28-9-706. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT. (a) The filing of an initial financing statement in the office specified in section [28-9-501](#) continues the effectiveness of a financing statement filed before this act takes effect if:

- (1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;
- (2) The preeffective-date financing statement was filed in an office in another state or another office in this state; and
- (3) The initial financing statement satisfies subsection (c) of this section.

(b) The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the preeffective-date financing statement:

- (1) If the initial financing statement is filed before this act takes effect, for the period provided in former section [28-9-403](#) with respect to a financing statement; and
- (2) If the initial financing statement is filed after this act takes effect, for the period provided in section [28-9-515](#) with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a) of this section, an initial financing statement must:

- (1) Satisfy the requirements of part 5 for an initial financing statement;
- (2) Identify the preeffective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and
- (3) Indicate that the preeffective-date financing statement remains effective.

[28-9-706, added 2001, ch. 208, sec. 2, p. 799.]

28-9-707. AMENDMENT OF PREEFFECTIVE-DATE FINANCING STATEMENT. A person may file an initial financing statement or a continuation statement under this part if:

(a) In this section, "preeffective-date financing statement" means a financing statement filed before July 1, 2001.

(b) After July 1, 2001, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a preeffective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part 3. However, the effectiveness of a preeffective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this state governs perfection of a security interest, the information in a preeffective-date financing statement may be amended only if:

- (1) The preeffective-date financing statement and an amendment are filed in the office specified in section [28-9-501](#);
- (2) An amendment is filed in the office specified in section [28-9-501](#), concurrently with, or after the filing in that office of, an initial financing statement that satisfies the provisions of subsection (c) of section [28-9-706](#); or

(3) An initial financing statement that provides the information as amended and satisfies the provisions of subsection (c) of section [28-9-706](#), is filed in the office specified in section [28-9-501](#).

(d) If the law of this state governs perfection of a security interest, the effectiveness of a preeffective-date financing statement may be continued only pursuant to the provisions of subsections (d) and (f) of section [28-9-705](#), or section [28-9-706](#).

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a preeffective-date financing statement filed in this state may be terminated by filing a termination statement in the office in which the preeffective-date financing statement is filed, unless an initial financing statement that satisfies the provisions of subsection (c) of section [28-9-706](#), has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part 3 as the office in which to file a financing statement.

[28-9-707, added 2001, ch. 208, sec. 2, p. 799; am. 2004, ch. 304, sec. 2, p. 854.]

28-9-708. PERSONS ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT. A person may file an initial financing statement or a continuation statement under this part if:

- (1) The secured party of record authorizes the filing; and
- (2) The filing is necessary under this part:
 - (A) To continue the effectiveness of a financing statement filed before this act takes effect; or
 - (B) To perfect or continue the perfection of a security interest.

[28-9-708, added 2001, ch. 208, sec. 2, p. 799.]

28-9-709. PRIORITY. (a) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, former [chapter 9, title 28](#), determines priority.

(b) For purposes of section [28-9-322](#)(a), the priority of a security interest that becomes enforceable under section [28-9-203](#) of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under former [chapter 9, title 28](#). This subsection does not apply to conflicting security interests, each of which is perfected by the filing of such a financing statement.

[28-9-709, added 2001, ch. 208, sec. 2, p. 800.]

PART 8. TRANSITION PROVISIONS FOR 2011 AMENDMENTS

28-9-801. [RESERVED.]

[28-9-801, added 2012, ch. 145, sec. 20, p. 410.]

28-9-802. SAVINGS CLAUSE. (a) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(b) This act does not affect an action, case, or proceeding commenced before this act takes effect.

[28-9-802, added 2012, ch. 145, sec. 20, p. 410.]

28-9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE. (a) A security interest that is a perfected security interest immediately before this act takes effect is a perfected security interest under this chapter as amended by this act if, when this act takes effect, the applicable requirements for attachment and perfection under this chapter as amended by this act are satisfied without further action.

(b) Except as otherwise provided in section [28-9-805](#), Idaho Code, if, immediately before this act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under this chapter as amended by this act are not satisfied when this act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under this chapter as amended by this act are satisfied within one (1) year after this act takes effect.

[28-9-803, added 2012, ch. 145, sec. 20, p. 410.]

28-9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE. A security interest that is an unperfected security interest immediately before this act takes effect becomes a perfected security interest:

- (1) Without further action, when this act takes effect if the applicable requirements for perfection under this chapter as amended by this act are satisfied before or at that time; or
- (2) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

[28-9-804, added 2012, ch. 145, sec. 20, p. 410.]

28-9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. (a) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter as amended by this act.

(b) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment. However, except as otherwise provided in subsections (c) and (d) of this section and section [28-9-806](#), Idaho Code, the financing statement ceases to be effective:

- (1) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or
- (2) If the financing statement is filed in another jurisdiction, at the earlier of:
 - (A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or
 - (B) June 30, 2018.

(c) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subsection (b) (2) (B) of this section applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment, only to the extent that this chapter as amended by this act provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part 5 of this chapter as amended by this act for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of section [28-9-503](#) (a) (2), Idaho Code, as amended by this act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of section [28-9-503](#) (a) (3), Idaho Code, as amended by this act.

[28-9-805, added 2012, ch. 145, sec. 20, p. 410.]

28-9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT. (a) The filing of an initial financing statement in the office specified in section [28-9-501](#), Idaho Code, continues the effectiveness of a financing statement filed before this act takes effect if:

- (1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this chapter as amended by this act;
- (2) The pre-effective-date financing statement was filed in an office in another state; and
- (3) The initial financing statement satisfies subsection (c) of this section.

(b) The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

- (1) If the initial financing statement is filed before this act takes effect, for the period provided in unamended section [28-9-515](#), Idaho Code, with respect to an initial financing statement; and
- (2) If the initial financing statement is filed after this act takes effect, for the period provided in section [28-9-515](#), Idaho Code, as amended by this act with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a) of this section, an initial financing statement must:

- (1) Satisfy the requirements of part 5 of this chapter as amended by this act for an initial financing statement;
- (2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and
- (3) Indicate that the pre-effective-date financing statement remains effective.

[28-9-806, added 2012, ch. 145, sec. 20, p. 411.]

28-9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT. (a) In this section, "pre-effective-date financing statement" means a financing statement filed before this act takes effect.

(b) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act takes effect only if:

- (1) The pre-effective-date financing statement and an amendment are filed in the office specified in section [28-9-501](#), Idaho Code;
- (2) An amendment is filed in the office specified in section [28-9-501](#), Idaho Code, concurrently with, or after the filing in that office of, an initial financing statement that satisfies section [28-9-806](#)(c), Idaho Code; or
- (3) An initial financing statement that provides the information as amended and satisfies section [28-9-806](#)(c), Idaho Code, is filed in the office specified in section [28-9-501](#), Idaho Code.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section [28-9-805](#)(c) and (e) or [28-9-806](#), Idaho Code.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies section [28-9-806](#)(c), Idaho Code, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this chapter as amended by this act as the office in which to file a financing statement.

[28-9-807, added 2012, ch. 145, sec. 20, p. 412.]

28-9-808. PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT. A person may file an initial financing statement or a continuation statement under this part if:

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

(2) The filing is necessary under this part:

- (A) to continue the effectiveness of a financing statement filed before this act takes effect; or
- (B) to perfect or continue the perfection of a security interest.

[28-9-808, added 2012, ch. 145, sec. 20, p. 412.]

28-9-809. PRIORITY. This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, this chapter as it existed before amendment determines priority.

[28-9-809, added 2012, ch. 145, sec. 20, p. 412.]