

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

Representative(s) Crow offered the following:

**Amendment (with title amendment)**

On page 4, line 30,  
remove from the bill: everything after the enacting clause,  
and insert in lieu thereof:

Section 1. Part I of chapter 679, Florida Statutes,  
consisting of sections 679.101, 679.102, 679.103, 679.104,  
679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112,  
679.113, 679.114, 679.115, and 679.116, Florida Statutes, is  
repealed and a new part I of that chapter, consisting of  
sections 679.1011, 679.1021, 679.1031, 679.1041, 679.1051,  
679.1061, 679.1071, 679.1081, 679.1091, and 679.1101, Florida  
Statutes, is created to read:

PART I

GENERAL PROVISIONS

679.1011 Short title.--This chapter may be cited as  
Uniform Commercial Code-Secured Transactions.

679.1021 Definitions and index of definitions.--

(1) In this chapter, the term:

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

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

4           (b) "Account," except as used in "account for," means  
5 a right to payment of a monetary obligation, whether or not  
6 earned by performance, for property that has been or is to be  
7 sold, leased, licensed, assigned, or otherwise disposed of;  
8 for services rendered or to be rendered; for a policy of  
9 insurance issued or to be issued; for a secondary obligation  
10 incurred or to be incurred; for energy provided or to be  
11 provided; for the use or hire of a vessel under a charter or  
12 other contract; arising out of the use of a credit or charge  
13 card or information contained on or for use with the card; or  
14 as winnings in a lottery or other game of chance operated or  
15 sponsored by a state, governmental unit of a state, or person  
16 licensed or authorized to operate the game by a state or  
17 governmental unit of a state. The term includes  
18 health-care-insurance receivables. The term does not include  
19 rights to payment evidenced by chattel paper or an instrument;  
20 commercial tort claims; deposit accounts; investment property;  
21 letter-of-credit rights or letters of credit; or rights to  
22 payment for money or funds advanced or sold, other than rights  
23 arising out of the use of a credit or charge card or  
24 information contained on or for use with the card.

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

29           (d) "Accounting," except as used in the term  
30 "accounting for," means a record:

- 31           1. Authenticated by a secured party;

1           2. Indicating the aggregate unpaid secured obligations  
2 as of a date not more than 35 days earlier or 35 days later  
3 than the date of the record; and

4           3. Identifying the components of the obligations in  
5 reasonable detail.

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

8           1. Which secures payment or performance of an  
9 obligation for:

10           a. Goods or services furnished in connection with a  
11 debtor's farming operation; or

12           b. Rent on real property leased by a debtor in  
13 connection with the debtor's farming operation;

14           2. Which is created by statute in favor of a person  
15 who:

16           a. In the ordinary course of the person's business  
17 furnished goods or services to a debtor in connection with a  
18 debtor's farming operation; or

19           b. Leased real property to a debtor in connection with  
20 the debtor's farming operation; and

21           3. Whose effectiveness does not depend on the person's  
22 possession of the personal property.

23           (f) "As-extracted collateral" means:

24           1. Oil, gas, or other minerals that are subject to a  
25 security interest that:

26           a. Is created by a debtor having an interest in the  
27 minerals before extraction; and

28           b. Attaches to the minerals as extracted; or

29           2. Accounts arising out of the sale at the wellhead or  
30 minehead of oil, gas, or other minerals in which the debtor  
31 had an interest before extraction.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (g) "Authenticate" means:  
 2           1. To sign; or  
 3           2. To execute or otherwise adopt a symbol, or encrypt  
 4 or similarly process a record in whole or in part, with the  
 5 present intent of the authenticating person to identify the  
 6 person and adopt or accept a record.

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

11           (i) "Cash proceeds" means proceeds that are money,  
 12 checks, deposit accounts, or the like.

13           (j) "Certificate of title" means a certificate of  
 14 title with respect to which a statute provides for the  
 15 security interest in question to be indicated on the  
 16 certificate as a condition or result of the security  
 17 interest's obtaining priority over the rights of a lien  
 18 creditor with respect to the collateral.

19           (k) "Chattel paper" means a record or records that  
 20 evidence both a monetary obligation and a security interest in  
 21 specific goods, a security interest in specific goods and  
 22 software used in the goods, a security interest in specific  
 23 goods and license of software used in the goods, a lease of  
 24 specific goods, or a lease of specific goods and license of  
 25 software used in the goods. In this paragraph, "monetary  
 26 obligation" means a monetary obligation secured by the goods  
 27 or owed under a lease of the goods and includes a monetary  
 28 obligation with respect to software used in the goods. The  
 29 term does not include charters or other contracts involving  
 30 the use or hire of a vessel or records that evidence a right  
 31 to payment arising out of the use of a credit or charge card

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 or information contained on or for use with the card. If a  
2 transaction is evidenced by records that include an instrument  
3 or series of instruments, the group of records taken together  
4 constitutes chattel paper.

5 (l) "Collateral" means the property subject to a  
6 security interest or agricultural lien. The term includes:

7 1. Proceeds to which a security interest attaches;

8 2. Accounts, chattel paper, payment intangibles, and

9 promissory notes that have been sold; and

10 3. Goods that are the subject of a consignment.

11 (m) "Commercial tort claim" means a claim arising in  
12 tort with respect to which:

13 1. The claimant is an organization; or

14 2. The claimant is an individual and the claim:

15 a. Arose in the course of the claimant's business or  
16 profession; and

17 b. Does not include damages arising out of personal  
18 injury to or the death of an individual.

19 (n) "Commodity account" means an account maintained by  
20 a commodity intermediary in which a commodity contract is  
21 carried for a commodity customer.

22 (o) "Commodity contract" means a commodity futures  
23 contract, an option on a commodity futures contract, a  
24 commodity option, or another contract if the contract or  
25 option is:

26 1. Traded on or subject to the rules of a board of  
27 trade that has been designated as a contract market for such a  
28 contract pursuant to federal commodities laws; or

29 2. Traded on a foreign commodity board of trade,  
30 exchange, or market, and is carried on the books of a  
31 commodity intermediary for a commodity customer.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           (p) "Commodity customer" means a person for which a  
2 commodity intermediary carries a commodity contract on its  
3 books.
- 4           (q) "Commodity intermediary" means a person who:  
5           1. Is registered as a futures commission merchant  
6 under federal commodities law; or  
7           2. In the ordinary course of the person's business  
8 provides clearance or settlement services for a board of trade  
9 that has been designated as a contract market pursuant to  
10 federal commodities law.
- 11           (r) "Communicate" means:  
12           1. To send a written or other tangible record;  
13           2. To transmit a record by any means agreed upon by  
14 the persons sending and receiving the record; or  
15           3. In the case of transmission of a record to or by a  
16 filing office, to transmit a record by any means prescribed by  
17 filing-office rule.
- 18           (s) "Consignee" means a merchant to which goods are  
19 delivered in a consignment.
- 20           (t) "Consignment" means a transaction, regardless of  
21 its form, in which a person delivers goods to a merchant for  
22 the purpose of sale and:  
23           1. The merchant:  
24           a. Deals in goods of that kind under a name other than  
25 the name of the person making delivery;  
26           b. Is not an auctioneer; and  
27           c. Is not generally known by its creditors to be  
28 substantially engaged in selling the goods of others;  
29           2. With respect to each delivery, the aggregate value  
30 of the goods is \$1,000 or more at the time of delivery;  
31           3. The goods are not consumer goods immediately before

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 delivery; and

2 4. The transaction does not create a security interest  
3 that secures an obligation.

4 (u) "Consignor" means a person who delivers goods to a  
5 consignee in a consignment.

6 (v) "Consumer debtor" means a debtor in a consumer  
7 transaction.

8 (w) "Consumer goods" means goods that are used or  
9 bought for use primarily for personal, family, or household  
10 purposes.

11 (x) "Consumer-goods transaction" means a consumer  
12 transaction in which:

13 1. An individual incurs an obligation primarily for  
14 personal, family, or household purposes; and

15 2. A security interest in consumer goods secures the  
16 obligation.

17 (y) "Consumer obligor" means an obligor who is an  
18 individual and who incurred the obligation as part of a  
19 transaction entered into primarily for personal, family, or  
20 household purposes.

21 (z) "Consumer transaction" means a transaction in  
22 which an individual incurs an obligation primarily for  
23 personal, family, or household purposes; a security interest  
24 secures the obligation; and the collateral is held or acquired  
25 primarily for personal, family, or household purposes. The  
26 term includes consumer-goods transactions.

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

29 1. Identifies, by its file number, the initial  
30 financing statement to which it relates; and

31 2. Indicates that it is a continuation statement for,

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 or that it is filed to continue the effectiveness of, the  
2 identified financing statement.

3 (bb) "Debtor" means:

4 1. A person having an interest, other than a security  
5 interest or other lien, in the collateral, whether or not the  
6 person is an obligor;

7 2. A seller of accounts, chattel paper, payment  
8 intangibles, or promissory notes; or

9 3. A consignee.

10 (cc) "Deposit account" means a demand, time, savings,  
11 passbook, or similar account maintained with a bank. The term  
12 does not include investment property or accounts evidenced by  
13 an instrument.

14 (dd) "Document" means a document of title or a receipt  
15 of the type described in s. 677.201(2).

16 (ee) "Electronic chattel paper" means chattel paper  
17 evidenced by a record or records consisting of information  
18 stored in an electronic medium.

19 (ff) "Encumbrance" means a right, other than an  
20 ownership interest, in real property. The term includes  
21 mortgages and other liens on real property.

22 (gg) "Equipment" means goods other than inventory,  
23 farm products, or consumer goods.

24 (hh) "Farm products" means goods, other than standing  
25 timber, with respect to which the debtor is engaged in a  
26 farming operation and which are:

27 1. Crops grown, growing, or to be grown, including:

28 a. Crops produced on trees, vines, and bushes; and

29 b. Aquatic goods produced in aquacultural operations;

30 2. Livestock, born or unborn, including aquatic goods  
31 produced in aquacultural operations;



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           3. Supplies used or produced in a farming operation;  
2 or

3           4. Products of crops or livestock in their  
4 unmanufactured states.

5           (ii) "Farming operation" means raising, cultivating,  
6 propagating, fattening, grazing, or any other farming,  
7 livestock, or aquacultural operation.

8           (jj) "File number" means the number assigned to an  
9 initial financing statement pursuant to s. 679.519(1).

10           (kk) "Filing office" means an office designated in s.  
11 679.5011 as the place to file a financing statement.

12           (ll) "Filing-office rule" means a rule adopted  
13 pursuant to s. 679.526.

14           (mm) "Financing statement" means a record or records  
15 composed of an initial financing statement and any filed  
16 record relating to the initial financing statement.

17           (nn) "Fixture filing" means the filing of a financing  
18 statement covering goods that are or are to become fixtures  
19 and satisfying s. 679.502(1) and (2). The term includes the  
20 filing of a financing statement covering goods of a  
21 transmitting utility which are or are to become fixtures.

22           (oo) "Fixtures" means goods that have become so  
23 related to particular real property that an interest in them  
24 arises under real property law.

25           (pp) "General intangible" means any personal property,  
26 including things in action, other than accounts, chattel  
27 paper, commercial tort claims, deposit accounts, documents,  
28 goods, instruments, investment property, letter-of-credit  
29 rights, letters of credit, money, and oil, gas, or other  
30 minerals before extraction. The term includes payment  
31 intangibles and software.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (qq) "Good faith" means honesty in fact and the  
2 observance of reasonable commercial standards of fair dealing.

3           (rr) "Goods" means all things that are movable when a  
4 security interest attaches. The term includes fixtures;  
5 standing timber that is to be cut and removed under a  
6 conveyance or contract for sale; the unborn young of animals;  
7 crops grown, growing, or to be grown, even if the crops are  
8 produced on trees, vines, or bushes; and manufactured homes.  
9 The term also includes a computer program embedded in goods  
10 and any supporting information provided in connection with a  
11 transaction relating to the program if the program is  
12 associated with the goods in such a manner that it customarily  
13 is considered part of the goods, or by becoming the owner of  
14 the goods, a person acquires a right to use the program in  
15 connection with the goods. The term does not include a  
16 computer program embedded in goods that consist solely of the  
17 medium in which the program is embedded. The term also does  
18 not include accounts, chattel paper, commercial tort claims,  
19 deposit accounts, documents, general intangibles, instruments,  
20 investment property, letter-of-credit rights, letters of  
21 credit, money, or oil, gas, or other minerals before  
22 extraction.

23           (ss) "Governmental unit" means a subdivision, agency,  
24 department, county, parish, municipality, or other unit of the  
25 government of the United States, a state, or a foreign  
26 country. The term includes an organization having a separate  
27 corporate existence if the organization is eligible to issue  
28 debt on which interest is exempt from income taxation under  
29 the laws of the United States.

30           (tt) "Health-care-insurance receivable" means an  
31 interest in or claim under a policy of insurance which is a

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 right to payment of a monetary obligation for health-care  
2 goods or services provided.

3 (uu) "Instrument" means a negotiable instrument or any  
4 other writing that evidences a right to the payment of a  
5 monetary obligation, is not itself a security agreement or  
6 lease, and is of a type that in the ordinary course of  
7 business is transferred by delivery with any necessary  
8 indorsement or assignment. The term does not include  
9 investment property, letters of credit, or writings that  
10 evidence a right to payment arising out of the use of a credit  
11 or charge card or information contained on or for use with the  
12 card.

13 (vv) "Inventory" means goods, other than farm  
14 products, which:

- 15 1. Are leased by a person as lessor;  
16 2. Are held by a person for sale or lease or to be  
17 furnished under a contract of service;  
18 3. Are furnished by a person under a contract of  
19 service; or  
20 4. Consist of raw materials, work in process, or  
21 materials used or consumed in a business.

22 (ww) "Investment property" means a security, whether  
23 certificated or uncertificated, security entitlement,  
24 securities account, commodity contract, or commodity account.

25 (xx) "Jurisdiction of organization," with respect to a  
26 registered organization, means the jurisdiction under whose  
27 law the organization is organized.

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

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 of a beneficiary to demand payment or performance under a  
2 letter of credit.

3 (zz) "Lien creditor" means:

4 1. A creditor that has acquired a lien on the property  
5 involved by attachment, levy, or the like;

6 2. An assignee for benefit of creditors from the time  
7 of assignment;

8 3. A trustee in bankruptcy from the date of the filing  
9 of the petition; or

10 4. A receiver in equity from the time of appointment.

11 (aaa) "Manufactured home" means a structure,  
12 transportable in one or more sections, which, in the traveling  
13 mode, is eight body feet or more in width or 40 body feet or  
14 more in length, or, when erected on site, is 320 or more  
15 square feet, and which is built on a permanent chassis and  
16 designed to be used as a dwelling with or without a permanent  
17 foundation when connected to the required utilities, and  
18 includes the plumbing, heating, air-conditioning, and  
19 electrical systems contained therein. The term includes any  
20 structure that meets all of the requirements of this paragraph  
21 except the size requirements and with respect to which the  
22 manufacturer voluntarily files a certification required by the  
23 United States Secretary of Housing and Urban Development and  
24 complies with the standards established under Title 42 of the  
25 United States Code.

26 (bbb) "Manufactured-home transaction" means a secured  
27 transaction:

28 1. That creates a purchase-money security interest in  
29 a manufactured home, other than a manufactured home held as  
30 inventory; or

31 2. In which a manufactured home, other than a

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 manufactured home held as inventory, is the primary  
2 collateral.

3 (ccc) "Mortgage" means a consensual interest in real  
4 property, including fixtures, which secures payment or  
5 performance of an obligation, which interest was created or  
6 derived from an instrument described in s. 697.01.

7 (ddd) "New debtor" means a person who becomes bound as  
8 debtor under s. 679.2031(4) by a security agreement previously  
9 entered into by another person.

10 (eee) "New value" means money; money's worth in  
11 property, services, or new credit; or release by a transferee  
12 of an interest in property previously transferred to the  
13 transferee. The term does not include an obligation  
14 substituted for another obligation.

15 (fff) "Noncash proceeds" means proceeds other than  
16 cash proceeds.

17 (ggg) "Obligor" means a person who, with respect to an  
18 obligation secured by a security interest in or an  
19 agricultural lien on the collateral, owes payment or other  
20 performance of the obligation, has provided property other  
21 than the collateral to secure payment or other performance of  
22 the obligation, or is otherwise accountable in whole or in  
23 part for payment or other performance of the obligation. The  
24 term does not include issuers or nominated persons under a  
25 letter of credit.

26 (hhh) "Original debtor," except as used in s.  
27 679.3101(3), means a person who, as debtor, entered into a  
28 security agreement to which a new debtor has become bound  
29 under s. 679.2031(4).

30 (iii) "Payment intangible" means a general intangible  
31 under which the account debtor's principal obligation is a

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 monetary obligation.

2 (jjj) "Person related to," with respect to an  
3 individual, means:

4 1. The spouse of the individual;

5 2. A brother, brother-in-law, sister, or sister-in-law  
6 of the individual;

7 3. An ancestor or lineal descendant of the individual  
8 or the individual's spouse; or

9 4. Any other relative, by blood or marriage, of the  
10 individual or the individual's spouse who shares the same home  
11 with the individual.

12 (kkk) "Person related to," with respect to an  
13 organization, means:

14 1. A person directly or indirectly controlling,  
15 controlled by, or under common control with the organization;

16 2. An officer or director of, or a person performing  
17 similar functions with respect to, the organization;

18 3. An officer or director of, or a person performing  
19 similar functions with respect to, a person described in  
20 subparagraph 1.;

21 4. The spouse of an individual described in  
22 subparagraph 1., subparagraph 2., or subparagraph 3.; or

23 5. An individual who is related by blood or marriage  
24 to an individual described in subparagraph 1., subparagraph  
25 2., subparagraph 3., or subparagraph 4. and shares the same  
26 home with the individual.

27 (lll) "Proceeds," except as used in s. 679.609(2),  
28 means the following property:

29 1. Whatever is acquired upon the sale, lease, license,  
30 exchange, or other disposition of collateral;

31 2. Whatever is collected on, or distributed on account

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 of, collateral;

2 3. Rights arising out of collateral;

3 4. To the extent of the value of collateral, claims  
4 arising out of the loss, nonconformity, or interference with  
5 the use of, defects or infringement of rights in, or damage  
6 to, the collateral; or

7 5. To the extent of the value of collateral and to the  
8 extent payable to the debtor or the secured party, insurance  
9 payable by reason of the loss or nonconformity of, defects or  
10 infringement of rights in, or damage to, the collateral.

11 (mmm) "Promissory note" means an instrument that  
12 evidences a promise to pay a monetary obligation, does not  
13 evidence an order to pay, and does not contain an  
14 acknowledgment by a bank that the bank has received for  
15 deposit a sum of money or funds.

16 (nnn) "Proposal" means a record authenticated by a  
17 secured party which includes the terms on which the secured  
18 party is willing to accept collateral in full or partial  
19 satisfaction of the obligation it secures pursuant to ss.  
20 679.620, 679.621, and 679.622.

21 (ooo) "Pursuant to commitment," with respect to an  
22 advance made or other value given by a secured party, means  
23 pursuant to the secured party's obligation, whether or not a  
24 subsequent event of default or other event not within the  
25 secured party's control has relieved or may relieve the  
26 secured party from its obligation.

27 (ppp) "Record," except as used in the terms "for  
28 record," "of record," "record or legal title," and "record  
29 owner," means information that is inscribed on a tangible  
30 medium or that is stored in an electronic or other medium and  
31 is retrievable in perceivable form.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (qqq) "Registered organization" means an organization  
2 organized solely under the law of a single state or the United  
3 States and as to which the state or the United States must  
4 maintain a public record showing the organization to have been  
5 organized.

6           (rrr) "Secondary obligor" means an obligor to the  
7 extent that:

- 8           1. The obligor's obligation is secondary; or  
9           2. The obligor has a right of recourse with respect to  
10 an obligation secured by collateral against the debtor,  
11 another obligor, or property of either.

12           (sss) "Secured party" means:

- 13           1. A person in whose favor a security interest is  
14 created or provided for under a security agreement, whether or  
15 not any obligation to be secured is outstanding;  
16           2. A person who holds an agricultural lien;  
17           3. A consignor;  
18           4. A person to whom accounts, chattel paper, payment  
19 intangibles, or promissory notes have been sold;  
20           5. A trustee, indenture trustee, agent, collateral  
21 agent, or other representative in whose favor a security  
22 interest or agricultural lien is created or provided for; or  
23           6. A person who holds a security interest arising  
24 under s. 672.401, s. 672.505, s. 672.711(3), s. 680.508(5), s.  
25 674.2101, or s. 675.118.

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

28           (uuu) "Send," in connection with a record or  
29 notification, means:

- 30           1. To deposit in the mail, deliver for transmission,  
31 or transmit by any other usual means of communication, with



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 postage or cost of transmission provided for, addressed to any  
2 address reasonable under the circumstances; or

3 2. To cause the record or notification to be received  
4 within the time that it would have been received if properly  
5 sent under subparagraph 1.

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

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

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

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

22 (zzz) "Termination statement" means an amendment of a  
23 financing statement which:

24 1. Identifies, by its file number, or if a fixture  
25 filing, by the official records book and page number, the  
26 initial financing statement to which it relates; and

27 2. Indicates either that it is a termination statement  
28 or that the identified financing statement is no longer  
29 effective.

30 (aaaa) "Transmitting utility" means a person primarily  
31 engaged in the business of:

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           1. Operating a railroad, subway, street railway, or  
2 trolley bus;

3           2. Transmitting communications electrically,  
4 electromagnetically, or by light;

5           3. Transmitting goods by pipeline or sewer; or

6           4. Transmitting or producing and transmitting  
7 electricity, steam, gas, or water.

8           (2) The following definitions in other chapters apply  
9 to this chapter:

10	<u>"Applicant"</u>	<u>s. 675.103.</u>
11	<u>"Beneficiary"</u>	<u>s. 675.103.</u>
12	<u>"Broker"</u>	<u>s. 678.1021.</u>
13	<u>"Certificated security"</u>	<u>s. 678.1021.</u>
14	<u>"Check"</u>	<u>s. 673.1041.</u>
15	<u>"Clearing corporation"</u>	<u>s. 678.1021.</u>
16	<u>"Contract for sale"</u>	<u>s. 672.106.</u>
17	<u>"Customer"</u>	<u>s. 674.104.</u>
18	<u>"Entitlement holder"</u>	<u>s. 678.1021.</u>
19	<u>"Financial asset"</u>	<u>s. 678.1021.</u>
20	<u>"Holder in due course"</u>	<u>s. 673.3021.</u>
21	<u>"Issuer" (with respect to a letter of credit or</u>	
22	<u>letter-of-credit right)</u>	<u>s. 675.103.</u>
23	<u>"Issuer" (with respect to a security)</u>	<u>s. 678.2011.</u>
24	<u>"Lease"</u>	<u>s. 680.1031.</u>
25	<u>"Lease agreement"</u>	<u>s. 680.1031.</u>
26	<u>"Lease contract"</u>	<u>s. 680.1031.</u>
27	<u>"Leasehold interest"</u>	<u>s. 680.1031.</u>
28	<u>"Lessee"</u>	<u>s. 680.1031.</u>
29	<u>"Lessee in ordinary course of business"</u>	<u>s. 680.1031.</u>
30	<u>"Lessor"</u>	<u>s. 680.1031.</u>
31	<u>"Lessor's residual interest"</u>	<u>s. 680.1031.</u>

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1	<u>"Letter of credit"</u>	s. 675.103.
2	<u>"Merchant"</u>	s. 672.104.
3	<u>"Negotiable instrument"</u>	s. 673.1041.
4	<u>"Nominated person"</u>	s. 675.103.
5	<u>"Note"</u>	s. 673.1041.
6	<u>"Proceeds of a letter of credit"</u>	s. 675.114.
7	<u>"Prove"</u>	s. 673.1031.
8	<u>"Sale"</u>	s. 672.106.
9	<u>"Securities account"</u>	s. 678.5011.
10	<u>"Securities intermediary"</u>	s. 678.1021.
11	<u>"Security"</u>	s. 678.1021.
12	<u>"Security certificate"</u>	s. 678.1021.
13	<u>"Security entitlement"</u>	s. 678.1021.
14	<u>"Uncertificated security"</u>	s. 678.1021.

15       (3) Chapter 671 contains general definitions and  
16 principles of construction and interpretation applicable  
17 throughout this chapter.

18               679.1031 Purchase-money security interest; application  
19 of payments; burden of establishing.--

20               (1) In this section, the term:

21               (a) "Purchase-money collateral" means goods or  
22 software that secures a purchase-money obligation incurred  
23 with respect to that collateral.

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

29               (2) A security interest in goods is a purchase-money  
30 security interest:

31               (a) To the extent that the goods are purchase-money

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 collateral with respect to that security interest;

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

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

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

16 (a) The debtor acquired interest in the software in an  
17 integrated transaction in which the debtor acquired an  
18 interest in the goods; and

19 (b) The debtor acquired interest in the software for  
20 the principal purpose of using the software in the goods.

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

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

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

30 (b) In the absence of the parties' agreement to a  
31 reasonable method, in accordance with any intention of the

1 obligor manifested at or before the time of payment; or  
2 (c) In the absence of an agreement to a reasonable  
3 method and a timely manifestation of the obligor's intention,  
4 in the following order:  
5 1. To obligations that are not secured; and  
6 2. If more than one obligation is secured, to  
7 obligations secured by purchase-money security interests in  
8 the order in which those obligations were incurred.  
9 (6) A purchase-money security interest does not lose  
10 its status as such, even if:  
11 (a) The purchase-money collateral also secures an  
12 obligation that is not a purchase-money obligation;  
13 (b) Collateral that is not purchase-money collateral  
14 also secures the purchase-money obligation; or  
15 (c) The purchase-money obligation has been renewed,  
16 refinanced, consolidated, or restructured.  
17 (7) A secured party claiming a purchase-money security  
18 interest has the burden of establishing the extent to which  
19 the security interest is a purchase-money security interest.  
20 679.1041 Control of deposit account.--  
21 (1) A secured party has control of a deposit account  
22 if:  
23 (a) The secured party is the bank with which the  
24 deposit account is maintained;  
25 (b) The debtor, secured party, and bank have agreed in  
26 an authenticated record that the bank will comply with  
27 instructions originated by the secured party directing  
28 disposition of the funds in the deposit account without  
29 further consent by the debtor; or  
30 (c) The secured party becomes the bank's customer with  
31 respect to the deposit account.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (2) A secured party that has satisfied subsection (1)  
2 has control, even if the debtor retains the right to direct  
3 the disposition of funds from the deposit account.

4           679.1051 Control of electronic chattel paper.--A  
5 secured party has control of electronic chattel paper if the  
6 record or records comprising the chattel paper are created,  
7 stored, and assigned in such a manner that:

8           (1) A single authoritative copy of the record or  
9 records exists which is unique, identifiable and, except as  
10 otherwise provided in subsections (4), (5), and (6),  
11 unalterable;

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

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

16           (4) Copies or revisions that add or change an  
17 identified assignee of the authoritative copy can be made only  
18 with the participation of the secured party;

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

22           (6) Any revision of the authoritative copy is readily  
23 identifiable as an authorized or unauthorized revision.

24           679.1061 Control of investment property.--

25           (1) A person has control of a certificated security,  
26 uncertificated security, or security entitlement as provided  
27 in s. 678.1061.

28           (2) A secured party has control of a commodity  
29 contract if:

30           (a) The secured party is the commodity intermediary  
31 with which the commodity contract is carried; or

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

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

6           (3) A secured party having control of all security  
7 entitlements or commodity contracts carried in a securities  
8 account or commodity account has control over the securities  
9 account or commodity account.

10           679.1071 Control of letter-of-credit right.--A secured  
11 party has control of a letter-of-credit right to the extent of  
12 any right to payment or performance by the issuer or any  
13 nominated person if the issuer or nominated person has  
14 consented to an assignment of proceeds of the letter of credit  
15 under s. 675.114(3) or otherwise applicable law or practice.

16           679.1081 Sufficiency of description.--

17           (1) Except as otherwise provided herein and in  
18 subsections (3), (4), and (5), a description of personal or  
19 real property is sufficient, whether or not it is specific, if  
20 it reasonably identifies what is described. A description of  
21 real estate in a record filed to perfect a security interest  
22 in crops growing or to be grown or goods which are or are to  
23 become fixtures shall be sufficient only if the filing or  
24 recording of the same constitutes constructive notice under  
25 the laws of this state, other than this chapter, which are  
26 applicable to the filing or recording of a record of a  
27 mortgage, and a mailing or street address alone shall not be  
28 sufficient.

29           (2) Except as otherwise provided in subsection (4), a  
30 description of collateral reasonably identifies the collateral  
31 if it identifies the collateral by:

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1       (a) Specific listing;
- 2       (b) Category;
- 3       (c) Except as otherwise provided in subsection (5), a
- 4 type of collateral defined in the Uniform Commercial Code;
- 5       (d) Quantity;
- 6       (e) Computational or allocational formula or
- 7 procedure; or
- 8       (f) Except as otherwise provided in subsection (3),
- 9 any other method, if the identity of the collateral is
- 10 objectively determinable.
- 11       (3) A description of collateral as "all the debtor's
- 12 assets" or "all the debtor's personal property" or using words
- 13 of similar import does not reasonably identify the collateral
- 14 for purposes of the security agreement.
- 15       (4) Except as otherwise provided in subsection (5), a
- 16 description of a security entitlement, securities account, or
- 17 commodity account is sufficient if it describes:
- 18       (a) The collateral by those terms or as investment
- 19 property; or
- 20       (b) The underlying financial asset or commodity
- 21 contract.
- 22       (5) A description only by type of collateral defined
- 23 in the Uniform Commercial Code is an insufficient description
- 24 of:
- 25       (a) A commercial tort claim; or
- 26       (b) In a consumer transaction, consumer goods, a
- 27 security entitlement, a securities account, or a commodity
- 28 account.
- 29       679.1091 Scope.--
- 30       (1) Except as otherwise provided in subsections (3)
- 31 and (4), this chapter applies to:



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

- 1       (a) A transaction, regardless of its form, that  
2 creates a security interest in personal property or fixtures  
3 by contract;
- 4       (b) An agricultural lien;
- 5       (c) A sale of accounts, chattel paper, payment  
6 intangibles, or promissory notes;
- 7       (d) A consignment;
- 8       (e) A security interest arising under s. 672.401, s.  
9 672.502, s. 672.711, or s. 680.508(5), as provided in s.  
10 679.1101; and
- 11       (f) A security interest arising under s. 674.2101 or  
12 s. 675.118.
- 13       (2) The application of this chapter to a security  
14 interest in a secured obligation is not affected by the fact  
15 that the obligation is itself secured by a transaction or  
16 interest to which this chapter does not apply.
- 17       (3) This chapter does not apply to the extent that:
- 18       (a) A statute, regulation, or treaty of the United  
19 States preempts this chapter; or
- 20       (b) The rights of a transferee beneficiary or  
21 nominated person under a letter of credit are independent and  
22 superior under s. 675.114.
- 23       (4) This chapter does not apply to:
- 24       (a) A landlord's lien, other than an agricultural  
25 lien;
- 26       (b) A lien, other than an agricultural lien, given by  
27 statute or other rule of law for services or materials, but s.  
28 679.333 applies with respect to priority of the lien;
- 29       (c) An assignment of a claim for wages, salary, or  
30 other compensation of an employee;
- 31       (d) A sale of accounts, chattel paper, payment

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 intangibles, or promissory notes as part of a sale of the  
2 business out of which they arose;

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

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

9 (g) An assignment of a single account, payment  
10 intangible, or promissory note to an assignee in full or  
11 partial satisfaction of a preexisting indebtedness;

12 (h) A transfer of an interest in or an assignment of a  
13 claim under a policy of insurance, other than an assignment by  
14 or to a health-care provider of a health-care-insurance  
15 receivable and any subsequent assignment of the right to  
16 payment, but ss. 679.3151 and 679.322 apply with respect to  
17 proceeds and priorities in proceeds;

18 (i) An assignment of a right represented by a  
19 judgment, other than a judgment taken on a right to payment  
20 that was collateral;

21 (j) A right of recoupment or set-off, but:

22 1. Section 679.340 applies with respect to the  
23 effectiveness of rights of recoupment or set-off against  
24 deposit accounts; and

25 2. Section 679.4041 applies with respect to defenses  
26 or claims of an account debtor;

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

30 1. Liens on real property in ss. 679.2031 and  
31 679.3081;

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           2. Fixtures in s. 679.334;
- 2           3. Fixture filings in ss. 679.5011, 679.5021, 679.512,
- 3 679.516, and 679.519; and
- 4           4. Security agreements covering personal and real
- 5 property in s. 679.604;
- 6           (1) An assignment of a claim arising in tort, other
- 7 than a commercial tort claim, but ss. 679.3151 and 679.322
- 8 apply with respect to proceeds and priorities in proceeds;
- 9           (m) An assignment of a deposit account, other than a
- 10 non-negotiable certificate of deposit, in a consumer
- 11 transaction, but ss. 679.3151 and 679.322 apply with respect
- 12 to proceeds and priorities in proceeds; or
- 13           (n) Any transfer by a government or governmental unit.
- 14           679.1101 Security interests arising under chapter 672
- 15 or chapter 680.--A security interest arising under s. 672.401,
- 16 s. 672.505, s. 672.711(3), or s. 680.508(5) is subject to this
- 17 chapter. However, until the debtor obtains possession of the
- 18 goods:
- 19           (1) The security interest is enforceable, even if s.
- 20 679.2031(2)(c) has not been satisfied;
- 21           (2) Filing is not required to perfect the security
- 22 interest;
- 23           (3) The rights of the secured party after default by
- 24 the debtor are governed by chapter 672 or chapter 680; and
- 25           (4) The security interest has priority over a
- 26 conflicting security interest created by the debtor.

27           Section 2. Part II of chapter 679, Florida Statutes,  
 28 consisting of sections 679.201, 679.202, 679.203, 679.204,  
 29 679.205, 679.206, 679.207, and 679.208, Florida Statutes, is  
 30 repealed and a new part II of that chapter, consisting of  
 31 sections 679.2011, 679.2021, 679.2031, 670.2041, 679.2051,

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 679.2061, 679.2071, 679.2081, 679.209, and 679.210, Florida  
2 Statutes, is created to read:

3 PART II

4 EFFECTIVENESS OF SECURITY AGREEMENT;

5 ATTACHMENT OF SECURITY INTEREST;

6 RIGHTS OF PARTIES TO SECURITY AGREEMENT

7 679.2011 General effectiveness of security  
8 agreement.--

9 (1) Except as otherwise provided in the Uniform  
10 Commercial Code, a security agreement is effective according  
11 to its terms between the parties, against purchasers of the  
12 collateral, and against creditors.

13 (2) Nothing in this chapter validates any charge or  
14 practice illegal under any statute or regulation thereunder  
15 governing usury, small loans, retail installment sales, or the  
16 like, or extends the application of any such statute or  
17 regulation to any transaction not otherwise subject thereto.  
18 A transaction, although subject to this chapter, is also  
19 subject to chapters 516 and 520, and in the case of conflict  
20 between the provisions of this chapter and any such statute,  
21 the provisions of such statute shall control. Failure to  
22 comply with any applicable statute has only the effect which  
23 is specified therein.

24 679.2021 Title to collateral immaterial.--Except as  
25 otherwise provided with respect to consignments or sales of  
26 accounts, chattel paper, payment intangibles, or promissory  
27 notes, the provisions of this chapter with regard to rights  
28 and obligations apply whether title to collateral is in the  
29 secured party or the debtor.

30 679.2031 Attachment and enforceability of security  
31 interest; proceeds; supporting obligations; formal

1 requisites.--

2 (1) A security interest attaches to collateral when it  
3 becomes enforceable against the debtor with respect to the  
4 collateral, unless an agreement expressly postpones the time  
5 of attachment.

6 (2) Except as otherwise provided in subsections (3)  
7 through (9), a security interest is enforceable against the  
8 debtor and third parties with respect to the collateral only  
9 if:

10 (a) Value has been given;

11 (b) The debtor has rights in the collateral or the  
12 power to transfer rights in the collateral to a secured party;  
13 and

14 (c) One of the following conditions is met:

15 1. The debtor has authenticated a security agreement  
16 that provides a description of the collateral and, if the  
17 security interest covers timber to be cut, a description of  
18 the land concerned;

19 2. The collateral is not a certificated security and  
20 is in the possession of the secured party under s. 679.3131  
21 pursuant to the debtor's security agreement;

22 3. The collateral is a certificated security in  
23 registered form and the security certificate has been  
24 delivered to the secured party under S. 678.3011 pursuant to  
25 the debtor's security agreement; or

26 4. The collateral is deposit accounts, electronic  
27 chattel paper, investment property, or letter-of-credit  
28 rights, and the secured party has control under s. 679.1041,  
29 s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the  
30 debtor's security agreement.

31 (3) Subsection (2) is subject to s. 674.2101 on the

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 security interest of a collecting bank, s. 675.118 on the  
2 security interest of a letter-of-credit issuer or nominated  
3 person, s. 679.1101 on a security interest arising under  
4 chapter 672 or chapter 680, and s. 679.2061 on security  
5 interests in investment property.

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

9 (a) The security agreement becomes effective to create  
10 a security interest in the person's property; or

11 (b) The person becomes generally obligated for the  
12 obligations of the other person, including the obligation  
13 secured under the security agreement, and acquires or succeeds  
14 to all or substantially all of the assets of the other person.

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

17 (a) The agreement satisfies subsection (2)(c) with  
18 respect to existing or after-acquired property of the new  
19 debtor to the extent the property is described in the  
20 agreement; and

21 (b) Another agreement is not necessary to make a  
22 security interest in the property enforceable.

23 (6) The attachment of a security interest in  
24 collateral gives the secured party the rights to proceeds  
25 provided by s. 679.3151 and is also attachment of a security  
26 interest in a supporting obligation for the collateral.

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

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (8) The attachment of a security interest in a  
2 securities account is also attachment of a security interest  
3 in the security entitlements carried in the securities  
4 account.

5           (9) The attachment of a security interest in a  
6 commodity account is also attachment of a security interest in  
7 the commodity contracts carried in the commodity account.

8           679.2041 After-acquired property; future advances.--

9           (1) Except as otherwise provided in subsection (2), a  
10 security agreement may create or provide for a security  
11 interest in after-acquired collateral.

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

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

17           (b) A commercial tort claim.

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

23           679.2051 Use or disposition of collateral  
24 permissible.--

25           (1) A security interest is not invalid or fraudulent  
26 against creditors solely because:

27           (a) The debtor has the right or ability to:

28           1. Use, commingle, or dispose of all or part of the  
29 collateral, including returned or repossessed goods;

30           2. Collect, compromise, enforce, or otherwise deal  
31 with collateral;

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           3. Accept the return of collateral or make  
2 repossessions; or

3           4. Use, commingle, or dispose of proceeds; or

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

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

10           679.2061 Security interest arising in purchase or  
11 delivery of financial asset.--

12           (1) A security interest in favor of a securities  
13 intermediary attaches to a person's security entitlement if:

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

18           (b) The securities intermediary credits the financial  
19 asset to the buyer's securities account before the buyer pays  
20 the securities intermediary.

21           (2) The security interest described in subsection (1)  
22 secures the person's obligation to pay for the financial  
23 asset.

24           (3) A security interest in favor of a person who  
25 delivers a certificated security or other financial asset  
26 represented by a writing attaches to the security or other  
27 financial asset if:

28           (a) The security or other financial asset:

29           1. In the ordinary course of business is transferred  
30 by delivery with any necessary indorsement or assignment; and

31           2. Is delivered under an agreement between persons in



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 the business of dealing with such securities or financial  
2 assets; and  
3 (b) The agreement calls for delivery against payment.  
4 (4) The security interest described in subsection (3)  
5 secures the obligation to make payment for the delivery.  
6 679.2071 Rights and duties of secured party having  
7 possession or control of collateral.--  
8 (1) Except as otherwise provided in subsection (4), a  
9 secured party shall use reasonable care in the custody and  
10 preservation of collateral in the secured party's possession.  
11 In the case of chattel paper or an instrument, reasonable care  
12 includes taking necessary steps to preserve rights against  
13 prior parties unless otherwise agreed.  
14 (2) Except as otherwise provided in subsection (4), if  
15 a secured party has possession of collateral:  
16 (a) Reasonable expenses, including the cost of  
17 insurance and payment of taxes or other charges, incurred in  
18 the custody, preservation, use, or operation of the collateral  
19 are chargeable to the debtor and are secured by the  
20 collateral;  
21 (b) The risk of accidental loss or damage is on the  
22 debtor to the extent of a deficiency in any effective  
23 insurance coverage;  
24 (c) The secured party shall keep the collateral  
25 identifiable, but fungible collateral may be commingled; and  
26 (d) The secured party may use or operate the  
27 collateral:  
28 1. For the purpose of preserving the collateral or its  
29 value;  
30 2. As permitted by an order of a court having  
31 competent jurisdiction; or

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           3. Except in the case of consumer goods, in the manner  
2 and to the extent agreed by the debtor.

3           (3) Except as otherwise provided in subsection (4), a  
4 secured party having possession of collateral or control of  
5 collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s.  
6 679.1071:

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

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

12           (c) May create a security interest in the collateral.

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

16           (a) Subsection (1) does not apply unless the secured  
17 party is entitled under an agreement:

18           1. To charge back uncollected collateral; or

19           2. Otherwise to full or limited recourse against the  
20 debtor or a secondary obligor based on the nonpayment or other  
21 default of an account debtor or other obligor on the  
22 collateral; and

23           (b) Subsections (2) and (3) do not apply.

24           679.2081 Additional duties of secured party having  
25 control of collateral.--

26           (1) This section applies to cases in which there is no  
27 outstanding secured obligation and the secured party is not  
28 committed to make advances, incur obligations, or otherwise  
29 give value.

30           (2) Within 10 days after receiving an authenticated  
31 demand by the debtor:

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           (a) A secured party having control of a deposit  
2 account under s. 679.1041(1)(b) shall send to the bank with  
3 which the deposit account is maintained an authenticated  
4 statement that releases the bank from any further obligation  
5 to comply with instructions originated by the secured party;  
6           (b) A secured party having control of a deposit  
7 account under s. 679.1041(1)(c) shall:  
8           1. Pay the debtor the balance on deposit in the  
9 deposit account; or  
10           2. Transfer the balance on deposit into a deposit  
11 account in the debtor's name;  
12           (c) A secured party, other than a buyer, having  
13 control of electronic chattel paper under s. 679.1051 shall:  
14           1. Communicate the authoritative copy of the  
15 electronic chattel paper to the debtor or its designated  
16 custodian;  
17           2. If the debtor designates a custodian that is the  
18 designated custodian with which the authoritative copy of the  
19 electronic chattel paper is maintained for the secured party,  
20 communicate to the custodian an authenticated record releasing  
21 the designated custodian from any further obligation to comply  
22 with instructions originated by the secured party and  
23 instructing the custodian to comply with instructions  
24 originated by the debtor; and  
25           3. Take appropriate action to enable the debtor or the  
26 debtor's designated custodian to make copies of or revisions  
27 to the authoritative copy which add or change an identified  
28 assignee of the authoritative copy without the consent of the  
29 secured party;  
30           (d) A secured party having control of investment  
31 property under s. 678.1061(4)(b) or s. 679.1061(2) shall send

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 to the securities intermediary or commodity intermediary with  
 2 which the security entitlement or commodity contract is  
 3 maintained an authenticated record that releases the  
 4 securities intermediary or commodity intermediary from any  
 5 further obligation to comply with entitlement orders or  
 6 directions originated by the secured party; and

7 (e) A secured party having control of a  
 8 letter-of-credit right under s. 679.1071 shall send to each  
 9 person having an unfulfilled obligation to pay or deliver  
 10 proceeds of the letter of credit to the secured party an  
 11 authenticated release from any further obligation to pay or  
 12 deliver proceeds of the letter of credit to the secured party.

13 679.209 Duties of secured party if account debtor has  
 14 been notified of assignment.--

15 (1) Except as otherwise provided in subsection (3),  
 16 this section applies if:

17 (a) There is no outstanding secured obligation; and

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

20 (2) Within 10 days after receiving an authenticated  
 21 demand by the debtor, a secured party shall send to an account  
 22 debtor that has received notification of an assignment to the  
 23 secured party as assignee under s. 679.4061(1) an  
 24 authenticated record that releases the account debtor from any  
 25 further obligation to the secured party.

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

29 679.210 Request for accounting; request regarding list  
 30 of collateral or statement of account.--

31 (1) In this section, the term:

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (a) "Request" means a record of a type described in  
2 paragraph (b), paragraph (c), or paragraph (d).

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

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

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

21           (e) "Reasonably identifying the transaction or  
22 relationship" means that the request provides information  
23 sufficient for the person to identify the transaction or  
24 relationship and respond to the request. Pursuant to s.  
25 679.603(1), a secured party and debtor may determine by  
26 agreement the standards for measuring fulfillment of this  
27 duty.

28           (f) "Person" means a person or entity that is or was a  
29 secured party or otherwise claims or has claimed an interest  
30 in the collateral.

31           (2) Subject to subsections (3), (4), (5), and (6), a

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 secured party, other than a buyer of accounts, chattel paper,  
2 payment intangibles, or promissory notes or a consignor, shall  
3 comply with a request within 14 days after receipt:

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

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

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

15 (4) A person who receives a request regarding a list  
16 of collateral, claims no interest in the collateral when the  
17 request is received, and claimed an interest in the collateral  
18 at an earlier time shall comply with the request within 14  
19 days after receipt by sending to the debtor an authenticated  
20 record:

21 (a) Disclaiming any interest in the collateral; and

22 (b) If known to the recipient, providing the name and  
23 mailing address of any assignee of or successor to the  
24 recipient's interest in the collateral.

25 (5) A person who receives a request for an accounting  
26 or a request regarding a statement of account, claims no  
27 interest in the obligations when the request is received, and  
28 claimed an interest in the obligations at an earlier time  
29 shall comply with the request within 14 days after receipt by  
30 sending to the debtor an authenticated record:

31 (a) Disclaiming any interest in the obligations; and

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

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

4           (6) A debtor is entitled under this section without  
5 charge to one response to a request for an accounting or a  
6 request regarding a statement of account for each secured  
7 obligation during any 6-month period. A debtor in a consumer  
8 transaction is entitled to a single response to a request  
9 regarding a list of collateral, for a transaction other than a  
10 consumer transaction, without charge during any 6-month  
11 period. The secured party may require payment of a charge not  
12 exceeding \$25 for each additional response to a request for an  
13 accounting, a request regarding a statement of account, or a  
14 request regarding a list of collateral for a consumer  
15 transaction. To the extent provided in an authenticated  
16 record, the secured party may require the payment of  
17 reasonable expenses, including attorney's fees, reasonably  
18 incurred in providing a response to a request regarding a list  
19 of collateral for a transaction other than a consumer  
20 transaction under this section; otherwise, the secured party  
21 may not charge more than \$25 for each request regarding a list  
22 of collateral. Excluding a request related to a proposed  
23 satisfaction of the secured obligation, a secured party is not  
24 required to respond to more than 12 of each of the permitted  
25 requests in any 12-month period.

26           Section 3. Part III of chapter 679, Florida Statutes,  
27 consisting of sections 679.301, 679.302, 679.303, 679.304,  
28 690.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311,  
29 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, and  
30 679.318, Florida Statutes, is repealed and a new part III of  
31 that chapter, consisting of sections 679.3011, 679.3021,

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 679.3031, 679.3041, 690.3051, 679.3061, 679.3071, 679.3081,  
2 679.3091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141,  
3 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320,  
4 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327,  
5 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334,  
6 679.335, 679.336, 679.337, 679.3381, 679.339, 679.340,  
7 679.341, and 679.342, Florida Statutes, is created to read:

8 PART III

9 PERFECTION AND PRIORITY

10 679.3011 Law governing perfection and priority of  
11 security interests.--Except as otherwise provided in ss.  
12 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the  
13 following rules determine the law governing perfection, the  
14 effect of perfection or nonperfection, and the priority of a  
15 security interest in collateral:

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

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

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

29 (a) Perfection of a security interest in the goods by  
30 filing a fixture filing;

31 (b) Perfection of a security interest in timber to be



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 cut; and

2 (c) The effect of perfection or nonperfection and the  
3 priority of a nonpossessory security interest in the  
4 collateral.

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

9 679.3021 Law governing perfection and priority of  
10 agricultural liens.--While farm products are located in a  
11 jurisdiction, the local law of that jurisdiction governs  
12 perfection, the effect of perfection or nonperfection, and the  
13 priority of an agricultural lien on the farm products.

14 679.3031 Law governing perfection and priority of  
15 security interests in goods covered by a certificate of  
16 title.--

17 (1) This section applies to goods covered by a  
18 certificate of title, even if there is no other relationship  
19 between the jurisdiction under whose certificate of title the  
20 goods are covered and the goods or the debtor.

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

29 (3) The local law of the jurisdiction under whose  
30 certificate of title the goods are covered governs perfection,  
31 the effect of perfection or nonperfection, and the priority of

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 a security interest in goods covered by a certificate of title  
2 from the time the goods become covered by the certificate of  
3 title until the goods cease to be covered by the certificate  
4 of title.

5 679.3041 Law governing perfection and priority of  
6 security interests in deposit accounts.--

7 (1) The local law of a bank's jurisdiction governs  
8 perfection, the effect of perfection or nonperfection, and the  
9 priority of a security interest in a deposit account  
10 maintained with that bank.

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

13 (a) If an agreement between the bank and the debtor  
14 governing the deposit account expressly provides that a  
15 particular jurisdiction is the bank's jurisdiction for  
16 purposes of this part, this chapter, or the Uniform Commercial  
17 Code, that jurisdiction is the bank's jurisdiction.

18 (b) If paragraph (a) does not apply and an agreement  
19 between the bank and its customer governing the deposit  
20 account expressly provides that the agreement is governed by  
21 the law of a particular jurisdiction, that jurisdiction is the  
22 bank's jurisdiction.

23 (c) If neither paragraph (a) nor paragraph (b) applies  
24 and an agreement between the bank and its customer governing  
25 the deposit account expressly provides that the deposit  
26 account is maintained at an office in a particular  
27 jurisdiction, that jurisdiction is the bank's jurisdiction.

28 (d) If none of the preceding paragraphs applies, the  
29 bank's jurisdiction is the jurisdiction in which the office  
30 identified in an account statement as the office serving the  
31 customer's account is located.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (e) If none of the preceding paragraphs applies, the  
2 bank's jurisdiction is the jurisdiction in which the chief  
3 executive office of the bank is located.

4           679.3051 Law governing perfection and priority of  
5 security interests in investment property.--

6           (1) Except as otherwise provided in subsection (3),  
7 the following rules apply:

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

13           (b) The local law of the issuer's jurisdiction as  
14 specified in s. 678.1101(4) governs perfection, the effect of  
15 perfection or nonperfection, and the priority of a security  
16 interest in an uncertificated security.

17           (c) The local law of the securities intermediary's  
18 jurisdiction as specified in s. 678.1101(5) governs  
19 perfection, the effect of perfection or nonperfection, and the  
20 priority of a security interest in a security entitlement or  
21 securities account.

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

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

28           (a) If an agreement between the commodity intermediary  
29 and commodity customer governing the commodity account  
30 expressly provides that a particular jurisdiction is the  
31 commodity intermediary's jurisdiction for purposes of this

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 part, this chapter, or the Uniform Commercial Code, that  
2 jurisdiction is the commodity intermediary's jurisdiction.

3 (b) If paragraph (a) does not apply and an agreement  
4 between the commodity intermediary and commodity customer  
5 governing the commodity account expressly provides that the  
6 agreement is governed by the law of a particular jurisdiction,  
7 that jurisdiction is the commodity intermediary's  
8 jurisdiction.

9 (c) If neither paragraph (a) nor paragraph (b) applies  
10 and an agreement between the commodity intermediary and  
11 commodity customer governing the commodity account expressly  
12 provides that the commodity account is maintained at an office  
13 in a particular jurisdiction, that jurisdiction is the  
14 commodity intermediary's jurisdiction.

15 (d) If none of the preceding paragraphs applies, the  
16 commodity intermediary's jurisdiction is the jurisdiction in  
17 which the office identified in an account statement as the  
18 office serving the commodity customer's account is located.

19 (e) If none of the preceding paragraphs applies, the  
20 commodity intermediary's jurisdiction is the jurisdiction in  
21 which the chief executive office of the commodity intermediary  
22 is located.

23 (3) The local law of the jurisdiction in which the  
24 debtor is located governs:

25 (a) Perfection of a security interest in investment  
26 property by filing;

27 (b) Automatic perfection of a security interest in  
28 investment property created by a broker or securities  
29 intermediary; and

30 (c) Automatic perfection of a security interest in a  
31 commodity contract or commodity account created by a commodity

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 intermediary.

2 679.3061 Law governing perfection and priority of  
3 security interests in letter-of-credit rights.--

4 (1) Subject to subsection (3), the local law of the  
5 issuer's jurisdiction or a nominated person's jurisdiction  
6 governs perfection, the effect of perfection or nonperfection,  
7 and the priority of a security interest in a letter-of-credit  
8 right if the issuer's jurisdiction or nominated person's  
9 jurisdiction is a state.

10 (2) For purposes of this part, an issuer's  
11 jurisdiction or nominated person's jurisdiction is the  
12 jurisdiction whose law governs the liability of the issuer or  
13 nominated person with respect to the letter-of-credit right as  
14 provided in s. 675.116.

15 (3) This section does not apply to a security interest  
16 that is perfected only under s. 679.3081(4).

17 679.3071 Location of debtor.--

18 (1) In this section, the term "place of business"  
19 means a place where a debtor conducts its affairs.

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

22 (a) A debtor who is an individual is located at the  
23 individual's principal residence.

24 (b) A debtor that is an organization and has only one  
25 place of business is located at its place of business.

26 (c) A debtor that is an organization and has more than  
27 one place of business is located at its chief executive  
28 office.

29 (3) Subsection (2) applies only if a debtor's  
30 residence, place of business, or chief executive office, as  
31 applicable, is located in a jurisdiction whose law generally

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 requires information concerning the existence of a  
2 nonpossessory security interest to be made generally available  
3 in a filing, recording, or registration system as a condition  
4 or result of the security interest's obtaining priority over  
5 the rights of a lien creditor with respect to the collateral.  
6 If subsection (2) does not apply, the debtor is located in the  
7 District of Columbia.

8 (4) A person who ceases to exist, have a residence, or  
9 have a place of business continues to be located in the  
10 jurisdiction specified by subsections (2) and (3).

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

13 (6) Except as otherwise provided in subsection (9), a  
14 registered organization that is organized under the law of the  
15 United States and a branch or agency of a bank that is not  
16 organized under the law of the United States or a state are  
17 located:

18 (a) In the state that the law of the United States  
19 designates, if the law designates a state of location;

20 (b) In the state that the registered organization,  
21 branch, or agency designates, if the law of the United States  
22 authorizes the registered organization, branch, or agency to  
23 designate its state of location; or

24 (c) In the District of Columbia, if neither paragraph  
25 (a) nor paragraph (b) applies.

26 (7) A registered organization continues to be located  
27 in the jurisdiction specified by subsection (5) or subsection  
28 (6) notwithstanding:

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

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

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

3           (8) The United States is located in the District of  
4 Columbia.

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

10           (10) A foreign air carrier under the Federal Aviation  
11 Act of 1958, as amended, is located at the designated office  
12 of the agent upon which service of process may be made on  
13 behalf of the carrier.

14           (11) This section applies only for purposes of this  
15 part.

16           679.3081 When security interest or agricultural lien  
17 is perfected; continuity of perfection.--

18           (1) Except as otherwise provided in this section and  
19 s. 679.3091, a security interest is perfected if it has  
20 attached and all of the applicable requirements for perfection  
21 in ss. 679.3101-679.3161 have been satisfied. A security  
22 interest is perfected when it attaches if the applicable  
23 requirements are satisfied before the security interest  
24 attaches.

25           (2) An agricultural lien is perfected if it has become  
26 effective and all of the applicable requirements for  
27 perfection in s. 679.3101 have been satisfied. An  
28 agricultural lien is perfected when it becomes effective if  
29 the applicable requirements are satisfied before the  
30 agricultural lien becomes effective.

31           (3) A security interest or agricultural lien is

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 perfected continuously if it is originally perfected by one  
2 method under this chapter and is later perfected by another  
3 method under this chapter, without an intermediate period  
4 during which it was unperfected.

5 (4) Perfection of a security interest in collateral  
6 also perfects a security interest in a supporting obligation  
7 for the collateral.

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

12 (6) Perfection of a security interest in a securities  
13 account also perfects a security interest in the security  
14 entitlements carried in the securities account.

15 (7) Perfection of a security interest in a commodity  
16 account also perfects a security interest in the commodity  
17 contracts carried in the commodity account.

18 679.3091 Security interest perfected upon  
19 attachment.--The following security interests are perfected  
20 when they attach:

21 (1) A purchase-money security interest in consumer  
22 goods, except as otherwise provided in s. 679.3111(2) with  
23 respect to consumer goods that are subject to a statute or  
24 treaty described in s. 679.3111(1);

25 (2) An assignment of accounts or payment intangibles  
26 which does not by itself or in conjunction with other  
27 assignments to the same assignee transfer a significant part  
28 of the assignor's outstanding accounts or payment intangibles;

29 (3) A sale of a payment intangible;

30 (4) A sale of a promissory note;

31 (5) A security interest created by the assignment of a



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1 health-care-insurance receivable to the provider of the  
2 health-care goods or services;
- 3 (6) A security interest arising under s. 672.401, s.  
4 672.505, s. 672.711(3), or s. 680.508(5), until the debtor  
5 obtains possession of the collateral;
- 6 (7) A security interest of a collecting bank arising  
7 under s. 674.2101;
- 8 (8) A security interest of an issuer or nominated  
9 person arising under s. 675.118;
- 10 (9) A security interest arising in the delivery of a  
11 financial asset under s. 679.2061(3);
- 12 (10) A security interest in investment property  
13 created by a broker or securities intermediary;
- 14 (11) A security interest in a commodity contract or a  
15 commodity account created by a commodity intermediary;
- 16 (12) An assignment for the benefit of all creditors of  
17 the transferor and subsequent transfers by the assignee  
18 thereunder; and
- 19 (13) A security interest created by an assignment of a  
20 beneficial interest in a decedent's estate.
- 21 679.3101 When filing required to perfect security  
22 interest or agricultural lien; security interests and  
23 agricultural liens to which filing provisions do not apply.--
- 24 (1) Except as otherwise provided in subsection (2) and  
25 s. 679.3121(2), a financing statement must be filed to perfect  
26 all security interests and agricultural liens.
- 27 (2) The filing of a financing statement is not  
28 necessary to perfect a security interest:
- 29 (a) That is perfected under s. 679.3081(4), (5), (6),  
30 or (7);
- 31 (b) That is perfected under s. 679.3091 when it

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 attaches;

2 (c) In property subject to a statute, regulation, or  
3 treaty described in s. 679.3111(1);

4 (d) In goods in possession of a bailee which is  
5 perfected under s. 679.3121(4)(a) or (b);

6 (e) In certificated securities, documents, goods, or  
7 instruments which is perfected without filing or possession  
8 under s. 679.3121(5), (6), or (7);

9 (f) In collateral in the secured party's possession  
10 under s. 679.3131;

11 (g) In a certificated security which is perfected by  
12 delivery of the security certificate to the secured party  
13 under s. 679.3131;

14 (h) In deposit accounts, electronic chattel paper,  
15 investment property, or letter-of-credit rights which is  
16 perfected by control under s. 679.3141;

17 (i) In proceeds which is perfected under s. 679.3151;  
18 or

19 (j) That is perfected under s. 679.3161.

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

25 679.3111 Perfection of security interests in property  
26 subject to certain statutes, regulations, and treaties.--

27 (1) Except as otherwise provided in subsection (4),  
28 the filing of a financing statement is not necessary or  
29 effective to perfect a security interest in property subject  
30 to:

31 (a) A statute, regulation, or treaty of the United

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 States whose requirements for a security interest's obtaining  
2 priority over the rights of a lien creditor with respect to  
3 the property preempt s. 679.3101(1);

4 (b) A statute covering automobiles, trailers, mobile  
5 homes, boats, farm tractors, or the like, which provides for a  
6 security interest to be indicated on a certificate of title of  
7 such property as a condition or result of perfection, and any  
8 non-Uniform Commercial Code central filing statute; or

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

14 (2) Compliance with the requirements of a statute,  
15 regulation, or treaty described in paragraph (1) for obtaining  
16 priority over the rights of a lien creditor is equivalent to  
17 the filing of a financing statement under this chapter.

18 Except as otherwise provided in subsection (4) and ss.  
19 679.3131 and 679.3161(4) and (5) for goods covered by a  
20 certificate of title, a security interest in property subject  
21 to a statute, regulation, or treaty described in subsection  
22 (1) may be perfected only by compliance with those  
23 requirements, and a security interest so perfected remains  
24 perfected notwithstanding a change in the use or transfer of  
25 possession of the collateral.

26 (3) Except as otherwise provided in subsection (4) and  
27 s. 679.3161(4) and (5), duration and renewal of perfection of  
28 a security interest perfected by compliance with the  
29 requirements prescribed by a statute, regulation, or treaty  
30 described in subsection (1) are governed by the statute,  
31 regulation, or treaty. In other respects, the security

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 interest is subject to this chapter.

2 (4) During any period in which collateral subject to a  
3 statute specified in paragraph (1)(b) is inventory held for  
4 sale or lease by a person or leased by that person as lessor  
5 and that person is in the business of selling goods of that  
6 kind, this section does not apply to a security interest in  
7 that collateral created by that person.

8 679.3121 Perfection of security interests in chattel  
9 paper, deposit accounts, documents, goods covered by  
10 documents, instruments, investment property, letter-of-credit  
11 rights, and money; perfection by permissive filing; temporary  
12 perfection without filing or transfer of possession.--

13 (1) A security interest in chattel paper, negotiable  
14 documents, instruments, or investment property may be  
15 perfected by filing.

16 (2) Except as otherwise provided in s. 679.3151(3) and  
17 (4) for proceeds:

18 (a) A security interest in a deposit account may be  
19 perfected only by control under s. 679.3141.

20 (b) And except as otherwise provided in s.  
21 679.3081(4), a security interest in a letter-of-credit right  
22 may be perfected only by control under s. 679.3141.

23 (c) A security interest in money may be perfected only  
24 by the secured party's taking possession under s. 679.3131.

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

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

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

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           (4) While goods are in the possession of a bailee that  
2 has issued a nonnegotiable document covering the goods, a  
3 security interest in the goods may be perfected by:  
4           (a) Issuance of a document in the name of the secured  
5 party;  
6           (b) The bailee's receipt of notification of the  
7 secured party's interest; or  
8           (c) Filing as to the goods.  
9           (5) A security interest in certificated securities,  
10 negotiable documents, or instruments is perfected without  
11 filing or the taking of possession for a period of 20 days  
12 from the time it attaches to the extent that it arises for new  
13 value given under an authenticated security agreement.  
14           (6) A perfected security interest in a negotiable  
15 document or goods in possession of a bailee, other than one  
16 that has issued a negotiable document for the goods, remains  
17 perfected for 20 days without filing if the secured party  
18 makes available to the debtor the goods or documents  
19 representing the goods for the purpose of:  
20           (a) Ultimate sale or exchange; or  
21           (b) Loading, unloading, storing, shipping,  
22 transshipping, manufacturing, processing, or otherwise dealing  
23 with them in a manner preliminary to their sale or exchange.  
24           (7) A perfected security interest in a certificated  
25 security or instrument remains perfected for 20 days without  
26 filing if the secured party delivers the security certificate  
27 or instrument to the debtor for the purpose of:  
28           (a) Ultimate sale or exchange; or  
29           (b) Presentation, collection, enforcement, renewal, or  
30 registration of transfer.  
31           (8) After the 20-day period specified in subsection

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 (5), subsection (6), or subsection (7) expires, perfection  
2 depends upon compliance with this chapter.

3 679.3131 When possession by or delivery to secured  
4 party perfects security interest without filing.--

5 (1) Except as otherwise provided in subsection (2), a  
6 secured party may perfect a security interest in negotiable  
7 documents, goods, instruments, money, or tangible chattel  
8 paper by taking possession of the collateral. A secured party  
9 may perfect a security interest in certificated securities by  
10 taking delivery of the certificated securities under s.  
11 678.3011.

12 (2) With respect to goods covered by a certificate of  
13 title issued by this state, a secured party may perfect a  
14 security interest in the goods by taking possession of the  
15 goods only in the circumstances described in s. 679.3161(4).

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

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

25 (b) The person takes possession of the collateral  
26 after having authenticated a record acknowledging that the  
27 person will hold possession of collateral for the secured  
28 party's benefit.

29 (4) If perfection of a security interest depends upon  
30 possession of the collateral by a secured party, perfection  
31 occurs no earlier than the time the secured party takes

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 possession and continues only while the secured party retains  
2 possession.

3 (5) A security interest in a certificated security in  
4 registered form is perfected by delivery when delivery of the  
5 certificated security occurs under s. 678.3011 and remains  
6 perfected by delivery until the debtor obtains possession of  
7 the security certificate.

8 (6) A person in possession of collateral is not  
9 required to acknowledge that the person holds possession for a  
10 secured party's benefit.

11 (7) If a person acknowledges that the person holds  
12 possession for the secured party's benefit:

13 (a) The acknowledgment is effective under subsection  
14 (3) or s. 678.3011(1), even if the acknowledgment violates the  
15 rights of a debtor; and

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

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

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

28 (b) To redeliver the collateral to the secured party.

29 (9) A secured party does not relinquish possession,  
30 even if a delivery under subsection (8) violates the rights of  
31 a debtor. A person to whom collateral is delivered under

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 subsection (8) does not owe any duty to the secured party and  
2 is not required to confirm the delivery to another person  
3 unless the person otherwise agrees or law other than this  
4 chapter otherwise provides.

5 679.3141 Perfection by control.--

6 (1) A security interest in investment property,  
7 deposit accounts, letter-of-credit rights, or electronic  
8 chattel paper may be perfected by control of the collateral  
9 under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071.

10 (2) A security interest in deposit accounts,  
11 electronic chattel paper, or letter-of-credit rights is  
12 perfected by control under s. 679.1041, s. 679.1051, or s.  
13 679.1071 when the secured party obtains control and remains  
14 perfected by control only while the secured party retains  
15 control.

16 (3) A security interest in investment property is  
17 perfected by control under s. 679.1061 from the time the  
18 secured party obtains control and remains perfected by control  
19 until:

20 (a) The secured party does not have control; and

21 (b) One of the following occurs:

22 1. If the collateral is a certificated security, the  
23 debtor has or acquires possession of the security certificate;

24 2. If the collateral is an uncertificated security,  
25 the issuer has registered or registers the debtor as the  
26 registered owner; or

27 3. If the collateral is a security entitlement, the  
28 debtor is or becomes the entitlement holder.

29 679.3151 Secured party's rights on disposition of  
30 collateral and in proceeds.--

31 (1) Except as otherwise provided in this chapter and



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 in s. 672.403(2):

2 (a) A security interest or agricultural lien continues  
3 in collateral notwithstanding sale, lease, license, exchange,  
4 or other disposition thereof unless the secured party  
5 authorized the disposition free of the security interest or  
6 agricultural lien; and

7 (b) A security interest attaches to any identifiable  
8 proceeds of collateral.

9 (2) Proceeds that are commingled with other property  
10 are identifiable proceeds:

11 (a) If the proceeds are goods, to the extent provided  
12 by s. 679.336; and

13 (b) If the proceeds are not goods, to the extent that  
14 the secured party identifies the proceeds by a method of  
15 tracing, including application of equitable principles, that  
16 is permitted under law other than this chapter with respect to  
17 commingled property of the type involved.

18 (3) A security interest in proceeds is a perfected  
19 security interest if the security interest in the original  
20 collateral was perfected.

21 (4) A perfected security interest in proceeds becomes  
22 unperfected on the 21st day after the security interest  
23 attaches to the proceeds unless:

24 (a) The following conditions are satisfied:

25 1. A filed financing statement covers the original  
26 collateral;

27 2. The proceeds are collateral in which a security  
28 interest may be perfected by filing in the office in which the  
29 financing statement has been filed; and

30 3. The proceeds are not acquired with cash proceeds;

31 (b) The proceeds are identifiable cash proceeds; or

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

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

4       (5) If a filed financing statement covers the original  
5 collateral, a security interest in proceeds which remains  
6 perfected under paragraph (4)(a) becomes unperfected at the  
7 later of:

8           (a) When the effectiveness of the filed financing  
9 statement lapses under s. 679.515 or is terminated under s.  
10 679.513; or

11           (b) The 21st day after the security interest attaches  
12 to the proceeds.

13           679.3161 Continued perfection of security interest  
14 following change in governing law.--

15           (1) A security interest perfected pursuant to the law  
16 of the jurisdiction designated in s. 679.3011(1) or s.  
17 679.3051(3) remains perfected until the earliest of:

18           (a) The time perfection would have ceased under the  
19 law of that jurisdiction;

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

22           (c) The expiration of 1 year after a transfer of  
23 collateral to a person who thereby becomes a debtor and is  
24 located in another jurisdiction.

25           (2) If a security interest described in subsection (1)  
26 becomes perfected under the law of the other jurisdiction  
27 before the earliest time or event described in that  
28 subsection, it remains perfected thereafter. If the security  
29 interest does not become perfected under the law of the other  
30 jurisdiction before the earliest time or event, it becomes  
31 unperfected and is deemed never to have been perfected as

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 against a purchaser of the collateral for value.

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

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

9 (b) Thereafter the collateral is brought into another  
10 jurisdiction; and

11 (c) Upon entry into the other jurisdiction, the  
12 security interest is perfected under the law of the other  
13 jurisdiction.

14 (4) Except as otherwise provided in subsection (5), a  
15 security interest in goods covered by a certificate of title  
16 which is perfected by any method under the law of another  
17 jurisdiction when the goods become covered by a certificate of  
18 title from this state remains perfected until the security  
19 interest would have become unperfected under the law of the  
20 other jurisdiction had the goods not become so covered.

21 (5) A security interest described in subsection (4)  
22 becomes unperfected as against a purchaser of the goods for  
23 value and is deemed never to have been perfected as against a  
24 purchaser of the goods for value if the applicable  
25 requirements for perfection under s. 679.3111(2) or s.  
26 679.3131 are not satisfied before the earlier of:

27 (a) The time the security interest would have become  
28 unperfected under the law of the other jurisdiction had the  
29 goods not become covered by a certificate of title from this  
30 state; or

31 (b) The expiration of 4 months after the goods had

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 become so covered.

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

9 (a) The time the security interest would have become  
10 unperfected under the law of that jurisdiction; or

11 (b) The expiration of 4 months after a change of the  
12 applicable jurisdiction to another jurisdiction.

13 (7) If a security interest described in subsection (6)  
14 becomes perfected under the law of the other jurisdiction  
15 before the earlier of the time or the end of the period  
16 described in that subsection, it remains perfected thereafter.  
17 If the security interest does not become perfected under the  
18 law of the other jurisdiction before the earlier of that time  
19 or the end of that period, it becomes unperfected and is  
20 deemed never to have been perfected as against a purchaser of  
21 the collateral for value.

22 679.3171 Interests that take priority over or take  
23 free of security interest or agricultural lien.--

24 (1) A security interest or agricultural lien is  
25 subordinate to the rights of:

26 (a) A person entitled to priority under s. 679.322;  
27 and

28 (b) Except as otherwise provided in subsection (5), a  
29 person who becomes a lien creditor before the earlier of the  
30 time:

31 1. The security interest or agricultural lien is

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 perfected; or

2 2. One of the conditions specified in s.  
3 679.2031(2)(c) is met and a financing statement covering the  
4 collateral is filed.

5 (2) Except as otherwise provided in subsection (5), a  
6 buyer, other than a secured party, of tangible chattel paper,  
7 documents, goods, instruments, or a security certificate takes  
8 free of a security interest or agricultural lien if the buyer  
9 gives value and receives delivery of the collateral without  
10 knowledge of the security interest or agricultural lien and  
11 before it is perfected.

12 (3) Except as otherwise provided in subsection (5), a  
13 lessee of goods takes free of a security interest or  
14 agricultural lien if the lessee gives value and receives  
15 delivery of the collateral without knowledge of the security  
16 interest or agricultural lien and before it is perfected.

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

23 (5) Except as otherwise provided in ss. 679.320 and  
24 679.321, if a person files a financing statement with respect  
25 to a purchase-money security interest before or within 20 days  
26 after the debtor receives delivery of the collateral, the  
27 security interest takes priority over the rights of a buyer,  
28 lessee, or lien creditor which arise between the time the  
29 security interest attaches and the time of filing.

30 679.3181 No interest retained in right to payment that  
31 is sold; rights and title of seller of account or chattel

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 paper with respect to creditors and purchasers.--

2 (1) A debtor who has sold an account, chattel paper,  
3 payment intangible, or promissory note does not retain a legal  
4 or equitable interest in the collateral sold.

5 (2) For purposes of determining the rights of  
6 creditors of, and purchasers for value of an account or  
7 chattel paper from, a debtor who has sold an account or  
8 chattel paper, while the buyer's security interest is  
9 unperfected, the debtor is deemed to have rights and title to  
10 the account or chattel paper identical to those the debtor  
11 sold.

12 679.319 Rights and title of consignee with respect to  
13 creditors and purchasers.--

14 (1) Except as otherwise provided in subsection (2),  
15 for purposes of determining the rights of creditors of, and  
16 purchasers for value of goods from, a consignee, while the  
17 goods are in the possession of the consignee, the consignee is  
18 deemed to have rights and title to the goods identical to  
19 those the consignor had or had power to transfer.

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

26 679.320 Buyer of goods.--

27 (1) Except as otherwise provided in subsection (5), a  
28 buyer in ordinary course of business, other than a person  
29 buying farm products from a person engaged in farming  
30 operations, takes free of a security interest created by the  
31 buyer's seller, even if the security interest is perfected and

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 the buyer knows of its existence.

2 (2) Except as otherwise provided in subsection (5), a  
3 buyer of goods from a person who used or bought the goods for  
4 use primarily for personal, family, or household purposes  
5 takes free of a security interest, even if perfected, if the  
6 buyer buys:

7 (a) Without knowledge of the security interest;

8 (b) For value;

9 (c) Primarily for the buyer's personal, family, or  
10 household purposes; and

11 (d) Before the filing of a financing statement  
12 covering the goods.

13 (3) To the extent that it affects the priority of a  
14 security interest over a buyer of goods under subsection (2),  
15 the period of effectiveness of a filing made in the  
16 jurisdiction in which the seller is located is governed by s.  
17 679.3161(1) and (2).

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

22 (5) Subsections (1) and (2) do not affect a security  
23 interest in goods in the possession of the secured party under  
24 s. 679.3131.

25 679.321 Licensee of general intangible and lessee of  
26 goods in ordinary course of business.--

27 (1) In this section, the term "licensee in ordinary  
28 course of business" means a person who becomes a licensee of a  
29 general intangible in good faith, without knowledge that the  
30 license violates the rights of another person in the general  
31 intangible, and in the ordinary course from a person in the

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 business of licensing general intangibles of that kind. A  
2 person becomes a licensee in the ordinary course if the  
3 license to the person comports with the usual or customary  
4 practices in the kind of business in which the licensor is  
5 engaged or with the licensor's own usual or customary  
6 practices.

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

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

16       679.322 Priorities among conflicting security  
17 interests in and agricultural liens on same collateral.--

18       (1) Except as otherwise provided in this section,  
19 priority among conflicting security interests and agricultural  
20 liens in the same collateral is determined according to the  
21 following rules:

22       (a) Conflicting perfected security interests and  
23 agricultural liens rank according to priority in time of  
24 filing or perfection. Priority dates from the earlier of the  
25 time a filing covering the collateral is first made or the  
26 security interest or agricultural lien is first perfected, if  
27 there is no period thereafter during which is neither filing  
28 nor perfection.

29       (b) A perfected security interest or agricultural lien  
30 has priority over a conflicting unperfected security interest  
31 or agricultural lien.



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

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

4       (2) For the purposes of paragraph (1)(a):

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

8       (b) The time of filing or perfection as to a security  
9 interest in collateral supported by a supporting obligation is  
10 also the time of filing or perfection as to a security  
11 interest in the supporting obligation.

12       (3) Except as otherwise provided in subsection (6), a  
13 security interest in collateral which qualifies for priority  
14 over a conflicting security interest under s. 679.327, s.  
15 679.328, s. 679.329, s. 679.330, or s. 679.331 also has  
16 priority over a conflicting security interest in:

17       (a) Any supporting obligation for the collateral; and

18       (b) Proceeds of the collateral if:

19           1. The security interest in proceeds is perfected;

20           2. The proceeds are cash proceeds or of the same type  
21 as the collateral; and

22           3. In the case of proceeds that are proceeds of  
23 proceeds, all intervening proceeds are cash proceeds, proceeds  
24 of the same type as the collateral, or an account relating to  
25 the collateral.

26       (4) Subject to subsection (5) and except as otherwise  
27 provided in subsection (6), if a security interest in chattel  
28 paper, deposit accounts, negotiable documents, instruments,  
29 investment property, or letter-of-credit rights is perfected  
30 by a method other than filing, conflicting perfected security  
31 interests in proceeds of the collateral rank according to

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 priority in time of filing.

2 (5) Subsection (4) applies only if the proceeds of the  
3 collateral are not cash proceeds, chattel paper, negotiable  
4 documents, instruments, investment property, or  
5 letter-of-credit rights.

6 (6) Subsections (1) through (5) are subject to:

7 (a) Subsection (7) and the other provisions of this  
8 part;

9 (b) Section 674.2101 with respect to a security  
10 interest of a collecting bank;

11 (c) Section 675.118 with respect to a security  
12 interest of an issuer or nominated person; and

13 (d) Section 679.1101 with respect to a security  
14 interest arising under chapter 672 or chapter 680.

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

19 679.323 Future advances.--

20 (1) Except as otherwise provided in subsection (3),  
21 for purposes of determining the priority of a perfected  
22 security interest under s. 679.322(1)(a), perfection of the  
23 security interest dates from the time an advance is made to  
24 the extent that the security interest secures an advance that:

25 (a) Is made while the security interest is perfected  
26 only:

27 1. Under s. 679.3091 when it attaches; or

28 2. Temporarily under s. 679.3121(5), (6), or (7); and

29 (b) Is not made pursuant to a commitment entered into  
30 before or while the security interest is perfected by a method  
31 other than under s. 679.3091 or s. 679.3121(5), (6), or (7).

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (2) Except as otherwise provided in subsection (3), a  
2 security interest is subordinate to the rights of a person who  
3 becomes a lien creditor to the extent that the security  
4 interest secures an advance made more than 45 days after the  
5 person becomes a lien creditor unless the advance is made:

6           (a) Without knowledge of the lien; or

7           (b) Pursuant to a commitment entered into without  
8 knowledge of the lien.

9           (3) Subsections (1) and (2) do not apply to a security  
10 interest held by a secured party that is a buyer of accounts,  
11 chattel paper, payment intangibles, or promissory notes or a  
12 consignor.

13           (4) Except as otherwise provided in subsection (5), a  
14 buyer of goods other than a buyer in ordinary course of  
15 business takes free of a security interest to the extent that  
16 it secures advances made after the earlier of:

17           (a) The time the secured party acquires knowledge of  
18 the buyer's purchase; or

19           (b) Forty-five days after the purchase.

20           (5) Subsection (4) does not apply if the advance is  
21 made pursuant to a commitment entered into without knowledge  
22 of the buyer's purchase and before the expiration of the  
23 45-day period.

24           (6) Except as otherwise provided in subsection (7), a  
25 lessee of goods, other than a lessee in ordinary course of  
26 business, takes the leasehold interest free of a security  
27 interest to the extent that it secures advances made after the  
28 earlier of:

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

31           (b) Forty-five days after the lease contract becomes

1 enforceable.

2 (7) Subsection (6) does not apply if the advance is  
3 made pursuant to a commitment entered into without knowledge  
4 of the lease and before the expiration of the 45-day period.

5 679.324 Priority of purchase-money security  
6 interests.--

7 (1) Except as otherwise provided in subsection (7), a  
8 perfected purchase-money security interest in goods other than  
9 inventory or livestock has priority over a conflicting  
10 security interest in the same goods, and, except as otherwise  
11 provided in s. 679.327, a perfected security interest in its  
12 identifiable proceeds also has priority, if the purchase-money  
13 security interest is perfected when the debtor receives  
14 possession of the collateral or within 20 days thereafter.

15 (2) Subject to subsection (3) and except as otherwise  
16 provided in subsection (7), a perfected purchase-money  
17 security interest in inventory has priority over a conflicting  
18 security interest in the same inventory, has priority over a  
19 conflicting security interest in chattel paper or an  
20 instrument constituting proceeds of the inventory and in  
21 proceeds of the chattel paper, if so provided in s. 679.330,  
22 and, except as otherwise provided in s. 679.327, also has  
23 priority in identifiable cash proceeds of the inventory to the  
24 extent the identifiable cash proceeds are received on or  
25 before the delivery of the inventory to a buyer, if:

26 (a) The purchase-money security interest is perfected  
27 when the debtor receives possession of the inventory;

28 (b) The purchase-money secured party sends an  
29 authenticated notification to the holder of the conflicting  
30 security interest;

31 (c) The holder of the conflicting security interest

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 receives the notification within 5 years before the debtor  
2 receives possession of the inventory; and  
3 (d) The notification states that the person sending  
4 the notification has or expects to acquire a purchase-money  
5 security interest in inventory of the debtor and describes the  
6 inventory.  
7 (3) Paragraphs (2)(b), (c), and (d) apply only if the  
8 holder of the conflicting security interest had filed a  
9 financing statement covering the same types of inventory:  
10 (a) If the purchase-money security interest is  
11 perfected by filing, before the date of the filing; or  
12 (b) If the purchase-money security interest is  
13 temporarily perfected without filing or possession under s.  
14 679.3121(6), before the beginning of the 20-day period  
15 thereunder.  
16 (4) Subject to subsection (5) and except as otherwise  
17 provided in subsection (7), a perfected purchase-money  
18 security interest in livestock that are farm products has  
19 priority over a conflicting security interest in the same  
20 livestock, and, except as otherwise provided in s. 679.327, a  
21 perfected security interest in their identifiable proceeds and  
22 identifiable products in their unmanufactured states also has  
23 priority, if:  
24 (a) The purchase-money security interest is perfected  
25 when the debtor receives possession of the livestock;  
26 (b) The purchase-money secured party sends an  
27 authenticated notification to the holder of the conflicting  
28 security interest;  
29 (c) The holder of the conflicting security interest  
30 receives the notification within 6 months before the debtor  
31 receives possession of the livestock; and

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (d) The notification states that the person sending  
2 the notification has or expects to acquire a purchase-money  
3 security interest in livestock of the debtor and describes the  
4 livestock.

5           (5) Paragraphs (4)(b), (c), and (d) apply only if the  
6 holder of the conflicting security interest had filed a  
7 financing statement covering the same types of livestock:

8           (a) If the purchase-money security interest is  
9 perfected by filing, before the date of the filing; or

10           (b) If the purchase-money security interest is  
11 temporarily perfected without filing or possession under s.  
12 679.3121(6), before the beginning of the 20-day period  
13 thereunder.

14           (6) Except as otherwise provided in subsection (7), a  
15 perfected purchase-money security interest in software has  
16 priority over a conflicting security interest in the same  
17 collateral, and, except as otherwise provided in s. 679.327, a  
18 perfected security interest in its identifiable proceeds also  
19 has priority, to the extent that the purchase-money security  
20 interest in the goods in which the software was acquired for  
21 use has priority in the goods and proceeds of the goods under  
22 this section.

23           (7) If more than one security interest qualifies for  
24 priority in the same collateral under subsection (1),  
25 subsection (2), subsection (4), or subsection (6):

26           (a) A security interest securing an obligation  
27 incurred as all or part of the price of the collateral has  
28 priority over a security interest securing an obligation  
29 incurred for value given to enable the debtor to acquire  
30 rights in or the use of collateral; and

31           (b) In all other cases, s. 679.322(1) applies to the

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 qualifying security interests.

2 679.325 Priority of security interests in transferred  
3 collateral.--

4 (1) Except as otherwise provided in subsection (2), a  
5 security interest created by a debtor is subordinate to a  
6 security interest in the same collateral created by another  
7 person if:

8 (a) The debtor acquired the collateral subject to the  
9 security interest created by the other person;

10 (b) The security interest created by the other person  
11 was perfected when the debtor acquired the collateral; and

12 (c) There is no period thereafter during which the  
13 security interest is unperfected.

14 (2) Subsection (1) subordinates a security interest  
15 only if the security interest:

16 (a) Otherwise would have priority solely under s.  
17 679.322(1) or s. 679.324; or

18 (b) Arose solely under s. 672.711(3) or s. 680.508(5).

19 679.326 Priority of security interests created by new  
20 debtor.--

21 (1) Subject to subsection (2), a security interest  
22 created by a new debtor which is perfected by a filed  
23 financing statement that is effective solely under s. 679.508  
24 in collateral in which a new debtor has or acquires rights is  
25 subordinate to a security interest in the same collateral  
26 which is perfected other than by a filed financing statement  
27 that is effective solely under s. 679.508.

28 (2) The other provisions of this part determine the  
29 priority among conflicting security interests in the same  
30 collateral perfected by filed financing statements that are  
31 effective solely under s. 679.508. However, if the security

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 agreements to which a new debtor became bound as debtor were  
2 not entered into by the same original debtor, the conflicting  
3 security interests rank according to priority in time of the  
4 new debtor's having become bound.

5 679.327 Priority of security interests in deposit  
6 account.--The following rules govern priority among  
7 conflicting security interests in the same deposit account:

8 (1) A security interest held by a secured party having  
9 control of the deposit account under s. 679.1041 has priority  
10 over a conflicting security interest held by a secured party  
11 that does not have control.

12 (2) Except as otherwise provided in subsections (3)  
13 and (4), security interests perfected by control under s.  
14 679.3141 rank according to priority in time of obtaining  
15 control.

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

20 (4) A security interest perfected by control under s.  
21 679.1041(1)(c) has priority over a security interest held by  
22 the bank with which the deposit account is maintained.

23 679.328 Priority of security interests in investment  
24 property.--The following rules govern priority among  
25 conflicting security interests in the same investment  
26 property:

27 (1) A security interest held by a secured party having  
28 control of investment property under s. 679.1061 has priority  
29 over a security interest held by a secured party that does not  
30 have control of the investment property.

31 (2) Except as otherwise provided in subsections (3)



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 and (4), conflicting security interests held by secured  
2 parties each of which has control under s. 679.1061 rank  
3 according to priority in time of:

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

6 (b) If the collateral is a security entitlement  
7 carried in a securities account and:

8 1. If the secured party obtained control under s.  
9 678.1061(4)(a), the secured party's becoming the person for  
10 which the securities account is maintained;

11 2. If the secured party obtained control under s.  
12 678.1061(4)(b), the securities intermediary's agreement to  
13 comply with the secured party's entitlement orders with  
14 respect to security entitlements carried or to be carried in  
15 the securities account; or

16 3. If the secured party obtained control through  
17 another person under s. 678.1061(4)(c), the time on which  
18 priority would be based under this paragraph if the other  
19 person were the secured party; or

20 (c) If the collateral is a commodity contract carried  
21 with a commodity intermediary, the satisfaction of the  
22 requirement for control specified in s. 679.1061(2)(b) with  
23 respect to commodity contracts carried or to be carried with  
24 the commodity intermediary.

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

29 (4) A security interest held by a commodity  
30 intermediary in a commodity contract or a commodity account  
31 maintained with the commodity intermediary has priority over a

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 conflicting security interest held by another secured party.

2 (5) A security interest in a certificated security in  
3 registered form which is perfected by taking delivery under s.  
4 679.3131(1) and not by control under s. 679.3141 has priority  
5 over a conflicting security interest perfected by a method  
6 other than control.

7 (6) Conflicting security interests created by a  
8 broker, securities intermediary, or commodity intermediary  
9 which are perfected without control under s. 679.1061 rank  
10 equally.

11 (7) In all other cases, priority among conflicting  
12 security interests in investment property is governed by ss.  
13 679.322 and 679.323.

14 679.329 Priority of security interests in  
15 letter-of-credit right.--The following rules govern priority  
16 among conflicting security interests in the same  
17 letter-of-credit right:

18 (1) A security interest held by a secured party having  
19 control of the letter-of-credit right under s. 679.1071 has  
20 priority to the extent of its control over a conflicting  
21 security interest held by a secured party that does not have  
22 control.

23 (2) Security interests perfected by control under s.  
24 679.3141 rank according to priority in time of obtaining  
25 control.

26 679.330 Priority of purchaser of chattel paper or  
27 instrument.--

28 (1) A purchaser of chattel paper has priority over a  
29 security interest in the chattel paper which is claimed merely  
30 as proceeds of inventory subject to a security interest if:

31 (a) In good faith and in the ordinary course of the

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 purchaser's business, the purchaser gives new value and takes  
2 possession of the chattel paper or obtains control of the  
3 chattel paper under s. 679.1051; and

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

7 (2) A purchaser of chattel paper has priority over a  
8 security interest in the chattel paper which is claimed other  
9 than merely as proceeds of inventory subject to a security  
10 interest if the purchaser gives new value and takes possession  
11 of the chattel paper or obtains control of the chattel paper  
12 under s. 679.1051 in good faith, in the ordinary course of the  
13 purchaser's business, and without knowledge that the purchase  
14 violates the rights of the secured party.

15 (3) Except as otherwise provided in s. 679.327, a  
16 purchaser having priority in chattel paper under subsection  
17 (1) or subsection (2) also has priority in proceeds of the  
18 chattel paper to the extent that:

19 (a) Section 679.322 provides for priority in the  
20 proceeds; or

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

25 (4) Except as otherwise provided in s. 679.331(1), a  
26 purchaser of an instrument has priority over a security  
27 interest in the instrument perfected by a method other than  
28 possession if the purchaser gives value and takes possession  
29 of the instrument in good faith and without knowledge that the  
30 purchase violates the rights of the secured party.

31 (5) For purposes of subsections (1) and (2), the

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 holder of a purchase-money security interest in inventory  
2 gives new value for chattel paper constituting proceeds of the  
3 inventory.

4 (6) For purposes of subsections (2) and (4), if  
5 chattel paper or an instrument indicates that it has been  
6 assigned to an identified secured party other than the  
7 purchaser, a purchaser of the chattel paper or instrument has  
8 knowledge that the purchase violates the rights of the secured  
9 party.

10 679.331 Priority of rights of purchasers of  
11 instruments, documents, and securities under other articles;  
12 priority of interests in financial assets and security  
13 entitlements under chapter 678.--

14 (1) This chapter does not limit the rights of a holder  
15 in due course of a negotiable instrument, a holder to which a  
16 negotiable document of title has been duly negotiated, or a  
17 protected purchaser of a security. These holders or  
18 purchasers take priority over an earlier security interest,  
19 even if perfected, to the extent provided in chapters 673,  
20 677, and 678.

21 (2) This chapter does not limit the rights of or  
22 impose liability on a person to the extent that the person is  
23 protected against the assertion of an adverse claim under  
24 chapter 678.

25 (3) Filing under this chapter does not constitute  
26 notice of a claim or defense to the holders, purchasers, or  
27 persons described in subsections (1) and (2).

28 679.332 Transfer of money; transfer of funds from  
29 deposit account.--

30 (1) A transferee of money takes the money free of a  
31 security interest unless the transferee acts in collusion with

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 the debtor in violating the rights of the secured party.

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

6 679.333 Priority of certain liens arising by operation  
7 of law.--

8 (1) In this section, the term "possessory lien" means  
9 an interest, other than a security interest or an agricultural  
10 lien:

11 (a) Which secures payment or performance of an  
12 obligation for services or materials furnished with respect to  
13 goods by a person in the ordinary course of the person's  
14 business;

15 (b) Which is created by statute or rule of law in  
16 favor of the person; and

17 (c) The effectiveness of which depends on the person's  
18 possession of the goods.

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

22 679.334 Priority of security interests in fixtures and  
23 crops.--

24 (1) A security interest under this chapter may be  
25 created in goods that are fixtures or may continue in goods  
26 that become fixtures. A security interest does not exist  
27 under this chapter in ordinary building materials incorporated  
28 into an improvement on land.

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

31 (3) A security interest in goods which are or become

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 fixtures is invalid against any person with an interest in the  
2 real property at the time the security interest in the goods  
3 is perfected or at the time the goods are affixed to the real  
4 property, whichever occurs later, unless such person has  
5 consented to the security interest or disclaimed an interest  
6 in the goods as fixtures.

7 (4) A security interest in goods which are or become  
8 fixtures takes priority as to the goods over the claims of all  
9 persons acquiring an interest in the real property subsequent  
10 to the perfection of such security interest or the affixing of  
11 the goods to the real property, whichever occurs later.

12 (5) A perfected security interest in fixtures has  
13 priority over a conflicting interest of an encumbrancer or  
14 owner of the real property if the security interest is:

15 (a) Created in a manufactured home in a  
16 manufactured-home transaction; and

17 (b) Perfected pursuant to a statute described in s.  
18 679.3111(1)(b).

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

24 (7) Subsection (6) prevails over any inconsistent  
25 provisions of the statutes.

26 679.335 Accessions.--

27 (1) A security interest may be created in an accession  
28 and continues in collateral that becomes an accession.

29 (2) If a security interest is perfected when the  
30 collateral becomes an accession, the security interest remains  
31 perfected in the collateral.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (3) Except as otherwise provided in subsection (4),  
2 the other provisions of this part determine the priority of a  
3 security interest in an accession.

4           (4) A security interest in an accession is subordinate  
5 to a security interest in the whole which is perfected by  
6 compliance with the requirements of a certificate-of-title  
7 statute under s. 679.3111(2).

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

12           (6) A secured party that removes an accession from  
13 other goods under subsection (5) shall promptly reimburse any  
14 holder of a security interest or other lien on, or owner of,  
15 the whole or of the other goods, other than the debtor, for  
16 the cost of repair of any physical injury to the whole or the  
17 other goods. The secured party need not reimburse the holder  
18 or owner for any diminution in value of the whole or the other  
19 goods caused by the absence of the accession removed or by any  
20 necessity for replacing it. A person entitled to  
21 reimbursement may refuse permission to remove until the  
22 secured party gives adequate assurance for the performance of  
23 the obligation to reimburse.

24           679.336 Commingled goods.--

25           (1) In this section, the term "commingled goods" means  
26 goods that are physically united with other goods in such a  
27 manner that their identity is lost in a product or mass.

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

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

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

3           (4) If a security interest in collateral is perfected  
4 before the collateral becomes commingled goods, the security  
5 interest that attaches to the product or mass under subsection  
6 (3) is perfected.

7           (5) Except as otherwise provided in subsection (6),  
8 the other provisions of this part determine the priority of a  
9 security interest that attaches to the product or mass under  
10 subsection (3).

11           (6) If more than one security interest attaches to the  
12 product or mass under subsection (3), the following rules  
13 determine priority:

14           (a) A security interest that is perfected under  
15 subsection (4) has priority over a security interest that is  
16 unperfected at the time the collateral becomes commingled  
17 goods.

18           (b) If more than one security interest is perfected  
19 under subsection (4), the security interests rank equally in  
20 proportion to value of the collateral at the time it became  
21 commingled goods.

22           679.337 Priority of security interests in goods  
23 covered by certificate of title.--If, while a security  
24 interest in goods is perfected by any method under the law of  
25 another jurisdiction, this state issues a certificate of title  
26 that does not show that the goods are subject to the security  
27 interest or contain a statement that they may be subject to  
28 security interests not shown on the certificate:

29           (1) A buyer of the goods, other than a person in the  
30 business of selling goods of that kind, takes free of the  
31 security interest if the buyer gives value and receives



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 delivery of the goods after issuance of the certificate and  
2 without knowledge of the security interest; and  
3 (2) The security interest is subordinate to a  
4 conflicting security interest in the goods that attaches, and  
5 is perfected under s. 679.3111(2), after issuance of the  
6 certificate and without the conflicting secured party's  
7 knowledge of the security interest.

8 679.338 Priority of security interest or agricultural  
9 lien perfected by filed financing statement providing certain  
10 incorrect information.--If a security interest or agricultural  
11 lien is perfected by a filed financing statement providing  
12 information described in s. 679.516(2)(e) which is incorrect  
13 at the time the financing statement is filed:

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

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

25 679.339 Priority subject to subordination.--This  
26 chapter does not preclude subordination by agreement by a  
27 person entitled to priority.

28 679.340 Effectiveness of right of recoupment or  
29 set-off against deposit account.--

30 (1) Except as otherwise provided in subsection (3), a  
31 bank with which a deposit account is maintained may exercise

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 any right of recoupment or set-off against a secured party  
2 that holds a security interest in the deposit account.

3 (2) Except as otherwise provided in subsection (3),  
4 the application of this chapter to a security interest in a  
5 deposit account does not affect a right of recoupment or  
6 set-off of the secured party as to a deposit account  
7 maintained with the secured party.

8 (3) The exercise by a bank of a set-off against a  
9 deposit account is ineffective against a secured party that  
10 holds a security interest in the deposit account which is  
11 perfected by control under s. 679.1041(1)(c), if the set-off  
12 is based on a claim against the debtor.

13 679.341 Bank's rights and duties with respect to  
14 deposit account.--Except as otherwise provided in s.  
15 679.340(3), and unless the bank otherwise agrees in an  
16 authenticated record, a bank's rights and duties with respect  
17 to a deposit account maintained with the bank are not  
18 terminated, suspended, or modified by:

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

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

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

24 679.342 Bank's right to refuse to enter into or  
25 disclose existence of control agreement.--This chapter does  
26 not require a bank to enter into an agreement of the kind  
27 described in s. 679.1041(1)(b), even if its customer so  
28 requests or directs. A bank that has entered into such an  
29 agreement is not required to confirm the existence of the  
30 agreement to another person unless requested to do so by its  
31 customer.



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 assert against an assignee any claim or defense that the  
2 account debtor may have against the assignor is enforceable by  
3 an assignee that takes an assignment:

4       (a) For value;  
5       (b) In good faith;  
6       (c) Without notice of a claim of a property or  
7 possessory right to the property assigned; and  
8       (d) Without notice of a defense or claim in recoupment  
9 of the type that may be asserted against a person entitled to  
10 enforce a negotiable instrument under s. 673.3031(1).

11       (3) Subsection (2) does not apply to defenses of a  
12 type that may be asserted against a holder in due course of a  
13 negotiable instrument under s. 673.3031(2).

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

21       (a) The record has the same effect as if the record  
22 included such a statement; and  
23       (b) The account debtor may assert against an assignee  
24 those claims and defenses that would have been available if  
25 the record included such a statement.

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

30       (6) Except as otherwise provided in subsection (4),  
31 this section does not displace law other than this chapter

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 which gives effect to an agreement by an account debtor not to  
2 assert a claim or defense against an assignee.

3 679.4041 Rights acquired by assignee; claims and  
4 defenses against assignee.--

5 (1) Unless an account debtor has made an enforceable  
6 agreement not to assert defenses or claims, and subject to  
7 subsections (2) through (5), the rights of an assignee are  
8 subject to:

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

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

17 (2) Subject to subsection (3) and except as otherwise  
18 provided in subsection (4), the claim of an account debtor  
19 against an assignor may be asserted against an assignee under  
20 subsection (1) only to reduce the amount the account debtor  
21 owes.

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

26 (4) In a consumer transaction, if a record evidences  
27 the account debtor's obligation, law other than this chapter  
28 requires that the record include a statement to the effect  
29 that the account debtor's recovery against an assignee with  
30 respect to claims and defenses against the assignor may not  
31 exceed amounts paid by the account debtor under the record,

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 and the record does not include such a statement, the extent  
2 to which a claim of an account debtor against the assignor may  
3 be asserted against an assignee is determined as if the record  
4 included such a statement.

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

7 679.4051 Modification of assigned contract.--

8 (1) A modification of or substitution for an assigned  
9 contract is effective against an assignee if made in good  
10 faith. The assignee acquires corresponding rights under the  
11 modified or substituted contract. The assignment may provide  
12 that the modification or substitution is a breach of contract  
13 by the assignor. This subsection is subject to subsections  
14 (2) through (4).

15 (2) Subsection (1) applies to the extent that:

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

18 (b) The right to payment or a part thereof has been  
19 fully earned by performance and the account debtor has not  
20 received notification of the assignment under s. 679.4061(1).

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

25 (4) This section does not apply to an assignment of a  
26 health-care-insurance receivable.

27 679.4061 Discharge of account debtor; notification of  
28 assignment; identification and proof of assignment;  
29 restrictions on assignment of accounts, chattel paper, payment  
30 intangibles, and promissory notes ineffective.--

31 (1) Subject to subsections (2) through (9), an account

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

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

10 (2) Subject to subsection (8), notification is  
11 ineffective under subsection (1):

12 (a) If it does not reasonably identify the rights  
13 assigned;

14 (b) To the extent that an agreement between an account  
15 debtor and a seller of a payment intangible limits the account  
16 debtor's duty to pay a person other than the seller and the  
17 limitation is effective under law other than this chapter; or

18 (c) At the option of an account debtor, if the  
19 notification notifies the account debtor to make less than the  
20 full amount of any installment or other periodic payment to  
21 the assignee, even if:

22 1. Only a portion of the account, chattel paper, or  
23 payment intangible has been assigned to that assignee;

24 2. A portion has been assigned to another assignee; or

25 3. The account debtor knows that the assignment to  
26 that assignee is limited.

27 (3) Subject to subsection (8), if requested by the  
28 account debtor, an assignee shall seasonably furnish  
29 reasonable proof that the assignment has been made. Unless  
30 the assignee complies, the account debtor may discharge its  
31 obligation by paying the assignor, even if the account debtor

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 has received a notification under subsection (1).

2 (4) Except as otherwise provided in subsection (5) and  
3 ss. 680.303 and 679.4071, and subject to subsection (8), a  
4 term in an agreement between an account debtor and an assignor  
5 or in a promissory note is ineffective to the extent that it:

6 (a) Prohibits, restricts, or requires the consent of  
7 the account debtor or person obligated on the promissory note  
8 to the assignment or transfer of, or the creation, attachment,  
9 perfection, or enforcement of a security interest in, the  
10 account, chattel paper, payment intangible, or promissory  
11 note; or

12 (b) Provides that the assignment or transfer or the  
13 creation, attachment, perfection, or enforcement of the  
14 security interest may give rise to a default, breach, right of  
15 recoupment, claim, defense, termination, right of termination,  
16 or remedy under the account, chattel paper, payment  
17 intangible, or promissory note.

18 (5) Subsection (4) does not apply to the sale of a  
19 payment intangible or promissory note.

20 (6) Except as otherwise provided in ss. 680.303 and  
21 679.4071 and subject to subsections (8) and (9), a rule of  
22 law, statute, or regulation that prohibits, restricts, or  
23 requires the consent of a government, governmental body or  
24 official, or account debtor to the assignment or transfer of,  
25 or creation of a security interest in, an account or chattel  
26 paper is ineffective to the extent that the rule of law,  
27 statute, or regulation:

28 (a) Prohibits, restricts, or requires the consent of  
29 the government, governmental body or official, or account  
30 debtor to the assignment or transfer of, or the creation,  
31 attachment, perfection, or enforcement of a security interest



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 in the account or chattel paper; or

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

7 (7) Subject to subsection (8), an account debtor may  
8 not waive or vary its option under paragraph (2)(c).

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

13 Subsection (6) does not apply to the creation, attachment,  
14 perfection, or enforcement of a security interest in:

15 (a) A claim or right to receive compensation for  
16 injuries or sickness as described in 26 U.S.C. subsection  
17 104(a)(1) or (2).

18 (b) A claim or right to receive benefits under a  
19 special needs trust as described in 42 U.S.C. subsection  
20 1396p(d)(4).

21 (c) The interest of a debtor who is a natural person  
22 in unemployment, alimony, disability, pension, or retirement  
23 benefits or victim compensation funds.

24 (d) The interest of a debtor who is a natural person  
25 in other benefits which are designated solely for his or her  
26 maintenance, support, or education, the assignability of which  
27 is expressly prohibited or restricted by any statute.

28 (9) This section does not apply to an assignment of a  
29 health-care-insurance receivable.

30 (10) This section prevails over any inconsistent  
31 statute, rule, or regulation.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.4071 Restrictions on creation or enforcement of  
2 security interest in leasehold interest or in lessor's  
3 residual interest.--

4           (1) Except as otherwise provided in subsection (2), a  
5 term in a lease agreement is ineffective to the extent that  
6 it:

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

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

17           (2) Except as otherwise provided in s. 680.303(7), a  
18 term described in paragraph (1)(b) is effective to the extent  
19 that there is:

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

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

24           (3) The creation, attachment, perfection, or  
25 enforcement of a security interest in the lessor's interest  
26 under the lease contract or the lessor's residual interest in  
27 the goods is not a transfer that materially impairs the  
28 lessee's prospect of obtaining return performance or  
29 materially changes the duty of or materially increases the  
30 burden or risk imposed on the lessee within the purview of s.  
31 680.303(4) unless, and then only to the extent that,

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 enforcement actually results in a delegation of material  
2 performance of the lessor.  
3 679.4081 Restrictions on assignment of promissory  
4 notes, health-care-insurance receivables, and certain general  
5 intangibles ineffective.--  
6 (1) Except as otherwise provided in subsection (2), a  
7 term in a promissory note or in an agreement between an  
8 account debtor and a debtor which relates to a  
9 health-care-insurance receivable or a general intangible,  
10 including a contract, permit, license, or franchise, and which  
11 term prohibits, restricts, or requires the consent of the  
12 person obligated on the promissory note or the account debtor  
13 to, the assignment or transfer of, or creation, attachment, or  
14 perfection of a security interest in, the promissory note,  
15 health-care-insurance receivable, or general intangible, is  
16 ineffective to the extent that the term:  
17 (a) Would impair the creation, attachment, or  
18 perfection of a security interest; or  
19 (b) Provides that the assignment or transfer or the  
20 creation, attachment, or perfection of the security interest  
21 may give rise to a default, breach, right of recoupment,  
22 claim, defense, termination, right of termination, or remedy  
23 under the promissory note, health-care-insurance receivable,  
24 or general intangible.  
25 (2) Subsection (1) applies to a security interest in a  
26 payment intangible or promissory note only if the security  
27 interest arises out of a sale of the payment intangible or  
28 promissory note.  
29 (3) A rule of law, statute, or regulation that  
30 prohibits, restricts, or requires the consent of a government,  
31 governmental body or official, person obligated on a

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 promissory note, or account debtor to the assignment or  
2 transfer of, or creation of a security interest in, a  
3 promissory note, health-care-insurance receivable, or general  
4 intangible, including a contract, permit, license, or  
5 franchise between an account debtor and a debtor, is  
6 ineffective to the extent that the rule of law, statute, or  
7 regulation:

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

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

16       (4) To the extent that a term in a promissory note or  
17 in an agreement between an account debtor and a debtor which  
18 relates to a health-care-insurance receivable or general  
19 intangible or a rule of law, statute, or regulation described  
20 in subsection (3) would be effective under law other than this  
21 chapter but is ineffective under subsection (1) or subsection  
22 (3), the creation, attachment, or perfection of a security  
23 interest in the promissory note, health-care-insurance  
24 receivable, or general intangible:

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

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

29       (c) Does not require the person obligated on the  
30 promissory note or the account debtor to recognize the  
31 security interest, pay or render performance to the secured

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 party, or accept payment or performance from the secured  
2 party;

3 (d) Does not entitle the secured party to use or  
4 assign the debtor's rights under the promissory note,  
5 health-care-insurance receivable, or general intangible,  
6 including any related information or materials furnished to  
7 the debtor in the transaction giving rise to the promissory  
8 note, health-care-insurance receivable, or general intangible;

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

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

16 (5) This section prevails over any inconsistent  
17 statute, rule, or regulation.

18 (6) Subsection (3) does not apply to the creation,  
19 attachment, perfection, or enforcement of a security interest  
20 in:

21 (a) A claim or right to receive compensation for  
22 injuries or sickness as described in 26 U.S.C. subsection  
23 104(a)(1) or (2).

24 (b) A claim or right to receive benefits under a  
25 special needs trust as described in 42 U.S.C. subsection  
26 1396p(d)(4).

27 (c) The interest of a debtor who is a natural person  
28 in unemployment, alimony, disability, pension, or retirement  
29 benefits or victim compensation funds.

30 (d) The interest of a debtor who is a natural person  
31 in other benefits which are designated solely for his or her

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 maintenance, support, or education, the assignability of which  
2 is expressly prohibited or restricted by any statute.

3 679.409 Restrictions on assignment of letter-of-credit  
4 rights ineffective.--

5 (1) A term in a letter of credit or a rule of law,  
6 statute, regulation, custom, or practice applicable to the  
7 letter of credit which prohibits, restricts, or requires the  
8 consent of an applicant, issuer, or nominated person to a  
9 beneficiary's assignment of or creation of a security interest  
10 in a letter-of-credit right is ineffective to the extent that  
11 the term or rule of law, statute, regulation, custom, or  
12 practice:

13 (a) Would impair the creation, attachment, or  
14 perfection of a security interest in the letter-of-credit  
15 right; or

16 (b) Provides that the assignment or the creation,  
17 attachment, or perfection of the security interest may give  
18 rise to a default, breach, right of recoupment, claim,  
19 defense, termination, right of termination, or remedy under  
20 the letter-of-credit right.

21 (2) To the extent that a term in a letter of credit is  
22 ineffective under subsection (1) but would be effective under  
23 law other than this chapter or a custom or practice applicable  
24 to the letter of credit, to the transfer of a right to draw or  
25 otherwise demand performance under the letter of credit, or to  
26 the assignment of a right to proceeds of the letter of credit,  
27 the creation, attachment, or perfection of a security interest  
28 in the letter-of-credit right:

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

31 (b) Imposes no duties or obligations on the applicant,

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

6 Section 5. (1) The Legislature finds that it is in  
 7 the best interest of the citizens and businesses of this state  
 8 to adopt Part V of Revised Article 9 of the Uniform Commercial  
 9 Code as proposed by the National Conference of Commissioners  
 10 on Uniform State Law, "revised Article 9," subject to specific  
 11 modifications, as revised chapter 679, Florida Statutes. Such  
 12 revised Article 9 almost exclusively affects secured  
 13 transactions and the relationships between and among secured  
 14 creditors, debtors, other creditors, and purchasers of  
 15 personal property subject to a security interest. Both  
 16 individuals and business entities are intended to benefit from  
 17 the enactment of revised Article 9.

18 (2) The Legislature also finds that, among other  
 19 things, revised Article 9 contemplates a more straightforward  
 20 and efficient system for documenting the perfection,  
 21 amendment, continuance, termination, assignment, and transfer  
 22 of security interests and requires less governmental  
 23 involvement than necessary under existing law. Revised  
 24 Article 9 suggests the possibility that states may delegate  
 25 their historical administrative and operational  
 26 responsibilities over financing statement filings to a  
 27 nongovernmental entity. This principle complements the  
 28 legislative policy of reducing government's detailed  
 29 regulation and involvement with private commerce and business  
 30 transactions. Consistent with other revisions to current  
 31 chapter 679, Florida Statutes, being adopted by this act, the

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 requirement for exclusive administration and operation by this  
 2 state of the system of filing and maintaining documents  
 3 evidencing secured transactions no longer exists. However, the  
 4 carrying out of the duties of the filing office and filing  
 5 officer are very important to the uninterrupted flow of  
 6 secured transactions and the Secretary of State shall retain  
 7 oversight over the private filing agency to which the filing  
 8 office and filing officer duties under revised Article 9, as  
 9 revised chapter 679, Florida Statutes, may be delegated.

10 Section 6. Part V of chapter 679, Florida Statutes,  
 11 consisting of sections 679.501, 679.502, 679.503, 679.504,  
 12 679.505, 679.506, and 679.507, Florida Statutes, is repealed  
 13 and a new part V, consisting of sections 679.5011, 679.5021,  
 14 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508,  
 15 679.509, 679.510, 679.511, 679.512, 679.513, 671.514, 679.515,  
 16 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522,  
 17 679.523, 679.524, 679.525, 679.526, and 679.527, Florida  
 18 Statutes, is created to read:

19 PART V

20 FILING

21 679.5011 Filing office.--

22 (1) Except as otherwise provided in subsection (2),  
 23 the office in which to file a financing statement to perfect a  
 24 security interest or agricultural lien is:

25 (a) The office of the clerk of the circuit court, if:

26 1. The collateral is as-extracted collateral or timber  
 27 to be cut; or

28 2. The collateral is goods that are or are to become  
 29 fixtures in this state, in which event the financing statement  
 30 shall be filed as a fixture filing.

31 (b) The Florida Secured Transaction Registry, in



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 accordance with ss. 679.3011-679.3071, and in all other cases.

2 (2) The office in which to file a financing statement  
3 to perfect a security interest in collateral, including  
4 fixtures, of a transmitting utility is the Office of the  
5 Secretary of State, or the filing office authorized by s.  
6 697.527 to accept filings for the Florida Secured Transaction  
7 Registry. The financing statement also constitutes a fixture  
8 filing as to the collateral indicated in the financing  
9 statement which is or is to become fixtures.

10 679.5021 Contents of financing statement; record of  
11 mortgage as financing statement; time of filing financing  
12 statement.--

13 (1) Subject to subsection (2), a financing statement  
14 is sufficient only if it:

15 (a) Provides the name of the debtor;

16 (b) Provides the name of the secured party or a  
17 representative of the secured party; and

18 (c) Indicates the collateral covered by the financing  
19 statement.

20 (2) Except as otherwise provided in s. 679.5011(2), to  
21 be sufficient, a financing statement that covers as-extracted  
22 collateral or timber to be cut, or that is filed as a fixture  
23 filing and covers goods that are or are to become fixtures,  
24 must comply with the requirements of subsection (1) and also:

25 (a) Indicate that it covers this type of collateral;

26 (b) Indicate that it is to be filed in the real  
27 property records;

28 (c) Provide a description of the real property to  
29 which the collateral is related; and

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

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (3) A record of a mortgage satisfying the requirements  
2 of chapter 697 is effective, from the date of recording, as a  
3 financing statement filed as a fixture filing or as a  
4 financing statement covering as-extracted collateral or timber  
5 to be cut only if:

6           (a) The record of a mortgage indicates the goods or  
7 accounts that it covers;

8           (b) The goods are or are to become fixtures related to  
9 the real property described in the record of a mortgage or the  
10 collateral is related to the real property described in the  
11 mortgage and is as-extracted collateral or timber to be cut;

12           (c) The record of a mortgage complies with the  
13 requirements for a financing statement in this section other  
14 than an indication that it is to be filed in the real property  
15 records; and

16           (d) The record of a mortgage is recorded as required  
17 by chapter 697.

18           (4) A financing statement may be filed before a  
19 security agreement is made or a security interest otherwise  
20 attaches.

21           679.5031 Name of debtor and secured party.--

22           (1) A financing statement sufficiently provides the  
23 name of the debtor:

24           (a) If the debtor is a registered organization, only  
25 if the financing statement provides the name of the debtor  
26 indicated on the public record of the debtor's jurisdiction of  
27 organization which shows the debtor to have been organized;

28           (b) If the debtor is a decedent's estate, only if the  
29 financing statement provides the name of the decedent and  
30 indicates that the debtor is an estate;

31           (c) If the debtor is a trust or a trustee acting with

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 respect to property held in trust, only if the financing  
2 statement:

3 1. Provides the name, if any, specified for the trust  
4 in its organic documents or, if no name is specified, provides  
5 the name of the settlor and additional information sufficient  
6 to distinguish a debtor from other trusts having one or more  
7 of the same settlors; and

8 2. Indicates, in the debtor's name or otherwise, that  
9 the debtor is a trust or is a trustee acting with respect to  
10 property held in trust; and

11 (d) In other cases:

12 1. If the debtor has a name, only if it provides the  
13 individual or organizational name of the debtor; and

14 2. If the debtor does not have a name, only if it  
15 provides the names of the partners, members, associates, or  
16 other persons comprising the debtor.

17 (2) A financing statement that provides the name of  
18 the debtor in accordance with subsection (1) is not rendered  
19 ineffective by the absence of:

20 (a) A trade name or other name of the debtor; or

21 (b) Unless required under subparagraph (1)(d)2., names  
22 of partners, members, associates, or other persons comprising  
23 the debtor.

24 (3) A financing statement that provides only the  
25 debtor's trade name does not sufficiently provide the name of  
26 the debtor.

27 (4) Failure to indicate the representative capacity of  
28 a secured party or representative of a secured party does not  
29 affect the sufficiency of a financing statement.

30 (5) A financing statement may provide the name of more  
31 than one debtor and the name of more than one secured party.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.5041 Indication of collateral.--A financing  
2 statement sufficiently indicates the collateral that it covers  
3 if the financing statement provides:

4           (1) A description of the collateral pursuant to s.  
5 679.1081; or

6           (2) If the security agreement grants a security  
7 interest in all of the debtor's personal property and such  
8 property is reasonably identified in the security agreement,  
9 as permitted by s. 679.1081, an indication that the financing  
10 statement covers all assets or all personal property.

11           679.5051 Filing and compliance with other statutes and  
12 treaties for consignments, leases, bailments, and other  
13 transactions.--

14           (1) A consignor, lessor, or bailor of goods, a  
15 licensor, or a buyer of a payment intangible or promissory  
16 note may file a financing statement, or may comply with a  
17 statute or treaty described in s. 679.3111(1), using the terms  
18 "consignor," "consignee," "lessor," "lessee," "bailor,"  
19 "bailee," "licensor," "licensee," "owner," "registered owner,"  
20 "buyer," "seller," or words of similar import, instead of the  
21 terms "secured party" and "debtor."

22           (2) This part applies to the filing of a financing  
23 statement under subsection (1) and, as appropriate, to  
24 compliance that is equivalent to filing a financing statement  
25 under s. 679.3111(2), but the filing or compliance is not of  
26 itself a factor in determining whether the collateral secures  
27 an obligation. If it is determined for another reason that the  
28 collateral secures an obligation, a security interest held by  
29 the consignor, lessor, bailor, licensor, owner, or buyer which  
30 attaches to the collateral is perfected by the filing or  
31 compliance.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           679.5061 Effect of errors or omissions.--  
2           (1) A financing statement substantially complying with  
3 the requirements of this part is effective, even if it has  
4 minor errors or omissions, unless the errors or omissions make  
5 the financing statement seriously misleading.  
6           (2) Except as otherwise provided in subsection (3), a  
7 financing statement that fails sufficiently to provide the  
8 name of the debtor in accordance with s. 679.5031(1) is  
9 seriously misleading.  
10           (3) If a search of the records of the filing office  
11 under the debtor's correct name, using the filing office's  
12 standard search logic, if any, would disclose a financing  
13 statement that fails sufficiently to provide the name of the  
14 debtor in accordance with s. 679.5031(1), the name provided  
15 does not make the financing statement seriously misleading.  
16           (4) For purposes of s. 679.508(2), the term "debtor's  
17 correct name" as used in subsection (3) means the correct name  
18 of the new debtor.  
19           679.5071 Effect of certain events on effectiveness of  
20 financing statement.--  
21           (1) A filed financing statement remains effective with  
22 respect to collateral that is sold, exchanged, leased,  
23 licensed, or otherwise disposed of and in which a security  
24 interest or agricultural lien continues, even if the secured  
25 party knows of or consents to the disposition.  
26           (2) Except as otherwise provided in subsection (3) and  
27 s. 679.508, a financing statement is not rendered ineffective  
28 if, after the financing statement is filed, the information  
29 provided in the financing statement becomes seriously  
30 misleading under the standard set forth in s. 679.5061.  
31           (3) If a debtor so changes its name that a filed

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 financing statement becomes seriously misleading under the  
2 standard set forth in s. 679.5061:  
3 (a) The financing statement is effective to perfect a  
4 security interest in collateral acquired by the debtor before,  
5 or within 4 months after, the change; and  
6 (b) The financing statement is not effective to  
7 perfect a security interest in collateral acquired by the  
8 debtor more than 4 months after the change, unless an  
9 amendment to the financing statement which renders the  
10 financing statement not seriously misleading is filed within 4  
11 months after the change.  
12 679.508 Effectiveness of financing statement if new  
13 debtor becomes bound by security agreement.--  
14 (1) Except as otherwise provided in this section, a  
15 filed financing statement naming an original debtor is  
16 effective to perfect a security interest in collateral in  
17 which a new debtor has or acquires rights to the extent that  
18 the financing statement would have been effective had the  
19 original debtor acquired rights in the collateral.  
20 (2) If the difference between the name of the original  
21 debtor and that of the new debtor causes a filed financing  
22 statement that is effective under subsection (1) to be  
23 seriously misleading under the standard set forth in s.  
24 679.5061:  
25 (a) The financing statement is effective to perfect a  
26 security interest in collateral acquired by the new debtor  
27 before, and within 4 months after, the new debtor becomes  
28 bound under s. 679.2031(4); and  
29 (b) The financing statement is not effective to  
30 perfect a security interest in collateral acquired by the new  
31 debtor more than 4 months after the new debtor becomes bound

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 under s. 679.2031(4) unless an initial financing statement  
2 providing the name of the new debtor is filed before the  
3 expiration of that time.

4 (3) This section does not apply to collateral as to  
5 which a filed financing statement remains effective against  
6 the new debtor under s. 679.5071(1).

7 679.509 Persons entitled to file a record.--

8 (1) A person may file an initial financing statement,  
9 amendment that adds collateral covered by a financing  
10 statement, or amendment that adds a debtor to a financing  
11 statement only if:

12 (a) The debtor authorizes the filing in an  
13 authenticated record or pursuant to subsection (2) or  
14 subsection (3); or

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

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

23 (a) The collateral described in the security  
24 agreement; and

25 (b) Property that becomes collateral under s.  
26 679.3151(1)(b), whether or not the security agreement  
27 expressly covers proceeds.

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

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

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

2 or

3           (b) The amendment is a termination statement for a  
4 financing statement as to which the secured party of record  
5 has failed to file or send a termination statement as required  
6 by s. 679.5131(1) or (3).

7           (4) If there is more than one secured party of record  
8 for a financing statement, each secured party of record may  
9 authorize the filing of an amendment under subsection (3).

10           (5) By acquiring collateral in which a security  
11 interest or agricultural lien continues under s. 679.3151(1),  
12 a debtor authorizes the filing of an initial financing, and an  
13 amendment, covering the collateral and property that become  
14 collateral under s. 679.3151(1)(b).

15           679.510 Effectiveness of filed record.--

16           (1) Subject to subsection (3), a filed record is  
17 effective only to the extent that it was filed by a person who  
18 may file it under s. 679.509.

19           (2) A record authorized by one secured party of record  
20 does not affect the financing statement with respect to  
21 another secured party of record.

22           (3) If a person may file a termination statement only  
23 under s. 679.509(3)(b), the filed termination statement is  
24 effective only if the debtor authorizes the filing and the  
25 termination statement indicates that the debtor authorized it  
26 to be filed.

27           (4) A continuation statement that is not filed within  
28 the 6-month period prescribed by s. 679.515(4) is ineffective.

29           679.511 Secured party of record.--

30           (1) A secured party of record with respect to a  
31 financing statement is a person whose name is provided as the



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 name of the secured party or a representative of the secured  
2 party in an initial financing statement that has been filed.

3 If an initial financing statement is filed under s.  
4 679.514(1), the assignee named in the initial financing  
5 statement is the secured party of record with respect to the  
6 financing statement.

7 (2) If an amendment of a financing statement which  
8 provides the name of a person as a secured party or a  
9 representative of a secured party is filed, the person named  
10 in the amendment is a secured party of record. If an  
11 amendment is filed under s. 679.514(2), the assignee named in  
12 the amendment is a secured party of record.

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

16 679.512 Amendment of financing statement.--

17 (1) Subject to s. 679.509, a person may add or delete  
18 collateral covered by, continue or terminate the effectiveness  
19 of, or, subject to subsection (5), otherwise amend the  
20 information provided in, a financing statement by filing an  
21 amendment that:

22 (a) Identifies, by its correct file number, if any,  
23 the initial financing statement to which the amendment  
24 relates, and the name of the debtor and the secured party of  
25 record; and

26 (b) If the amendment relates to an initial financing  
27 statement filed or recorded in a filing office described in s.  
28 679.5011(1)(a), provides the information specified in s.  
29 679.5021(2), the official records book and page number of the  
30 initial financing statement to which the amendment relates,  
31 and the name of the debtor and secured party of record.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (2) Except as otherwise provided in s. 679.515, the  
2 filing of an amendment does not extend the period of  
3 effectiveness of the financing statement.

4           (3) A financing statement that is amended by an  
5 amendment that adds collateral is effective as to the added  
6 collateral only from the date of the filing of the amendment.

7           (4) A financing statement that is amended by an  
8 amendment that adds a debtor is effective as to the added  
9 debtor only from the date of the filing of the amendment.

10          (5) An amendment is ineffective to the extent it:

11           (a) Purports to delete all debtors and fails to  
12 provide the name of a debtor to be covered by the financing  
13 statement; or

14           (b) Purports to delete all secured parties of record  
15 and fails to provide the name of a new secured party of  
16 record.

17          679.513 Termination statement.--

18          (1) A secured party shall cause the secured party of  
19 record for a financing statement to file a termination  
20 statement for the financing statement if the financing  
21 statement covers consumer goods and:

22           (a) There is no obligation secured by the collateral  
23 covered by the financing statement and no commitment to make  
24 an advance, incur an obligation, or otherwise give value; or

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

27          (2) To comply with subsection (1), a secured party  
28 shall cause the secured party of record to file the  
29 termination statement:

30           (a) Within 1 month after there is no obligation  
31 secured by the collateral covered by the financing statement

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 and no commitment to make an advance, incur an obligation, or  
2 otherwise give value; or  
3 (b) If earlier, within 20 days after the secured party  
4 receives an authenticated demand from a debtor.  
5 (3) In cases not governed by subsection (1), within 20  
6 days after a secured party receives an authenticated demand  
7 from a debtor, the secured party shall cause the secured party  
8 of record for a financing statement to send to the debtor a  
9 termination statement for the financing statement or file the  
10 termination statement in the filing office if:  
11 (a) Except in the case of a financing statement  
12 covering accounts or chattel paper that has been sold or goods  
13 that are the subject of a consignment, there is no obligation  
14 secured by the collateral covered by the financing statement  
15 and no commitment to make an advance, incur an obligation, or  
16 otherwise give value;  
17 (b) The financing statement covers accounts or chattel  
18 paper that has been sold but as to which the account debtor or  
19 other person obligated has discharged its obligation;  
20 (c) The financing statement covers goods that were the  
21 subject of a consignment to the debtor but are not in the  
22 debtor's possession; or  
23 (d) The debtor did not authorize the filing of the  
24 initial financing statement.  
25 (4) Except as otherwise provided in s. 679.510, upon  
26 the filing of a termination statement with the filing office,  
27 the financing statement to which the termination statement  
28 relates ceases to be effective. Except as otherwise provided  
29 in s. 679.510, for purposes of ss. 679.519(7) and 679.522(1),  
30 the filing with the filing office of a termination statement  
31 relating to a financing statement that indicates that the

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 debtor is a transmitting utility also causes the effectiveness  
2 of the financing statement to lapse.

3 679.514 Assignment of powers of secured party of  
4 record.--

5 (1) Except as otherwise provided in subsection (3), an  
6 initial financing statement may reflect an assignment of all  
7 of the secured party's power to authorize an amendment to the  
8 financing statement by providing the name and mailing address  
9 of the assignee as the name and address of the secured party.

10 (2) Except as otherwise provided in subsection (3), a  
11 secured party of record may assign of record all or part of  
12 its power to authorize an amendment to a financing statement  
13 by filing in the filing office an amendment of the financing  
14 statement which:

15 (a) Identifies, by its correct file number and the  
16 secured party of record, the initial financing statement to  
17 which it relates;

18 (b) Provides the names of the assignor and debtor; and

19 (c) Provides the name and mailing address of the  
20 assignee.

21 (3) An assignment of record of a security interest in  
22 a fixture covered by a real property mortgage that is  
23 effective as a fixture filing under s. 679.5021(3) may be made  
24 only by an assignment of record of the mortgage in the manner  
25 provided by s. 701.02.

26 679.515 Duration and effectiveness of financing  
27 statement; effect of lapsed financing statement.--

28 (1) Except as otherwise provided in subsections (2),  
29 (5), (6), and (7), a filed financing statement is effective  
30 for a period of 5 years after the date of filing.

31 (2) Except as otherwise provided in subsections (5),

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 (6), and (7), an initial financing statement filed in  
2 connection with a manufactured-home transaction is effective  
3 for a period of 30 years after the date of filing if it  
4 indicates that it is filed in connection with a  
5 manufactured-home transaction.

6 (3) The effectiveness of a filed financing statement  
7 lapses on the expiration of the period of its effectiveness  
8 unless, before the lapse, a continuation statement is filed  
9 pursuant to subsection (4). Upon lapse, a financing statement  
10 ceases to be effective and any security interest or  
11 agricultural lien that was perfected by the financing  
12 statement becomes unperfected, unless the security interest is  
13 perfected without filing. If the security interest or  
14 agricultural lien becomes unperfected upon lapse, it is deemed  
15 never to have been perfected as against a purchaser of the  
16 collateral for value.

17 (4) A continuation statement may be filed only within  
18 6 months before the expiration of the 5-year period specified  
19 in subsection (1) or the 30-year period specified in  
20 subsection (2), whichever is applicable.

21 (5) Except as otherwise provided in s. 679.510, upon  
22 timely filing of a continuation statement, the effectiveness  
23 of the initial financing statement continues for a period of 5  
24 years commencing on the day on which the financing statement  
25 would have become ineffective in the absence of the filing.  
26 Upon the expiration of the 5-year period, the financing  
27 statement lapses in the same manner as provided in subsection  
28 (3), unless, before the lapse, another continuation statement  
29 is filed pursuant to subsection (4). Succeeding continuation  
30 statements may be filed in the same manner to continue the  
31 effectiveness of the initial financing statement.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1       (6) If a debtor is a transmitting utility and a filed  
2 financing statement so indicates, the financing statement is  
3 effective until a termination statement is filed.

4       (7) A record of a mortgage satisfying the requirements  
5 of chapter 697 that is effective as a fixture filing under s.  
6 679.5021(3) remains effective as a financing statement filed  
7 as a fixture filing until the mortgage is released or  
8 satisfied of record or its effectiveness otherwise terminates  
9 as to the real property.

10       679.516 What constitutes filing; effectiveness of  
11 filing.--

12       (1) Except as otherwise provided in subsection (2),  
13 communication of a record to a filing office, tender of the  
14 processing fee, or acceptance of the record by the filing  
15 office constitutes filing.

16       (2) Filing does not occur with respect to a record  
17 that a filing office refuses to accept because:

18       (a) The record is not communicated by a method or  
19 medium of communication authorized by the filing office;

20       (b) An amount equal to or greater than the applicable  
21 processing fee is not tendered;

22       (c) The record does not include the notation required  
23 by s. 201.22 indicating that the excise tax required by  
24 chapter 201 had been paid or is not required;

25       (d) The filing office is unable to index the record  
26 because:

27       1. In the case of an initial financing statement, the  
28 record does not provide an organization's name or, if an  
29 individual, the individual's last name and first name or  
30 initial;

31       2. In the case of an amendment or correction

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1 statement, the record:
- 2 a. Does not correctly identify the initial financing
- 3 statement as required by s. 679.512 or s. 679.518, as
- 4 applicable; or
- 5 b. Identifies an initial financing statement the
- 6 effectiveness of which has lapsed under s. 679.515;
- 7 3. In the case of an initial financing statement that
- 8 provides the name of a debtor identified as an individual or
- 9 an amendment that provides a name of a debtor identified as an
- 10 individual which was not previously provided in the financing
- 11 statement to which the record relates, the record does not
- 12 identify the debtor's last name and first name or initial; or
- 13 4. In the case of a record filed or recorded in the
- 14 filing office described in s. 679.5011(1)(a), the record does
- 15 not provide a sufficient description of the real property to
- 16 which it relates;
- 17 (e) In the case of an initial financing statement or
- 18 an amendment that adds a secured party of record, the record
- 19 does not provide an organization's name or, if an individual,
- 20 the individual's last name and first name or initial and
- 21 mailing address for the secured party of record;
- 22 (f) In the case of an initial financing statement or
- 23 an amendment that provides a name of a debtor which was not
- 24 previously provided in the financing statement to which the
- 25 amendment relates, the record does not:
- 26 1. Provide a mailing address for the debtor;
- 27 2. Indicate whether the debtor is an individual or an
- 28 organization; or
- 29 3. If the financing statement indicates that the
- 30 debtor is an organization, provide:
- 31 a. A type of organization for the debtor;

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           b. A jurisdiction of organization for the debtor; or

2           c. An organizational identification number for the

3 debtor or indicate that the debtor has none;

4           (g) In the case of an assignment reflected in an

5 initial financing statement under s. 679.514(1) or an

6 amendment filed under s. 679.514(2), the record does not

7 provide an organization's name or, if an individual, the

8 individual's last name and first name or initial and mailing

9 address for the assignee;

10          (h) In the case of a continuation statement, the

11 record is not filed within the 6-month period prescribed by s.

12 679.515(4);

13          (i) In the case of an initial financing statement or

14 an amendment, which amendment requires the inclusion of a

15 collateral statement but the record does not provide any, the

16 record does not provide a statement of collateral; or

17          (3) For purposes of subsection (2):

18           (a) A record does not provide information if the

19 filing office is unable to read or decipher the information;

20 and

21           (b) A record that does not indicate that it is an

22 amendment or identify an initial financing statement to which

23 it relates, as required by s. 679.512, s. 679.514, or s.

24 679.518, is an initial financing statement.

25          (4) A record that is communicated to the filing office

26 with tender of the filing fee, but that the filing office

27 refuses to accept for a reason other than one set forth in

28 subsection (2), is effective as a filed record except as

29 against a purchaser of the collateral which gives value in

30 reasonable reliance upon the absence of the record from the

31 files.



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.517 Effect of indexing errors.--The failure of the  
2 filing office to index a record correctly does not affect the  
3 effectiveness of the filed record.

4           679.518 Claim concerning inaccurate or wrongfully  
5 filed record.--

6           (1) A person may file in the filing office a  
7 correction statement with respect to a record indexed there  
8 under the person's name if the person believes that the record  
9 is inaccurate or was wrongfully filed.

10           (2) A correction statement must:

11           (a) Identify the record to which it relates by the  
12 file number assigned to the initial financing statement, the  
13 debtor, and the secured party of record to which the record  
14 relates;

15           (b) Indicate that it is a correction statement; and

16           (c) Provide the basis for the person's belief that the  
17 record is inaccurate and indicate the manner in which the  
18 person believes the record should be amended to cure any  
19 inaccuracy or provide the basis for the person's belief that  
20 the record was wrongfully filed.

21           (3) The filing of a correction statement does not  
22 affect the effectiveness of an initial financing statement or  
23 other filed record.

24           679.519 Numbering, maintaining, and indexing records;  
25 communicating information provided in records.--

26           (1) For each record filed in a filing office, the  
27 filing office shall, in accordance with such other laws  
28 applicable to the recording of instruments by a filing office  
29 described in s. 679.5011(1)(a):

30           (a) Assign a unique number to the filed record;

31           (b) Create a record that bears the number assigned to

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 the filed record and the date and time of filing;  
2 (c) Maintain the filed record for public inspection;  
3 and  
4 (d) Index the filed record in accordance with  
5 subsections (3), (4), and (5).  
6 (2) Except as otherwise provided in subsection (9), a  
7 file number assigned after January 1, 2002, must include a  
8 digit that:  
9 (a) Is mathematically derived from or related to the  
10 other digits of the file number; and  
11 (b) Enables the filing office to detect whether a  
12 number communicated as the file number includes a single-digit  
13 or transpositional error.  
14 (3) Except as otherwise provided in subsections (4)  
15 and (5), the filing office shall:  
16 (a) Index an initial financing statement according to  
17 the name of the debtor and shall index all filed records  
18 relating to the initial financing statement in a manner that  
19 associates with one another an initial financing statement and  
20 all filed records relating to the initial financing statement;  
21 and  
22 (b) Index a record that provides a name of a debtor  
23 which was not previously provided in the financing statement  
24 to which the record relates also according to the name that  
25 was not previously provided.  
26 (4) If a financing statement is filed as a fixture  
27 filing or covers as-extracted collateral or timber to be cut,  
28 the filing office shall index it:  
29 (a) Under the names of the debtor and of each owner of  
30 record shown on the financing statement as if they were the  
31 mortgagors under a mortgage of the real property described;

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 and

2 (b) To the extent that the law of this state provides  
3 for indexing of mortgages under the name of the mortgagee,  
4 under the name of the secured party as if the secured party  
5 were the mortgagee thereunder, or, if indexing is by  
6 description, as if the financing statement were a mortgage of  
7 the real property described.

8 (5) If a financing statement is filed as a fixture  
9 filing or covers as-extracted collateral or timber to be cut,  
10 the filing office shall index an assignment filed under s.  
11 679.514(1) or an amendment filed under s. 679.514(2):

12 (a) Under the name of the assignor as grantor; and

13 (b) To the extent that the law of this state provides  
14 for indexing the assignment of a real property mortgage under  
15 the name of the assignee, under the name of the assignee.

16 (6) The filing office shall maintain a capability for:

17 (a) Retrieving a record by the name of the debtor and  
18 by the file number assigned to the initial financing statement  
19 to which the record relates; and

20 (b) Associating and retrieving with one another an  
21 initial financing statement and each filed record relating to  
22 the initial financing statement.

23 (7) The filing office may not remove a debtor's name  
24 from the index until 1 year after the effectiveness of a  
25 financing statement naming the debtor lapses under s. 679.515  
26 with respect to all secured parties of record.

27 (8) Except as otherwise provided in subsection (9),  
28 the filing office shall perform the acts required by  
29 subsections (1) through (5) at the time and in the manner  
30 prescribed by any filing-office rule, but not later than 3  
31 business days after the filing office receives the record in

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 question, if practical.

2 (9) Subsections (1), (2), and (8) do not apply to a  
3 filing office described in s. 679.5011(1)(a).

4 679.520 Acceptance and refusal to accept record.--

5 (1) A filing office shall refuse to accept a record  
6 for filing for a reason set forth in s. 679.516(2) and may  
7 refuse to accept a record for filing only for a reason set  
8 forth in s. 679.516(2).

9 (2) If a filing office refuses to accept a record for  
10 filing, it shall communicate to the person that presented the  
11 record the fact of and reason for the refusal and the date and  
12 time the record would have been filed had the filing office  
13 accepted it. The communication must be made at the time and  
14 in the manner prescribed by any filing-office rule but, in the  
15 case of a filing office described in s. 679.5011(1)(b), in no  
16 event more than 3 business days after the filing office  
17 receives the record, if practical.

18 (3) A filed financing statement satisfying s.  
19 679.5021(1) and (2) is effective, even if the filing office is  
20 required to refuse to accept it for filing under subsection  
21 (1). However, s. 679.338 applies to a filed financing  
22 statement providing information described in s. 679.516(2)(e)  
23 which is incorrect at the time the financing statement is  
24 filed.

25 (4) If a record communicated to a filing office  
26 provides information that relates to more than one debtor,  
27 this part applies as to each debtor separately.

28 679.521 Uniform form of written financing statement  
29 and amendment.--The Secretary of State shall develop or  
30 approve acceptable forms for use in filing under this chapter.  
31 Such forms must be in accord with the requirements of Florida

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 law, including s. 201.22. The secretary may, if he or she  
2 finds that such forms meet these requirements, approve the use  
3 of a standard national form for this purpose.

4 679.522 Maintenance and destruction of records.--

5 (1) The filing office shall maintain a record of the  
6 information provided in a filed financing statement for at  
7 least 1 year after the effectiveness of the financing  
8 statement has lapsed under s. 679.515 with respect to all  
9 secured parties of record. The record must be retrievable by  
10 using the name of the debtor and by using the file number, or  
11 official records book and page number if a fixture filing,  
12 assigned to the initial financing statement to which the  
13 record relates.

14 (2) Except to the extent that chapter 119 governing  
15 disposition of public records provides otherwise, the filing  
16 office immediately may destroy any written record evidencing a  
17 financing statement. However, if the filing office destroys a  
18 written record, it shall maintain another record of the  
19 financing statement which complies with subsection (1).

20 679.523 Information from filing office; sale or  
21 license of records.--

22 (1) If a person files a written record, the filing  
23 office shall make available, on the database, an image of the  
24 record showing the number assigned to the record pursuant to  
25 s. 679.519(1)(a) and the date of the filing of the record or,  
26 if requested, send to the person a separate printed  
27 acknowledgement indicating the debtor's name, the number  
28 assigned to the record pursuant to s. 679.519(1)(a), and the  
29 date of the filing of the record.

30 (2) If a person files a record other than a written  
31 record, the filing office described in s. 679.5011(1)(b) shall

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 communicate to the person an image that provides:

2 (a) The information in the record;

3 (b) The number assigned to the record pursuant to s.

4 679.519(1)(a); and

5 (c) The date and time of the filing of the record.

6 (3) In complying with its duty under this chapter, the  
7 filing office described in s. 679.5011(1)(b) may communicate  
8 information in any medium. However, if requested, the filing  
9 office shall communicate information by issuing its written  
10 certificate or a record that can be admitted into evidence in  
11 the courts of the state without extrinsic evidence of its  
12 authenticity.

13 (4) The filing office described in s. 679.5011(1)(b)  
14 shall perform the acts required by subsections (1) and (2) at  
15 the time and in the manner prescribed by any filing-office  
16 rule, but not later than 3 business days after the filing  
17 office receives the request, if practical.

18 679.524 Delay by filing office.--Delay by the filing  
19 office beyond a time limit prescribed by this part is excused  
20 if:

21 (1) The delay is caused by interruption of  
22 communication or computer facilities, war, emergency  
23 conditions, failure of equipment, or other circumstances  
24 beyond control of the filing office; and

25 (2) The filing office exercises reasonable diligence  
26 under the circumstances.

27 679.525 Processing fees.--

28 (1) Except as otherwise provided in subsection (3),  
29 the nonrefundable processing fee for filing and indexing a  
30 record under this part, other than an initial financing  
31 statement of the kind described in s. 679.5021(3), is:

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           (a) For filing an initial financing statement, \$28 for  
2 the first page, and second page, if any, which shall include  
3 the cost of filing a termination statement for the financing  
4 statement;
- 5           (b) For filing an amendment, \$12 for the first page;  
6           (c) For indexing by additional debtor, secured party,  
7 or assignee, \$3 per additional name indexed;
- 8           (d) For use of a nonapproved form, \$5;  
9           (e) For each additional page attached to a record, \$3;  
10           (f) For filing a financing statement communicated by  
11 an electronic filing process authorized by the filing office,  
12 \$15 with no additional fees for multiple names or attached  
13 pages;
- 14           (g) For filing an amendment communicated by an  
15 electronic filing process authorized by the filing office, \$5  
16 with no additional fees for multiple names or attached pages;
- 17           (h) For a certified copy of a financing statement and  
18 any and all associated amendments, \$30; and
- 19           (i) For a photocopy of a filed record, \$1 per page.  
20           (2) Except as otherwise provided in subsection (3),  
21 the fee for filing and indexing an initial financing statement  
22 of the kind described in s. 679.5021(3) is the amount  
23 specified in chapter 28.
- 24           (3) This section does not require a fee with respect  
25 to a mortgage that is effective as a financing statement filed  
26 as a fixture filing or as a financing statement covering  
27 as-extracted collateral or timber to be cut under s.  
28 679.5021(3). However, the recording and satisfaction fees  
29 that otherwise would be applicable to the mortgage apply.
- 30           679.526 Filing-office rules.--The Department of State  
31 may adopt and publish rules to administer this chapter. The

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 filing-office rules must be:

2       (1) Consistent with this chapter.

3       (2) Adopted and published in accordance with the

4 Administrative Procedure Act.

5       679.527 Florida Secured Transaction Registry.--

6       (1) As used in this section, the term:

7       (a) The "Florida Secured Transaction Registry" or

8 "registry" means the centralized database in which all initial

9 financing statements, amendments, assignments, and other

10 statements of change authorized to be filed under this chapter

11 are filed, maintained, and retrieved. The term does not apply

12 to documents that are filed under this chapter with the clerk

13 of a circuit court.

14       (b) "Department" means the Department of State.

15       (c) "Materials and records" includes, but is not

16 limited to data bases, source or object codes, and any

17 software relating to the Florida Secured Transaction Registry

18 or system for centralized filing under this part, regardless

19 of the original source of its creation or maintenance.

20       (2) The Department of State may contract for the

21 performance of the administrative and operational functions

22 under this part of the filing office and filing officer for

23 the Florida Secured Transaction Registry, provided that any

24 such contract shall not be assignable or otherwise

25 transferable without the express written consent of the

26 department, notwithstanding any limitations imposed by ss.

27 679.4061 or 679.4081.

28       (3) The department shall perform the administrative

29 and operational functions, as filing officer and filing

30 office, for the Florida Secured Transaction Registry until

31 October 1, 2001, or upon the effective date of a contract



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 executed by the department to administer and operate the  
2 registry, whichever occurs later. At such time, the  
3 department shall cease serving as the designated filing  
4 officer and filing office for the registry under this part,  
5 and thereafter, except to the extent it reclaims such  
6 responsibilities as provided below, shall not be responsible  
7 for the duties of the filing office and officer under this  
8 part, including determining whether documents tendered for  
9 filing under this part satisfy the requirements of law. The  
10 department shall retain authority under this part to approve  
11 the forms required to be filed under this part. If authorized  
12 by the contract, the entity performing the duties of the  
13 filing office may certify a copy of a financing statement or  
14 amendment thereto which shall be admissible in a state or  
15 federal court or other tribunal proceeding.

16 (4) Notwithstanding the terms and conditions of any  
17 contract to perform the administrative and operational  
18 functions of the filing office or filing officer under this  
19 part for the Florida Secured Transaction Registry, the  
20 department and the state shall retain sole and exclusive  
21 ownership of the materials and records of the registry, shall  
22 have the right to inspect and make copies of the materials and  
23 records of the registry, and shall have the right to  
24 immediately reclaim and take possession and control of the  
25 original materials and records of the registry if any entity  
26 under contract with the department to administer and operate  
27 the registry does not, or cannot, perform the terms and  
28 conditions of the contract for any reason or commences or  
29 consents to an insolvency proceeding. If the department  
30 reclaims control of the materials and records of the registry,  
31 the department shall provide for the uninterrupted fulfillment

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 of the duties of the filing office and filing officer by  
2 administration and operation by the department until a  
3 subsequent contract for such duties can be executed. The  
4 department shall be entitled to injunctive relief if the  
5 entity fails to turn over the materials and records upon  
6 demand, and the Circuit Court for Leon County, Florida shall  
7 have exclusive original jurisdiction to adjudicate any  
8 disputes pertaining to this section or any contract entered  
9 into under this section.

10 (5) The Department of State shall immediately develop  
11 and issue a Request for Qualifications seeking capable parties  
12 to perform both the administrative and operational functions  
13 currently being performed by the department as a filing  
14 officer and filing office under the Uniform Commercial Code.

15 (a) The qualifications shall, at a minimum, provide  
16 for the organization and maintenance of the Florida Secured  
17 Transaction Registry as the centralized Uniform Commercial  
18 Code filing and retrieval system, which:

19 1. Is comparable and compatible with the existing  
20 filing system.

21 2. Is open to the public and accessible through the  
22 Internet, to permit the review of all existing filings of the  
23 department and all future filings, in compliance with chapter  
24 119.

25 3. Provides for oversight and compliance audits by the  
26 department.

27 4. Requires records maintenance in compliance with  
28 this part and chapter 119.

29 5. Maintains the current level of filing fees and  
30 procedures for the deposit of revenues with the department as  
31 specified in chapter 15, net of operating costs, for a period

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 of 5 years.

2 (b) The Department of State shall develop performance  
3 standards to ensure that the filing system is accurate and  
4 complete and that the users thereof are being well-served.  
5 Periodically, the department shall verify that these  
6 performance standards are being met or modified as may be  
7 needed from time to time.

8 Section 7. Part VI of chapter 679, Florida Statutes,  
9 consisting of sections 679.601, 679.602, 679.603, 679.604,  
10 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611,  
11 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618,  
12 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625,  
13 679.626, 679.627, and 679.628, Florida Statutes, is created to  
14 read:

15 PART VI

16 DEFAULT

17 679.601 Rights after default; judicial enforcement;  
18 consignor or buyer of accounts, chattel paper, payment  
19 intangibles, or promissory notes.--

20 (1) After default, a secured party has the rights  
21 provided in this part and, except as otherwise provided in s.  
22 679.602, those provided by agreement of the parties. A secured  
23 party:

24 (a) May reduce a claim to judgment, foreclose, or  
25 otherwise enforce the claim, security interest, or  
26 agricultural lien by any available judicial procedure; and

27 (b) If the collateral is documents, may proceed either  
28 as to the documents or as to the goods they cover.

29 (2) A secured party in possession of collateral or  
30 control of collateral under s. 679.1041, s. 679.1051, s.  
31 679.1061, or s. 679.1071 has the rights and duties provided in

1 s. 679.2071.

2 (3) The rights under subsections (1) and (2) are  
3 cumulative and may be exercised simultaneously.

4 (4) Except as otherwise provided in subsection (7) and  
5 s. 679.605, after default, a debtor and an obligor have the  
6 rights provided in this part and by agreement of the parties.

7 (5) If a secured party has reduced its claim to  
8 judgment, the lien of any levy that may be made upon the  
9 collateral by virtue of an execution based upon the judgment  
10 relates back to the earliest of:

11 (a) The date of perfection of the security interest or  
12 agricultural lien in the collateral;

13 (b) The date of filing a financing statement covering  
14 the collateral; or

15 (c) Any date specified in a statute under which the  
16 agricultural lien was created.

17 (6) A sale pursuant to an execution is a foreclosure  
18 of the security interest or agricultural lien by judicial  
19 procedure within the meaning of this section. A secured party  
20 may purchase at the sale and thereafter hold the collateral  
21 free of any other requirements of this chapter.

22 (7) Except as otherwise provided in s. 679.607(3),  
23 this part imposes no duties upon a secured party that is a  
24 consignor or is a buyer of accounts, chattel paper, payment  
25 intangibles, or promissory notes.

26 679.602 Waiver and variance of rights and  
27 duties.--Except as otherwise provided in s. 679.624, to the  
28 extent that they give rights to a debtor or obligor and impose  
29 duties on a secured party, the debtor or obligor may not waive  
30 or vary the rules stated in the following listed sections:

31 (1) Section 679.2071(2)(d)3., which deals with use and

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1 operation of the collateral by the secured party;  
2 (2) Section 679.210, which deals with requests for an  
3 accounting and requests concerning a list of collateral and  
4 statement of account;  
5 (3) Section 679.607(3), which deals with collection  
6 and enforcement of collateral;  
7 (4) Sections 679.608(1) and 679.615(3) to the extent  
8 that they deal with application or payment of noncash proceeds  
9 of collection, enforcement, or disposition;  
10 (5) Sections 679.608(1) and 679.615(4) to the extent  
11 that they require accounting for or payment of surplus  
12 proceeds of collateral;  
13 (6) Section 679.609 to the extent that it imposes upon  
14 a secured party that takes possession of collateral without  
15 judicial process the duty to do so without breach of the  
16 peace;  
17 (7) Sections 679.610(2), 679.611, 679.613, and  
18 679.614, which deal with disposition of collateral;  
19 (8) Section 679.615(6), which deals with calculation  
20 of a deficiency or surplus when a disposition is made to the  
21 secured party, a person related to the secured party, or a  
22 secondary obligor;  
23 (9) Section 679.616, which deals with explanation of  
24 the calculation of a surplus or deficiency;  
25 (10) Sections 679.620, 679.621, and 679.622, which  
26 deal with acceptance of collateral in satisfaction of  
27 obligation;  
28 (11) Section 679.623, which deals with redemption of  
29 collateral;  
30 (12) Section 679.624, which deals with permissible  
31 waivers; and

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (13) Sections 679.625 and 679.626, which deal with the  
2 secured party's liability for failure to comply with this  
3 article.

4           679.603 Agreement on standards concerning rights and  
5 duties.--

6           (1) The parties may determine by agreement the  
7 standards measuring the fulfillment of the rights of a debtor  
8 or obligor and the duties of a secured party under a rule  
9 stated in s. 679.602 if the standards are not manifestly  
10 unreasonable.

11           (2) Subsection (1) does not apply to the duty under s.  
12 679.609 to refrain from breaching the peace.

13           679.604 Procedure if security agreement covers real  
14 property or fixtures.--

15           (1) If a security agreement covers both personal and  
16 real property, a secured party may proceed:

17           (a) Under this part as to the personal property  
18 without prejudicing any rights with respect to the real  
19 property; or

20           (b) As to both the personal property and the real  
21 property in accordance with the rights with respect to the  
22 real property, in which case the other provisions of this part  
23 do not apply.

24           (2) Subject to subsection (3), if a security agreement  
25 covers goods that are or become fixtures, a secured party may  
26 proceed:

27           (a) Under this part; or

28           (b) In accordance with the rights with respect to real  
29 property, in which case the other provisions of this part do  
30 not apply.

31           (3) Subject to the other provisions of this part, if a

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 secured party holding a security interest in fixtures has  
2 priority over all owners and encumbrancers of the real  
3 property, the secured party, after default, may remove the  
4 collateral from the real property. The secured party shall  
5 give reasonable notification of its intent to remove the  
6 collateral to all persons entitled to reimbursement under  
7 subsection (4).

8 (4) A secured party that removes collateral shall  
9 promptly reimburse any encumbrancer or owner of the real  
10 property, other than the debtor, for the cost of repair of any  
11 physical injury caused by the removal. The secured party need  
12 not reimburse the encumbrancer or owner for any diminution in  
13 value of the real property caused by the absence of the goods  
14 removed or by any necessity of replacing them. A person  
15 entitled to reimbursement may refuse permission to remove  
16 until the secured party gives adequate assurance for the  
17 performance of the obligation to reimburse. This subsection  
18 does not prohibit a secured party and the person entitled to  
19 reimbursement from entering into an authenticated record  
20 providing for the removal of fixtures and reimbursement for  
21 any damage caused thereby.

22 679.605 Unknown debtor or secondary obligor.--A  
23 secured party does not owe a duty based on its status as  
24 secured party:

25 (1) To a person who is a debtor or obligor, unless the  
26 secured party knows:

27 (a) That the person is a debtor or obligor;

28 (b) The identity of the person; and

29 (c) How to communicate with the person; or

30 (2) To a secured party or lienholder that has filed a  
31 financing statement against a person, unless the secured party

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 knows:

2 (a) That the person is a debtor; and

3 (b) The identity of the person.

4 679.606 Time of default for agricultural lien.--For  
5 purposes of this part, a default occurs in connection with an  
6 agricultural lien at the time the secured party becomes  
7 entitled to enforce the lien in accordance with the statute  
8 under which it was created.

9 679.607 Collection and enforcement by secured party.--

10 (1) If so agreed, and in any event after default, a  
11 secured party:

12 (a) May notify an account debtor or other person  
13 obligated on collateral to make payment or otherwise render  
14 performance to or for the benefit of the secured party;

15 (b) May take any proceeds to which the secured party  
16 is entitled under s. 679.3151;

17 (c) May enforce the obligations of an account debtor  
18 or other person obligated on collateral and exercise the  
19 rights of the debtor with respect to the obligation of the  
20 account debtor or other person obligated on collateral to make  
21 payment or otherwise render performance to the debtor, and  
22 with respect to any property that secures the obligations of  
23 the account debtor or other person obligated on the  
24 collateral;

25 (d) If it holds a security interest in a deposit  
26 account perfected by control under s. 679.1041(1)(a), may  
27 apply the balance of the deposit account to the obligation  
28 secured by the deposit account; and

29 (e) If it holds a security interest in a deposit  
30 account perfected by control under s. 679.1041(1)(b) or (c),  
31 may instruct the bank to pay the balance of the deposit



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 account to or for the benefit of the secured party.

2 (2) If necessary to enable a secured party to exercise  
3 under paragraph (1)(c) the right of a debtor to enforce a  
4 mortgage nonjudicially outside this state, the secured party  
5 may record in the office in which a record of the mortgage is  
6 recorded:

7 (a) A copy of the security agreement that creates or  
8 provides for a security interest in the obligation secured by  
9 the mortgage; and

10 (b) The secured party's sworn affidavit in recordable  
11 form stating that:

12 1. A default has occurred; and

13 2. The secured party is entitled to enforce the  
14 mortgage nonjudicially outside this state.

15 (3) A secured party shall proceed in a commercially  
16 reasonable manner if the secured party:

17 (a) Undertakes to collect from or enforce an  
18 obligation of an account debtor or other person obligated on  
19 collateral; and

20 (b) Is entitled to charge back uncollected collateral  
21 or otherwise to full or limited recourse against the debtor or  
22 a secondary obligor.

23 (4) A secured party may deduct from the collections  
24 made pursuant to subsection (3) reasonable expenses of  
25 collection and enforcement, including reasonable attorney's  
26 fees and legal expenses incurred by the secured party.

27 (5) This section does not determine whether an account  
28 debtor, bank, or other person obligated on collateral owes a  
29 duty to a secured party.

30 (6) Nothing in subsection (2) is intended to create a  
31 right of nonjudicial foreclosure in this state.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.608 Application of proceeds of collection or  
2 enforcement; liability for deficiency and right to surplus.--

3           (1) If a security interest or agricultural lien  
4 secures payment or performance of an obligation, the following  
5 rules apply:

6           (a) A secured party shall apply or pay over for  
7 application the cash proceeds of collection or enforcement  
8 under s. 679.607 in the following order to:

9           1. The reasonable expenses of collection and  
10 enforcement and, to the extent provided for by agreement and  
11 not prohibited by law, reasonable attorney's fees and legal  
12 expenses incurred by the secured party;

13           2. The satisfaction of obligations secured by the  
14 security interest or agricultural lien under which the  
15 collection or enforcement is made; and

16           3. The satisfaction of obligations secured by any  
17 subordinate security interest in or other lien on the  
18 collateral subject to the security interest or agricultural  
19 lien under which the collection or enforcement is made if the  
20 secured party receives an authenticated demand for proceeds  
21 before distribution of the proceeds is completed.

22           (b) If requested by a secured party, a holder of a  
23 subordinate security interest or other lien shall furnish  
24 reasonable proof of the interest or lien within a reasonable  
25 time and agree to indemnify the secured party on reasonable  
26 terms acceptable to the secured party for damages, including  
27 reasonable attorney's fees and costs, incurred or suffered by  
28 the secured party if the subordinate holder did not have the  
29 right to receive the amounts to be paid to it. Unless the  
30 holder complies, the secured party need not comply with the  
31 holder's demand under subparagraph (a)3.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (c) A secured party need not apply or pay over for  
2 application noncash proceeds of collection and enforcement  
3 under s. 679.607 unless the failure to do so would be  
4 commercially unreasonable. A secured party that applies or  
5 pays over for application noncash proceeds shall do so in a  
6 commercially reasonable manner.

7           (d) A secured party shall account to and pay a debtor  
8 for any surplus, and the obligor is liable for any deficiency.

9           (2) If the underlying transaction is a sale of  
10 accounts, chattel paper, payment intangibles, or promissory  
11 notes, the debtor is not entitled to any surplus, and the  
12 obligor is not liable for any deficiency.

13           (3) If the secured party in good faith cannot  
14 determine the validity, extent, or priority of a subordinate  
15 security interest or other lien or there are conflicting  
16 claims of subordinate interests or liens, the secured party  
17 may commence an interpleader action with respect to remaining  
18 proceeds in excess of \$2,500 in the circuit or county court,  
19 as applicable based upon the amount to be deposited, where the  
20 collateral was located or collected or in the county where the  
21 debtor has its chief executive office or principal residence  
22 in this state, as applicable. If authorized in an  
23 authenticated record, the interpleading secured party is  
24 entitled to be paid from the remaining proceeds the actual  
25 costs of the filing fee and an attorney's fee in the amount of  
26 \$250 incurred in connection with filing the interpleader  
27 action and obtaining an order approving the interpleader of  
28 funds. The debtor in a consumer transaction may not be  
29 assessed for the attorney's fees and costs incurred in the  
30 interpleader action by the holders of subordinate security  
31 interests or other liens based upon disputes among said

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 holders, and a debtor in a transaction other than a consumer  
2 transaction may only recover such fees and costs to the extent  
3 provided for in an authenticated record. If authorized in an  
4 authenticated record, the court in the interpleader action may  
5 award reasonable attorney's fees and costs to the prevailing  
6 party in a dispute between the debtor and a holder of a  
7 security interest or lien which claims an interest in the  
8 remaining interplead proceeds, but only if the debtor  
9 challenges the validity, priority, or extent of said security  
10 interest or lien. Except as provided in this subsection, a  
11 debtor may not be assessed attorney's fees and costs incurred  
12 by any party in an interpleader action commenced under this  
13 section.

14 679.609 Secured party's right to take possession after  
15 default.--

16 (1) After default, a secured party:

17 (a) May take possession of the collateral; and

18 (b) Without removal, may render equipment unusable and  
19 dispose of collateral on a debtor's premises under s. 679.610.

20 (2) A secured party may proceed under subsection (1):

21 (a) Pursuant to judicial process; or

22 (b) Without judicial process, if it proceeds without  
23 breach of the peace.

24 (3) If so agreed, and in any event after default, a  
25 secured party may require the debtor to assemble the

26 collateral and make it available to the secured party at a

27 place to be designated by the secured party which is

28 reasonably convenient to both parties.

29 679.610 Disposition of collateral after default.--

30 (1) After default, a secured party may sell, lease,

31 license, or otherwise dispose of any or all of the collateral

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 in its present condition or following any commercially  
2 reasonable preparation or processing.

3 (2) Every aspect of a disposition of collateral,  
4 including the method, manner, time, place, and other terms,  
5 must be commercially reasonable. If commercially reasonable,  
6 a secured party may dispose of collateral by public or private  
7 proceedings, by one or more contracts, as a unit or in  
8 parcels, and at any time and place and on any terms.

9 (3) A secured party may purchase collateral:

10 (a) At a public disposition; or

11 (b) At a private disposition only if the collateral is  
12 of a kind that is customarily sold on a recognized market or  
13 the subject of widely distributed standard price quotations.

14 (4) A contract for sale, lease, license, or other  
15 disposition includes the warranties relating to title,  
16 possession, quiet enjoyment, and the like which by operation  
17 of law accompany a voluntary disposition of property of the  
18 kind subject to the contract.

19 (5) A secured party may disclaim or modify warranties  
20 under subsection (4):

21 (a) In a manner that would be effective to disclaim or  
22 modify the warranties in a voluntary disposition of property  
23 of the kind subject to the contract of disposition; or

24 (b) By communicating to the purchaser a record  
25 evidencing the contract for disposition and including an  
26 express disclaimer or modification of the warranties.

27 (6) A record is sufficient to disclaim warranties  
28 under subsection (5) if it indicates that "there is no  
29 warranty relating to title, possession, quiet enjoyment, or  
30 the like in this disposition" or uses words of similar import.

31 679.611 Notification before disposition of

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 collateral.--

2 (1) In this section, the term "notification date"  
3 means the earlier of the date on which:

4 (a) A secured party sends to the debtor and any  
5 secondary obligor an authenticated notification of  
6 disposition; or

7 (b) The debtor and any secondary obligor waive the  
8 right to notification.

9 (2) Except as otherwise provided in subsection (4), a  
10 secured party that disposes of collateral under s. 679.610  
11 shall send to the persons specified in subsection (3) a  
12 reasonable authenticated notification of disposition.

13 (3) To comply with subsection (2), the secured party  
14 shall send an authenticated notification of disposition to:

15 (a) The debtor;

16 (b) Any secondary obligor; and

17 (c) If the collateral is other than consumer goods:

18 1. Any other person from whom the secured party has  
19 received, before the notification date, an authenticated  
20 notification of a claim of an interest in the collateral;

21 2. Any other secured party or lienholder that, 10 days  
22 before the notification date, held a security interest in or  
23 other lien on the collateral perfected by the filing of a  
24 financing statement that:

25 a. Identified the collateral;

26 b. Was indexed under the debtor's name as of that  
27 date; and

28 c. Was filed in the office in which to file a  
29 financing statement against the debtor covering the collateral  
30 as of that date; and

31 3. Any other secured party that, 10 days before the

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 notification date, held a security interest in the collateral  
2 perfected by compliance with a statute, regulation, or treaty  
3 described in s. 679.3111(1).

4 (4) Subsection (2) does not apply if the collateral is  
5 perishable or threatens to decline speedily in value or is of  
6 a type customarily sold on a recognized market.

7 (5) A secured party complies with the requirement for  
8 notification prescribed by subparagraph (3)(c)2. if:

9 (a) Not later than 20 days or earlier than 30 days  
10 before the notification date, the secured party requests, in a  
11 commercially reasonable manner, information concerning  
12 financing statements indexed under the debtor's name in the  
13 office indicated in subparagraph (3)(c)2.; and

14 (b) Before the notification date, the secured party:

15 1. Did not receive a response to the request for  
16 information; or

17 2. Received a response to the request for information  
18 and sent an authenticated notification of disposition to each  
19 secured party or other lienholder named in that response whose  
20 financing statement covered the collateral.

21 (6) For purposes of subsection (3), the secured party  
22 may send the authenticated notification as follows:

23 (a) If the collateral is other than consumer goods, to  
24 the debtor at the address in the financing statement, unless  
25 the secured party has received an authenticated record from  
26 the debtor notifying the secured party of a different address  
27 for such notification purposes or the secured party has actual  
28 knowledge of the address of the debtor's chief executive  
29 office or principal residence, as applicable, at the time the  
30 notification is sent;

31 (b) If the collateral is other than consumer goods, to

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 any secondary obligor at the address, if any, in the  
 2 authenticated agreement, unless the secured party has received  
 3 an authenticated record from the secondary obligor notifying  
 4 the secured party of a different address for such notification  
 5 purposes or the secured party has actual knowledge of the  
 6 address of the secondary obligor's chief executive office or  
 7 principal residence, as applicable, at the time the  
 8 notification is sent; and

9 (c) If the collateral is other than consumer goods:

10 1. To the person described in subparagraph (3)(c)1.,  
 11 at the address stated in the notification;

12 2. To the person described in subparagraph (3)(c)2.,  
 13 at the address stated in the financing statement;

14 3. To the person described in subparagraph (3)(c)3.,  
 15 at the address stated in the official records of the recording  
 16 or registration agency.

17 679.612 Timeliness of notification before disposition  
 18 of collateral.--

19 (1) Except as otherwise provided in subsection (2),  
 20 whether a notification is sent within a reasonable time is a  
 21 question of fact.

22 (2) A notification of disposition sent after default  
 23 and 10 days or more before the earliest time of disposition  
 24 set forth in the notification is sent within a reasonable time  
 25 before the disposition.

26 679.613 Contents and form of notification before  
 27 disposition of collateral; general.--Except in a  
 28 consumer-goods transaction, the following rules apply:

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

31 (a) Describes the debtor and the secured party;



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (b) Describes the collateral that is the subject of  
2 the intended disposition;

3           (c) States the method of intended disposition;

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

7           (e) States the time and place of a public disposition  
8 or the time after which any other disposition is to be made.

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

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

15           (a) Information not specified by that paragraph; or  
16           (b) Minor errors that are not seriously misleading.

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

19           (5) The following form of notification and the form  
20 appearing in s. 679.614(3), when completed, each provides  
21 sufficient information:

22                   NOTIFICATION OF DISPOSITION OF COLLATERAL  
23 To:....(Name of debtor, obligor, or other person to which the  
24 notification is sent)....

25 From:....(Name, address, and telephone number of secured  
26 party)....

27 Name of Debtor(s):....(Include only if debtor(s) are not an  
28 addressee)....

29 [For a public disposition:]

30           We will sell [or lease or license, as applicable] the  
31 ....(describe collateral)....to the highest qualified bidder

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 in public as follows:

2 Day and Date:

3 Time:

4 Place:

5 [For a private disposition:]

6 We will sell [or lease or license, as applicable] the  
7 ....(describe collateral).... privately sometime after  
8 ....(day and date).....

9 You are entitled to an accounting of the unpaid  
10 indebtedness secured by the property that we intend to sell  
11 [or lease or license, as applicable] for a charge of \$\_\_\_\_\_.

12 You may request an accounting by calling us at ....(telephone  
13 number).....

14 679.614 Contents and form of notification before  
15 disposition of collateral; consumer-goods transaction.--In a  
16 consumer-goods transaction, the following rules apply:

17 (1) A notification of disposition must provide the  
18 following information:

19 (a) The information specified in s. 679.613(1);

20 (b) A description of any liability for a deficiency of  
21 the person to whom the notification is sent;

22 (c) A telephone number from which the amount that must  
23 be paid to the secured party to redeem the collateral under s.  
24 679.623 is available; and

25 (d) A telephone number or mailing address from which  
26 additional information concerning the disposition and the  
27 obligation secured is available.

28 (2) A particular phrasing of the notification is not  
29 required.

30 (3) The following form of notification, when  
31 completed, provides sufficient information:

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 ....(Name and address of secured party)....

2 .... (Date)....

3 NOTICE OF OUR PLAN TO SELL PROPERTY

4 .... (Name and address of any obligor who is also a  
5 debtor)....

6 Subject:....(Identification of Transaction)....

7 We have your ....(describe collateral)...., because you broke  
8 promises in our agreement.

9  
10 [For a public disposition:]

11 We will sell ....(describe collateral).... at public sale. A  
12 sale could include a lease or license. The sale will be held  
13 as follows:

14     Date:

15     Time:

16     Place:

17 You may attend the sale and bring bidders if you want.

18 [For a private disposition:]

19 We will sell ....(describe collateral).... at private sale  
20 sometime after ....(date)..... A sale could include a lease or  
21 license.

22  
23 The money that we get from the sale (after paying our costs)  
24 will reduce the amount you owe. If we get less money than you  
25 owe, you ....(will or will not, as applicable).... still owe  
26 us the difference. If we get more money than you owe, you will  
27 get the extra money, unless we must pay it to someone else.

28  
29 You can get the property back at any time before we sell it by  
30 paying us the full amount you owe (not just the past due  
31 payments), including our expenses. To learn the exact amount

hbd-032

Amendment No.      (for drafter's use only)

1 you must pay, call us at ....(telephone number).....

2

3 If you want us to explain to you in writing how we have  
4 figured the amount that you owe us, you may call us at  
5 ....(telephone number).... or write us at ....(secured party's  
6 address).... and request a written explanation. We will charge  
7 you \$\_\_\_\_\_ for the explanation if we sent you another written  
8 explanation of the amount you owe us within the last 6 months.

9

10 If you need more information about the sale, call us at  
11 ....(telephone number).... or write us at ....(secured party's  
12 address).....

13

14 We are sending this notice to the following other people who  
15 have an interest in ....(describe collateral).... or who owe  
16 money under your agreement:

17 ....(Names of all other debtors and obligors, if any)....

18 (4) A notification in the form of subsection (3) is  
19 sufficient, even if additional information appears at the end  
20 of the form.

21 (5) A notification in the form of subsection (3) is  
22 sufficient, even if it includes errors in information not  
23 required by subsection (1), unless the error is misleading  
24 with respect to rights arising under this chapter.

25 (6) If a notification under this section is not in the  
26 form of subsection (3), law other than this chapter determines  
27 the effect of including information not required by subsection  
28 (1).

29 679.615 Application of proceeds of disposition;  
30 liability for deficiency and right to surplus.--

31 (1) A secured party shall apply or pay over for

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 application the cash proceeds of disposition under s. 679.610  
2 in the following order to:

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

8 (b) The satisfaction of obligations secured by the  
9 security interest or agricultural lien under which the  
10 disposition is made;

11 (c) The satisfaction of obligations secured by any  
12 subordinate security interest in or other subordinate lien on  
13 the collateral if:

14 1. The secured party receives from the holder of the  
15 subordinate security interest or other lien an authenticated  
16 demand for proceeds before distribution of the proceeds is  
17 completed; and

18 2. In a case in which a consignor has an interest in  
19 the collateral, the subordinate security interest or other  
20 lien is senior to the interest of the consignor; and

21 (d) A secured party that is a consignor of the  
22 collateral if the secured party receives from the consignor an  
23 authenticated demand for proceeds before distribution of the  
24 proceeds is completed.

25 (2) If requested by a secured party, a holder of a  
26 subordinate security interest or other lien shall furnish  
27 reasonable proof of the interest or lien within a reasonable  
28 time after receipt of the request and agree to indemnify the  
29 secured party on reasonable terms acceptable to the secured  
30 party for damages, including reasonable attorney's fees and  
31 costs, incurred or suffered by the secured party if the

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 subordinate holder did not have the right to receive the  
2 amounts to be paid to it. Unless the holder complies, the  
3 secured party need not comply with the holder's demand under  
4 paragraph (1)(c).

5 (3) A secured party need not apply or pay over for  
6 application noncash proceeds of disposition under s. 679.610  
7 unless the failure to do so would be commercially  
8 unreasonable. A secured party that applies or pays over for  
9 application noncash proceeds shall do so in a commercially  
10 reasonable manner.

11 (4) If the security interest under which a disposition  
12 is made secures payment or performance of an obligation, after  
13 making the payments and applications required by subsection  
14 (1) and permitted by subsection (3):

15 (a) Unless paragraph (1)(d) requires the secured party  
16 to apply or pay over cash proceeds to a consignor, the secured  
17 party shall account to and pay a debtor for any surplus; and

18 (b) The obligor is liable for any deficiency.

19 (5) If the underlying transaction is a sale of  
20 accounts, chattel paper, payment intangibles, or promissory  
21 notes:

22 (a) The debtor is not entitled to any surplus; and

23 (b) The obligor is not liable for any deficiency.

24 (6) The surplus or deficiency following a disposition  
25 is calculated based on the amount of proceeds that would have  
26 been realized in a disposition complying with this part to a  
27 transferee other than the secured party, a person related to  
28 the secured party, or a secondary obligor if:

29 (a) The transferee in the disposition is the secured  
30 party, a person related to the secured party, or a secondary  
31 obligor; and

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (b) The amount of proceeds of the disposition is  
2 significantly below the range of proceeds that a complying  
3 disposition to a person other than the secured party, a person  
4 related to the secured party, or a secondary obligor would  
5 have brought.

6           (7) A secured party that receives cash proceeds of a  
7 disposition in good faith and without knowledge that the  
8 receipt violates the rights of the holder of a security  
9 interest or other lien that is not subordinate to the security  
10 interest or agricultural lien under which the disposition is  
11 made:

12           (a) Takes the cash proceeds free of the security  
13 interest or other lien;

14           (b) Is not obligated to apply the proceeds of the  
15 disposition to the satisfaction of obligations secured by the  
16 security interest or other lien; and

17           (c) Is not obligated to account to or pay the holder  
18 of the security interest or other lien for any surplus.

19           (8) If the secured party in good faith cannot  
20 determine the validity, extent, or priority of a subordinate  
21 security interest or other lien or there are conflicting  
22 claims of subordinate interests or liens, the secured party  
23 may commence an interpleader action with respect to remaining  
24 proceeds in excess of \$2,500 in the circuit or county court,  
25 as applicable based upon the amount to be deposited, where the  
26 collateral was located or collected or in the county where the  
27 debtor's chief executive office or principal residence is  
28 located in this state, as applicable. The interpleading  
29 secured party and any other parties in the interpleader action  
30 shall only be entitled to recover attorney's fees and costs as  
31 permitted in s. 679.608(3).

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.616 Explanation of calculation of surplus or  
2 deficiency.--  
3           (1) In this section, the term:  
4           (a) "Explanation" means a writing that:  
5           1. States the amount of the surplus or deficiency;  
6           2. Provides an explanation in accordance with  
7 subsection (3) of how the secured party calculated the surplus  
8 or deficiency;  
9           3. States, if applicable, that future debits, credits,  
10 charges, including additional credit service charges or  
11 interest, rebates, and expenses may affect the amount of the  
12 surplus or deficiency; and  
13           4. Provides a telephone number or mailing address from  
14 which additional information concerning the transaction is  
15 available.  
16           (b) "Request" means a record:  
17           1. Authenticated by a debtor or consumer obligor;  
18           2. Requesting that the recipient provide an  
19 explanation; and  
20           3. Sent after disposition of the collateral under s.  
21 679.610.  
22           (2) In a consumer-goods transaction in which the  
23 debtor is entitled to a surplus or a consumer obligor is  
24 liable for a deficiency under s. 679.615, the secured party  
25 shall:  
26           (a) Send an explanation to the debtor or consumer  
27 obligor, as applicable, after the disposition and:  
28           1. Before or when the secured party accounts to the  
29 debtor and pays any surplus or first makes written demand on  
30 the consumer obligor after the disposition for payment of the  
31 deficiency; and



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           2. Within 14 days after receipt of a request; or  
2           (b) In the case of a consumer obligor who is liable  
3 for a deficiency, within 14 days after receipt of a request,  
4 send to the consumer obligor a record waiving the secured  
5 party's right to a deficiency.
- 6           (3) To comply with subparagraph (1)(a)2., a writing  
7 must provide the following information in the following order:
- 8           (a) The aggregate amount of obligations secured by the  
9 security interest under which the disposition was made, and,  
10 if the amount reflects a rebate of unearned interest or credit  
11 service charge, an indication of that fact, calculated as of a  
12 specified date:
- 13           1. If the secured party takes or receives possession  
14 of the collateral after default, not more than 35 days before  
15 the secured party takes or receives possession; or
- 16           2. If the secured party takes or receives possession  
17 of the collateral before default or does not take possession  
18 of the collateral, not more than 35 days before the  
19 disposition;
- 20           (b) The amount of proceeds of the disposition;
- 21           (c) The aggregate amount of the obligations after  
22 deducting the amount of proceeds;
- 23           (d) The amount, in the aggregate or by type, and types  
24 of expenses, including expenses of retaking, holding,  
25 preparing for disposition, processing, and disposing of the  
26 collateral, and attorney's fees secured by the collateral  
27 which are known to the secured party and relate to the current  
28 disposition;
- 29           (e) The amount, in the aggregate or by type, and types  
30 of credits, including rebates of interest or credit service  
31 charges, to which the obligor is known to be entitled and

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 which are not reflected in the amount in paragraph (a); and  
2 (f) The amount of the surplus or deficiency.  
3 (4) A particular phrasing of the explanation is not  
4 required. An explanation complying substantially with the  
5 requirements of subsection (1) is sufficient, even if it  
6 includes minor errors that are not seriously misleading.  
7 (5) A debtor or consumer obligor is entitled without  
8 charge to one response to a request under this section during  
9 any 6-month period in which the secured party did not send to  
10 the debtor or consumer obligor an explanation pursuant to  
11 paragraph (2)(a). The secured party may require payment of a  
12 charge not exceeding \$25 for each additional response.  
13 679.617 Rights of transferee of collateral.--  
14 (1) A secured party's disposition of collateral after  
15 default:  
16 (a) Transfers to a transferee for value all of the  
17 debtor's rights in the collateral;  
18 (b) Discharges the security interest under which the  
19 disposition is made; and  
20 (c) Discharges any subordinate security interest or  
21 other subordinate lien other than liens created under statutes  
22 providing for liens, if any, that are not to be discharged.  
23 (2) A transferee that acts in good faith takes free of  
24 the rights and interests described in subsection (1), even if  
25 the secured party fails to comply with this chapter or the  
26 requirements of any judicial proceeding.  
27 (3) If a transferee does not take free of the rights  
28 and interests described in subsection (1), the transferee  
29 takes the collateral subject to:  
30 (a) The debtor's rights in the collateral;  
31 (b) The security interest or agricultural lien under

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 which the disposition is made; and  
2 (c) Any other security interest or other lien.  
3 679.618 Rights and duties of certain secondary  
4 obligors.--  
5 (1) A secondary obligor acquires the rights and  
6 becomes obligated to perform the duties of the secured party  
7 after the secondary obligor:  
8 (a) Receives an assignment of a secured obligation  
9 from the secured party;  
10 (b) Receives a transfer of collateral from the secured  
11 party and agrees to accept the rights and assume the duties of  
12 the secured party; or  
13 (c) Is subrogated to the rights of a secured party  
14 with respect to collateral.  
15 (2) An assignment, transfer, or subrogation described  
16 in subsection (1):  
17 (a) Is not a disposition of collateral under s.  
18 679.610; and  
19 (b) Relieves the secured party of further duties under  
20 this chapter.  
21 679.619 Transfer of record or legal title.--  
22 (1) In this section, the term "transfer statement"  
23 means a record authenticated by a secured party stating:  
24 (a) That the debtor has defaulted in connection with  
25 an obligation secured by specified collateral;  
26 (b) That the secured party has exercised its  
27 post-default remedies with respect to the collateral;  
28 (c) That, by reason of the exercise, a transferee has  
29 acquired the rights of the debtor in the collateral; and  
30 (d) The name and mailing address of the secured party,  
31 debtor, and transferee.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           (2) A transfer statement entitles the transferee to  
2 the transfer of record of all rights of the debtor in the  
3 collateral specified in the statement in any official filing,  
4 recording, registration, or certificate-of-title system  
5 covering the collateral. If a transfer statement is presented  
6 with the applicable fee and request form to the official or  
7 office responsible for maintaining the system, the official or  
8 office shall:

9           (a) Accept the transfer statement;

10           (b) Promptly amend its records to reflect the  
11 transfer; and

12           (c) If applicable, issue a new appropriate certificate  
13 of title in the name of the transferee.

14           (3) A transfer of the record or legal title to  
15 collateral to a secured party under subsection (2) or  
16 otherwise is not of itself a disposition of collateral under  
17 this chapter and does not of itself relieve the secured party  
18 of its duties under this chapter.

19           679.620 Acceptance of collateral in full or partial  
20 satisfaction of obligation; compulsory disposition of  
21 collateral.--

22           (1) Except as otherwise provided in subsection (7), a  
23 secured party may accept collateral in full or partial  
24 satisfaction of the obligation it secures only if:

25           (a) The debtor consents to the acceptance under  
26 subsection (3);

27           (b) The secured party does not receive, within the  
28 time set forth in subsection (4), a notification of objection  
29 to the proposal authenticated by:

30           1. A person to whom the secured party was required to  
31 send a proposal under s. 679.621; or

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           2. Any other person, other than the debtor, holding an  
2 interest in the collateral subordinate to the security  
3 interest that is the subject of the proposal;

4           (c) If the collateral is consumer goods, the  
5 collateral is not in the possession of the debtor when the  
6 debtor consents to the acceptance; and

7           (d) Subsection (5) does not require the secured party  
8 to dispose of the collateral or the debtor waives the  
9 requirement pursuant to s. 679.624.

10           (2) A purported or apparent acceptance of collateral  
11 under this section is ineffective unless:

12           (a) The secured party consents to the acceptance in an  
13 authenticated record or sends a proposal to the debtor; and

14           (b) The conditions of subsection (1) are met.

15           (3) For purposes of this section:

16           (a) A debtor consents to an acceptance of collateral  
17 in partial satisfaction of the obligation it secures only if  
18 the debtor agrees to the terms of the acceptance in a record  
19 authenticated after default; and

20           (b) A debtor consents to an acceptance of collateral  
21 in full satisfaction of the obligation it secures only if the  
22 debtor agrees to the terms of the acceptance in a record  
23 authenticated after default or the secured party:

24           1. Sends to the debtor after default a proposal that  
25 is unconditional or subject only to a condition that  
26 collateral not in the possession of the secured party be  
27 preserved or maintained;

28           2. In the proposal, proposes to accept collateral in  
29 full satisfaction of the obligation it secures, and, in a  
30 consumer transaction, provides notice that the proposal will  
31 be deemed accepted if it is not objected to by an

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 authenticated notice within 30 days after the date the  
2 proposal is sent by the secured party; and  
3 3. Does not receive a notification of objection  
4 authenticated by the debtor within 30 days after the proposal  
5 is sent.  
6 (4) To be effective under paragraph (1)(b), a  
7 notification of objection must be received by the secured  
8 party:  
9 (a) In the case of a person to whom the proposal was  
10 sent pursuant to s. 679.621, within 20 days after notification  
11 was sent to that person; and  
12 (b) In other cases:  
13 1. Within 20 days after the last notification was sent  
14 pursuant to s. 679.621; or  
15 2. If a notification was not sent, before the debtor  
16 consents to the acceptance under subsection (3).  
17 (5) A secured party that has taken possession of  
18 collateral shall dispose of the collateral pursuant to s.  
19 679.610 within the time specified in subsection (6) if:  
20 (a) Sixty percent of the cash price has been paid in  
21 the case of a purchase-money security interest in consumer  
22 goods; or  
23 (b) Sixty percent of the principal amount of the  
24 obligation secured has been paid in the case of a  
25 non-purchase-money security interest in consumer goods.  
26 (6) To comply with subsection (5), the secured party  
27 shall dispose of the collateral:  
28 (a) Within 90 days after taking possession; or  
29 (b) Within any longer period to which the debtor and  
30 all secondary obligors have agreed in an agreement to that  
31 effect entered into and authenticated after default.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (7) In a consumer transaction, a secured party may not  
2 accept collateral in partial satisfaction of the obligation it  
3 secures.

4           679.621 Notification of proposal to accept  
5 collateral.--

6           (1) A secured party that desires to accept collateral  
7 in full or partial satisfaction of the obligation it secures  
8 shall send its proposal to:

9           (a) Any person from whom the secured party has  
10 received, before the debtor consented to the acceptance, an  
11 authenticated notification of a claim of an interest in the  
12 collateral;

13           (b) Any other secured party or lienholder that, 10  
14 days before the debtor consented to the acceptance, held a  
15 security interest in or other lien on the collateral perfected  
16 by the filing of a financing statement that:

17           1. Identified the collateral;

18           2. Was indexed under the debtor's name as of that  
19 date; and

20           3. Was filed in the office or offices in which to file  
21 a financing statement against the debtor covering the  
22 collateral as of that date; and

23           (c) Any other secured party that, 10 days before the  
24 debtor consented to the acceptance, held a security interest  
25 in the collateral perfected by compliance with a statute,  
26 regulation, or treaty described in s. 679.3111(1).

27           (2) A secured party that desires to accept collateral  
28 in partial satisfaction of the obligation it secures shall  
29 send its proposal to any secondary obligor in addition to the  
30 persons described in subsection (1).

31           (3) A secured party shall send its proposal under s.

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 679.621(1) or (2) to the affected party at the address  
2 prescribed in s. 679.611(6).  
3 679.622 Effect of acceptance of collateral.--  
4 (1) A secured party's acceptance of collateral in full  
5 or partial satisfaction of the obligation it secures:  
6 (a) Discharges the obligation to the extent consented  
7 to by the debtor;  
8 (b) Transfers to the secured party all of a debtor's  
9 rights in the collateral;  
10 (c) Discharges the security interest or agricultural  
11 lien that is the subject of the debtor's consent and any  
12 subordinate security interest or other subordinate lien; and  
13 (d) Terminates any other subordinate interest.  
14 (2) A subordinate interest is discharged or terminated  
15 under subsection (1), even if the secured party fails to  
16 comply with this chapter.  
17 679.623 Right to redeem collateral.--  
18 (1) A debtor, any secondary obligor, or any other  
19 secured party or lienholder may redeem collateral.  
20 (2) To redeem collateral, a person shall tender:  
21 (a) Fulfillment of all obligations secured by the  
22 collateral; and  
23 (b) The reasonable expenses and attorney's fees  
24 described in s. 679.615(1)(a).  
25 (3) A redemption may occur at any time before a  
26 secured party:  
27 (a) Has collected collateral under s. 679.607;  
28 (b) Has disposed of collateral or entered into a  
29 contract for its disposition under s. 679.610; or  
30 (c) Has accepted collateral in full or partial  
31 satisfaction of the obligation it secures under s. 679.622.



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.624 Waiver.--

2           (1) A debtor or secondary obligor may waive the right  
3 to notification of disposition of collateral under s. 679.611  
4 only by an agreement to that effect entered into and  
5 authenticated after default.

6           (2) A debtor may waive the right to require  
7 disposition of collateral under s. 679.620(5) only by an  
8 agreement to that effect entered into and authenticated after  
9 default.

10           (3) Except in a consumer-goods transaction, a debtor  
11 or secondary obligor may waive the right to redeem collateral  
12 under s. 679.623 only by an agreement to that effect entered  
13 into and authenticated after default.

14           679.625 Remedies for failure to comply with article.--

15           (1) If it is established that a secured party is not  
16 proceeding in accordance with this chapter, a court may order  
17 or restrain collection, enforcement, or disposition of  
18 collateral on appropriate terms and conditions. This  
19 subsection shall not preclude a debtor other than a consumer  
20 and a secured party, or two or more secured parties in other  
21 than a consumer transaction, from agreeing in an authenticated  
22 record that the debtor or secured party must first provide to  
23 the alleged offending secured party notice of a violation of  
24 this chapter and opportunity to cure before commencing any  
25 legal proceeding under this section.

26           (2) Subject to subsections (3), (4), and (6), a person  
27 is liable for damages in the amount of any loss caused by a  
28 failure to comply with this chapter, including damages  
29 suffered by the debtor resulting from the debtor's inability  
30 to obtain, or increased costs of, alternative financing, but  
31 not including consequential, special, or penal damages, unless

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 the conduct giving rise to the failure constitutes an  
2 independent claim under the laws of this state other than this  
3 chapter and then only to the extent otherwise recoverable  
4 under law.

5 (3) Except as otherwise provided in s. 679.628:

6 (a) A person who, at the time of the failure, was a  
7 debtor, was an obligor, or held a security interest in or  
8 other lien on the collateral may recover damages under  
9 subsection (2) for the person's loss; and

10 (b) If the collateral is consumer goods, a person who  
11 was a debtor or a secondary obligor at the time a secured  
12 party failed to comply with this part may recover for that  
13 failure in any event an amount not less than the credit  
14 service charge plus 10 percent of the principal amount of the  
15 obligation or the time-price differential plus 10 percent of  
16 the cash price.

17 (4) A debtor whose deficiency is eliminated under s.  
18 679.626 may recover damages for the loss of any surplus.  
19 However, a debtor or secondary obligor whose deficiency is  
20 eliminated or reduced under s. 679.626 may not otherwise  
21 recover under subsection (2) for noncompliance with the  
22 provisions of this part relating to collection, enforcement,  
23 disposition, or acceptance.

24 (5) In lieu of damages recoverable under subsection  
25 (2), the debtor, consumer obligor, or person named as a debtor  
26 in a filed record, as applicable, may recover \$500 in each  
27 case from a person who:

28 (a) Fails to comply with s. 679.2081;

29 (b) Fails to comply with s. 679.209;

30 (c) Files a record that the person is not entitled to  
31 file under s. 679.509(1);

hbd-032

Bill No. HB 579

Amendment No.      (for drafter's use only)

1           (d) Fails to cause the secured party of record to file  
2 or send a termination statement as required by s. 679.513(1)  
3 or (3) after receipt of an authenticated record notifying the  
4 person of such noncompliance;

5           (e) Fails to comply with s. 679.616(2)(a) and whose  
6 failure is part of a pattern, or consistent with a practice,  
7 of noncompliance; or

8           (f) Fails to comply with s. 679.616(2)(b) with respect  
9 to a consumer transaction, and with respect to a transaction  
10 other than a consumer transaction, after receipt of an  
11 authenticated record notifying the person of such  
12 noncompliance.

13           (6) A debtor or consumer obligor may recover damages  
14 under subsection (2) and, in addition, \$500 in each case from  
15 a person who, without reasonable cause, fails to comply with a  
16 request under s. 679.210. A recipient of a request under s.  
17 679.210 which never claimed an interest in the collateral or  
18 obligations that are the subject of a request under that  
19 section has a reasonable excuse for failure to comply with the  
20 request within the meaning of this subsection.

21           (7) If a secured party fails to comply with a request  
22 regarding a list of collateral or a statement of account under  
23 S. 679.210, the secured party may claim a security interest  
24 only as shown in the list or statement included in the request  
25 as against a person who is reasonably misled by the failure.

26           679.626 Action in which deficiency or surplus is in  
27 issue.--In an action arising from a transaction in which the  
28 amount of a deficiency or surplus is in issue, the following  
29 rules apply:

30           (1) A secured party need not prove compliance with the  
31 provisions of this part relating to collection, enforcement,

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 disposition, or acceptance unless the debtor or a secondary  
2 obligor places the secured party's compliance in issue.

3 (2) If the secured party's compliance is placed in  
4 issue, the secured party has the burden of establishing that  
5 the collection, enforcement, disposition, or acceptance was  
6 conducted in accordance with this part.

7 (3) Except as otherwise provided in s. 679.628, if a  
8 secured party fails to prove that the collection, enforcement,  
9 disposition, or acceptance was conducted in accordance with  
10 the provisions of this part relating to collection,  
11 enforcement, disposition, or acceptance, the liability of a  
12 debtor or a secondary obligor for a deficiency is limited to  
13 an amount by which the sum of the secured obligation,  
14 reasonable expenses, and, to the extent provided for by  
15 agreement and not prohibited by law, attorney's fees exceeds  
16 the greater of:

17 (a) The proceeds of the collection, enforcement,  
18 disposition, or acceptance; or

19 (b) The amount of proceeds that would have been  
20 realized had the noncomplying secured party proceeded in  
21 accordance with the provisions of this part relating to  
22 collection, enforcement, disposition, or acceptance.

23 (4) For purposes of paragraph (3)(b), the amount of  
24 proceeds that would have been realized is equal to the sum of  
25 the secured obligation, expenses, and attorney's fees unless  
26 the secured party proves that the amount is less than that  
27 sum.

28 (5) If a deficiency or surplus is calculated under s.  
29 679.615(6), the debtor or obligor has the burden of  
30 establishing that the amount of proceeds of the disposition is  
31 significantly below the range of prices that a complying

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 disposition to a person other than the secured party, a person  
2 related to the secured party, or a secondary obligor would  
3 have brought.

4 679.627 Determination of whether conduct was  
5 commercially reasonable.--

6 (1) The fact that a greater amount could have been  
7 obtained by a collection, enforcement, disposition, or  
8 acceptance at a different time or in a different method from  
9 that selected by the secured party is not of itself sufficient  
10 to preclude the secured party from establishing that the  
11 collection, enforcement, disposition, or acceptance was made  
12 in a commercially reasonable manner.

13 (2) A disposition of collateral is made in a  
14 commercially reasonable manner if the disposition is made:

15 (a) In the usual manner on any recognized market;

16 (b) At the price current in any recognized market at  
17 the time of the disposition; or

18 (c) Otherwise in conformity with reasonable commercial  
19 practices among dealers in the type of property that was the  
20 subject of the disposition.

21 (3) A collection, enforcement, disposition, or  
22 acceptance is commercially reasonable if it has been approved:

23 (a) In a judicial proceeding;

24 (b) By a bona fide creditors' committee;

25 (c) By a representative of creditors; or

26 (d) By an assignee for the benefit of creditors.

27 (4) Approval under subsection (3) need not be  
28 obtained, and lack of approval does not mean that the  
29 collection, enforcement, disposition, or acceptance is not  
30 commercially reasonable.

31 679.628 Nonliability and limitation on liability of

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 secured party; liability of secondary obligor.--  
2 (1) Unless a secured party knows that a person is a  
3 debtor or obligor, knows the identity of the person, and knows  
4 how to communicate with the person:  
5 (a) The secured party is not liable to the person, or  
6 to a secured party or lienholder that has filed a financing  
7 statement against the person, for failure to comply with this  
8 chapter; and  
9 (b) The secured party's failure to comply with this  
10 chapter does not affect the liability of the person for a  
11 deficiency.  
12 (2) A secured party is not liable because of its  
13 status as a secured party:  
14 (a) To a person who is a debtor or obligor, unless the  
15 secured party knows:  
16 1. That the person is a debtor or obligor;  
17 2. The identity of the person; and  
18 3. How to communicate with the person; or  
19 (b) To a secured party or lienholder that has filed a  
20 financing statement against a person, unless the secured party  
21 knows:  
22 1. That the person is a debtor; and  
23 2. The identity of the person.  
24 (3) A secured party is not liable to any person, and a  
25 person's liability for a deficiency is not affected, because  
26 of any act or omission arising out of the secured party's  
27 reasonable belief that a transaction is not a consumer-goods  
28 transaction or a consumer transaction or that goods are not  
29 consumer goods, if the secured party's belief is based on its  
30 reasonable reliance on:  
31 (a) A debtor's representation concerning the purpose

1 for which collateral was to be used, acquired, or held; or  
2 (b) an obligor's representation concerning the purpose  
3 for which a secured obligation was incurred.

4 (4) A secured party is not liable to any person under  
5 s. 679.625(3)(b) for its failure to comply with s. 679.616.

6 (5) A secured party is not liable under s.  
7 679.625(3)(b) more than once with respect to any one secured  
8 obligation.

9 Section 8. Part VII of chapter 679, Florida Statutes,  
10 consisting of sections 679.701, 679.702, 679.703, 679.704,  
11 679.705, 679.706, 679.707, 679.708, and 679.709, Florida  
12 Statutes, is created to read:

13 PART VII

14 TRANSITION

15 679.701 Effective date.--This part takes effect  
16 January 1, 2002.

17 679.702 Savings clause.--

18 (1) Except as otherwise provided in this part, this  
19 act applies to a transaction or lien within its scope, even if  
20 the transaction or lien was entered into or created before  
21 this act takes effect.

22 (2) Except as otherwise provided in subsection (3) and  
23 ss. 679.703-679.709:

24 (a) Transactions and liens that were not governed by  
25 chapter 679, Florida Statutes 2000, were validly entered into  
26 or created before this act takes effect, and would be subject  
27 to this act if they had been entered into or created after  
28 this act takes effect, and the rights, duties, and interests  
29 flowing from those transactions and liens remain valid after  
30 this act takes effect; and

31 (b) The transactions and liens may be terminated,

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 completed, consummated, and enforced as required or permitted  
2 by this act or by the law that otherwise would apply if this  
3 act had not taken effect.

4 (3) This act does not affect an action, case, or  
5 proceeding commenced before this act takes effect.

6 679.703 Security interest perfected before effective  
7 date.--

8 (1) A security interest that is enforceable  
9 immediately before this act takes effect and would have  
10 priority over the rights of a person who becomes a lien  
11 creditor at that time is a perfected security interest under  
12 this act if, when this act takes effect, the applicable  
13 requirements for enforceability and perfection under this act  
14 are satisfied without further action.

15 (2) Except as otherwise provided in s. 679.705, if,  
16 immediately before this act takes effect, a security interest  
17 is enforceable and would have priority over the rights of a  
18 person who becomes a lien creditor at that time, but the  
19 applicable requirements for enforceability or perfection under  
20 this act are not satisfied when this act takes effect, the  
21 security interest:

22 (a) Is a perfected security interest for 1 year after  
23 this act takes effect;

24 (b) Remains enforceable thereafter only if the  
25 security interest becomes enforceable under s. 679.203 before  
26 the year expires; and

27 (c) Remains perfected thereafter only if the  
28 applicable requirements for perfection under this act are  
29 satisfied before the year expires.

30 679.704 Security interest unperfected before effective  
31 date.--A security interest that is enforceable immediately



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 before this act takes effect but that would be subordinate to  
2 the rights of a person who becomes a lien creditor at that  
3 time:

4 (1) Remains an enforceable security interest for 1  
5 year after this act takes effect;

6 (2) Remains enforceable thereafter if the security  
7 interest becomes enforceable under s. 679.203 when this act  
8 takes effect or within 1 year thereafter; and

9 (3) Becomes perfected:

10 (a) Without further action when this act takes effect  
11 if the applicable requirements for perfection under this act  
12 are satisfied before or at that time; or

13 (b) When the applicable requirements for perfection  
14 are satisfied if the requirements are satisfied after that  
15 time.

16 679.705 Effectiveness of action taken before effective  
17 date.--

18 (1) If action, other than the filing of a financing  
19 statement, is taken before this act takes effect and the  
20 action would have resulted in priority of a security interest  
21 over the rights of a person who becomes a lien creditor had  
22 the security interest become enforceable before this act takes  
23 effect, the action is effective to perfect a security interest  
24 that attaches under this act within 1 year after this act  
25 takes effect. An attached security interest becomes  
26 unperfected 1 year after this act takes effect unless the  
27 security interest becomes a perfected security interest under  
28 this act before the expiration of that period.

29 (2) The filing of a financing statement before this  
30 act takes effect is effective to perfect a security interest  
31 to the extent the filing would satisfy the applicable

1 requirements for perfection under this act.

2 (3) This act does not render ineffective an effective  
3 financing statement that, before this act takes effect, is  
4 filed and satisfies the applicable requirements for perfection  
5 under the law of the jurisdiction governing perfection as  
6 provided in s. 679.103, Florida Statutes 2000. However,  
7 except as otherwise provided in subsections (4) and (5) and s.  
8 679.706, the financing statement ceases to be effective at the  
9 earlier of:

10 (a) The time the financing statement would have ceased  
11 to be effective under the law of the jurisdiction in which it  
12 is filed; or

13 (b) June 30, 2006.

14 (4) The filing of a continuation statement after this  
15 act takes effect does not continue the effectiveness of the  
16 financing statement filed before this act takes effect.  
17 However, upon the timely filing of a continuation statement  
18 after this act takes effect and in accordance with the law of  
19 the jurisdiction governing perfection as provided in part III,  
20 the effectiveness of a financing statement filed in the same  
21 office in that jurisdiction before this act takes effect  
22 continues for the period provided by the law of that  
23 jurisdiction.

24 (5) Paragraph (3)(b) applies to a financing statement  
25 that, before this act takes effect, is filed against a  
26 transmitting utility and satisfies the applicable requirements  
27 for perfection under the law of the jurisdiction governing  
28 perfection as provided in s. 679.103, Florida Statutes 2000,  
29 only to the extent that part III provides that the law of a  
30 jurisdiction other than the jurisdiction in which the  
31 financing statement is filed governs perfection of a security

1 interest in collateral covered by the financing statement.

2 (6) A financing statement that includes a financing  
3 statement filed before this act takes effect and a  
4 continuation statement filed after this act takes effect is  
5 effective only to the extent that it satisfies the  
6 requirements of part V for an initial financing statement.

7 679.706 When initial financing statement suffices to  
8 continue effectiveness of financing statement.--

9 (1) The filing of an initial financing statement in  
10 the office specified in s. 679.5011 continues the  
11 effectiveness of a financing statement filed before this act  
12 takes effect if:

13 (a) The filing of an initial financing statement in  
14 that office would be effective to perfect a security interest  
15 under this act;

16 (b) The pre-effective date financing statement was  
17 filed in an office in another state or another office in this  
18 state; and

19 (c) The initial financing statement satisfies  
20 subsection (3).

21 (2) The filing of an initial financing statement under  
22 subsection (1) continues the effectiveness of the  
23 pre-effective date financing statement:

24 (a) If the initial financing statement is filed before  
25 this act takes effect, for the period provided in s. 679.403,  
26 Florida Statutes 2000, with respect to a financing statement;  
27 and

28 (b) If the initial financing statement is filed after  
29 this act takes effect, for the period provided in s. 679.515  
30 with respect to an initial financing statement.

31 (3) To be effective for purposes of subsection (1), an

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 initial financing statement must:

2 (a) Satisfy the requirements of part V for an initial  
3 financing statement;

4 (b) Identify the pre-effective date financing  
5 statement by indicating the office in which the financing  
6 statement was filed and providing the dates of filing and file  
7 numbers, if any, of the financing statement and of the most  
8 recent continuation statement filed with respect to the  
9 financing statement; and

10 (c) Indicate that the pre-effective date financing  
11 statement remains effective.

12 679.707 Amendment or pre-effective date financing  
13 statement.--

14 (1) In this section, the term "pre-effective date  
15 financing statement" means a financing statement filed before  
16 this act takes effect.

17 (2) After this act takes effect, a person may add or  
18 delete collateral covered by, continue or terminate the  
19 effectiveness of, or otherwise amend the information provided  
20 in a pre-effective date financing statement only in accordance  
21 with the law of the jurisdiction governing perfection as  
22 provided in part III. However, the effectiveness of a  
23 pre-effective date financing statement also may be terminated  
24 in accordance with the law of the jurisdiction in which the  
25 financing statement is filed.

26 (3) Except as otherwise provided in subsection (4), if  
27 the law of this state governs perfection of a security  
28 interest, the information in a pre-effective date financing  
29 statement may be amended after this act takes effect only if:

30 (a) The pre-effective date financing statement and an  
31 amendment are filed in the office specified in s. 679.5011;

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1           (b) An amendment is filed in the office specified in  
2 s. 679.5011 concurrently with, or after the filing in that  
3 office of, an initial financing statement that satisfies s.  
4 671.706(3); or

5           (c) An initial financing statement that provides the  
6 information as amended and satisfies s. 679.706(3) is filed in  
7 the office specified in s. 679.5011.

8           (4) If the law of this state governs perfection of a  
9 security interest, the effectiveness of a pre-effective date  
10 financing statement may be continued only under s. 679.705(4)  
11 and (6) or s. 679.706.

12           (5) Whether or not the law of this state governs  
13 perfection of a security interest, the effectiveness of a  
14 pre-effective date financing statement filed in this state may  
15 be terminated after this act takes effect by filing a  
16 termination statement in the office in which the pre-effective  
17 date financing statement is filed, unless an initial financing  
18 statement that satisfies s. 679.706(3) has been filed in the  
19 office specified by the law of the jurisdiction governing  
20 perfection as provided in part III as the office in which to  
21 file a financing statement.

22           679.708 Persons entitled to file initial financing  
23 statement or continuation statement.--A person may file an  
24 initial financing statement or a continuation statement under  
25 this part if:

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

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

29           (a) To continue the effectiveness of a financing  
30 statement filed before this act takes effect; or

31           (b) To perfect or continue the perfection of a

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 security interest.

2 679.709 Priority.--

3 (1) This act determines the priority of conflicting  
4 claims to collateral. However, if the relative priorities of  
5 the claims were established before this act takes effect,  
6 chapter 679, Florida Statutes 2000, determines priority.

7 (2) For purposes of s. 679.322(1), the priority of a  
8 security interest that becomes enforceable under s. 679.2031  
9 of this act dates from the time this act takes effect if the  
10 security interest is perfected under this act by the filing of  
11 a financing statement before this act takes effect which would  
12 not have been effective to perfect the security interest under  
13 chapter 679, Florida Statutes 2000. This subsection does not  
14 apply to conflicting security interests each of which is  
15 perfected by the filing of such a financing statement.

16 Section 9. Subsection (2) of section 671.105, Florida  
17 Statutes, is amended to read:

18 671.105 Territorial application of the code; parties'  
19 power to choose applicable law.--

20 (2) When one of the following provisions of this code  
21 specifies the applicable law, that provision governs; and a  
22 contrary agreement is effective only to the extent permitted  
23 by the law (including the conflict-of-laws rules) so  
24 specified:

25 (a) Governing law in the chapter on funds transfers.  
26 (s. 670.507)

27 (b) Rights of sellers' creditors against sold goods.  
28 (s. 672.402)

29 (c) Applicability of the chapter on bank deposits and  
30 collections. (s. 674.102)

31 (d) Applicability of the chapter on letters of credit.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 (s. 675.116)

2 (e) Applicability of the chapter on investment  
3 securities. (s. 678.1101)4 (f) Law governing perfection, the effect provisions of  
5 perfection or nonperfection, and the priority of security  
6 interests and agricultural liens chapter on secured  
7 transactions. (ss. 679.3011-679.3071)~~(s. 679.103)~~8 (g) Applicability of the chapter on leases. (ss.  
9 680.1051 and 680.1061)10 Section 10. Subsections (9), (32), and (37) of section  
11 671.201, Florida Statutes, are amended to read:12 671.201 General definitions.--Subject to additional  
13 definitions contained in the subsequent chapters of this code  
14 which are applicable to specific chapters or parts thereof,  
15 and unless the context otherwise requires, in this code:16 (9) "Buyer in ordinary course of business" means a  
17 person who buys goods in good faith and without knowledge that  
18 the sale violates to him or her is in violation of the  
19 ownership rights or security interest of another person a  
20 third party in the goods, and buys in the ordinary course from  
21 a person, other than a pawnbroker, in the business of selling  
22 goods of that kind but does not include a pawnbroker. A  
23 person buys goods in the ordinary course if the sale to the  
24 person comports with the usual or customary practices in the  
25 kind of business in which the seller is engaged or with the  
26 seller's own usual or customary practices. A person who sells  
27 oil, gas, or other minerals at the wellhead or minehead is a  
28 person All persons who sell minerals or the like (including  
29 oil and gas) at wellhead or minehead shall be deemed to be  
30 persons in the business of selling goods of that kind. A buyer  
31 in the ordinary course of business "Buying" may buy be for

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 cash, ~~or~~ by exchange of other property, ~~or~~ on secured or  
2 unsecured credit and may acquire ~~includes receiving~~ goods or  
3 documents of title under a preexisting contract for sale ~~but~~  
4 ~~does not include a transfer in bulk or as security for or in~~  
5 ~~total or partial satisfaction of a money debt.~~ Only a buyer  
6 who takes possession of the goods or has a right to recover  
7 the goods from the seller under chapter 672 may be a buyer in  
8 the ordinary course of business. A person who acquires goods  
9 in a transfer in bulk or as security for or in total or  
10 partial satisfaction of a money debt is not a buyer in the  
11 ordinary course of business.

12 (32) "Purchase" includes taking by sale, discount,  
13 negotiation, mortgage, pledge, lien, security interest, issue  
14 or reissue, gift or any other voluntary transaction creating  
15 an interest in property.

16 (37) "Security interest" means an interest in personal  
17 property or fixtures which secures payment or performance of  
18 an obligation. ~~The retention or reservation of title by a~~  
19 ~~seller of goods notwithstanding shipment or delivery to the~~  
20 ~~buyer (s. 672.401) is limited in effect to a reservation of a~~  
21 ~~security interest.~~ The term also includes any interest of a  
22 consignor and a buyer of accounts, or chattel paper, a payment  
23 intangible, or a promissory note in a transaction which is  
24 subject to chapter 679. The special property interest of a  
25 buyer of goods on identification of those goods to a contract  
26 for sale under s. 672.401 is not a security interest, but a  
27 buyer may also acquire a security interest by complying with  
28 chapter 679. Except as otherwise provided in s. 672.505, the  
29 right of a seller or lessor of goods under chapter 672 or  
30 chapter 680 to retain or acquire possession of the goods is  
31 not a security interest, but a seller or lessor may also



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 acquire a security interest by complying with chapter 679. The  
2 retention or reservation of title by a seller of goods,  
3 notwithstanding shipment or delivery to the buyer (s.  
4 672.401), is limited in effect to a reservation of a security  
5 interest.~~Unless a consignment is intended as security,~~  
6 ~~reservation of title thereunder is not a security interest,~~  
7 ~~but a consignment is in any event subject to the provisions on~~  
8 ~~consignment sales (s. 672.326).~~ Whether a transaction creates  
9 a lease or security interest is determined by the facts of  
10 each case; however:

11 (a) A transaction creates a security interest if the  
12 consideration the lessee is to pay the lessor for the right to  
13 possession and use of the goods is an obligation for the term  
14 of the lease not subject to termination by the lessee, and;

15 1. The original term of the lease is equal to or  
16 greater than the remaining economic life of the goods;

17 2. The lessee is bound to renew the lease for the  
18 remaining economic life of the goods or is bound to become the  
19 owner of the goods;

20 3. The lessee has an option to renew the lease for the  
21 remaining economic life of the goods for no additional  
22 consideration or nominal additional consideration upon  
23 compliance with the lease agreement; or

24 4. The lessee has an option to become the owner of the  
25 goods for no additional consideration or nominal additional  
26 consideration upon compliance with the lease agreement.

27 (b) A transaction does not create a security interest  
28 merely because it provides that:

29 1. The present value of the consideration the lessee  
30 is obligated to pay the lessor for the right to possession and  
31 use of the goods is substantially equal to or is greater than

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 the fair market value of the goods at the time the lease is  
2 entered into;

3           2. The lessee assumes the risk of loss of the goods or  
4 agrees to pay taxes; insurance; filing, recording, or  
5 registration fees; or service or maintenance costs with  
6 respect to the goods;

7           3. The lessee has an option to renew the lease or to  
8 become the owner of the goods;

9           4. The lessee has an option to renew the lease for a  
10 fixed rent that is equal to or greater than the reasonably  
11 predictable fair market rent for the use of the goods for the  
12 term of the renewal at the time the option is to be performed;  
13 or

14           5. The lessee has an option to become the owner of the  
15 goods for a fixed price that is equal to or greater than the  
16 reasonably predictable fair market value of the goods at the  
17 time the option is to be performed.

18           (c) For purposes of this subsection:

19           1. Additional consideration is not nominal if, when  
20 the option to renew the lease is granted to the lessee, the  
21 rent is stated to be the fair market rent for the use of the  
22 goods for the term of the renewal determined at the time the  
23 option is to be performed or if, when the option to become the  
24 owner of the goods is granted to the lessee, the price is  
25 stated to be the fair market value of the goods determined at  
26 the time the option is to be performed. Additional  
27 consideration is nominal if it is less than the lessee's  
28 reasonably predictable cost of performing under the lease  
29 agreement if the option is not exercised.

30           2. "Reasonably predictable" and "remaining economic  
31 life of the goods" are to be determined with reference to the

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 facts and circumstances at the time the transaction is entered  
2 into.

3           3. "Present value" means the amount as of a date  
4 certain of one or more sums payable in the future, discounted  
5 to the date certain. The discount is determined by the  
6 interest rate specified by the parties if the rate is not  
7 manifestly unreasonable at the time the transaction is entered  
8 into; otherwise, the discount is determined by a commercially  
9 reasonable rate that takes into account the facts and  
10 circumstances of each case at the time the transaction was  
11 entered into.

12           Section 11. Subsection (3) of section 672.103, Florida  
13 Statutes, is amended to read:

14           672.103 Definitions and index of definitions.--

15           (3) The following definitions in other chapters apply  
16 to this chapter:

17           "Check," s. 673.1041.

18           "Consignee," s. 677.102.

19           "Consignor," s. 677.102.

20           "Consumer goods," s. 679.1021 ~~679.109~~.

21           "Dishonor," s. 673.5021.

22           "Draft," s. 673.1041.

23           Section 12. Section 672.210, Florida Statutes, is  
24 amended to read:

25           672.210 Delegation of performance; assignment of  
26 rights.--

27           (1) A party may perform her or his duty through a  
28 delegate unless otherwise agreed or unless the other party has  
29 a substantial interest in having her or his original promisor  
30 perform or control the acts required by the contract. No  
31 delegation of performance relieves the party delegating of any

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 duty to perform or any liability for breach.

2           (2) Except as otherwise provided in s. 679.4061,  
3 unless otherwise agreed all rights of either seller or buyer  
4 can be assigned except where the assignment would materially  
5 change the duty of the other party, or increase materially the  
6 burden or risk imposed on her or him by her or his contract,  
7 or impair materially her or his chance of obtaining return  
8 performance. A right to damages for breach of the whole  
9 contract or a right arising out of the assignor's due  
10 performance of her or his entire obligation can be assigned  
11 despite agreement otherwise.

12           (3) The creation, attachment, perfection, or  
13 enforcement of a security interest in the seller's interest  
14 under a contract is not a transfer that materially changes the  
15 duty of or increases materially the burden or risk imposed on  
16 the buyer or impairs materially the buyer's chance of  
17 obtaining return performance within the purview of subsection  
18 (2) unless, and then only to the extent that, enforcement  
19 actually results in a delegation of material performance of  
20 the seller. Even in that event, the creation, attachment,  
21 perfection, and enforcement of the security interest remain  
22 effective, but the seller is liable to the buyer for damages  
23 caused by the delegation to the extent that the damages could  
24 not reasonably be prevented by the buyer. A court having  
25 jurisdiction may grant other appropriate relief, including  
26 cancellation of the contract for sale or an injunction against  
27 enforcement of the security interest or consummation of the  
28 enforcement.

29           ~~(4)~~(3) Unless the circumstances indicate the contrary  
30 a prohibition of assignment of "the contract" is to be  
31 construed as barring only the delegation to the assignee of

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 the assignor's performance.

2 ~~(5)(4)~~ An assignment of "the contract" or of "all my  
3 rights under the contract" or an assignment in similar general  
4 terms is an assignment of rights and unless the language or  
5 the circumstances (as in an assignment for security) indicate  
6 the contrary, it is a delegation of performance of the duties  
7 of the assignor and its acceptance by the assignee constitutes  
8 a promise by her or him to perform those duties. This promise  
9 is enforceable by either the assignor or the other party to  
10 the original contract.

11 ~~(6)(5)~~ The other party may treat any assignment which  
12 delegates performance as creating reasonable grounds for  
13 insecurity and may without prejudice to her or his rights  
14 against the assignor demand assurances from the assignee (s.  
15 672.609).

16 Section 13. Section 672.326, Florida Statutes, is  
17 amended to read:

18 672.326 Sale on approval and sale or return;  
19 ~~consignment sales and rights of creditors.--~~

20 (1) Unless otherwise agreed, if delivered goods may be  
21 returned by the buyer even though they conform to the  
22 contract, the transaction is:

23 (a) A "sale on approval" if the goods are delivered  
24 primarily for use, and

25 (b) A "sale or return" if the goods are delivered  
26 primarily for resale.

27 (2) ~~Except as provided in subsection (3),~~ Goods held  
28 on approval are not subject to the claims of the buyer's  
29 creditors until acceptance; goods held on sale or return are  
30 subject to such claims while in the buyer's possession.

31 ~~(3) Where goods are delivered to a person for sale and~~

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~such person maintains a place of business at which she or he~~  
 2 ~~deals in goods of the kind involved, under a name other than~~  
 3 ~~the name of the person making delivery, then with respect to~~  
 4 ~~claims of creditors of the person conducting the business the~~  
 5 ~~goods are deemed to be on sale or return. The provisions of~~  
 6 ~~this subsection are applicable even though an agreement~~  
 7 ~~purports to reserve title to the person making delivery until~~  
 8 ~~payment or resale or uses such words as "on consignment" or~~  
 9 ~~"on memorandum." However, this subsection is not applicable if~~  
 10 ~~the person making delivery:~~

11 ~~(a) Complies with an applicable law providing for a~~  
 12 ~~consignor's interest or the like to be evidenced by a sign, or~~

13 ~~(b) Establishes that the person conducting the~~  
 14 ~~business is generally known by her or his creditors to be~~  
 15 ~~substantially engaged in selling the goods of others, or~~

16 ~~(c) Complies with the filing provisions of the chapter~~  
 17 ~~on secured transactions (chapter 679).~~

18 ~~(3)(4)~~ Any "or return" term of a contract for sale is  
 19 to be treated as a separate contract for sale within the  
 20 statute of frauds section of this chapter (s. 672.201) and as  
 21 contradicting the sale aspect of the contract within the  
 22 provisions of this chapter on parol or extrinsic evidence (s.  
 23 672.202).

24 Section 14. Section 672.502, Florida Statutes, is  
 25 amended to read:

26 672.502 Buyer's right to goods on seller's  
 27 repudiation, failure to deliver, or insolvency.--

28 (1) Subject to subsections ~~subsection~~ (2) and (3), and  
 29 even though the goods have not been shipped, a buyer who has  
 30 paid a part or all of the price of goods in which she or he  
 31 has a special property under the provisions of the immediately

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 preceding section may on making and keeping good a tender of  
2 any unpaid portion of their price recover them from the seller  
3 if:

4 (a) In the case of goods bought for personal, family,  
5 or household purposes, the seller repudiates or fails to  
6 deliver as required by the contract; or

7 (b) In all cases,the seller becomes insolvent within  
8 ten days after receipt of the first installment on their  
9 price.

10 (2) The buyer's right to recover the goods under  
11 paragraph (1)(a) vests upon acquisition of a special property,  
12 even if the seller has not then repudiated or failed to  
13 deliver.

14 (3)~~(2)~~ If the identification creating her or his  
15 special property has been made by the buyer she or he acquires  
16 the right to recover the goods only if they conform to the  
17 contract for sale.

18 Section 15. Section 672.716, Florida Statutes, is  
19 amended to read:

20 672.716 Buyer's right to specific performance or  
21 replevin.--

22 (1) Specific performance may be decreed where the  
23 goods are unique or in other proper circumstances.

24 (2) The decree for specific performance may include  
25 such terms and conditions as to payment of the price, damages,  
26 or other relief as the court may deem just.

27 (3) The buyer has a right of replevin for goods  
28 identified to the contract if after reasonable effort she or  
29 he is unable to effect cover for such goods or the  
30 circumstances reasonably indicate that such effort will be  
31 unavailing or if the goods have been shipped under reservation

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 and satisfaction of the security interest in them has been  
2 made or tendered. In the case of goods bought for personal,  
3 family, or household purposes, the buyer's right of replevin  
4 vests upon acquisition of a special property, even if the  
5 seller had not then repudiated or failed to deliver.

6 Section 16. Subsection (3) of section 674.2101,  
7 Florida Statutes, is amended to read:

8 674.2101 Security interest of collecting bank in  
9 items, accompanying documents, and proceeds.--

10 (3) Receipt by a collecting bank of a final settlement  
11 for an item is a realization on its security interest in the  
12 item, accompanying documents, and proceeds. So long as the  
13 bank does not receive final settlement for the item or give up  
14 possession of the item or accompanying documents for purposes  
15 other than collection, the security interest continues to that  
16 extent and is subject to chapter 679, but:

17 (a) No security agreement is necessary to make the  
18 security interest enforceable (s. 679.2031(2)(c)1.  
19 ~~679.203(1)(a)~~);

20 (b) No filing is required to perfect the security  
21 interest; and

22 (c) The security interest has priority over  
23 conflicting perfected security interests in the item,  
24 accompanying documents, or proceeds.

25 Section 17. Section 675.1181, Florida Statutes, is  
26 created to read:

27 675.1181 Security interest of issuer of nominated  
28 person.--

29 (1) An issuer or nominated person has a security  
30 interest in a document presented under a letter of credit to  
31 the extent that the issuer or nominated person honors or gives



hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 value for the presentation.

2 (2) As long as and to the extent that an issuer or  
3 nominated person has not been reimbursed or has not otherwise  
4 recovered the value given with respect to a security interest  
5 in a document under subsection (1), the security interest  
6 continues and is subject to chapter 679, but a security  
7 agreement is not necessary to make the security interest  
8 enforceable under s. 679.2031(2)(c):

9 (a) If the document is presented in a medium other  
10 than a written or other tangible medium, the security interest  
11 is perfected; and

12 (b) If the document is presented in a written or other  
13 tangible medium and is not a certificated security, chattel  
14 paper, a document of title, an instrument, or a letter of  
15 credit, the security interest is perfected and has priority  
16 over a conflicting security interest in the document so long  
17 as the debtor does not have possession of the document.

18 Section 18. Subsection (1) of section 677.503, Florida  
19 Statutes, is amended to read:

20 677.503 Document of title to goods defeated in certain  
21 cases.--

22 (1) A document of title confers no right in goods  
23 against a person who before issuance of the document had a  
24 legal interest or a perfected security interest in them and  
25 who neither:

26 (a) Delivered or entrusted them or any document of  
27 title covering them to the bailor or the bailor's nominee with  
28 actual or apparent authority to ship, store or sell or with  
29 power to obtain delivery under this chapter (s. 677.403) or  
30 with power of disposition under this code (ss. 672.403 and  
31 679.320 ~~679.307~~) or other statute or rule of law; nor

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 (b) Acquiesced in the procurement by the bailor or the  
2 bailor's nominee of any document of title.

3 Section 19. Subsection (6) of section 678.1031,  
4 Florida Statutes, is amended to read:

5 678.1031 Rules for determining whether certain  
6 obligations and interests are securities or financial  
7 assets.--

8 (6) A commodity contract, as defined in s.  
9 679.1021(1)(o)~~679.115~~, is not a security or a financial  
10 asset.

11 Section 20. Subsections (4) and (6) of section  
12 678.1061, Florida Statutes, are amended to read:

13 678.1061 Control.--

14 (4) A purchaser has "control" of a security  
15 entitlement if:

16 (a) The purchaser becomes the entitlement holder; ~~or~~

17 (b) The securities intermediary has agreed that it  
18 will comply with entitlement orders originated by the  
19 purchaser without further consent by the entitlement holder;  
20 or—

21 (c) Another person has control of the security  
22 entitlement on behalf of the purchaser or, having previously  
23 acquired control of the security entitlement, acknowledges  
24 that the person has control on behalf of the purchaser.

25 (6) A purchaser who has satisfied the requirements of  
26 subsection paragraph (3)(b) or subsection paragraph (4)(b) has  
27 control, even if the registered owner in the case of  
28 subsection paragraph (3)(b) or the entitlement holder in the  
29 case of subsection paragraph (4)(b) retains the right to make  
30 substitutions for the uncertificated security or security  
31 entitlement, to originate instructions or entitlement orders

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 to the issuer or securities intermediary, or otherwise to deal  
2 with the uncertificated security or security entitlement.

3 Section 21. Subsection (5) of section 678.1101,  
4 Florida Statutes, is amended to read:

5 678.1101 Applicability; choice of law.--

6 (5) The following rules determine a "securities  
7 intermediary's jurisdiction" for purposes of this section:

8 (a) If an agreement between the securities  
9 intermediary and its entitlement holder governing the  
10 securities account expressly provides that a particular  
11 jurisdiction is the securities intermediary's jurisdiction for  
12 purposes of this part, this chapter, or this code specifies  
13 that it is governed by the law of a particular jurisdiction,  
14 that jurisdiction is the securities intermediary's  
15 jurisdiction.

16 (b) If paragraph (a) does not apply and an agreement  
17 between the securities intermediary and its entitlement holder  
18 governing the securities account expressly provides that the  
19 agreement is governed by the law of a particular jurisdiction,  
20 that jurisdiction is the securities intermediary's  
21 jurisdiction.

22 (c) ~~(b)~~ If neither paragraph (a) nor paragraph (b)  
23 applies and an agreement between the securities intermediary  
24 and its entitlement holder governing the securities account  
25 does not specify the governing law as provided in paragraph  
26 (a), but expressly provides specifies that the securities  
27 account is maintained at an office in a particular  
28 jurisdiction, that jurisdiction is the securities  
29 intermediary's jurisdiction.

30 (d) ~~(c)~~ If none of the preceding paragraphs applies an  
31 agreement between the securities intermediary and its

hbd-032

Bill No. HB 579

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~entitlement holder does not specify a jurisdiction as provided~~  
2 ~~in paragraph (a) or paragraph (b), the securities~~  
3 ~~intermediary's jurisdiction is the jurisdiction in which is~~  
4 ~~located the office identified in an account statement as the~~  
5 ~~office serving the entitlement holder's account is located.~~

6 ~~(e)(d) If none of the preceding paragraphs applies an~~  
7 ~~agreement between the securities intermediary and its~~  
8 ~~entitlement holder does not specify a jurisdiction as provided~~  
9 ~~in paragraph (a) or paragraph (b) and an account statement~~  
10 ~~does not identify an office serving the entitlement holder's~~  
11 ~~account as provided in paragraph (c), the securities~~  
12 ~~intermediary's jurisdiction is the jurisdiction in which is~~  
13 ~~located the chief executive office of the securities~~  
14 ~~intermediary is located.~~

15 Section 22. Subsection (1) of section 678.3011,  
16 Florida Statutes, is amended to read:

17 678.3011 Delivery.--

18 (1) Delivery of a certificated security to a purchaser  
19 occurs when:

20 (a) The purchaser acquires possession of the security  
21 certificate;

22 (b) Another person, other than a securities  
23 intermediary, either acquires possession of the security  
24 certificate on behalf of the purchaser or, having previously  
25 acquired possession of the certificate, acknowledges that it  
26 holds for the purchaser; or

27 (c) A securities intermediary acting on behalf of the  
28 purchaser acquires possession of the security certificate,  
29 only if the certificate is in registered form and is  
30 registered in the name of the purchaser, payable to the order  
31 of the purchaser, or ~~has been~~ specially indorsed to the

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 purchaser by an effective indorsement and has not been  
2 endorsed to the securities intermediary or in blank.

3 Section 23. Section 678.3021, Florida Statutes, is  
4 amended to read:

5 678.3021 Rights of purchaser.--

6 (1) Except as otherwise provided in subsections (2)  
7 and (3), a purchaser upon delivery of a certificated or  
8 uncertificated security ~~to a purchaser, the purchaser~~ acquires  
9 all rights in the security that the transferor had or had  
10 power to transfer.

11 (2) A purchaser of a limited interest acquires rights  
12 only to the extent of the interest purchased.

13 (3) A purchaser of a certificated security who as a  
14 previous holder had notice of an adverse claim does not  
15 improve its position by taking from a protected purchaser.

16 Section 24. Section 678.5101, Florida Statutes, is  
17 amended to read:

18 678.5101 Rights of purchaser of security entitlement  
19 from entitlement holder.--

20 (1) In a case not covered by the priority rules in  
21 chapter 679 or the rules stated in subsection (3),an action  
22 based on an adverse claim to a financial asset or security  
23 entitlement, whether framed in conversion, replevin,  
24 constructive trust, equitable lien, or other theory, may not  
25 be asserted against a person who purchases a security  
26 entitlement, or an interest therein, from an entitlement  
27 holder if the purchaser gives value, does not have notice of  
28 the adverse claim, and obtains control.

29 (2) If an adverse claim could not have been asserted  
30 against an entitlement holder under s. 678.5021, the adverse  
31 claim cannot be asserted against a person who purchases a

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 security entitlement, or an interest therein, from the  
2 entitlement holder.

3 (3) In a case not covered by the priority rules in  
4 chapter 679, a purchaser for value of a security entitlement,  
5 or an interest therein, who obtains control has priority over  
6 a purchaser of a security entitlement, or an interest therein,  
7 who does not obtain control. Except as otherwise provided in  
8 subsection (4), purchasers who have control rank according to  
9 priority in time of:

10 (a) The purchaser's becoming the person for whom the  
11 securities account, in which the security entitlement is  
12 carried, is maintained, if the purchaser obtained control  
13 under s. 678.1061(4)(a);

14 (b) The securities intermediary's agreement to comply  
15 with the purchaser's entitlement orders with respect to  
16 security entitlements carried or to be carried in the  
17 securities account in which the security entitlement is  
18 carried, if the purchaser obtained control under s.  
19 678.1061(4)(b); or

20 (c) If the purchaser obtained control through another  
21 person under s. 678.1061(4)(c), the time on which priority  
22 would be based under this subsection if the other person were  
23 the secured party. ~~equally, except that~~

24 (4) A securities intermediary as purchaser has  
25 priority over a conflicting purchaser who has control unless  
26 otherwise agreed by the securities intermediary.

27 Section 25. Subsection (3) of section 680.1031,  
28 Florida Statutes, is amended to read:

29 680.1031 Definitions and index of definitions.--

30 (3) The following definitions in other chapters of  
31 this code apply to this chapter:

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

- 1 (a) "Account," s. 679.1021(1)(b)~~679.106~~.
- 2 (b) "Between merchants," s. 672.104(3).
- 3 (c) "Buyer," s. 672.103(1)(a).
- 4 (d) "Chattel paper," s. 679.1021(1)(k)~~679.105(1)(b)~~.
- 5 (e) "Consumer goods," s. 679.1021(1)(w)~~679.109(1)~~.
- 6 (f) "Document," s. 679.1021(1)(dd)~~679.105(1)(f)~~.
- 7 (g) "Entrusting," s. 672.403(3).
- 8 (h) "General intangible intangibles," s.
- 9 679.1021(1)(pp)~~679.106~~.
- 10 (i) "Good faith," s. 672.103(1)(b).
- 11 (j) "Instrument," s. 679.1021(1)(uu)~~679.105(1)(i)~~.
- 12 (k) "Merchant," s. 672.104(1).
- 13 (l) "Mortgage," s. 679.1021(1)(ccc)~~679.105(1)(j)~~.
- 14 (m) "Pursuant to a commitment," s. 679.1021(1)(ppp)
- 15 679.105(1)(k).
- 16 (n) "Receipt," s. 672.103(1)(c).
- 17 (o) "Sale," s. 672.106(1).
- 18 (p) "Sale on approval," s. 672.326(1).
- 19 (q) "Sale or return," s. 672.326(1).
- 20 (r) "Seller," s. 672.103(1)(d).

21 Section 26. Section 680.303, Florida Statutes, is  
22 amended to read:

23 680.303 Alienability of party's interest under lease  
24 contract or of lessor's residual interest in goods; delegation  
25 of performance; transfer of rights.--

26 (1) As used in this section, "creation of a security  
27 interest" includes the sale of a lease contract that is  
28 subject to chapter 679 by reason of s. 679.1091(1)(c).

29 (2) Except as provided in subsection ~~subsections~~ (3)  
30 and s. 679.4071(4), a provision in a lease agreement which:

31 (a) Prohibits the voluntary or involuntary transfer,

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 including a transfer by sale, sublease, creation or  
2 enforcement of a security interest, or attachment, levy, or  
3 other judicial process, of an interest of a party under the  
4 lease contract or of the lessor's residual interest in the  
5 goods; or

6 (b) Makes such a transfer an event of default, gives  
7 rise to the rights and remedies provided in subsection(4)  
8 ~~(5)~~, but a transfer that is prohibited or is an event of  
9 default under the lease agreement is otherwise effective.

10 ~~(3) A provision in a lease agreement which:~~

11 ~~(a) Prohibits the creation or enforcement of a~~  
12 ~~security interest in an interest of a party under the lease~~  
13 ~~contract or in the lessor's residual interest in the goods; or~~

14 ~~(b) Makes such a transfer an event of default, is not~~  
15 ~~enforceable unless, and then only to the extent that, there is~~  
16 ~~an actual transfer by the lessee of the lessee's right of~~  
17 ~~possession or use of the goods in violation of the provision~~  
18 ~~or an actual delegation of a material performance of either~~  
19 ~~party to the lease contract in violation of the provision.~~

20 ~~Neither the granting nor the enforcement of a security~~  
21 ~~interest in the lessor's interest under the lease contract or~~  
22 ~~the lessor's residual interest in the goods is a transfer that~~  
23 ~~materially impairs the prospect of obtaining return~~  
24 ~~performance by, materially changes the duty of, or materially~~  
25 ~~increases the burden or risk imposed on, the lessee within the~~  
26 ~~purview of subsection (5) unless, and then only to the extent~~  
27 ~~that, there is an actual delegation of a material performance~~  
28 ~~of the lessor.~~

29 (3)~~(4)~~ A provision in a lease agreement which:

30 (a) Prohibits a transfer of a right to damages for  
31 default with respect to the whole lease contract or of a right



hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 to payment arising out of the transferor's due performance of  
2 the transferor's entire obligation; or

3 (b) Makes such a transfer an event of default, is not  
4 enforceable, and such a transfer is not a transfer that  
5 materially impairs the prospect of obtaining return  
6 performance by, materially changes the duty of, or materially  
7 increases the burden or risk imposed on, the other party to  
8 the lease contract within the purview of subsection~~(4)~~~~(5)~~.

9 ~~(4)~~~~(5)~~ Subject to subsection ~~subsections~~ (3) and s.  
10 679.4071~~(4)~~:

11 (a) If a transfer is made which is made an event of  
12 default under a lease agreement, the party to the lease  
13 contract not making the transfer, unless that party waives the  
14 default or otherwise agrees, has the rights and remedies  
15 described in s. 680.501(2);

16 (b) If paragraph (a) is not applicable and if a  
17 transfer is made that is prohibited under a lease agreement or  
18 materially impairs the prospect of obtaining return  
19 performance by, materially changes the duty of, or materially  
20 increases the burden or risk imposed on, the other party to  
21 the lease contract, unless the party not making the transfer  
22 agrees at any time to the transfer in the lease contract or  
23 otherwise, then, except as limited by contract, the transferor  
24 is liable to the party not making the transfer for damages  
25 caused by the transfer to the extent that the damages could  
26 not reasonably be prevented by the party not making the  
27 transfer and a court having jurisdiction may grant other  
28 appropriate relief, including cancellation of the lease  
29 contract or an injunction against the transfer.

30 ~~(5)~~~~(6)~~ A transfer of "the lease" or of "all my rights  
31 under the lease" or a transfer in similar general terms is a

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 transfer of rights, and unless the language or the  
 2 circumstances, as in a transfer for security, indicate the  
 3 contrary, the transfer is a delegation of duties by the  
 4 transferor to the transferee. Acceptance by the transferee  
 5 constitutes a promise by the transferee to perform those  
 6 duties. The promise is enforceable by either the transferor or  
 7 the other party to the lease contract.

8 ~~(6)(7)~~ Unless otherwise agreed by the lessor and the  
 9 lessee, a delegation of performance does not relieve the  
 10 transferor as against the other party of any duty to perform  
 11 or of any liability for default.

12 ~~(7)(8)~~ In a consumer lease, to prohibit the transfer  
 13 of an interest of a party under the lease contract or to make  
 14 a transfer an event of default, the language must be specific,  
 15 by a writing, and conspicuous.

16 Section 27. Section 680.307, Florida Statutes, is  
 17 amended to read:

18 680.307 Priority of liens arising by attachment or  
 19 levy on, security interests in, and other claims to goods.--

20 (1) Except as otherwise provided in s. 680.306, a  
 21 creditor of a lessee takes subject to the lease contract.

22 (2) Except as otherwise provided in subsection  
 23 ~~subsections~~ (3) ~~and (4)~~ and in ss. 680.306 and 680.308, a  
 24 creditor of a lessor takes subject to the lease contract  
 25 unless+

26 ~~(a)~~ the creditor holds a lien that attached to the  
 27 goods before the lease contract became enforceable.†

28 ~~(b) The creditor holds a security interest in the~~  
 29 ~~goods and the lessee did not give value and receive delivery~~  
 30 ~~of the goods without knowledge of the security interests; or~~

31 ~~(c) The creditor holds a security interest in the~~

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~goods which was perfected (s. 679.303) before the lease~~  
2 ~~contract became enforceable.~~

3       (3) Except as otherwise provided in ss. 679.3171,  
4 679.321, and 679.323, a lessee takes a leasehold interest  
5 subject to a security interest held by a creditor or lessor. ~~A~~  
6 ~~lessee in the ordinary course of business takes the leasehold~~  
7 ~~interest free of a security interest in the goods created by~~  
8 ~~the lessor even though the security interest is perfected (s.~~  
9 ~~679.303) and the lessee knows of its existence.~~

10       ~~(4) A lessee other than a lessee in the ordinary~~  
11 ~~course of business takes the leasehold interest free of a~~  
12 ~~security interest to the extent that it secures future~~  
13 ~~advances made after the secured party acquires knowledge of~~  
14 ~~the lease or more than 45 days after the lease contract~~  
15 ~~becomes enforceable, whichever first occurs, unless the future~~  
16 ~~advances are made pursuant to a commitment entered into~~  
17 ~~without knowledge of the lease and before the expiration of~~  
18 ~~the 45-day period.~~

19       Section 28. Paragraph (b) of subsection (1) of section  
20 680.309, Florida Statutes, is amended to read:

21       680.309 Lessor's and lessee's rights when goods become  
22 fixtures.--

23       (1) In this section:

24       (b) A "fixture filing" is the filing, in the office  
25 where a mortgage on the real estate would be filed or  
26 recorded, of a financing statement covering goods that are or  
27 are to become fixtures and conforming to the requirements of  
28 s. 679.5021(1) and (2)~~679.402(5)~~.

29       Section 29. This act shall take effect January 1,  
30 2002.

31

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 remove the entire title from the bill:

4

5 and insert in lieu thereof:

6 An act relating to the Uniform Commercial Code;

7 revising ch. 679, F.S., relating to secured

8 transactions; creating ss. 679.1011, 679.1021,

9 679.1031, 679.1041, 679.1051, 679.1061,

10 679.1071, 679.1081, 679.1091, 679.1101, F.S.;

11 providing a short title, definitions, and

12 general concepts; creating ss. 679.2011,

13 679.2021, 679.2031, 679.2041, 679.2051,

14 679.2061, 679.2071, 679.2081, 679.209, 679.210,

15 F.S.; providing for the effectiveness and

16 attachment of security agreements; prescribing

17 rights and duties of secured parties; creating

18 ss. 679.3011, 679.3021, 679.3031, 679.3041,

19 679.3051, 679.3061, 679.3071, 679.3081,

20 679.091, 679.3101, 679.3111, 679.3121,

21 679.3131, 679.3141, 679.3151, 679.3161,

22 679.3171, 679.3181, 679.319, 679.320, 679.321,

23 679.322, 679.323, 679.324, 679.325, 679.326,

24 679.327, 679.328, 679.329, 679.330, 679.331,

25 679.332, 679.333, 679.334, 679.335, 679.336,

26 679.337, 679.338, 679.340, 679.341, 679.342,

27 F.S.; providing for perfection and priority of

28 security interests; creating ss. 679.40111,

29 679.4021, 679.4031, 679.4041, 679.4051,

30 679.4061, 679.4071, 679.4081, 679.409, F.S.;

31 prescribing rights of third parties; providing

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 legislative findings; creating ss. 679.5011,  
2 679.5021, 679.5031, 679.5041, 679.5051,  
3 679.5061, 679.5071, 679.508, 679.509, 679.510,  
4 679.511, 679.512, 679.513, 679.524, 679.515,  
5 679.516, 679.517, 679.518, 679.519, 679.520,  
6 679.521, 679.522, 679.523, 679.524, 679.525,  
7 679.526, 679.527, F.S.; prescribing filing  
8 procedures for perfection of a security  
9 interest; providing forms; providing duties and  
10 operation of filing office; providing  
11 definitions relating to the Florida Secured  
12 Transaction Registry; requiring the Department  
13 of State to cease operating as designated  
14 filing officer and filing office for certain  
15 purposes; providing duties and responsibilities  
16 of the Department of State relating to  
17 contracting for the administration, operation,  
18 and maintenance of the registry; providing  
19 criteria for the registry; operation of a  
20 filing office; providing definitions relating  
21 to the Florida Secured Transaction Registry;  
22 requiring the Department of State to cease  
23 operating as designated filing officer and  
24 filing office for certain purposes; providing  
25 duties and responsibilities of the Department  
26 of State relating to contracting for the  
27 administration, operation, and maintenance of  
28 the registry; creating ss. 679.601, 679.602,  
29 679.603, 679.604, 679.605, 679.606, 679.607,  
30 679.608, 679.609, 679.610, 679.611, 679.612,  
31 679.613, 679.614, 679.615, 679.616, 679.617,

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.618, 679.619, 679.620, 679.621, 679.622,  
2           679.623, 679.624, 679.625, 679.626, 679.627,  
3           F.S.; prescribing procedures for default and  
4           enforcement of security interests; providing  
5           for forms; creating ss. 679.701, 679.702,  
6           679.703, 679.704, 679.705, 679.706, 679.707,  
7           679.708, 679.709, F.S.; providing transitional  
8           effective dates and savings clause for  
9           perfected and unperfected security interests,  
10          specified actions, and financing statements;  
11          specifying priority of conflicting claims;  
12          amending s. 671.105, F.S.; specifying the  
13          precedence of law governing the perfection, the  
14          effect of perfection or nonperfection, and the  
15          priority of security interests and agricultural  
16          liens; amending s. 671.201, F.S.; revising  
17          definitions used in the Uniform Commercial  
18          Code; amending s. 672.103, F.S.; conforming a  
19          cross-reference; amending s. 672.210, F.S.;  
20          providing that the creation, attachment,  
21          perfection, or enforcement of a security  
22          interest in the seller's interest under a  
23          contract is not a transfer that materially  
24          affects the buyer unless the enforcement  
25          actually results in a delegation of material  
26          performance of the seller; amending s. 672.326,  
27          F.S.; eliminating provisions relating to  
28          consignment sales; amending s. 672.502, F.S.;  
29          modifying buyers' rights to goods on a seller's  
30          repudiation, failure to deliver, or insolvency;  
31          amending s. 672.716, F.S.; providing that, for

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1 goods bought for personal, family, or household  
2 purposes, the buyer's right of replevin vests  
3 upon acquisition of a special property;  
4 amending s. 674.2101, F.S.; conforming a  
5 cross-reference; creating s. 675.1181, F.S.;  
6 specifying conditions under which an issuer or  
7 nominated person has a security interest in a  
8 document presented under a letter of credit;  
9 amending ss. 677.503, 678.1031, F.S.;  
10 conforming cross-references; amending s.  
11 678.1061, F.S.; specifying a condition under  
12 which a purchaser has control of a security  
13 entitlement; amending s. 678.1101, F.S.;  
14 modifying rules that determine a securities  
15 intermediary's jurisdiction; amending s.  
16 678.3011, F.S.; providing for delivery of a  
17 certificated security to a purchaser; amending  
18 s. 678.3021, F.S.; eliminating a requirement  
19 that a purchaser of a certificated or  
20 uncertificated security receive delivery prior  
21 to acquiring all rights in the security;  
22 amending s. 678.5101, F.S.; prescribing rights  
23 of a purchaser of a security entitlement from  
24 an entitlement holder; amending ss. 680.1031,  
25 680.303, 680.307, 680.309, F.S.; conforming  
26 cross-references; repealing ss. 679.101,  
27 679.102, 679.103, 679.104, 679.105, 679.106,  
28 679.107, 679.108, 679.109, 679.110, 679.112,  
29 679.113, 679.114, 679.115, 679.116, F.S.,  
30 relating to the short title, applicability, and  
31 definitions of ch. 679, F.S.; repealing ss.

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

1           679.201, 679.202, 679.203, 679.204, 679.205,  
2           679.206, 679.207, 679.208, F.S., relating to  
3           the validity of security agreements and the  
4           rights of parties to such agreements; repealing  
5           ss. 679.301, 679.302, 679.303, 679.304,  
6           679.305, 679.306, 679.307, 679.308, 679.309,  
7           679.310, 679.311, 679.312, 679.313, 679.314,  
8           679.315, 679.316, 679.317, 679.318, F.S.,  
9           relating to rights of third parties, perfected  
10          and unperfected security interests, and rules  
11          of priority; repealing ss. 679.401, 679.4011,  
12          679.402, 679.403, 679.404, 679.405, 679.406,  
13          679.407, 679.408, F.S., relating to filing of  
14          security interests; repealing ss. 679.501,  
15          679.502, 679.503, 679.504, 679.505, 679.506,  
16          679.507, F.S., relating to rights of the  
17          parties upon default under a security  
18          agreement; providing effective dates.

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