

# ONEIDA NATION PUBLIC MEETING NOTICE

**THURSDAY April 16 2026, 12:15 pm**

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

Find Public Meeting Materials at

[Oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings)

Send Public Comments to

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

Ask Questions here

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

920-869-4417



## UNIFORM COMMERCIAL CODE

The purpose of the Uniform Commercial Code is to provide a clear, fair structure for commercial transaction to promote economic development, grounded in Good Mind principles and protection of sovereignty.

### The Uniform Commercial Code will:

- ◆ Establish a complete, unified commercial code governing security interests, collateral, and commercial transactions within the Nation, creating legal clarity and predictability for all parties.
- ◆ Ground commercial law in Good Mind principles, embedding cultural values directly into the Nation's economic governance framework.
- ◆ Define Oneida jurisdiction over commercial parties through residence, business location, tribal membership, or chartering, strengthening tribal legal authority.
- ◆ Create clear rules for creating, attaching, and enforcing security interests, essential for lenders and investors to transact with confidence.
- ◆ Provide multiple perfection methods (filing, possession, control), allowing flexible modern financing arrangements.
- ◆ Create priority rules that determine whose claim on collateral prevails in disputes, insolvency, or bankruptcy-like scenarios.
- ◆ Support interjurisdictional business activity by recognizing perfection under other jurisdictions and creating transition rules for collateral moving into Oneida jurisdiction.
- ◆ Protect against predatory contract terms, invalidating commercially harmful restrictions that block assignment or collateralization.
- ◆ Set structured, lawful processes for repossession, allowing possession only with debtor consent or judicial process, and forbidding breach of the peace.
- ◆ Provide remedies for improper conduct by lenders, including damages, statutory penalties, and court orders restraining noncompliant enforcement.



Individuals may attend the public meeting for the proposed Uniform Commercial Code in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact [LOC@oneidanation.org](mailto:LOC@oneidanation.org).

## PUBLIC COMMENT PERIOD CLOSSES THURSDAY APRIL 23, 2026

During the public comment period, anyone may submit written comments, questions or input. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.

For more information on the proposed Elder Protection law please review the public meeting packet at [oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings).



## UNIFORM COMMERCIAL CODE LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Legislation or Amendments</b>	<ul style="list-style-type: none"> <li>▪ Establish a complete, unified commercial code governing security interests, collateral, and commercial transactions within the Nation, creating legal clarity and predictability for all parties. [5 O.C. 510.1-1].</li> <li>▪ Affirm Oneida sovereignty by providing that this law governs conflicting provisions and is adopted under the Nation’s constitutional authority. [5 O.C. 510.2-4; 510.2-5].</li> <li>▪ Grounds commercial law in Good Mind principles, embedding cultural values directly into the Nation’s economic governance framework. [5 O.C. 510.1-2].</li> <li>▪ Define Oneida jurisdiction over commercial parties through residence, business location, tribal membership, or chartering, strengthening tribal legal authority. [5 O.C. 510.6-11(e)].</li> <li>▪ Create clear rules for creating, attaching, and enforcing security interests, essential for lenders and investors to transact with confidence. [5 O.C. 510.5-1; 510.5-2].</li> <li>▪ Provide multiple perfection methods (filing, possession, control), allowing flexible modern financing arrangements. [5 O.C. 510.6-3; 510.6-7; 510.6-8; 510.6-9].</li> <li>▪ Create priority rules that determine whose claim on collateral prevails in disputes, insolvency, or bankruptcy-like scenarios. [5 O.C. 510.6-12; 510.6-13; 510.6-14].</li> <li>▪ Support interjurisdictional business activity by recognizing perfection under other jurisdictions and creating transition rules for collateral moving into Oneida jurisdiction. [5 O.C. 510.6-11].</li> <li>▪ Strengthen consumer rights by restricting waivers, requiring post-default notice, and limiting repossession practices. [5 O.C. 510.9-2; 510.9-11; 510.9-21].</li> <li>▪ Ensure transparency by allowing debtors to request accountings, collateral lists, and surplus/deficiency explanations. [5 O.C. 510.5-7; 510.9-15].</li> <li>▪ Protect against predatory contract terms, invalidating commercially harmful restrictions that block assignment or collateralization. [5 O.C. 510.7-4].</li> <li>▪ Require commercially reasonable enforcement, meaning lenders must follow fair industry standards when collecting, selling, or disposing of collateral. [5 O.C. 510.9-7(b); 510.9-10(b); 510.9-24].</li> <li>▪ Create rulemaking authority enabling the Nation to issue regulations, procedures, and filing requirements without relying on state systems. [5 O.C. 510.4-8; 510.8-1(f)].</li> <li>▪ Clarify rights in complex assets such as accounts, chattel paper, investment accounts, fixtures, software, and agricultural products enabling modern finance options. [5 O.C. 510.3; 510.4-11; 510.6-7; 510.6-15].</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Set structured, lawful processes for repossession, allowing possession only with debtor consent or judicial process, and forbidding breach of the peace. [5 O.C. 510.9-9].</li> <li>▪ Create detailed rules for collateral sales, including notice requirements, timing rules, and public/private sale standards. [5 O.C. 510.9-10; 510.9-11; 510.9-12; 510.9-13].</li> <li>▪ Provide remedies for improper conduct by lenders, including damages, statutory penalties, and court orders restraining noncompliant enforcement. [5 O.C. 510.9-22].</li> <li>▪ Protect innocent purchasers by specifying when buyers take goods free of a security interest and when interests follow the collateral. [5 O.C. 510.6-13(a)(2); 510.6-14(c),(d)].</li> <li>▪ Ensure continuity and severability, protecting the code from invalidation if one section is challenged. [5 O.C. 510.10-1].</li> </ul>
<b>Purpose</b>	Provide a clear, fair structure for commercial transactions to promote economic development, grounded in Good Mind principles and protection of sovereignty. [5 O.C. 510.1].
<b>Affected Entities</b>	Oneida businesses and lenders; outside creditors transacting within jurisdiction; Oneida Licensing Department (filing office) and Comprehensive Housing Division (fixture filings); Oneida Judiciary; consumers and commercial debtors/secured parties. [5 O.C. 510.8-1(a); 510.3; 510.2].
<b>Related Legislation</b>	Judiciary law, Oneida Judiciary Rules of Civil Procedure, Real Property law, Leasing law, Public Peace law, and Administrative Rulemaking law.
<b>Enforcement</b>	The Oneida Trial Court is granted jurisdiction over all actions under this law.
<b>Due Process</b>	<p>1. Notice Requirements (Pre-Disposition / Enforcement Notices) These guarantee a debtor or other affected party receives advance written notice before enforcement actions occur. Required Notification Before Sale or Disposition of Collateral:</p> <ul style="list-style-type: none"> <li>• Secured party must send signed, reasonable notification to the debtor, secondary obligor, and other lienholders. [5 O.C. 510.9-11(b)-(c)].</li> <li>• Notice must include time, place, method of sale, rights to an accounting, redemption, and deficiency liability. [5 O.C. 510.9-13(a)].</li> <li>• Notification must be sent within a reasonable time, presumed sufficient if at least 10 days (non-consumer) or 20 days (consumer) prior. [5 O.C. 510.9-12(b)].</li> </ul> <p>Special Notification Requirements for Acceptance of Collateral in Satisfaction Debtor and other interest holders must be notified before a secured party can retain collateral in full or partial satisfaction. [5 O.C. 510.9-19(b)].</p> <p>2. Right to Be Heard / Objection Rights. These ensure parties can contest enforcement actions before they occur.</p> <ul style="list-style-type: none"> <li>• Objection to Acceptance of Collateral. Any person with an interest in the collateral has 14 tribal business days to object to the secured party’s proposal. [5 O.C. 510.9-19(c)(2)].</li> <li>• Objection to Consignment or Subordinate Interest Payments. Subordinate lienholders may demand payment from collateral proceeds and must be given a chance to prove their interest. [5 O.C. 510.9-8(a)(3); 510.9-14(a)(3)].</li> </ul> <p>3. Opportunity to Cure or Redeem (Restoration of Property Rights) These provisions ensure a debtor may stop enforcement by satisfying obligations.</p>

	<p>Right to Redeem Collateral</p> <ul style="list-style-type: none"><li>• Debtor or other secured party may redeem by paying obligations and reasonable expenses any time before:<ul style="list-style-type: none"><li>○ Collection,</li><li>○ Disposition, or</li><li>○ Acceptance of collateral. [5 O.C. 510.9-20(a)–(c)].</li></ul></li></ul> <p>4. Limits on Self-Help – Protection Against Arbitrary or Violent Repossession Repossession Only With Consent After Default or Judicial Process:</p> <ul style="list-style-type: none"><li>• Secured party may take possession only through judicial process or post-default written consent. [5 O.C. 510.9-9(a)].</li><li>• Consent must be:<ul style="list-style-type: none"><li>○ Signed after default,</li><li>○ In debtor’s handwriting,</li><li>○ Explicitly waiving judicial process.</li></ul>[5 O.C. 510.9-9(a)]</li></ul> <p>No Breach of the Peace Requirement: Secured party must repossess without breach of the peace; a major due process protection. [5 O.C. 510.9-9(c)].</p> <p>5. Judicial Review &amp; Court Oversight: These provisions ensure courts can intervene if rights are violated. Court Power to Restrain or Order Conduct in Cases of Noncompliance:</p> <ul style="list-style-type: none"><li>• Courts may order or restrain collection, enforcement, or disposition if the secured party violates the law. [5 O.C. 510.9-22(a)].</li></ul> <p>Lien Priority Relates Back to Earlier Perfection (Judicial Enforcement Safeguard) Protects fairness in judicial execution and credit priority. [5 O.C. 510.9-1(d)].</p> <p>6. Required Commercial Reasonableness. Another due process concept: actions must meet objective fairness standards.</p> <ul style="list-style-type: none"><li>• Standard of “Commercially Reasonable” Conduct Applies to disposition, enforcement, notices, collections, and handling of collateral. [5 O.C. 510.9-7(b); 510.9-10(b); 510.9-24(a)].</li><li>• Court-Approved or Creditor-Committee-Approved Actions Are Automatically Reasonable. (Creates a safe harbor for fairness.) [5 O.C. 510.9-24(c)].</li></ul> <p>7. Right to an Accounting / Transparency Requirements. These provisions ensure due process through access to information. Mandatory Accounting Upon Request:</p> <ul style="list-style-type: none"><li>• Debtor may request a statement of account, list of collateral, or obligation amount. [5 O.C. 510.5-7(a)].</li><li>• Secured party must respond within 10 tribal business days. [5 O.C. 510.5-7(b)].</li></ul> <p>Explanation of Surplus or Deficiency Required (Consumer Protection)</p> <ul style="list-style-type: none"><li>• Must provide a detailed explanation 10 days before suing for deficiency. [5 O.C. 510.9-15(a)].</li></ul> <p>8. Mandated Return of Surplus / Protection from Excessive Seizure. Ensures property is not wrongfully retained. Debtor Entitled to Surplus; Deficiency Rules Must Be Followed:</p> <ul style="list-style-type: none"><li>• Secured party must return surplus after sale. [5 O.C. 510.9-14(d)(1)].</li></ul>
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	<p>9. Prohibition on Waiver of Core Rights (Fundamental Fairness Protections) The Code prohibits waiver of key due process rights before default. Non-Waivable Rights Include:</p> <ul style="list-style-type: none"> <li>• Notice of disposition</li> <li>• Right to commercially reasonable sale</li> <li>• Right to redeem</li> <li>• Right to surplus</li> <li>• Prohibition on breach of peace [5 O.C. 510.9-2(a)–(l)].</li> </ul> <p>Waiver Allowed Only Post-Default (and limited)</p> <ul style="list-style-type: none"> <li>• Protects against coercion during contract formation. [5 O.C. 510.9-21(a)–(c)].</li> </ul> <p>10. Due Process Protections for Third Parties. Ensures rights of lienholders, obligors, and purchasers are safeguarded. Notification to Other Secured Parties</p> <ul style="list-style-type: none"> <li>• Before disposition, secured party must search filing office and notify all prior holders. [5 O.C. 510.9-11(c)(3); 510.9-11(e)].</li> </ul> <p>Rights of Secondary Obligors (e.g., guarantors)</p> <ul style="list-style-type: none"> <li>• Due process in assignment, assumption of duties, and transfer of collateral rights. [5 O.C. 510.9-17(a)–(b)].</li> </ul>
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. **Background.** The Uniform Commercial Code is a new addition to the Oneida Nation Code of Laws to support a modern commercial law framework that promotes economic development and integrates with broader U.S. commercial practices while preserving sovereignty.
- B. **Request for Amendments.** The Uniform Commercial Code was added to the AFL on June 5, 2024. The Uniform Commercial Code governs all commercial transactions, and the development of a Uniform Commercial Code will aid in the development of other business laws.

## SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of the amendments to this Law and legislative analysis:
  - Economic Strategy;
  - Oneida Law Office;
  - Intergovernmental Affairs.
- The following laws of the Nation were reviewed in the drafting of this analysis:
  - Administrative Rulemaking;
  - Leasing law;
  - Public Peace law;
  - Judiciary law; and
  - Oneida Judiciary Rules of Civil Procedure.

## SECTION 4. PROCESS

- A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
- On June 5, 2024, the Legislative Operating Committee added this Law to its Active Files List.
  - On February 4, 2026 the LOC approved the draft of the Uniform Commercial Code and directed that a legislative analysis be completed.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to this law:
- July 29, 2024: LOC work session.
  - December 2, 2024: LOC work session with Economic Strategy.
  - December 10, 2024: LOC work session.
  - January 15, 2025: LOC work session with Intergovernmental Affairs.
  - February 19, 2025: LRO work session.
  - June 6, 2025: LOC work session.
  - July 10, 2025: LOC work session.
  - September 2, 2025: LOC work session.
  - September 18, 2025: LRO work session with Oneida Law Office.
  - September 22, 2025: LOC work session.
  - October 14, 2025: LOC work session.
  - December 1, 2025: LOC work session with Oneida Law Office.
  - January 15, 2026: LOC work session with Oneida Law Office.

## SECTION 5. CONTENTS OF THE LEGISLATION

- ***Purpose, Policy and Sovereignty Framework.*** Establishes why the law exists, connects commercial regulation to Good Mind principles, and resolves conflicts in favor of this Code. [5 O.C. 510.1-1, 510.1-2, 510.2-4].
  - *Effect.* This section sets the philosophical and legal foundation for the entire Code. It ensures that all commercial activity within the Nation aligns with cultural values and long-term economic protection. It also strengthens sovereignty by ensuring this Code overrides conflicting laws, preventing external systems from weakening Oneida's authority.
- ***Definitions and Scope of Applicability.*** The Law provides precise definitions for collateral types, parties, and commercial terminology, and identifies the transactions governed by the Code. [5 O.C. 510.3; 510.4-6].
  - *Effect.* Establishing a precise set of definitions creates uniformity and predictability which is critical for attracting lenders, supporting businesses, and avoiding litigation. By defining what the law applies to (security interests, receivables, agricultural liens, consignments), the Nation establishes a clear commercial jurisdiction similar to state UCC Article 9 systems. This clarity reduces misunderstandings and ensures fair treatment of all parties.
- ***Sovereign Immunity and Jurisdiction.*** The Law affirms the Nation does not waive sovereign immunity unless expressly stated and defines when individuals and organizations fall under Oneida jurisdiction. [5 O.C. 510.4-1; 510.6-11(e)].

- *Effect.* These provisions protect the Nation from accidental or implied waivers of immunity. Clear jurisdictional rules ensure the Nation can regulate commercial behavior involving members, businesses located on the Reservation, and tribally chartered entities. This strengthens legal authority and provides certainty for courts, lenders, and businesses.
- ***Creation, Attachment and Enforceability of Security Interests.*** The Law outlines the steps needed for a lender to obtain enforceable rights in collateral, including value given, debtor rights, and authenticated agreements. [5 O.C. 510.5-1; 510.5-2].
  - *Effect.* This protects both debtors and creditors by requiring a clear, documented agreement before any rights are enforced. It ensures borrowers cannot be bound by hidden or implied liens. At the same time, lenders gain confidence knowing that once these conditions are met, their security interests are legally enforceable.
- ***Perfection Methods (Filing, Possession, Control).*** The Law provides methods for perfecting a security interest—such as filing with the Oneida Licensing Department, taking possession of collateral, or obtaining control of investment property. [5 O.C. 510.6-3; 510.6-7; 510.6-8; 510.6-9; 510.8-1].
  - *Effect.* Perfection is what protects a creditor against third parties (other creditors, buyers, lienholders). By offering multiple ways to perfect, the law accommodates everything from traditional loans to modern financial instruments. It also ensures filings take place within the Nation’s approved system, strengthening self-governance and reducing reliance on state UCC offices.
- ***Priority Rules.*** The Law establishes who has first rights when multiple parties claim the same collateral, including first-to-file, purchase-money priority, fixture priority, and lien creditor rules. [5 O.C. 510.6-12; 510.6-13; 510.6-14; 510.6-15].
  - *Effect.* This creates a predictable order of rights, essential for lending, leasing, agriculture, construction, and tribal enterprise operations. Priority rules prevent chaos when disputes arise and reduce litigation by defining winners and losers in advance. Strong priority rules also encourage outside investment because creditors know precisely how the Nation will determine claims.
- ***Filing System and Administrative Rules.*** The Law creates the Oneida tribal filing office, defines requirements for effective financing statements, and establishes administrative rulemaking authority. [5 O.C. 510.8-1; 510.8-2].
  - *Effect.* A tribal filing office is a cornerstone of commercial sovereignty. By controlling filings, the Nation manages its own registry of secured interests, rather than relying on state systems. The administrative authority ensures Oneida can evolve, modernize, and clarify procedures without amending the full Code.
- ***Debtor Protections and Due Process Requirements.*** The Law provides mandatory notices, redemption rights, accounting rights, limits on waivers, and repossession restrictions (no breach of the peace). [5 O.C. 510.9-9; 510.9-11; 510.9-12; 510.9-20; 510.9-2].

- *Effect.* These protections ensure fairness and prevent abusive enforcement. Debtors receive notice before repossession or sale, may reclaim their collateral by paying what is owed, and cannot have core rights waived in advance. This maintains trust in the commercial system, safeguards vulnerable borrowers, and aligns enforcement practices with Good Mind principles.
- ***Enforcement, Collection and Disposition Standards.*** The Law outlines procedures for collecting debts, enforcing obligations, and disposing of collateral, all of which must be “commercially reasonable.” [5 O.C. 510.9-7; 510.9-10; 510.9-24].
  - *Effect.* These rules protect debtors from low-value or unfair sales while giving creditors a clear and lawful path to recover losses. The “commercially reasonable” standard ensures collateral is not sacrificed for unfairly low prices. It also reduces disputes because creditors know the standard, they must meet to avoid liability.
- ***Remedies, Damages, and Judicial Oversight.*** The Law grants courts the authority to stop improper enforcement actions and awards damages, including statutory damages and attorney’s fees for violations. [5 O.C. 510.9-22; 510.9-23; 510.9-26].
  - These provisions provide meaningful consequences when creditors fail to follow the rules, protecting integrity of the system. They ensure borrowers have access to the courts and legal representation, which is essential for due process. This strengthens Oneida judicial authority and builds confidence that commercial law will be fairly applied.

## SECTION 6. EXISTING LEGISLATION

A. ***Related legislation.*** The following laws of the Nation are related to the proposed amendments to this Law:

- ***Public Peace Law.*** The purpose of the Public Peace law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [3 O.C. 309.1-1]. The law’s underlying policy is to “promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infraction that occur.” [3 O.C. 309.1-2].
  - The Law tightly regulates repossession, requiring: Judicial process OR Post-default written consent that is signed and acknowledges waiver of process [5 O.C. 510.9-9(a)]. Repossession must occur without breach of the peace. [5 O.C. 510.9-9(c)]. The Judiciary has authority to review and stop improper repossessions. This protects community members from dangerous or coercive enforcement behaviors.
- ***Leasing Law.*** The purpose of the Leasing Law is to set forth the Nation’s authority to issue, review, approve, as well as enforce, leases and was established in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2021 (HEARTH Act) so that the Nation can approve leases on its land without having to obtain additional approval from the Secretary of the Interior. [6 O.C. 602.1- 1]. The policy behind the law is to codify the expectations and responsibilities of the lessor and lessee when leasing Tribal land and to ensure that the leasing of Tribal land results in minimal risk to the Nation. [6 O.C. 602.1-2].

- According to the Leasing Law leases approved under the Law are subject to all of the Nation’s laws, except to the extent those laws are inconsistent with applicable federal law. [6 O.C. 602.4-3].
- *Leases vs. Security Interests (Critical to Leasing Law Jurisdiction)*. This Law establishes the criteria for determining when a transaction characterized as a “lease” is in fact a true lease and when it is, instead, a disguised security interest. This distinction is essential because it dictates whether the transaction falls under the Oneida Leasing Law or the UCC. Under this Law, a transaction constitutes a security agreement—rather than a lease—when it operates as a financing arrangement, such as where there is a nominal purchase option, a non-cancellable term, or other indicators of economic ownership, while also identifying factors that do *not* create a security interest. The Leasing Law governs true leases of tribal land, whereas the UCC governs secured transactions. Accordingly, when a transaction presented as a lease is actually a security agreement, the Leasing Law does not apply and the UCC controls instead. [5 O.C. 510.4-5].
- A security interest may continue in goods that become fixtures, and the UCC sets out the priority rules governing fixture-secured creditors versus owners or encumbrancers of the underlying real property. These provisions also address a secured party’s right to remove fixtures from the land after default, as well as the obligation to reimburse the landowner for any physical injury caused by removal. Because fixtures—such as HVAC systems, equipment, or signage—are frequently installed on leased trust land, it is important to determine:
  - who has priority,
  - whether fixtures may be removed, and
  - what duties apply
  - is essential for protecting the Nation’s interests as landowner/lessor under the Leasing Law. [5 O.C. 510.6-15; 510.9-4].
- *Security Interests in Leases or Rents*. The Leasing Law codifies the responsibilities of the lessor and lessee and affirms the Nation’s exclusive authority to approve, manage, and enforce leases of tribal land. [6 O.C. 602.1-1–2]. Under the UCC, Section 510.4-7(a)(9) identifies that the creation or transfer of an interest in, or a lien on, real property—including leases and rents arising thereunder—is expressly excluded from UCC coverage, except in limited circumstances involving fixture filings or mixed-collateral transactions. This exclusion confirms that leasehold interests and lease-derived rents on tribal land fall under the jurisdiction of the Oneida Leasing Law, not the UCC. This preserves the Nation’s exclusive authority under the HEARTH Act and prevents any UCC filing from being used to encumber tribal real-property leases. [5 O.C. 510.4-7(a)(9)].
- *Goods on Leased Property Held for Sale or Lease*. Leases approved under the Leasing Law are subject to all Nation laws unless those laws are inconsistent with applicable federal requirements. [6 O.C. 602.4-3]. Under Section 510.6-6(d) of the UCC, when goods located on the property are held for sale or lease, or are leased by a dealer/lessor engaged in selling goods of that kind, the

certificate-of-title perfection rules do not apply. Instead, perfection and priority are governed by standard UCC filing requirements. This distinction is important for businesses operating on leased tribal land, which frequently maintain inventory for sale or subleasing. While the Leasing Law governs the *use* of tribal land and the terms of occupancy, the UCC governs creditor rights in the personal property located on that land. Understanding the boundary between these two bodies of law helps prevent conflict and unintended encumbrances involving inventory or other goods situated on leased trust land. [5 O.C. 510.6-6(d)].

- *Priority Rules Affecting Landlords / Lessors.* The Leasing Law seeks to minimize risk to the Nation and clearly define the expectations and responsibilities of both the lessor and the lessee. [6 O.C. 602.1-2]. Several UCC provisions intersect with these concerns. Under Section 510.6-13(a)(2), certain buyers or lessees of goods may take their interests free of an existing security interest under specific conditions. Section 510.6-14(c) further provides that lessees of goods in the ordinary course of business take free of a security interest created by the lessor. Additionally, Section 510.6-15 addresses the priority of interests in fixtures, including the rights of real-property owners when tenant-installed goods become affixed to the land. These provisions matter because the Nation frequently serves as the landowner and lessor on tribal trust lands. They determine, among other things:

- whether a lessee's creditor may assert a claim to goods located on leased tribal land;
- whether the Nation's interests as landowner/lessor take priority over a secured creditor; and
- how tenant-installed fixtures may be removed after default and what obligations flow from that removal.

Understanding these rules is operationally important when enforcing the Nation's rights under the Leasing Law and protecting tribal land interests. [5 O.C. 510.6-13; 510.6-14; 510.6-15].

- *Choice of Law Concerning Real Property and Fixtures.* The Leasing Law requires that leases of tribal land comply with all Nation laws unless such laws conflict with applicable federal requirements. [6 O.C. 602.4-3]. Under Section 510.4-13 of the UCC, parties generally have the ability to choose the governing law for commercial transactions; however, this choice is expressly limited. A contractual choice of law may not override the UCC's rules governing perfection and priority related to real property and fixtures, nor may it supersede laws that embody the fundamental policy of the Oneida Nation.

These limitations are directly relevant to the Leasing Law. Parties entering into a lease of tribal land cannot avoid the application of the Nation's leasing requirements by selecting another jurisdiction's law. The UCC reinforces and protects the Nation's exclusive authority over land-related interests by ensuring that choice-of-law

- provisions cannot be used to contract around tribal real-property rules. [5 O.C. 510.4-13].
- **Administrative Rulemaking.** The purpose of the Administrative Rulemaking law is to provide a process for the adoption of and amendments to the Nation’s administrative rules. [1 O.C. 106.1-1]. Its underlying policy is to ensure there exists an efficient, effective and democratic process for enacting and revising administrative rules, and that authorized agencies act in a responsible and consistent manner when enacting and revising administrative rules. [1 O.C. 106.1-2].
    - This Law delegates rulemaking authority to an Oneida entity to be determined, to develop filing-office regulations and an implementation manual to operationalize indexing, search logic, forms, acceptance/refusal protocols, and fee schedules. [5 O.C. 510.8-1(f)].
    - Any rules promulgated are required to be developed in accordance with the process and procedures of the Administrative Rulemaking law. [5 O.C. 510.3-1(t)].

## SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

**Oneida Trial Court.** The Law gives the Oneida Judiciary explicit authority to supervise enforcement actions, stop unlawful repossessions or collateral sales, and award damages or attorney’s fees for violations. Key protections include strict notice requirements, the right to redeem collateral, commercially reasonable sale standards, mandatory accounting, and penalties for creditor misconduct. Together, these provisions ensure fairness, transparency, and judicial oversight in all secured transactions within the Nation. Courts may order or restrain collection, repossession, or disposition of collateral if a creditor violates the Law. [5 O.C. 510.9-22(a)]. This ensures lenders cannot take unilateral or abusive action. The Oneida Judiciary serves as the ultimate accountability mechanism, protecting debtors, consumers, and other secured parties.

**Regulation of Repossession/Self-Help.** The Law tightly regulates repossession, requiring:

- Judicial process, or
- Post-default written consent that is signed and acknowledges waiver of process [5 O.C. 510.9-9(a)].
- Repossession must occur without breach of the peace. [5 O.C. 510.9-9(c)].

The Judiciary has authority to review and stop improper repossessions. This protects community members from dangerous or coercive enforcement behaviors.

## SECTION 8. OTHER CONSIDERATIONS

**Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,*” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- **Conclusion.** The Legislative Operating Committee has not yet directed that a fiscal impact be completed.

**Title 5. Business - Chapter 510**  
**UNIFORM COMMERCIAL CODE**

510.1. Purpose and Policy.	510.6. Perfection and Priority
510.2. Adoption, Amendment Repeal.	510.7. Rights of Third Parties
510.3. Definitions	510.8. Filing
510.4. General Provisions	510.9. Default
510.5. Effectiveness. Attachment and Rights of Parties	510.10. Miscellaneous Provisions

**510.1. Purpose and Policy.**

510.1-1. *Purpose.* The purpose of this law is to provide a clear and fair structure for the regulation of commercial transactions within the Nation.

510.1-2. *Policy.* It is the policy of the Oneida Nation to promote economic development and the continued expansion of commercial practices involving the Nation, and in doing so, to honor the Good Mind principles that guide the Nation in all of its governmental and economic endeavors. The Nation embraces YukwatsístayΛ the fire, the animating spirit within each of us as a reminder that protecting our People, our sovereignty, and our economic future is an expression of who we are. These principles serve as the foundation for the development and application of commercial laws, including the Uniform Commercial Code. The Good Mind as expressed by OnΛyote?a?ka, includes:

- (a) Kahletsyalúsla. The heartfelt encouragement of the best in each of us.
- (b) Kanolukhwásla. Compassion, caring, identity, and joy of being.
- (c) Ka?nikuhli:yó. The openness of the good spirit and mind.
- (d) Ka?tshatstásla. The strength of belief and vision as a People.
- (e) Kalihwi:yó. The use of the good words about ourselves, our Nation, and our future.
- (f) TwahwahtsilayΛ. All of us are family.
- (g) YukwatsístayΛ. Our fire, our spirit within each one of us.

**510.2. Adoption, Amendment Repeal.**

510.2-1. This law was adopted by the Oneida Business Committee by resolution BC-XX-XX-XX.

510.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

510.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

510.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

510.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**510.3. Definitions**

510.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.
- (b) "Account" except as used in "account for",

- 46 (1) means a right to payment of a monetary obligation whether or not earned by  
47 performance;
- 48 (i) for property that has been or is to be sold, leased, licensed, assigned, or  
49 otherwise disposed of:
- 50 (A) for services rendered or to be rendered;  
51 (B) for a policy of insurance issued or to be issued;  
52 (C) for a secondary obligation incurred or to be incurred;  
53 (D) for energy provided or to be provided;  
54 (E) for the use or higher of a vessel under a charter or other contract  
55 arising out of the use of a credit or charge card or information contained  
56 on or for use with the card; or  
57 (F) as winnings in a lottery or other game of chance operated or  
58 sponsored by a tribe, governmental unit of a tribe, a person licensed or  
59 authorized by a tribe or governmental unit of a tribe to operate the  
60 game, a state, governmental unit of a state, or person licensed or  
61 authorized to operate the game by a state or governmental unit of a  
62 state;
- 63 (2) includes health-care insurance receivables; and  
64 (3) does not include:
- 65 (i) rights to payment evidenced by chattel paper or an instrument;  
66 (ii) commercial tort claims;  
67 (iii) deposit accounts;  
68 (iv) securities or investment accounts, including assets held in investment  
69 accounts;  
70 (v) letter-of-credit rights or letters of credit; or  
71 (vi) rights to payment for money or funds advanced or sold, other than rights  
72 arising out of the use of a credit or charge card or information contained on or  
73 for use with the card.
- 74 (c) “Account Debtor” means a person obligated on an account, chattel paper, or general  
75 intangible. The term does not include a person obligated to pay a negotiable instrument, even  
76 if the instrument constitutes chattel paper.
- 77 (d) “Agreement” as distinguished from “contract”, means the bargain of the parties in fact, as  
78 found in their language or inferred from other circumstances, including course of performance,  
79 course of dealing, or usage of trade as provided in the section on those terms (Section 510.5-  
80 10).
- 81 (e) “Agricultural Lien” means an interest in farm products:
- 82 (1) which secures payment or performance of an obligation for:
- 83 (i) goods or services furnished in connection with a debtor’s farming operation;  
84 Or  
85 (ii) rent on real property leased by a debtor in connection with its farming  
86 operation;
- 87 (2) which is created by law in favor of a person that:
- 88 (i) in the ordinary course of its business furnished goods or services to a debtor  
89 in connection with the debtor’s farming operation; or  
90 (ii) leased real property to a debtor in connection with the debtor’s farming  
91 operation; and

92 (3) whose effectiveness does not depend on the person's possession of the personal  
93 property.

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

95 (1) oil, gas, or other minerals that are subject to security interest that:

96 (i) is created by a debtor having an interest in the minerals before extraction;  
97 and

98 (ii) attaches to the minerals as extracted; or

99 (2) accounts arising out of the sale at the wellhead or Minehead of oil, gas, or other  
100 minerals in which the debtor had an interest before extraction.

101 (g) "Business Day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding  
102 holidays recognized by the Nation.

103 (h) "Business Entity" means that which exists as a particular and discrete unit, which may  
104 include, but is not limited to; any person, partnership, corporation, joint venture, franchise,  
105 governmental enterprise, or any other natural or artificial person or organization. The term  
106 "entity" is intended to be as broad and encompassing as possible to ensure the jurisdiction of  
107 this law.

108 (i) "Buyer in ordinary course of business" means a person that buys goods in good faith,  
109 without knowledge that the sale violates the rights of another person in the goods, and in the  
110 ordinary course from a person, other than a pawn broker, in the business of selling goods of  
111 that kind. A person buys goods in the ordinary course if the sale to the person comports with  
112 the usual or customary practices in the kind of business in which the seller is engaged or with  
113 the sellers own usual or customary practices. A person that sells oil, gas, or other minerals at  
114 the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in  
115 ordinary course of business may buy for cash, by exchange of other property, or on secured  
116 or unsecured credit, and may acquire goods or documents of title under a pre-existing contract  
117 for sale. Only a buyer that takes possession of the goods or has the right to recover the goods  
118 from the seller under other applicable law may be a buyer in ordinary course of business.  
119 "Buyer in ordinary course of business" does not include a person that acquires goods in a  
120 transfer in bulk or as security for or in total or partial satisfaction of a money debt.

121 (j) "Cash proceeds" means money, checks, deposit accounts, or the like.

122 (k) "Certified security" means a security that is represented by a certificate.

123 (l) "Certificate of title" means a written certificate issued by a governmental unit of a state or  
124 tribe or other record maintained by a governmental unit of a state or tribe with respect to which  
125 a statute or law provides for the security interest in question to be indicated on the certificate  
126 or record as a condition or result of the security interest's obtaining priority over the rights of  
127 a lien creditor with respect to the collateral.

128 (m) "Chattel paper" means a record or records that evidence both a monetary obligation and  
129 a security interest in specific goods, a security interest in specific goods and software used in  
130 the goods, a security interest in specific goods and license of software used in the goods, a  
131 lease of specific goods, or a lease of specific goods and license of software used in the goods.  
132 In this paragraph, "monetary obligation" means an obligation secured by the goods or owed  
133 under a lease of the goods and includes such an obligation with respect to software used in the  
134 goods. The term does not include:

135 (1) charters or contracts involving the hire of a vessel or

136 (2) records that evidences a right to payment arising out of the use of a credit or charge  
137 card, or information contained on or for use with the card. If a transaction is evidenced

- 138 by records that include an instrument or series of instruments, the group of records  
139 taken together constitutes chattel paper.
- 140 (n) “Collateral” means the property subject to a security interest or agricultural lien. The term  
141 includes:
- 142 (1) proceeds to which a security interest attaches;  
143 (2) accounts, chattel paper, payment intangibles, and promissory notes that have been  
144 sold; and  
145 (3) goods that are the subject of a consignment.
- 146 (o) “Commercial tort claim” means a claim arising in tort with respect to which:
- 147 (1) the claimant is an organization; or  
148 (2) the claimant is an individual and the claim:  
149 (i) arose in the course of the claimant’s business or profession; and  
150 (ii) does not include damages arising out of personal injury to or the death of  
151 an individual.
- 152 (p) “Department” means the Oneida Licensing Department.
- 153 (q) “Judiciary” means the judicial system that was established by Oneida General Tribal  
154 Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities  
155 of the Nation.
- 156 (r) “License Fee” means that fee charged for a vendor’s license issued in accordance with this  
157 law.
- 158 (s) “Nation” means the Oneida Nation.
- 159 (t) “Rule” means a set of requirements enacted in accordance with the Administrative  
160 Rulemaking law.
- 161 (u) “Vendor’s License” means a license issued by the Oneida Vendor License Department to  
162 a business entity that provides a service for, or that does business with the Nation.

#### 164 **510.4. General Provisions**

165 510.4-1. *No Waiver of Sovereign Immunity.* The sovereign immunity of neither the Oneida Nation  
166 nor of any of its agencies or instrumentalities is waived with respect to any provision of any  
167 transaction subject to this Law, absent a recorded, properly ratified, express waiver of sovereign  
168 immunity.

169 510.4-2. *No Application Property Not Alienable.* This Law does not apply to any property interest  
170 that is subject to federal restrictions regarding sale, transfer, or encumbrance.

171 510.4-3. *Notice; Knowledge.*

- 172 (a) Subject to subsection (f), a person has “notice” of a fact if the person:
- 173 (1) has actual knowledge of it;  
174 (2) has received a notice or notification of it; or  
175 (3) from all the facts and circumstances known to the person at the time in question,  
176 has reason to know that it exists.
- 177 (b) “Knowledge” means actual knowledge. “Knows” has a corresponding meaning.
- 178 (c) “Discover”, “learn”, or words of similar import refer to knowledge rather than to reason  
179 to know.
- 180 (d) “Notifying or giving notice or notification” A person “notifies” or “gives” a notice or  
181 notification to another person by taking such steps as may be reasonably required to inform

182 the other person in ordinary course, whether or not the other person actually comes to know  
183 of it.

184 (e) “Receipt generally”. Subject to subsection (f), a person “receives” a notice or notification  
185 when:

186 (i) it comes to that person’s attention; or

187 (ii) it is duly delivered in a form reasonable under the circumstances at the place of  
188 business through which the contract was made or at another location held out by that  
189 person as the place for receipt of such communications.

190 (f) “Receipt by organization”. Notice, knowledge, or a notice or notification received by an  
191 organization is effective for a particular transaction from the time it is brought to the  
192 attention of the individual conducting that transaction and, in any event, from the time it  
193 would have been brought to the individual’s attention if the organization had exercised due  
194 diligence. An organization exercises due diligence if it maintains reasonable routines for  
195 communicating significant information to the person conducting the transaction and there is  
196 reasonable compliance with the routines. Due diligence does not require an individual acting  
197 for the organization to communicate information unless the communication is part of the  
198 individual’s regular duties, or the individual has reason to know of the transaction and that  
199 the transaction would be materially affected by the information.

200 510.4-4. *Value*. Except as otherwise provided under applicable laws dealing with negotiable

201 instruments, bank deposits, letters of credit and bulk transfers and sales, a person gives value for  
202 rights if the person acquires them:

203 (a) in return for a binding commitment to extend credit or for the extension of immediately  
204 available credit, whether or not drawn upon and whether or not a chargeback is provided for  
205 in the event of difficulties in collection;

206 (b) as security for, or in total or partial satisfaction of, a preexisting claim;

207 (c) by accepting delivery under a preexisting contract for purchase; or

208 (d) in return for any consideration sufficient to support a simple contract.

209 510.4-5. *Lease Distinguished from Security Interest*.

210 (a) *Basic test*. Whether a transaction in the form of a lease creates a lease or security interest  
211 is determined by the facts of each case.

212 (b) *Transactions that create security interests*. A transaction in the form of a lease creates a  
213 security interest if the consideration that the lessee is to pay the lessor for the right to  
214 possession and use of the goods is an obligation for the term of the lease and is not subject to  
215 termination by the lessee, and:

216 (1) the original term of the lease is equal to or greater than the remaining economic  
217 life of the goods;

218 (2) the lessee is bound to renew the lease for the remaining economic life of the  
219 goods or is bound to become the owner of the goods;

220 (3) the lessee has an option to renew the lease for the remaining economic life of the  
221 goods for no additional consideration or for nominal additional consideration upon  
222 compliance with the lease agreement; or

223 (4) the lessee has an option to become the owner of the goods for no additional  
224 consideration or for nominal additional consideration upon compliance with the lease  
225 agreement.

226 (c) *Factors that do not create security interests*. A transaction in the form of a lease does not  
227 create a security interest merely because:

- 228 (1) the present value of the consideration the lessee is obligated to pay the lessor for  
229 the right to possession and use of the goods is substantially equal to or is greater than  
230 the fair market value of the goods at the time the lease is entered into;  
231 (2) the lessee assumes risk of loss of the goods;  
232 (3) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing,  
233 recording, or registration fees, or service or maintenance costs;  
234 (4) the lessee has an option to renew the lease or to become the owner of the  
235 goods;  
236 (5) the lessee has an option to renew the lease for a fixed rent that is equal to or  
237 greater than the reasonably predictable fair market rent for the use of the goods for the  
238 term of the renewal at the time the option is to be performed; or  
239 (6) the lessee has an option to become the owner of the goods for a fixed price that is  
240 equal to or greater than the reasonably predictable fair market value of the goods at  
241 the time the option is to be performed.  
242

243 510.4-6. *General Scope.*

- 244 (a) *General Scope of the Law.* Except as otherwise provided in Section 510.4-7 (Excluded  
245 Transactions) this Law applies to the following, if within the jurisdiction of the Nation:  
246 (1) any transaction, regardless of its form, that creates a security interest in personal  
247 property or fixtures by contract;  
248 (2) an agricultural lien;  
249 (3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;  
250 (4) a consignment; and  
251 (5) any other commercial activity, including a sale of goods, other transaction in  
252 goods, a negotiable instrument, bank deposit and collection, funds transfer, letter of  
253 credit, document of title and investment security, to the extent the commercial activity  
254 is implicated in paragraph (1), (3) or (4).  
255 (b) *Consistency in Application.* Subject to Section 510.4-10 the application of this Law to a  
256 type of transaction enumerated in subsection 510.4-6(a)(5) is to be derived from the context  
257 involved, with due consideration for consistency in application with uniform principles of  
258 commercial and contract law operative in the United States.  
259 (c) *Security Interest in Secured Obligation.* The application of this Law to a security interest  
260 in a secured obligation is not affected by the fact that the obligation is itself secured by a  
261 transaction or interest to which this Law does not apply.

262 510.4-7. *Excluded Transactions.* This Law does not apply to:

- 263 (a) a landlord's lien, other than an agricultural lien;  
264 (b) a lien, other than an agricultural lien, given by statute or other rule of law for services or  
265 materials, but Section 510.6-14(k) (Particular Priority Rules) applies with respect to priority  
266 of the lien.  
267 (c) a tribal lien;  
268 (d) an assignment of a claim for wages, salary, or other compensation of an employee;  
269 (e) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a  
270 sale of the business out of which they arose;

- 271 (f) an assignment of accounts, chattel paper, payment intangibles, or promissory notes  
272 which is for the purpose of collection only;
- 273 (g) an assignment of a right to payment under a contract to an assignee that is also  
274 obligated to perform under the contract;
- 275 (h) a right of recoupment or set-off, but Section 510.6-1(k) applies with respect to  
276 defenses or claims of an account debtor; an assignment of a right represented by a  
277 judgment, other than a judgment taken on a right to payment that was collateral;
- 278 (i) the creation or transfer of an interest in or lien on real property, including a lease or  
279 rents thereunder, except to the extent that provision is made for:
- 280 a. a fixture filing; and  
281 b. security agreements covering personal and real property in Section 510.9-4;
- 282 (j) an assignment of a claim arising in tort, other than a commercial tort claim, except as  
283 provided with respect to proceeds and priorities in proceeds; or
- 284 (k) an assignment of a deposit account, except as provided with respect to proceeds and  
285 priorities in proceeds.  
286

287 510.4-8. *Administration of Law; Authority to Promulgate Regulations/Rulemaking Authority.* The  
288 [name of the Oneida department or division], or its designated successor, is charged with the  
289 administration of this Law. In accordance with Administrative Rulemaking Law the [insert name of  
290 Oneida department or division], or its designated successor may promulgate regulations necessary  
291 for the effective implementation and enforcement of this Law.

292 510.4-9. *Obligation of Good Faith.* Every contract or duty within this Law imposes, with respect to  
293 its performance and enforcement, an obligation that each party be honest and act in a manner that is  
294 consistent with reasonable commercial standards of fair dealing.

295 510.4-10. *Course of Performance, Course of Dealing, and Usage of Trade.*

296 (a) *Course of performance defined.* A “course of performance” is a sequence of conduct  
297 between the parties to a particular transaction that exists if:

298 (1) the agreement of the parties with respect to the transaction involves repeated  
299 occasions for performance by a party; and

300 (2) the other party, with knowledge of the nature of the performance and opportunity  
301 for objection to it, accepts the performance or acquiesces in it without objection.

302 (b) *Course of dealing defined.* A “course of dealing” is a sequence of conduct concerning  
303 previous transactions between the parties to a particular transaction that is fairly to be  
304 regarded as establishing a common basis of understanding for interpreting their expressions  
305 and other conduct.

306 (c) *Usage of trade defined.* A “usage of trade” is any practice or method of dealing, including  
307 a local custom or tradition of the Oneida Nation, having such regularity of observance in a  
308 place, vocation, or trade as to justify an expectation that it will be observed with respect to  
309 the transaction in question. The existence and scope of such a usage must be proved as facts.  
310 If it is established that such a usage is embodied in a trade code or similar record, the  
311 interpretation of the record is a question of law.

312 (d) *Effect.* A course of performance or course of dealing between the parties or usage of trade  
313 in the vocation or trade in which they are engaged or of which they are or should be aware is  
314 relevant in ascertaining the meaning of the parties’ agreement, may give particular meaning  
315 to specific terms of the agreement, and may supplement or qualify the terms of the

316 agreement. A usage of trade applicable in the place in which part of the performance under  
317 the agreement is to occur may be so utilized as to that part of the performance.

318 (e) *Practical construction; hierarchy.* Except as otherwise provided in subsection (f), the  
319 express terms of an agreement and any applicable course of performance, course of dealing,  
320 or usage of trade must be construed whenever reasonable as consistent with each other. If  
321 such a construction is unreasonable:

322 (1) express terms prevail over course of performance, course of dealing, and usage of  
323 trade;

324 (2) course of performance prevails over course of dealing and usage of trade; and

325 (3) course of dealing prevails over usage of trade.

326 (f) Subject to other applicable law, a course of performance is relevant to show a waiver or  
327 modification of any term inconsistent with the course of performance.

328 (g) Evidence of a relevant usage of trade offered by one party is not admissible unless that  
329 party has given the other party notice that the court finds sufficient to prevent unfair surprise  
330 to the other party.

331 510.4-11. *Purchase Money Security Interest.*

332 (a) Definitions in this Section:

333 (1) “Purchase-money collateral” means goods or software that secures a purchase-  
334 money obligation incurred with respect to that collateral.

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

338 (b) *Purchase-money security interest in goods.* A security interest in goods is a purchase-  
339 money security interest:

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

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

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

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

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

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

357 (d) *Consigner’s inventory purchase-money security interest.* The security interest in a  
358 consignor in goods that are the subject of a consignment is a purchase-money security  
359 interest in inventory.

360 (e) *Application of payment in non-consumer transaction.* In the transaction other than a  
361 consumer transaction, if the extent to which a security interest is a purchase money

362 security interest depends on the application of a payment to a particular obligation, the  
363 payment must be applied:

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

366 (2) if paragraph one (1) does not apply, in accordance with the intention of the  
367 obligor manifested at or before the time of payment; or

368 (3) if paragraphs one (1) and two (2) do not apply, in the following order:

369 i. to obligations that are not secured; and

370 ii. if more than one obligation is secured, to obligations secured by purchase-  
371 money security interests in the order in which those obligations were incurred.

372 (f) *No loss of purchase-money security interest.* In a transaction other than a consumer  
373 transaction, a purchase-money security interest does not lose its status as such, even if:

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

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

378 (3) the purchase-money obligation had been renewed, refinanced, consolidated, or  
379 restructured.

380 (g) *Burden of proof in non-consumer transaction.* In a transaction other than a consumer-  
381 goods transaction, a secured party claiming a purchase-money security interest has the  
382 burden of establishing the extent to which the security interest is a purchase-money  
383 security interest.

384 (h) *Non-consumer goods transaction; no interference.* The limitation of the rules in  
385 subsections (e), (f), and (g) to transactions other than a consumer-goods transactions is  
386 intended to leave to the court the determination of the proper rules in a consumer-goods  
387 transactions. The court may not infer from that limitation the nature of the proper rule in  
388 consumer-goods transactions and may continue to apply established approaches.

389 510.4-12. *Sufficiency of Description.* Except as otherwise provided in subsections (b) and (c), a  
390 description of personal or real property is sufficient, whether or not it is specific, if it reasonably  
391 identifies what is described.

392 (a) *Examples of reasonable identification.* Except as otherwise provided in subsection (c), a  
393 description of collateral reasonably identifies the collateral if it identifies the collateral by:

394 (1) a type of collateral defined in this Law; or

395 (2) except as otherwise provided in subsection (b), any other method, if the identity of  
396 the collateral is objectively determinable.

397 (b) *Broad, generic descriptions insufficient.* In a security agreement, a description of  
398 collateral as “all the debtor’s assets” or “all the debtor’s personal property” or using words of  
399 similar import does not reasonably identify the collateral.

400 (c) *Description by type insufficient.* A description only by type of collateral defined in this  
401 Law is an insufficient description of:

402 (1) a commercial tort claim; or

403 (2) in a consumer transaction, any collateral.

404 510.4-13. *Parties Power to Choose Applicable Law.*

405 (a) *Choice of law generally.* Except as provided in subsection (b) and unless preempted by  
406 federal law, if a transaction bears a reasonable relation to the Oneida Nation and also to  
407 another tribe, state, or country, the parties may agree that the law either of the Oneida Nation  
408 or of the other tribe, state, or country governs the parties' rights and duties. In the absence of  
409 an effective agreement, this Law applies to all transaction bearing an appropriate relation to  
410 the Oneida Nation. The fact that the law of another tribe, state, or country is applicable as  
411 provided in this section does not affect the jurisdiction or venue of the Oneida Nation or of  
412 any agency or instrumentality of the Oneida Nation.

413 (b) *When agreement ineffective.* An agreement otherwise effective under subsection (a) is  
414 ineffective in any of the following cases:

415 (1) in a consumer transaction;

416 (2) to the extent the agreement purports to vary the provision of Section 510.6,  
417 concerning the law governing perfection and priority; or

418 (3) to the extent that application of the law of the tribe, state, or country designated in  
419 the agreement would be contrary to a fundamental policy of the Oneida Nation.  
420

## 421 **510.5. Effectiveness, Attachment and Rights of Parties**

### 422 510.5-1. *General Effectiveness of Security Agreement.*

423 (a) *General effectiveness.* Except as otherwise provided in this Law or other applicable law, a  
424 security agreement is effective according to its terms between the parties, against purchasers  
425 of the collateral, and against creditors.

426 (b) *Applicable consumer laws and other laws.* A transaction under this Law is subject to:

427 (1) any applicable rule of law which establishes a different rule for consumers;

428 (2) any other applicable tribal, federal, or state statute or regulation that regulates the  
429 rates, charges, agreements, and practices for loans, credit sales, or other extensions of  
430 credit; and

431 (3) any consumer-protection statute or regulation.

432 (c) *Other applicable law controls.* If a conflict exists between this Law and a rule of law,  
433 statute, or regulation described in subsection (b), the rule of law, statute, or regulation  
434 prevails.

### 435 510.5-2. *Attachment and Enforceability of Security Interest; Proceeds; Formal Requisites.*

436 (a) *Attachment.* A security interest attaches to collateral when it becomes enforceable against  
437 the debtor with respect to the collateral, unless an agreement expressly postpones the time of  
438 attachment.

439 (b) *Enforceability.* Except as otherwise provided in subsections (c) through (g), a security  
440 interest is enforceable against the debtor and third parties with respect to the collateral only  
441 if:

442 (1) value has been given;

443 (2) the debtor has rights in the collateral or the power to transfer rights in the  
444 collateral to a secured party; and

445 (3) one (1) of the following is met:

- 446 i. the debtor has a signed security agreement that provides a description of the  
447 collateral and, if the security interest covers timber to be cut, a description of  
448 the land concerned;  
449 ii. the collateral is in the possession of the secured party pursuant to the  
450 debtor's security agreement and this Law; or  
451 iii. the collateral is a security or an investment account and the secured party  
452 has control pursuant to the debtor's security agreement.

453 (c) *Other applicable law.* Subsection (b) is subject to a collecting bank's interest in items  
454 under applicable law or agreement, any recognized security interest of a letter-of-credit issuer  
455 or nominated person under applicable law or agreement, a security interest arising under  
456 recognized sales and leases law, and a security interest in a security or in an investment  
457 account arising due to the purchase or delivery of the financial asset.

458 (d) *Proceeds and supporting obligations.* The attachment of a security interest in collateral  
459 gives the secured party the rights to proceeds provided by this Law and is also attachment of  
460 a security interest in a supporting obligation for the collateral.

461 (e) *Lien securing right to payment.* The attachment of a security interest in a right to payment  
462 or performance secured by a security interest, mortgage or other lien on personal or real  
463 property is also attachment of a security interest in the security interest, mortgage, or other  
464 lien.

465 (f) *Certain items credited to investment account.* The attachment of a security interest in an  
466 investment account is also attachment of a security interest in any securities or commodity  
467 contracts credited to the investment account.

468 (g) *Other persons bound.* Law other than this Law determines if and when another person  
469 becomes bound by a security agreement entered into by a debtor.

470 510.5-3. *After-Acquired Collateral; Future Advances.*

471 (a) *After-acquired collateral.* Except as otherwise provided in subsection (b), a security  
472 agreement may create or provide for a security interest in after-acquired collateral.

473 (b) *After-acquired property clause not effective.* A security interest does not attach under a  
474 term constituting an after-acquired property clause to:

- 475 (1) consumer goods, other than an accession when given as additional security, unless  
476 the debtor acquires rights in them within ten (10) days after the secured party gives  
477 value; or  
478 (2) a commercial tort claim.

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

482 510.5-4. *Rights and Duties when Collateral is in Secured Party's Possession or Control.*

483 (a) *Duty of care when secured party in possession.* A secured party shall use reasonable care  
484 in the custody and preservation of collateral in the secured party's possession.

485 (b) *Right of repledge.* A secured party having possession or control of securities or control of  
486 an investment account may create a security interest in the collateral.

487 (c) *Buyer of certain rights to payment.* If the secured party is a buyer of accounts, chattel  
488 paper, payment intangibles, or promissory notes or a consignor, subsection (a) does not apply  
489 unless the secured party is entitled under an agreement:

- 490 (1) to charge back uncollected collateral; or  
491 (2) otherwise to full or limited recourse against the debtor or a secondary obligor  
492 based on nonpayment or other default of an account debtor or other obligor on the  
493 collateral.

494 510.5-5. *Additional Duties of Certain Secured Parties.*

495 (a) *Applicability of section.* This section applies to cases in which there is no outstanding  
496 secured obligation, and the secured party is not committed to make advances, including  
497 obligations, or otherwise give value.

498 (b) *Duty of secured party in control of investment account.* Within ten (10) tribal business  
499 days after receiving a signed demand by the debtor, a secured party having control of an  
500 investment account shall send to the investment intermediary with which the investment  
501 account is maintained a signed statement that releases the investment intermediary from any  
502 further obligation to comply with instructions originated by the secured party.

503 (c) *Duty of secured party if account debtor has been notified of assignment.* Within ten (10)  
504 tribal business days after receiving a signed demand by the debtor, a secured party shall send  
505 to an account debtor that has received notification of an assignment to the secured party as  
506 assignee Section 9-403, a signed record that releases the account debtor from any further  
507 obligation to the secured party. However, this subsection does not apply to an assignment  
508 constituting the sale of an account, chattel paper, or payment intangible.

509 510.5-6. *No Interest Retained in Right to Payment that is Sold; Retained Power of Seller of Account  
510 or Chattel Paper.*

511 (a) *Seller retains no interest.* A debtor that has sold an account, chattel paper, payment  
512 intangible, or promissory note does not retain a legal or equitable interest in the property  
513 sold.

514 (b) *Power of debtor with respect to account or chattel paper sold.* A debtor that has sold an  
515 account or chattel paper has the power to transfer a security interest in the account or chattel  
516 paper:

- 517 (1) while the buyer's security interest is unperfected; or  
518 (2) to a person that, before the sale, filed a financing statement identifying the account  
519 or chattel paper sold as collateral, while the financing statement remains effective.

520 510.5-7. *Request for Accounting; Request Regarding List of Collateral or Statement of Account.*

521 (a) A debtor may sign a record indicating what the debtor believes to be the aggregate  
522 amount of unpaid indebtedness as of specified date and send it to the secured party with a  
523 request that the statement be approved or corrected and returned to the debtor. When the  
524 security agreement or any other record kept by the secured party identifies the collateral a  
525 debtor may similarly request the secured party to approve or correct a list of collateral.

526 (b) A secured party, other than a buyer of accounts, chattel paper, payment intangibles or  
527 promissory notes or a consignor, must comply with such a request within ten (10) tribal

528 business days after receipt by sending a written correction or approval. If the secured  
529 party claims a security interest in all of a particular type of collateral owned by the debtor  
530 the secured party may indicate that fact in the reply and need not approve or correct an  
531 itemized list of such collateral. If the secured party no longer has an interest in the  
532 obligation or collateral at the time the request is received, the secured party must disclose  
533 the name and address of any known successor in interest. A successor in interest is not  
534 subject to this section until a request is received by the successor.

535 (c) A debtor is entitled to such statement once every six months without charge. The  
536 secured party may require payment of a charge not exceeding \$25 for each additional  
537 statement furnished.

538

### 539 **510.6. Perfection and Priority**

540 *510.6-1. Law Governing Perfection and Priority of Security Interests.* Except as otherwise provided  
541 in Section 510.6-2, the following rules determine the law governing perfection, the effect of  
542 perfection or non-perfection, and the priority of a security interest in collateral:

543 (a) Except as otherwise provided in this section, the Law of the Oneida Nation governs  
544 perfection, the effect of perfection or non-perfection, and the priority of a security interest in  
545 collateral:

546 (1) if the security interest is created pursuant to this Law;

547 (2) from the time that the debtor becomes subject to the jurisdiction of the Oneida  
548 Nation under section 510.6-11(d) and (e); or

549 (3) from the time that the collateral is transferred to a person that thereby becomes a  
550 debtor and is subject to the jurisdiction of the Oneida Nation.

551 (b) Except as provided in paragraph (c), while the goods are located in a jurisdiction, the  
552 local law of that jurisdiction governs:

553 (1) perfection of a security interest in the goods by filing a fixture filing;

554 (2) perfection of a security interest in timber to be cut; and

555 (3) perfection, the effect of perfection or non-perfection, and the priority of an  
556 agricultural lien on farm products.

557 (c) The local law of the jurisdiction in which the wellhead or Minehead is located govern  
558 perfection, the effect of perfection, non-perfection, and the priority of a security interest in  
559 as-extracted collateral.

560 (d) This section does not determine the law governing matters not expressly referred to  
561 herein, including attachment, validity, characterization, and enforcement.

562 *510.6-2. Law Governing perfection and Priority of Security Interests in Goods Covered by a*  
563 *Certificate of Title.*

564 (a) *Applicability of section.* This section applies to goods covered by a certificate of title,  
565 even if there is no other relationship between the jurisdiction under whose certificate of title  
566 the goods are covered and the goods of the debtor.

567 (b) *When goods covered by certificate of title.* Goods become covered by a certificate of title  
568 when a valid application for the certificate of title and the applicable fee are delivered to the

569 appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the  
570 time the certificate of title ceases to be effective under the law of the issuing jurisdiction or  
571 the time the goods become covered subsequently by a certificate of title issued by another  
572 jurisdiction.

573 (c) *Applicable law.* The local law of the jurisdiction under whose certificate of title the  
574 goods are covered governs perfection, the effect of the perfection or non-perfection, and the  
575 priority of a security interest in goods covered by a certificate of title from the time the  
576 goods become covered by the certificate of title until the goods cease to be covered by the  
577 certificate of title.

578 510.6-3. *When Security Interest or Agricultural Lien is Perfected; Continuity of Perfection.*

579 (a) *Perfection of security interest.* Except as otherwise provided in this section and Section 9-  
580 309, a security interest is perfected if it has attached and all of the applicable requirements  
581 for perfection set forth in this Law have been satisfied. A security interest is perfected when  
582 it attaches if the applicable requirements are satisfied before the security interest attaches.

583 (b) *Perfection of agricultural lien.* An agricultural lien is perfected if it has become effective  
584 and all of the applicable requirements for perfection set forth in this Law have been satisfied.  
585 An agricultural lien is perfected when it becomes effective if the applicable requirements are  
586 satisfied before the agricultural lien becomes effective.

587 (c) *Continuous perfection; perfection by different methods.* A security interest or agricultural  
588 lien is perfected continuously if it is originally perfected by one method under this Law and  
589 is later perfected by another method under this Law, without an intermediate period when it  
590 was unperfected.

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

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

596 (f) *Certain items credited to investment account.* Perfection of a security interest in an  
597 investment account also perfects a security interest in any securities or commodity contracts  
598 credited to the investment account.

599 510.6-4. *Security Interest Perfected Upon Attachment.* The following security interests are perfected  
600 when they attach:

601 (a) a purchase-money security interest in consumer goods, except as otherwise provided in  
602 Section 510.6-6(b) regarding goods subject to certain laws, regulations or treaties;

603 (b) a security interest created by an assignment of accounts which does not by itself or in  
604 conjunction with other assignments to the same assignee transfer a significant part of the  
605 assignors outstanding accounts;

606 (c) a sale of a payment intangible or a promissory note;

607 (d) a security interest created by an assignment of a health-care-insurance receivable to the  
608 provider of the health-care goods or services;

- 609 (e) a security interest created by an assignment of a beneficial interest in a decedents estate;  
610 and  
611 (f) a security interest created by an assignment by an individual of an account that is a right  
612 to payment of winnings in a lottery or other game of chance.

613 *510.6-5. When Filing Required to Perfect Security Interest or Agricultural Lien; Security Interests*  
614 *and Agricultural liens to which Filing Provisions Do Not Apply.*

615 (a) *General rule: perfection by filing.* Except as otherwise provided in subsection (b) and  
616 Sections 510.6-7 and 510.6-8, a financing statement must be filed to perfect all security  
617 interests and agricultural liens.

618 (b) *Exceptions: filing not necessary.* The filing of a financing statement is not necessary to  
619 perfect a security interest:

- 620 (1) that is perfected under Section 510.6-3(c), dealing with liens securing rights to  
621 payment;  
622 (2) that is perfected when it attaches under Section 510.6-4;  
623 (3) in property subject to a law, regulation, or treaty described in Section  
624 510.6-6(a);  
625 (4) in goods in possession of a bailee which is perfected under Section 510.6-7(d)(1)  
626 or (2);  
627 (5) in certificated securities, negotiable documents, goods, or instruments which is  
628 perfected without filing or possession under Section 510.6-7(e), (f) or (g);  
629 (6) in collateral in the secured party's possession under Section 510-6-8;  
630 (7) in a security or an investment account perfected by control under Section 510.6-9;  
631 (8) in proceeds which is perfected under Section 510.6-10; or  
632 (9) that is perfected under Section 510.6-11 relating to continued perfection of  
633 security interests perfected under the law of another jurisdiction.

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

637 *510.6-6. Perfection of Security Interests in Property Subject to Certain Statutes, Regulations, and*  
638 *Treaties.*

639 (a) *Security interest subject to other law.* Except as otherwise provided in subsection (d), the  
640 filing of a financing statement is not necessary or effective to perfect a security interest in  
641 property subject to:

- 642 (1) any law of the United States whose requirements for a security interest obtaining  
643 priority over the rights of a lien creditor with respect to the property preempt the  
644 provisions of this Law requiring that security interests be perfected by filing;  
645 (2) list any statute covering automobiles, trailers, mobile homes, boats, farm tractors,  
646 or the like, which provides for a security interest to be indicated on a certificate of  
647 title as a condition or result of perfection, and any central filing statute other than the  
648 one provided by this Law; or

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

652 (b) *Compliance with other law.* Compliance with the requirements of a law, regulation, or  
653 treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is  
654 equivalent to the filing of a financing statement under this Law. Except as otherwise  
655 provided in subsection (d) and the provisions of this Law providing for perfection by  
656 possession when goods covered by a certificate of title issued by one jurisdiction become  
657 covered by a certificate of title issued by another jurisdiction, a security interest in property  
658 subject to a law, regulation, or treaty described in subsection (a) may be perfected only by  
659 compliance with those requirements, and a security interest so perfected remains perfected  
660 notwithstanding a change in the use or transfer of possession of the collateral.

661 (c) *Duration and renewal of perfection.* Except as otherwise provided in subsection (d) and  
662 the provisions of this Law providing for continued perfection when goods covered by a  
663 certificate of title issued by one jurisdiction become covered by a certificate of title issued by  
664 another jurisdiction, duration and renewal of perfection of a security interest perfected by  
665 compliance with the requirements prescribed by a law, regulation, or treaty described in  
666 subsection (a) are governed by the law, regulation, or treaty. In other respects, the security  
667 interest is subject to this Law.

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

672 *510.6-7. Perfection of Security Interests in Chattel Paper, Documents, Goods Covered by*  
673 *Documents, Instruments, and Money; Perfection by Permissive Filing; Temporary Perfection*  
674 *Without Filing or Transfer of Possession.*

675 (a) *Perfection by filing permitted.* A security interest in chattel paper, negotiable documents,  
676 instruments, securities, or investment accounts may be perfected by filing.

677 (b) *Possession of money.* Except as otherwise provided in the provisions of this Law dealing  
678 with perfection with respect to proceeds, a security interest in money may be perfected only  
679 by the secured party taking possession under the provisions of this Law dealing with  
680 perfection by possession.

681 (c) *Goods covered by negotiable document.* While goods are in the possession of a bailee that  
682 has issued a negotiable document covering the goods:

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

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

687 (d) *Goods covered by nonnegotiable document.* While goods are in the possession of a bailee  
688 that has issued a nonnegotiable document covering the goods, a security interest in the goods  
689 may be perfected by:

- 690 (1) issuance of a document in the name of the secured party;  
691 (2) the bailee's receipt of notification of the secured party's interest; or  
692 (3) filing as to the goods.

693 (e) *Temporary perfection: new value.* A security interest in certificated securities, negotiable  
694 documents, or instruments is perfected without filing or the taking of possession for a  
695 period of 20 days from the time it attaches to the extent that it arises for new value given  
696 under a signed security agreement.

697 (f) *Temporary perfection: goods or documents made available to debtor.* A perfected  
698 security interest in a negotiable document or goods in possession of a bailee, other than one  
699 that has issued a negotiable document for the goods, remains perfected for 20 days without  
700 filing if the secured party makes available to the debtor the goods or documents representing  
701 the goods for the purpose of:

- 702 (1) ultimate sale or exchange; or  
703 (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or  
704 (3) otherwise dealing with them in a manner preliminary to their sale or exchange.

705 (g) *Temporary perfection: delivery of security certificate or instrument to debtor.* A perfected  
706 security interest in a certificated security or instrument remains perfected for twenty (20)  
707 days without filing if the secured party delivers the security certificate or instrument to the  
708 debtor for the purpose of:

- 709 (1) ultimate sale or exchange; or  
710 (2) presentation, collection, enforcement, renewal, or registration of transfer.

711 (h) *Expiration of temporary perfection.* After the 20-day period specified in subsection (e),  
712 (f), or (g) expires, perfection depends upon compliance with this Law.

713 510.6-8. *When Possession by Secured Party Perfects Security Interest Without Filing.*

714 (a) *Perfection by possession.* Except as otherwise provided in subsection (b), a secured party  
715 may perfect a security interest in certificated securities, negotiable documents, goods,  
716 instruments, money, or chattel paper by taking possession of the collateral.

717 (b) *Goods covered by certificate of title.* With respect to goods covered by a certificate  
718 of title issued by the Oneida Nation or a state, a secured party may perfect a security interest  
719 in the goods by taking possession of the goods only in the circumstances described in Section  
720 510.6-11(c), relating to continued perfection of goods covered by a certificate of title.

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

- 725 (1) the person in possession signs a record acknowledging that it holds possession of  
726 the collateral for the secured party's benefit; or  
727 (2) the person takes possession of the collateral after having signed a record  
728 acknowledging that it will hold possession of collateral for the secured party's  
729 benefit.

730 (d) *Time of perfection by possession; continuation of perfection.* If perfection of a security  
731 interest depends upon possession of the collateral by a secured party, perfection occurs no  
732 earlier than the time the secured party takes possession and continues only while the secured  
733 party retains possession.

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

736 (f) *Effectiveness of acknowledgment; no duties or confirmation.* If a person acknowledges  
737 that it holds possession for the secured party's benefit:

738 (1) the acknowledgment is effective under subsection (c), even if the  
739 acknowledgment violates the rights of a debtor; and

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

743 510.6-9. *Perfection by Control.* A security interest in a security or an investment account may be  
744 perfected by control.

745 510.6-10. *Secured Party's Rights on Disposition of Collateral and in Proceeds.*

746 (a) *Disposition of collateral: continuation of security interest or agricultural lien; proceeds.*  
747 Except as otherwise provided in this Law and in any applicable law dealing with entrustment  
748 of goods:

749 (1) a security interest or agricultural lien continues in collateral notwithstanding sale,  
750 lease, license, exchange, or other disposition thereof unless the secured party  
751 authorized the disposition free of the security interest or agricultural lien; and

752 (2) a security interest attaches to any identifiable proceeds of collateral.

753 (b) *When commingled proceeds identifiable.* Proceeds that are commingled with other  
754 property are identifiable proceeds:

755 (1) if the proceeds are goods, to the extent provided by the provisions of this Law  
756 dealing with commingled goods; and

757 (2) if the proceeds are not goods, to the extent that the secured party identifies the  
758 proceeds by a method of tracing, including application of equitable principles, that is  
759 permitted under law other than this Law with respect to commingled property of the  
760 type involved.

761 (c) *Perfection of security interest in proceeds.* A security interest in proceeds is a perfected  
762 security interest if the security interest in the original collateral was perfected.

763 (d) *Continuation of perfection.* A perfected security interest in proceeds becomes unperfected  
764 on the twenty-first (21) day after the security interest attaches to the proceeds unless:

765 (1) the following conditions are satisfied:

766 (i) a filed financing statement covers the original collateral;

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

769 (iii) the proceeds are not acquired with cash proceeds;

770 (2) the proceeds are identifiable cash proceeds; or

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

773 (e) *When perfected security interest in proceeds becomes unperfected.* If a filed financing  
774 statement covers the original collateral, a security interest in proceeds which remains  
775 perfected under subsection (d)(1) becomes unperfected at the later of:

776 (1) when the effectiveness of the filed financing statement lapses or is terminated  
777 under the provisions of this Law dealing with lapse or termination; or

778 (2) the twenty-first (21) day after the security interest attaches to the proceeds.

779 510.6-11. *Continued Perfection of Security Interest Following Change in Governing Law.*

780 (a) *Definition: "place of business"*. In this section, "place of business" means a place where a  
781 debtor conducts its affairs.

782 (b) *General rule: effect on perfection of change in governing law.* A security interest to  
783 which this Law becomes applicable that is perfected pursuant to the law of another  
784 jurisdiction remains perfected until the earliest of:

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

786 (2) the expiration of four months after the debtor becomes subject to the jurisdiction  
787 of the Oneida Nation under subsections (e) and (f); or

788 (3) the expiration of one year after a transfer of collateral to a person that thereby  
789 becomes a debtor and is subject to the jurisdiction of the Oneida Nation.

790 (c) *Security interest perfected or unperfected under law of the Oneida Nation.* If a security  
791 interest described in subsection (b) becomes perfected under the law of the Oneida Nation  
792 before the end of the applicable period described in subsection (b), it remains perfected  
793 thereafter until perfection lapses in accordance with this Law. Otherwise, it becomes  
794 unperfected and is deemed never to have been perfected as against a purchaser of the  
795 collateral for value.

796 (d) *Goods covered by certificate of title from the Oneida Nation.* A security interest to which  
797 this Law becomes applicable which is perfected by any method under the law of another  
798 jurisdiction when the goods become covered by a certificate of title from the Oneida Nation  
799 remains perfected until the security interest would have become unperfected under the law of  
800 the other jurisdiction had the goods not become so covered. However, the security interest  
801 becomes unperfected as against a purchaser of the goods for value and is deemed never to  
802 have been perfected as against a purchaser of the goods for value, if the applicable  
803 requirements for perfection under Section 510.6-6(b) or 510.6-8 are not satisfied before the  
804 earlier of:

805 (1) the time the security interest would have become unperfected under the law of the  
806 other jurisdiction had the goods not become covered by a certificate of title from the  
807 Oneida Nation; or

808 (2) the expiration of four months after the goods had become so covered.

809 (e) *When debtor subject to jurisdiction of the Oneida Nation.* In this section, a debtor is  
810 subject to the jurisdiction of the Oneida Nation if:

811 (1) the debtor is an individual whose principal residence is within this jurisdiction or  
812 who becomes a member of the Oneida Nation;

813 (2) the debtor is an organization, other than a registered organization, and its sole  
814 place of business or, if it has more than one place of business, its chief executive  
815 office, is within this jurisdiction; or

816 (3) the debtor becomes:

817 (i) a registered organization that is organized solely under the law of the  
818 Oneida Nation; or

819 (ii) incorporated under a charter issued to a tribe by the United States  
820 Secretary of the Interior pursuant to 25 U.S.C. Section 477, as amended from  
821 time to time.

822 (f) *Continuation of jurisdiction: cessation of existence, etc.* For purposes of subsection (e),

823 (1) a person other than a registered organization continues to be subject to the  
824 jurisdiction of the Oneida Nation notwithstanding the fact that it ceases to exist, have  
825 a residence, or have a place of business; and

826 (2) a registered organization continues to be subject to the jurisdiction of the Oneida  
827 Nation notwithstanding:

828 (i) the suspension, revocation, forfeiture, or lapse of the registered  
829 organization's status; or

830 (ii) the dissolution, winding up, or cancellation of the existence of the  
831 registered organization.

832 (g) *Effect of filed financing statement with respect to after-acquired collateral.* If a security  
833 interest remains perfected under subsection (b)(2):

834 (1) a financing statement that perfected the security interest under the law applicable  
835 before the debtor becomes subject to the jurisdiction of the Oneida Nation is effective  
836 to perfect a security interest in collateral to which a security interest attaches after the  
837 debtor becomes subject to the jurisdiction of the Oneida Nation until the earlier of the  
838 times or events described in subsection (b)(1) and (2); and

839 (2) subsection (c) applies to after-acquired collateral to the same extent that it applies  
840 to collateral to which the security interest attached before the debtor became subject  
841 to the jurisdiction of the Oneida Nation.

842 510.6-12. *Priority. Subpart.*

843 510.6-13. *Interests that Take Priority Over Security Interest or Agricultural Lien.*

844 (a) *Subordination to certain lien creditors and purchasers.* Subject to subsection (b), security  
845 interest or agricultural lien is subordinate to the rights of:

846 (1) a person that becomes a lien creditor before the security interest is perfected;

847 (2) a buyer of tangible personal property, lessee of goods, licensee of a general  
848 intangible, or buyer of accounts or general intangibles or securities which:

849 (i) gives value;

850 (ii) for a buyer of tangible personal property, lessee of goods, or buyer of a  
851 security certificate, acquires possession; and

852 (iii) lacks knowledge of the security interest or agricultural lien before it is  
853 perfected; or

854 (3) a secured party entitled to priority under subsection (c).

855 (b) *Purchase-money grace period.* A purchase-money secured party that files a financing  
856 statement before or within twenty (20) days after the debtor acquires possession of the  
857 collateral has priority over the rights of a buyer, lessee or lien creditor which arise between  
858 the time the security interest attaches and the time of filing.

859 (c) *General rule for priority among conflicting secured parties.* Priority among conflicting  
860 security interests and agricultural liens in the same collateral is determined as follows:

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

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

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

870 (d) *Time of perfection for proceeds.* The time of filing or perfection as to a security interest in  
871 collateral is also the time of filing or perfection as to a security interest in proceeds, except as  
872 provided in Section 510.6-13.

873 (e) *Priority in proceeds.* Except as provided elsewhere in this part, a security interest that has  
874 priority under Section 510.6-13(e), (f) or (j) also has priority over a conflicting security  
875 interest in proceeds if:

876 (1) the security interest in proceeds is perfected;

877 (2) the proceeds are cash proceeds or of the same type as the collateral; and

878 (3) in the case of proceeds of proceeds, all intervening proceeds are cash proceeds,  
879 proceeds of the same type as the collateral, or an account relating to the collateral.

880 (f) *First-to-file rule for certain collateral.* The order of filing determines priority in proceeds  
881 if:

882 (1) a security interest in chattel paper, a negotiable document, instrument, security or

883 (2) investment account is perfected by a method other than filing; and

884 (3) the proceeds are not cash proceeds, chattel paper, negotiable documents,  
885 instruments, securities, investment accounts or letter-of-credit rights.

886 (g) *Deferral to other applicable law.* If applicable law other than this Law gives a security  
887 interest or right of set-off to a collecting bank, an issuer or nominated person with respect  
888 to a letter of credit, a buyer [or seller] or lessee of goods, or in personal property that is not  
889 subject to this Law, that law governs a conflict with this Law.

890 510.6-14. *Particular Priority Rules.*

891 (a) *Relationship to preceding Section.* This section creates exceptions to the priority rules of  
892 Section 510.6-13.

893 (b) *Consignee deemed to have rights of consignor.* For the purpose of this Law, while goods  
894 are in the possession of a consignee, the consignee is deemed to have rights and title to the  
895 goods identical to those the consignor had or had power to transfer. If Part 3 of this Law  
896 results in the consignor having priority over a creditor of the consignee, law other than this  
897 Law determines the rights and title of the consignee with regard to that creditor.

898 (c) *Ordinary-course buyer, licensee and lessee takes free.* Except as otherwise provided in  
899 this subsection, a buyer in ordinary course of business, a person that takes a non-exclusive  
900 license of a general intangible in ordinary course of business, or a person that takes a lease of  
901 goods in ordinary course of business, takes its interest in the collateral free of a security  
902 interest in the collateral created by the seller, licensor, or lessor, even if the security interest  
903 is perfected and the buyer, licensee or lessee knows of its existence. Whether a licensee or  
904 lessee takes its interest in ordinary course of business is determined by criteria parallel to  
905 those used to determine whether a buyer is a buyer in ordinary course of business under  
906 Section 510.3-1(g). This subsection does not apply to:

907 (1) a buyer of farm products from a person engaged in farming operations, unless  
908 the buyer:

909 (i) obtains from the seller a notarized statement setting forth the name and  
910 address of any person that has a security interest in the farm products; and

911 (ii) either obtains a consent to the sale free of the security interest from  
912 the secured party or makes payment for the farm products jointly to the seller  
913 and the secured party; and

914 (2) a buyer of goods in the possession of the secured party under Section 510.6-8.

915 (d) *Buyer of consumer goods takes free of security interest.* Unless goods are in the  
916 possession of the secured party under Section 510.6-8, a buyer of goods from a person who  
917 used or bought the goods for use primarily for personal, family or household purposes takes  
918 free of a security interest, even if perfected, if the buyer buys:

919 (1) without knowledge of the security interest;

920 (2) for value;

921 (3) primarily for the buyer's personal, family, or household purposes; and

922 (4) for goods having a value of \$5,000 or more, before the filing of a financing  
923 statement covering the goods.

924 (e) *Purchaser of chattel paper or instrument.* The following rules apply to a purchaser of  
925 chattel paper or an instrument:

926 (1) The purchaser of chattel paper or an instrument has priority over a security  
927 interest if:

928 (i) the purchaser, in good faith and in the ordinary course of the purchaser's  
929 business, gives new value and takes possession of the collateral;

930 (ii) the collateral does not indicate that it previously has been assigned to an  
931 identified person other than the purchaser; and

932 (iii) the purchaser is otherwise without knowledge that the purchase violates  
933 the rights of the secured party.

934 (2) The purchaser with priority in chattel paper under paragraph (1) also has priority  
935 in proceeds of the chattel paper to the extent that:

936 (i) the proceeds consist of the specific goods covered by the chattel paper or  
937 cash proceeds of the specific goods, even if the security interest in the  
938 proceeds is unperfected; or

939 (ii) Section 510.6-12(c), (d) or (e) so provides.

940 (f) *Holder in due course and others protected.* This Law does not limit the rights of, or  
941 impose liability on, a holder in due course of a negotiable instrument, a holder to which a  
942 negotiable document has been duly negotiated, or a person protected against the assertion of  
943 a claim to investment property under other law. Filing under this Law is not notice of a claim  
944 or defense to the holder or protected person.

945 (g) *Priority of future advance.* The following rules govern priority of a security interest to the  
946 extent that it secures a future advance:

947 (1) For a conflicting security interest, the priority of an advance under a security  
948 agreement is determined under Section 510.6-12(b), except that perfection dates from  
949 the time the advance is made if the security interest securing it is perfected only by  
950 attachment under Section 510.6-4 or temporarily by law under Section 510.6-7(e), (f),  
951 or (g) and is not made pursuant to a commitment entered into before or while the  
952 security interest is perfected by another means.

953 (2) For a lien creditor, the security interest securing an advance is subordinate if the  
954 advance is made more than forty-five (45) days after the person becomes a lien  
955 creditor, unless the advance is made without knowledge of the lien or pursuant to a  
956 commitment entered into without knowledge of the lien.

957 (3) For a buyer of goods other than a buyer in ordinary course of business under  
958 Section 510.3-1(g), and with respect to a lessee of goods that does not take its lease in  
959 ordinary course of business under Section 510.6-14(c), the security interest securing  
960 an advance is subordinate if the advance is made after the earlier of the time the  
961 secured party acquires knowledge of the purchase or forty-five (45) days after the  
962 purchase, unless the advance is made pursuant to a commitment entered into without  
963 knowledge of the purchase and before the expiration of the forty-five (45) day period.

964 (4) Paragraphs (1) and (2) do not apply to a security interest held by a person that is a  
965 consignor or a buyer of accounts, chattel paper, payment intangibles or promissory  
966 notes.

967 (h) *Purchase-money security interest priority.* The following rules govern the priority of a  
968 purchase-money security interest and a conflicting security interest in collateral and its  
969 proceeds:

970 (1) *Goods other than inventory and livestock.* A perfected purchase-money security  
971 interest in goods other than inventory or livestock that are farm products has priority  
972 over a conflicting security interest in the same goods and in identifiable proceeds of  
973 the goods, if the purchase-money security interest is perfected when the debtor  
974 receives possession of the collateral or within 20 days thereafter.

975 (2) *Inventory and livestock.* A perfected purchase-money security interest in  
976 inventory or livestock that are farm products has priority over a conflicting security  
977 interest if the purchase-money security interest is perfected when the debtor acquires  
978 possession of the goods and the purchase-money secured party sends timely and  
979 appropriate notice to the holder of the conflicting security interest, provided that  
980 notice is not required unless the holder of the conflicting security interest has filed a  
981 financing statement covering the same types of goods:

982 (i) before the purchase-money security interest is perfected by filing; or

983 (ii) if the purchase-money security interest is temporarily perfected under  
984 Section 510.6-7(f), before the beginning of the applicable twenty (20) day  
985 period.

986 (3) If a purchase-money secured party has priority in livestock that are farm products  
987 under this paragraph (2), it has priority in their identifiable proceeds and products in  
988 their unmanufactured states. If a purchase-money secured party has priority in  
989 inventory under paragraph (2), it has priority in chattel paper or an instrument  
990 constituting proceeds, in:

991 (i) proceeds of the chattel paper except as otherwise provided in this  
992 section; and

993 (ii) identifiable cash proceeds received on or before delivery of the goods  
994 to a buyer.

995 (4) *Software.* A perfected purchase-money security interest in software has priority  
996 over a conflicting security interest, and a perfected security interest in its identifiable  
997 proceeds also has priority, to the extent that the purchase-money security interest in  
998 the goods in which the software was acquired for use has priority in the goods and  
999 proceeds of the goods.

1000 (5) *Priority among purchase-money security interests.* Notwithstanding this  
1001 subsection, if two or more purchase-money security interests are perfected in the  
1002 same collateral, the security interest securing an obligation for the price has priority,  
1003 and otherwise priority is determined under Section 510.6-13(b).

1004 (i) *Transferee of money or funds takes free of security interest.* A transferee of money or of  
1005 funds from a deposit account takes the money or funds free of a security interest unless the  
1006 transferee acts in collusion with the debtor in violating the rights of the secured party.

1007 (j) *Priority of interest perfected by control; possession of certificated security in registered*  
1008 *form.* A security interest in a security or an investment account perfected by control under  
1009 Section 510.6-9 has priority over a security interest perfected by a method other than control.  
1010 Multiple security interests perfected by control rank according to time of acquiring control;  
1011 however, a security interest held by an investment intermediary in the investment account  
1012 that it maintains has priority regardless of time of acquiring control. A security interest in a  
1013 certificated security in registered form that is perfected by possession under Section 510.6-8  
1014 and not by control has priority over a conflicting security interest perfected by a method  
1015 other than control.

1016 (k) *Possessory lien*. A lien on goods created by law or rule of law which secures payment or  
1017 performance of an obligation for services or materials furnished with respect to the goods by  
1018 a person in the ordinary course of the person's business and whose effectiveness depends on  
1019 the person's possession of the goods has priority over a security interest or agricultural lien in  
1020 the goods unless the possessory lien is created by a statute that expressly provides otherwise.

1021 510.6-15. *Priority Security Interests in Fixtures and Crops*.

1022 (a) *Security interest in fixtures*. A security interest under this Law may be created in goods  
1023 that are fixtures or may continue in goods that become fixtures. A security interest does not  
1024 exist under this Law in ordinary building materials incorporated into an improvement on  
1025 land.

1026 (b) *Security interest in fixtures under real-property law*. This Law does not prevent creation  
1027 of an encumbrance upon fixtures under real property law.

1028 (c) *General rule: subordination of security interest in fixtures*. In cases not governed by  
1029 subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting  
1030 interest of an encumbrancer or owner of the related real property other than the debtor.

1031 (d) *Fixtures purchase-money priority*. Except as otherwise provided in subsection (h), a  
1032 perfected security interest in fixtures has priority over a conflicting interest of an  
1033 encumbrancer or owner of the real property if the debtor has an interest of record in or is in  
1034 possession of the real property and:

1035 (1) the security interest is a purchase-money security interest;

1036 (2) the interest of the encumbrancer or owner arises before the goods become  
1037 fixtures; and

1038 (3) the security interest is perfected by an appropriate filing before the goods become  
1039 fixtures or within twenty (20) days thereafter.

1040 (e) *Priority of security interest in fixtures over interests in real property*. A perfected security  
1041 interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the  
1042 real property if:

1043 (1) the debtor has an interest of record in the real property or is in possession of the  
1044 real property and the security interest:

1045 (i) is perfected by an appropriate filing before the interest of the encumbrancer  
1046 or owner is of record; and

1047 (ii) has priority over any conflicting interest of a predecessor in title of the  
1048 encumbrancer or owner;

1049 (2) before the goods become fixtures, the security interest is perfected by any method  
1050 permitted by this Law and the fixtures are readily removable:

1051 (i) factory or office machines;

1052 (ii) equipment that is not primarily used or leased for use in the operation of  
1053 the real property; or

1054 (iii) replacements of domestic appliances that are consumer goods;

1055 (3) the conflicting interest is a lien on the real property obtained by legal or equitable  
1056 proceedings after the security interest was perfected by any method permitted by this  
1057 Law; or

1058 (4) the security interest is:

1059 (i) created in a manufactured home in a manufactured-home transaction;

1060 and

1061 (ii) perfected pursuant to a law described in Section 510.6-6(a)(2).

1062 (f) *Priority based on consent, disclaimer, or right to remove.* A security interest in fixtures,  
1063 whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner  
1064 of the real property if:

1065 (1) the encumbrancer or owner has, in a signed record, consented to the security  
1066 interest or disclaimed an interest in the goods as fixtures; or

1067 (2) the debtor has a right to remove the goods as against the encumbrancer or  
1068 owner.

1069 (g) *Continuation of paragraph (f)(2) priority.* The priority of the security interest under  
1070 paragraph (f)(2) continues for a reasonable time if the debtor right to remove the goods as  
1071 against the encumbrancer or owner terminates.

1072 (h) *Priority of construction mortgage.* A mortgage is a construction mortgage to the extent  
1073 that it secures an obligation incurred for the construction of an improvement on land,  
1074 including the acquisition cost of the land, if a recorded record of the mortgage so indicates.  
1075 Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is  
1076 subordinate to a construction mortgage if a record of the mortgage is recorded before the  
1077 goods become fixtures and the goods become fixtures before the completion of the  
1078 construction. A mortgage has this priority to the same extent as a construction mortgage to  
1079 the extent that it is given to refinance a construction mortgage.

1080 (i) *Priority of security interest in crops.* A perfected security interest in crops growing on real  
1081 property has priority over a conflicting interest of an encumbrancer or owner of the real  
1082 property if the debtor has an interest of record in or is in possession of the real property.

1083 510.6-16. *Accessions.*

1084 (a) *Creation of security interest in accession.* A security interest may be created in an  
1085 accession and continues in collateral that becomes an accession.

1086 (b) *Perfection of security interest.* If a security interest is perfected when the collateral  
1087 becomes an accession, the security interest remains perfected in the collateral.

1088 (c) *Priority of security interest.* Except as otherwise provided in subsection (d), the other  
1089 provisions of this part determine the priority of a security interest in an accession.

1090 (d) *Compliance with certificate-of-title statute.* A security interest in an accession is  
1091 subordinate to a security interest in the whole which is perfected by compliance with the  
1092 requirements of a certificate-of-title statute under Section 510.6-6(b).

1093 (e) *Removal of accession after default.* After default, subject to Part 6, a secured party may  
1094 remove an accession from other goods if the security interest in the accession has priority  
1095 over the claims of every person having an interest in the whole.

1096 (f) *Reimbursement following removal.* A secured party that removes an accession from other  
1097 goods under subsection (e) shall promptly reimburse any holder of a security interest or other  
1098 lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of  
1099 repair of any physical injury to the whole or the other goods. The secured party need not  
1100 reimburse the holder or owner for any diminution in value of the whole or the other goods  
1101 caused by the absence of the accession removed or by any necessity for replacing it. A  
1102 person entitled to reimbursement may refuse permission to remove until the secured party  
1103 gives adequate assurance for the performance of the obligation to reimburse.

1104 510.6-17. *Commingled Goods.*

1105 (a) “*Commingled goods.*” In this section, “commingled goods” means goods that are  
1106 physically united with other goods in such a manner that their identity is lost in a product or  
1107 mass.

1108 (b) *No security interest in commingled goods as such.* A security interest does not exist in  
1109 commingled goods as such. However, a security interest may attach to a product or mass that  
1110 results when goods become commingled goods.

1111 (c) *Attachment of security interest to product or mass.* If collateral becomes commingled  
1112 goods, a security interest attaches to the product or mass.

1113 (d) *Perfection of security interest.* If a security interest in collateral is perfected before the  
1114 collateral becomes commingled goods, the security interest that attaches to the product or  
1115 mass under subsection (c) is perfected.

1116 (e) *Priority of security interest.* Except as otherwise provided in subsection (f), the other  
1117 provisions of this part determine the priority of a security interest that attaches to the product  
1118 or mass under subsection (c).

1119 (f) *Conflicting security interests in product or mass.* If more than one security interest  
1120 attaches to the product or mass under subsection (c), the following rules determine priority:

1121 (1) A security interest that is perfected under subsection (d) has priority over a  
1122 security interest that is unperfected at the time the collateral becomes commingled  
1123 goods.

1124 (2) If more than one security interest is perfected under subsection (d), the security  
1125 interests rank equally in proportion to the value of the collateral at the time it became  
1126 commingled goods.

1127 510.6-18. *Priority of Security Interests in Goods Covered by Certificate of Title.* If, while a security  
1128 interest in goods is perfected by any method under the law of another jurisdiction, this jurisdiction  
1129 issues a certificate of title that does not show that the goods are subject to the security interest or  
1130 contain a statement that they may be subject to security interests not shown on the certificate:

1131 (a) a buyer of the goods, other than a person in the business of selling goods of that kind,  
1132 takes free of the security interest if the buyer gives value and receives delivery of the goods  
1133 after issuance of the certificate and without knowledge of the security interest; and

1134 (b) the security interest is subordinate to a conflicting security interest in the goods that  
1135 attaches, and is perfected under Section 510.6-6(b), after issuance of the certificate and  
1136 without the conflicting secured party’s knowledge of the security interest.

1137 510.6-19. *Priority Subject to Subordination*. This Law does not preclude subordination by agreement  
1138 by a person entitled to priority.

1139

#### 1140 **510.7. Rights of Third Parties**

1141 510.7-1. *Alienability of Debtor's Rights*. Whether a debtor's rights in collateral may be voluntarily or  
1142 involuntarily transferred is governed by law other than this Law; however, an agreement between a  
1143 debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the  
1144 transfer a default does not prevent the transfer from taking effect. This section is subject to Section  
1145 9-404, which invalidates certain legal and contractual restrictions on transferability that generally  
1146 would be effective under other law.

1147 510.7-2. *Secured Party Not Obligated on Contract of Debtor or in Tort*. The existence of a security  
1148 interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more,  
1149 does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

1150 510.7-3. *Rights of Assignee*.

1151 (a) *Waiver-of-defense clauses; limitations thereon*. An agreement between an account debtor  
1152 and an assignor not to assert against an assignee any claim or defense that the account debtor  
1153 may have against the assignor is enforceable by an assignee that takes an assignment in good  
1154 faith, and for value as defined in the law governing negotiable instruments, except as to  
1155 claims or defenses that may be asserted against a holder in due course of a negotiable  
1156 instrument. However, such an agreement is not enforceable if

- 1157 (1) the agreement relates to an obligation incurred on account of a sale or lease of  
1158 goods or services;  
1159 (2) the account debtor seeks or acquires the goods or services primarily for personal,  
1160 family or household use; and  
1161 (3) the assignor, in the ordinary course of its business, sells or leases goods or  
1162 services to consumers.

1163 (b) *Parallel rule for negotiable instruments*. If a negotiable promissory note represents an  
1164 obligation incurred on account of a sale or lease of goods or service, and the issuer seeks or  
1165 acquires the goods or services primarily for personal, family or household use, and the payee,  
1166 in the ordinary course of its business, sells or leases goods or services to consumers, then the  
1167 issuer may assert any claims and defenses against a person entitled to enforce the note,  
1168 including a holder in due course.

1169 (c) *Assignee's rights subject to terms, claims and defenses*. Except to the extent an agreement  
1170 to the contrary is enforceable under subsection (a), the rights of an assignee are subject to  
1171 reduction of the amount owed by reason of all terms of the contract between the account  
1172 debtor and assignor, any defense or claim in recoupment arising from the transaction that  
1173 gave rise to the contract, and any other defense or claim of the account debtor against the  
1174 assignor which accrues before the account debtor receives adequate notification of the  
1175 assignment signed by the assignor or the assignee. This subsection does not apply to the  
1176 assignee of a health-care-insurance receivable.

1177 (d) *Discharge of account debtor or party to instrument.* An account debtor or party to a  
1178 negotiable promissory note may discharge its obligation by paying the assignor or person  
1179 formerly entitled to enforce the note until, but not after, such account debtor or party  
1180 receives:

1181 (1) adequate notification that performance is to be rendered to the assignee or  
1182 transferee, signed

1183 (i) in the case of an account debtor, by the assignor or assignee, and

1184 (ii) in the case of a negotiable promissory note, by the transferor or  
1185 transferee; and

1186 (2) if requested by such account debtor or party, reasonable proof of the assignment  
1187 or transfer.

1188 (3) In the case of an account debtor, discharge under this subsection is effective  
1189 notwithstanding an otherwise enforceable agreement not to assert claims or defenses.  
1190 In the case of a party to a negotiable promissory note, discharge under this subsection  
1191 is effective against a holder in due course.

1192 (e) *Modifications of contract.* A modification of or substitution for an assigned contract is  
1193 effective against an assignee to the extent provided by law other than this Law.

1194 510.7-4. *Restriction on Assignment.*

1195 (a) *Commercially harmful restrictions on alienation invalid.* A commercially harmful  
1196 restriction on alienation (subsections (b), (c) and (d)) of property is invalid.

1197 (b) *Commercially harmful defined for certain transactions.* In an assignment of accounts  
1198 other than health-care-insurance receivables, an assignment of chattel paper, an assignment  
1199 of payment intangibles that is not a sale, or a transfer of promissory notes that is not a sale,  
1200 the term “commercially harmful restriction on alienation” means a term in an agreement  
1201 between an account debtor and an assignor, or in a promissory note, to the extent that it

1202 (1) prohibits, restricts, or requires the consent of the account debtor or person  
1203 obligated on the promissory note, to the assignment or transfer of, or the creation,  
1204 attachment, perfection, or enforcement of a security interest in, the affected property;

1205 or

1206 (2) provides that such an assignment, transfer, creation, attachment, perfection, or  
1207 enforcement may give rise to a default or remedy.

1208 (c) *Commercially harmful defined less broadly for other transactions.* In an assignment of a  
1209 health-care-insurance receivable, a sale of promissory notes, a sale of payment intangibles, or  
1210 a security interest in other general intangibles (including a contract, permit, or license, or  
1211 franchise) that is not a sale, the term “commercially harmful restriction on alienation” has the  
1212 same meaning as in subsection (b) except that the references to enforcement of a security  
1213 interest appearing in subsection (b)(1) and (2) are excluded.

1214 (1) *Limitation on effect in such other transactions.* To the extent a commercially  
1215 harmful restriction on alienation under paragraph (c) would otherwise be effective  
1216 under law other than this Law, the creation, attachment, or perfection of the security  
1217 interest:

- 1218 (i) does not impose a duty or obligation on the account debtor or person  
1219 obligated on the promissory note;  
1220 (ii) is not enforceable against the account debtor or person obligated on the  
1221 promissory note; and  
1222 (iii) does not entitle the secured party to use the debtor’s rights in or to the  
1223 property; have access to trade secrets or confidential information of the  
1224 account debtor or person obligated on the promissory note; or enforce the  
1225 security interest.

1226 (d) *Rule of law as commercially harmful restriction.* In addition to the meanings set forth in  
1227 subsections (b) and (c), the term “commercially harmful restriction on alienation” includes a  
1228 rule of law to the extent that it:

1229 (1) requires the consent of a governmental body or official to the assignment or  
1230 transfer of, or actions described in subsection (b) or (c), as applicable, regarding a  
1231 security interest in, the property; or

1232 (2) has any of the effects of a commercially harmful restriction on alienation as  
1233 defined in subsection (b) or (c), as applicable.

1234 (e) *Deferral to consumer law; inapplicability.* This section is subject to any different rule in  
1235 other law for a consumer. In addition, this section does not apply to an assignment of:

1236 (1) a claim or right to receive compensation for injuries or sickness as described in 26  
1237 U.S.C. 104(a)(1) or (2), as the same may be amended from time to time;

1238 (2) a claim or right to receive benefits under a special needs trust as described in 42  
1239 U.S.C. 1396p(d)(4), as the same may be amended from time to time.

1240 (3) a structured settlement payment right; or

1241 (4) a right to payment of winnings in a lottery or other game of chance regulated by  
1242 law other than this Law.  
1243

## 1244 **510.8. Filing**

### 1245 510.8-1. *Acceptance, Refusal, and Effectiveness of Financing Statement; Administration.*

1246 (a) *Place to file.* The place to file a financing statement to perfect a security interest or  
1247 agricultural lien governed by this Law or another record relating to a security interest is the  
1248 Oneida Licensing Department. If (1) the collateral is as-extracted collateral or timber to be  
1249 cut, or (2) the financing statement is filed as a fixture filing, the collateral is goods that are or  
1250 are to become fixtures, and the debtor is not a transmitting utility, then the place to file the  
1251 financing statement is the Comprehensive Housing Division, designated for the filing or  
1252 recording of a record of a mortgage on the related real property.

1253 (b) *Pre-filing; acceptance and refusal.* A financing statement may be filed before a security  
1254 agreement is made or a security interest attaches. Receipt by the filing office of a financing  
1255 statement or other record, in appropriate form by an appropriate method, and tender of the  
1256 filing fee, constitutes filing, and in those cases the filing office must accept the record. If the  
1257 filing office refuses the record, it must communicate that fact to the person that presented the

1258 record, as well as the reason for refusal and the date and time that the record would have  
1259 otherwise been filed.

1260 (c) *Effectiveness of financing statement; minor errors.* A record in appropriate form and  
1261 communicated to a filing office by an appropriate method is effective even if:

- 1262 (1) it is improperly refused by the filing office, except as against a purchaser of the  
1263 collateral for value in reasonable reliance on the absence of the record from the files;  
1264 (2) it is incorrectly indexed by the filing office; or  
1265 (3) it has minor errors or omissions in information required to perfect a security  
1266 interest, unless the errors or omissions make the record seriously misleading. If a  
1267 financing statement fails sufficiently to provide the name of the debtor, the name  
1268 provided does not make the financing statement seriously misleading if a search of  
1269 the filing office's records under the debtor's correct name using the filing office's  
1270 standard search logic, if any, would disclose the financing statement.

1271 (d) *Subordination in certain cases of reliance.* If information that the filing office's  
1272 regulations require to be included in a record, but that Section 9-502(a) does not require for  
1273 perfection of a security interest, is incorrect at the time the record is filed, the security interest  
1274 is subordinate to a conflicting perfected security interest or the interest of a purchaser other  
1275 than a secured party, to the extent that:

- 1276 (1) the holder of the conflicting security interest gives value in reasonable reliance on  
1277 the incorrect information; or  
1278 (2) the purchaser gives value and, in the case of a buyer or lessee of property capable  
1279 of being possessed, takes possession, all in reasonable reliance on the incorrect  
1280 information.

1281 (e) *Fees.* The fee for filing and indexing a record under subsection (a) is \$[ ]. If a uniform  
1282 form authorized by filing office regulation is used, the fee is reduced to \$[ ]. [The filing  
1283 office may set fees for filing and indexing a record under subsection (a) by regulation.

1284 (f) *Regulations.* The filing office is charged with administration of this part. In accordance  
1285 with applicable administrative regulations and interpretive rules and after review and  
1286 approval of the tribal legislative body, the filing office shall promulgate and make available  
1287 the following, in both cases consistent with this Law and with tribal and commercial policy:

- 1288 (1) regulations to the extent necessary for the effective implementation and  
1289 enforcement of this part; and  
1290 (2) an implementation manual providing guidance to persons entering into  
1291 transactions governed by this Law.

1292 510.8-2. *Contents of Records; Authorization; Lapse; Continuation; Termination.*

1293 (a) *Information required for perfection; other required contents.* A financing statement is  
1294 sufficient to perfect a security interest or agricultural lien only if it provides the name of the  
1295 debtor, the name of the secured party or a representative of the secured party, and indicates  
1296 the collateral covered by the financing statement with a description, whether or not specific,  
1297 that reasonably identifies the collateral or states that it covers all assets or all personal  
1298 property. A financing statement or a record of a mortgage that covers as-extracted collateral

1299 or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to  
1300 become fixtures, is sufficient only if in addition it includes such further information as  
1301 required by filing office regulations promulgated by the filing office. A record that  
1302 constitutes a termination statement, assigns a record, continues a record, or otherwise amends  
1303 a record must comply with the regulations promulgated by the filing office for such records.  
1304 (b) *Other information and filing office regulations.* A record may include information other  
1305 than that required by subsection (a), such as addresses for the debtor and secured party, the  
1306 characterization of a party as an individual or an organization, or a trade name for the debtor,  
1307 and may use terms such as “consignor”, “lessor”, or “licensor”, to the extent permitted by  
1308 and in compliance with the regulations promulgated by the filing office, and shall include  
1309 such other information to the extent required by the regulations.  
1310 (c) *Duration of effectiveness.* A validly filed financing statement is effective for five  
1311 years after the date of filing unless sooner terminated, except as follows:  
1312 (1) if the financing statement correctly indicates that it is filed in connection with a  
1313 manufactured-home transaction or a public-finance transaction, it is effective for  
1314 thirty years after the date of filing unless sooner terminated;  
1315 (2) if the debtor is a transmitting utility and the initial financing statement so  
1316 indicates, the financing statement is effective until terminated; and  
1317 (3) a mortgage that is effective as a financing statement is effective until the mortgage  
1318 is satisfied of record.  
1319 (d) *Continuation and lapse.* A financing statement lapses at the end of the period specified in  
1320 subsection (c) unless a continuation statement is filed within six months before the expiration  
1321 of the period. A lapsed financing statement ceases to perfect the security interest or  
1322 agricultural lien unless it is perfected otherwise before lapse, and the security interest or  
1323 agricultural lien is deemed to never have been perfected against a purchaser of the collateral  
1324 for value.  
1325 (e) *Effect of continuation and other amendment.* On proper continuation under subsection (a),  
1326 the effectiveness of a filed financing statement continues for a period of five years,  
1327 commencing on the date on which it otherwise would have become ineffective, and again  
1328 may lapse unless further continued. An amendment to a financing statement other than a  
1329 continuation statement does not extend the effectiveness of a financing statement, is effective  
1330 only from its date of filing, and may be effective as a termination statement as prescribed in  
1331 the regulations promulgated by the filing office.  
1332 (F) *Termination statement.* On the filing of a termination statement, a financing statement to  
1333 which the termination statement relates ceases to be effective. A secured party shall file,  
1334 cause to be filed, or send the termination statement in accordance with the regulations  
1335 promulgated by the filing office.  
1336 (G) *Persons authorized to file.* A filed record is effective only to the extent that it was filed  
1337 by a person authorized to do so in the following circumstances:  
1338 (1) Only a person authorized by the debtor in compliance with this paragraph or with  
1339 regulations promulgated by the filing office, or a person otherwise designated by

1340 those regulations, may file an initial financing statement, amendment that adds  
1341 collateral, or amendment that adds a debtor that is effective. By signing or becoming  
1342 bound as debtor by a security agreement, the debtor authorizes the filing of a  
1343 financing statement and amendments covering:

- 1344 (i) the collateral described in the security agreement; and
- 1345 (ii) property that becomes collateral under Section 510.6-10(a)(2), relating to  
1346 identifiable proceeds.

1347 (2) Only a person authorized by a secured party may file a termination statement or  
1348 an amendment other than an amendment that adds collateral or a debtor.

1349 (h) *Effect of disposition on effectiveness of financing statement.* If a security interest or  
1350 agricultural lien continues in collateral transferred by the debtor under Section 510.6-10, a  
1351 filed financing statement with respect to the collateral remains effective, even if the secured  
1352 party knows of or consents to the transfer.

1353 (i) *Effect of name change of effectiveness of financing statement.* If the name that a filed  
1354 financing statement provides for a debtor becomes insufficient as the name of the debtor so  
1355 that the financing statement becomes seriously misleading, the financing statement is not  
1356 effective to perfect a security interest or agricultural lien in collateral acquired by the debtor  
1357 more than four months after the change, unless an appropriate filing is made before the  
1358 expiration of the time.

1359 **510.8-3. Claim Concerning Inaccurate or Wrongfully Files Record.**

1360 (a) *Permission to file.* A person may file in the filing office an information statement with  
1361 respect to a record filed there if the person believes that the record is inaccurate or was  
1362 wrongfully filed.

1363 (b) *Contents of statement under subsection (a).* An information statement under subsection  
1364 (a) must:

- 1365 (1) identify the record to which it relates by the file number assigned to the initial  
1366 financing statement to which the record relates;
- 1367 (2) indicate that it is an information statement; and
- 1368 (3) provide the basis for the person's belief that the record is inaccurate and indicate  
1369 the manner in which the person believes the record should be amended to cure any  
1370 inaccuracy or provide the basis for the person's belief that the record was wrongfully  
1371 filed.

1372 (c) *Record not affected by information statement.* The filing of an information statement does  
1373 not affect the effectiveness of a filed record.

1374 (d) *No duty to file information statement.* A person that believes that a record filed in the  
1375 filing office is inaccurate or wrongfully filed does not have a duty to file an information  
1376 statement relating to the record.

1377

1378 **510.9 Default**

1379 Section/Subpart 1. Default and Enforcement of Security Interest of Agricultural Lien.

1380 510.9-1. *Rights After Default; Judicial Enforcement; Consignor or Buyer of Accounts; Chattel*  
1381 *Paper, Payment Intangibles, or Promissory Notes.*

1382 (a) *Rights of secured party after default.* After default, a secured party has the rights provided  
1383 in this part, the rights and duties related to possession or control of collateral under Section  
1384 510.5-4 and, except as otherwise provided in Section 510.9-2, those provided by agreement  
1385 of the parties. A secured party:

1386 (1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim,  
1387 security interest, or agricultural lien by any available judicial procedure; and

1388 (2) if the collateral is documents, may proceed either as to the documents or as to the  
1389 goods they cover.

1390 (b) *Rights cumulative; simultaneous exercise.* The rights under subsection (a) are cumulative  
1391 and may be exercised simultaneously.

1392 (c) *Rights of debtor and obligor.* Except as otherwise provided in subsection (f) and Section  
1393 9-605, after default, a debtor and an obligor have the rights provided in this part and by  
1394 agreement of the parties.

1395 (d) *Lien of levy after judgment.* If a secured party has reduced its claim to judgment, the lien  
1396 of any levy that may be made upon the collateral by virtue of an execution based upon the  
1397 judgment relates back to the earliest of:

1398 (1) the date of perfection of the security interest or agricultural lien in the  
1399 collateral;

1400 (2) the date of filing a financing statement covering the collateral; or

1401 (3) any date specified in a law under which the agricultural lien was created.

1402 (e) *Execution sale.* A sale pursuant to an execution is a foreclosure of the security interest or  
1403 agricultural lien by judicial procedure within the meaning of this section. A secured party  
1404 may purchase at the sale and thereafter hold the collateral free of any other requirements of  
1405 this Law.

1406 (f) *Consignor or buyer of certain rights to payment.* Except as otherwise provided in Section  
1407 9-607(b), this part imposes no duties upon a secured party that is a consignor or is a buyer of  
1408 accounts, chattel paper, payment intangibles, or promissory notes

1409 510.9-2. *Waiver and Variance of Rights and Duties.* Except as otherwise provided in the provisions  
1410 of this Law dealing with waivers (Section 510.9-21), to the extent that they give rights to a debtor or  
1411 obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules  
1412 stated in the following sections of this Law dealing with:

1413 (a) rights and duties when collateral is in a secured party's possession (Section 510.5-4);

1414 (b) requests for an accounting or requests regarding a list of collateral or statement of an  
1415 account (Section 510.5-7);

1416 (c) commercially reasonable collection and enforcement (Section 510.9-7(b));

1417 (d) application of proceeds, deficiency and surplus (Section 510.9-8(a) and 510.9-14(c)), to  
1418 the extent that they deal with application or payment of noncash proceeds of collection,  
1419 enforcement, or disposition;

- 1420 (e) application of proceeds and the like (Sections 510.9-8 and 510.9-14(d)), to the extent that  
1421 they require accounting for or payment of surplus proceeds of collateral;  
1422 (f) a secured party's right to take possession after default and limitations thereon (Section  
1423 510.9-9), to the extent that it imposes upon the secured party taking possession of collateral  
1424 without judicial process the duty to do so without breach of the peace and with consent of the  
1425 debtor;  
1426 (g) commercially reasonable disposition (Section 510.9-14(b)), notification before  
1427 disposition of the collateral (Section 510.9-11), and the contents and form of a notification  
1428 before disposition of the collateral (Section 510.9-13);  
1429 (h) calculation of a deficiency or surplus when the fairness of the amount of proceeds is  
1430 placed in issue (Section 510.9-15(e));  
1431 (i) explanation of the calculation of a surplus or deficiency (Section 510.9-16);  
1432 acceptance of collateral in satisfaction of obligation (Section 510.9-20);  
1433 (j) right to redeem collateral (Section 510.9-20);  
1434 (k) waivers (Section 510.9-21);  
1435 (l) the secured party's liability for failure to comply with this Law (Sections 510.9-25 and  
1436 510.9-26); and  
1437 (m) attorney's fees (Section 510.9-29).

1438 *510.9-3. Agreement on Standards Concerning Rights and Duties.* The parties may determine by  
1439 agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties  
1440 of a secured party under a rule stated in the provisions of this Law dealing with waiver or variance of  
1441 rights and duties, if the standards are not manifestly unreasonable.

1442 *510.9-4. Procedure if Security Agreement Covers Real Property or Fixtures.*

- 1443 (a) *Enforcement: personal and real property.* If a security agreement covers both personal  
1444 and real property, a secured party may proceed:  
1445 (1) under this part as to the personal property without prejudicing any rights with  
1446 respect to the real property; or  
1447 (2) as to both the personal property and the real property in accordance with the rights  
1448 with respect to the real property, in which case the other provisions of this part do not  
1449 apply.  
1450 (b) *Enforcement: fixtures.* Subject to subsection (c), if a security agreement covers goods that  
1451 are or become fixtures, a secured party may proceed:  
1452 (1) under this part; or  
1453 (2) in accordance with the rights with respect to real property, in which case the other  
1454 provisions of this part do not apply.  
1455 (c) *Removal of fixtures.* Subject to the other provisions of this part, if a secured party holding  
1456 a security interest in fixtures has priority over all owners and encumbrancers of the real  
1457 property, the secured party, after default, may remove the collateral from the real property.  
1458 (d) *Injury caused by removal.* A secured party that removes collateral shall promptly  
1459 reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost  
1460 of repair of any physical injury caused by the removal. The secured party need not reimburse

1461 the encumbrancer or owner for any diminution in value of the real property caused by the  
1462 absence of the goods removed or by any necessity of replacing them. A person entitled to  
1463 reimbursement may refuse permission to remove until the secured party gives adequate  
1464 assurance for the performance of the obligation to reimburse.

1465 510.9-5. *Unknown Debtor or Secondary Obligor.* A secured party does not owe a duty based on its  
1466 status as a secured party:

1467 (a) to a person or obligor, unless the secured party knows:

1468 (1) that the person is the debtor or obligor;

1469 (2) the identity of the person; and

1470 (3) how to communicate with the person; or

1471 (b) to a secured party or lienholder that has filed a financing statement against a person  
1472 unless the secured party knows:

1473 (1) that the person is the debtor; and

1474 (2) the identity of the person.

1475 510.9-6. *Time of Default for Agricultural Lien.* For purposes of this part, a default occurs in  
1476 connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien  
1477 in accordance with the law under which it was created.

1478 510.9-7. *Collection and Enforcement by Secured Party.*

1479 (a) *Collection and enforcement generally.* If so agreed, and in any event after default, a  
1480 secured party:

1481 (1) may notify an account debtor or other person obligated on collateral to make  
1482 payment or otherwise render performance to or for the benefit of the secured party;

1483 (2) may take any proceeds to which the secured party is entitled under Section 510.6-  
1484 6;

1485 (3) may enforce the obligations of an account debtor or other person obligated on  
1486 collateral and exercise the rights of the debtor with respect to the obligation of the  
1487 account debtor or other person obligated on collateral to make payment or otherwise  
1488 render performance to the debtor, and with respect to any property that secures the  
1489 obligations of the account debtor or other person obligated on the collateral;

1490 (b) *Commercially reasonable collection and enforcement.* A secured party shall proceed in a  
1491 commercially reasonable manner if the secured party:

1492 (1) undertakes to collect from or enforce an obligation of an account debtor or other  
1493 person obligated on collateral; and

1494 (2) is entitled to charge back uncollected collateral or otherwise to full or limited  
1495 recourse against the debtor or a secondary obligor.

1496 (c) *Expenses of collection and enforcement.* A secured party may deduct from the collections  
1497 made pursuant to subsection (c) reasonable expenses of collection and enforcement,  
1498 including reasonable attorney's fees and legal expenses incurred by the secured party.

1499 (d) *Duties to secured party not affected.* This section does not determine whether an account  
1500 debtor, bank, or other person obligated on collateral owes a duty to a secured party.

1501 510.9-8. *Application of Proceeds of Collection or Enforcement, Liability for Deficiency and Right to*  
1502 *Surplus.*

1503 a) *Application of proceeds, surplus, and deficiency if obligation secured.* If a security interest  
1504 or agricultural lien secures payment or performance of an obligation, the following rules  
1505 apply:

1506 (1) A secured party shall apply or pay over for application the cash proceeds of  
1507 collection or enforcement under Section 510.9-7 in the following order to:

1508 (i) the reasonable expenses of collection and enforcement and, to the extent  
1509 provided for by agreement and not prohibited by law, reasonable attorney's  
1510 fees and legal expenses incurred by the secured party;

1511 (ii) the satisfaction of obligations secured by the security interest or  
1512 agricultural lien under which the collection or enforcement is made; and

1513 (iii) the satisfaction of obligations secured by any subordinate security interest  
1514 in or other lien on the collateral subject to the security interest or agricultural  
1515 lien under which the collection or enforcement is made if the secured party  
1516 receives a signed demand for proceeds before distribution of the proceeds is  
1517 completed.

1518 (2) If requested by a secured party, a holder of a subordinate security interest or other  
1519 lien shall furnish reasonable proof of the interest or lien within a reasonable time.

1520 Unless the holder complies, the secured party need not comply with the holder's  
1521 demand under paragraph (1)(iii).

1522 (3) A secured party need not apply or pay over for application noncash proceeds of  
1523 collection and enforcement under Section 510.9-7 unless the failure to do so would be  
1524 commercially unreasonable. A secured party that applies or pays over for application  
1525 noncash proceeds shall do so in a commercially reasonable manner.

1526 (4) A secured party shall account to and pay a debtor for any surplus, and the obligor  
1527 is liable for any deficiency.

1528 510.9-9. *Secured Party's Limited Right to Take Possession After Default.*

1529 (a) *Consent or judicial process.* Unless otherwise agreed, a secured party has at the time of or  
1530 after default the powers described in subsection (b), but such powers may be exercised only  
1531 pursuant to judicial process or with the debtor's consent. Such consent is effective only if  
1532 expressed after default by means of a separate dated and signed personal statement in the  
1533 debtor's handwriting, describing the powers to be exercised by the secured party and  
1534 expressly acknowledging and waiving the debtor's right to require that such exercise be  
1535 pursuant to judicial process.

1536 (b) *Possession, rendering equipment unusable and assembly of collateral.* Under the  
1537 circumstances of subsection (a) the secured party may:

1538 (1) take possession of the collateral;

1539 (2) without removal, render equipment unusable and dispose of collateral on a  
1540 debtor's premises under Section 510.9-10; and

1541 (3) require the debtor to assemble the collateral and make it available to the secured  
1542 party at a place to be designated by the secured party which is reasonably convenient  
1543 to both parties.

1544 (c) *No breach of the peace.* A secured party acting pursuant to the debtor’s consent under  
1545 subsection (a) must proceed without breach of the peace.

1546 510.9-10. *Disposition of Collateral After Default.*

1547 (a) *Disposition after default.* After default, a secured party may sell, lease, license, or  
1548 otherwise dispose of any or all of the collateral in its present condition or following any  
1549 commercially reasonable preparation or processing.

1550 (b) *Commercially reasonable disposition; tribal business day.* Every aspect of a disposition  
1551 of collateral, including the method, manner, time, place, and other terms, must be  
1552 commercially reasonable. If commercially reasonable, a secured party may dispose of  
1553 collateral by public or private proceedings, by one or more contracts, as a unit or in parcels,  
1554 and at any time and place and on any terms. In order to protect the debtor’s right to redeem  
1555 collateral (Section 510.9-20), a disposition of collateral shall take place only on a tribal  
1556 business day.

1557 (c) *Purchase by secured party.* A secured party may purchase collateral:

1558 (1) at a public disposition; or

1559 (2) at a private disposition only if the collateral is of a kind that is customarily sold  
1560 on a recognized market or the subject of widely distributed standard price quotations.

1561 (d) *Warranties on disposition.* A contract for sale, lease, license, or other disposition includes  
1562 the warranties relating to title, possession, quiet enjoyment, and the like which by operation  
1563 of law accompany a voluntary disposition of property of the kind subject to the contract.

1564 (e) *Disclaimer of warranties.* A secured party may disclaim or modify warranties under  
1565 subsection (d):

1566 (1) in a manner that would be effective to disclaim or modify the warranties in a  
1567 voluntary disposition of property of the kind subject to the contract of disposition; or

1568 (2) by communicating to the purchaser a record evidencing the contract for  
1569 disposition and including an express disclaimer or modification of the warranties.

1570 (f) *Record sufficient to disclaim warranties.* A record is sufficient to disclaim warranties  
1571 under subsection (e) if it indicates “There is no warranty relating to title, possession, quiet  
1572 enjoyment, or the like in this disposition” or uses words of similar import.

1573 510.9-11. *Notification Before Disposition of Collateral.*

1574 (a) “Notification date.” In this section, “notification date” means the earlier of the date on  
1575 which:

1576 (1) a secured party sends to the debtor and any secondary obligor a signed notification  
1577 of disposition; or

1578 (2) the debtor and any secondary obligor waive the right to notification.

1579 (b) *Notification of disposition required.* Except as otherwise provided in subsection (d), a  
1580 secured party that disposes of collateral under Section 9-610 shall send to the persons  
1581 specified in subsection (c) a reasonable signed notification of disposition.

- 1582 (c) *Persons to be notified.* To comply with subsection (b), the secured party shall send a  
1583 signed notification of disposition to:
- 1584 (1) the debtor;
  - 1585 (2) any secondary obligor; and
  - 1586 (3) if the collateral is other than consumer goods:
    - 1587 (i) any other person from which the secured party has received, before the
    - 1588 notification date, a signed notification of a claim of an interest in the
    - 1589 collateral;
    - 1590 (ii) any other secured party or lienholder that, 14 calendar days before the
    - 1591 notification date, held a security interest in or other lien on the collateral
    - 1592 perfected by the filing of a financing statement that:
      - 1593 (A) identified the collateral;
      - 1594 (B) was indexed under the debtor's name as of that date; and
      - 1595 (C) was filed in the office in which to file a financing statement against
      - 1596 the debtor covering the collateral as of that date; and
    - 1597 (iii) any other secured party that, 14 calendar days before the notification date,
    - 1598 held a security interest in the collateral perfected by compliance with other
    - 1599 applicable law (Section 510.6-6).
- 1600 (d) *Subsection (b) inapplicable: perishable collateral; recognized market.* Subsection  
1601 (b) does not apply if the collateral is perishable or threatens to decline speedily in  
1602 value or is of a type customarily sold on a recognized market.
- 1603 (e) *Compliance with subsection (c)(3)(ii).* A secured party complies with the requirement for  
1604 notification prescribed by subsection (c)(3)(ii) if:
- 1605 (i) not later than 20 calendar days or earlier than 30 calendar days before the
  - 1606 notification date, the secured party requests, in a commercially reasonable manner,
  - 1607 information concerning financing statements indexed under the debtor's name in the
  - 1608 office indicated in subsection (c)(3)(B); and
  - 1609 (ii) before the notification date, the secured party:
    - 1610 (A) did not receive a response to the request for information; or
    - 1611 (B) received a response to the request for information and sent a signed
    - 1612 notification of disposition to each secured party or other lienholder named
    - 1613 in that response whose financing statement covered the collateral.
- 1614 510.9-12. *Timeliness of Notification Before Disposition of Collateral.*
- 1615 (a) *Reasonable time is question of fact.* Except as otherwise provided in subsection (b),
  - 1616 whether a notification is sent within a reasonable time is a question of fact.
  - 1617 (b) *Safe harbors for sufficiency of time.* Unless a specific time for sending a notification of
  - 1618 disposition is established by the court, a notification of disposition is sent within a reasonable
  - 1619 time before the disposition when it is sent after default and:
    - 1620 (i) in a consumer transaction, twenty (20) calendar days or more before the earliest
    - 1621 time of disposition set forth in the notification; or

1622 (ii) in all other transactions, ten (10) calendar days or more before the earliest time of  
1623 disposition set forth in the notification.

1624 510.9-13. *Contents and Form of Notification Before Disposition of Collateral.*

1625 (a) *Disposition of collateral.* The following rules apply to notification before disposition of  
1626 collateral:

1627 (1) The contents of a notification of disposition are sufficient if the notification:

1628 (i) describes the debtor and the secured party;

1629 (ii) describes the collateral that is the subject of the intended disposition;

1630 (iii) states the method of intended disposition;

1631 (iv) states that the debtor is entitled to an accounting of the unpaid  
1632 indebtedness and states the charge, if any, for an accounting;

1633 (v) states the time and place of a public disposition or the time after which any  
1634 other disposition is to be made;

1635 (vi) describes any liability for a deficiency by the person receiving the notice;  
1636 and

1637 (vii) states a telephone number or mailing address from which additional  
1638 information concerning redemption, disposition and the obligation secured is  
1639 available.

1640 (b) Whether the contents of a notification that lacks any of the information specified in  
1641 paragraph (1) are nevertheless sufficient is a question of fact.

1642 (c) The contents of a notification providing substantially the information specified in  
1643 paragraph (1) are sufficient, even if the notification includes:

1644 (1) information not specified by that paragraph; or

1645 (2) minor errors that are not seriously misleading.

1646 (d) A particular phrasing of the notification is not required.

1647 510.9-14. *Application of Proceeds of Disposition; Liability for Deficiency and Right to Surplus.*

1648 (a) *Application of proceeds.* A secured party shall apply or pay over for application the cash  
1649 proceeds of disposition under Section 510.9-10 in the following order to:

1650 (1) the reasonable expenses of retaking, holding, preparing for disposition,  
1651 processing, and disposing, and, to the extent provided for by agreement and not  
1652 prohibited by law, reasonable attorney's fees and legal expenses incurred by the  
1653 secured party;

1654 (2) the satisfaction of obligations secured by the security interest or agricultural  
1655 lien under which the disposition is made;

1656 (3) the satisfaction of obligations secured by any subordinate security interest in or  
1657 other subordinate lien on the collateral if:

1658 (i) the secured party receives from the holder of the subordinate security  
1659 interest or other lien a signed demand for proceeds before distribution of the  
1660 proceeds is completed; and

- 1661 (ii) in a case in which a consignor has an interest in the collateral, the  
1662 subordinate security interest or other lien is senior to the interest of the  
1663 consignor; and
- 1664 (4) a secured party that is a consignor of the collateral if the secured party receives  
1665 from the consignor a signed demand for proceeds before distribution of the proceeds  
1666 is completed.
- 1667 (b) *Proof of subordinate interest.* If requested by a secured party, a holder of a subordinate  
1668 security interest or other lien shall furnish reasonable proof of the interest or lien within a  
1669 reasonable time. Unless the holder does so, the secured party need not comply with the  
1670 holder's demand under subsection (a)(3).
- 1671 (c) *Application of noncash proceeds.* A secured party need not apply or pay over for  
1672 application noncash proceeds of disposition under Section 510.9-10 unless the failure to do  
1673 so would be commercially unreasonable. A secured party that applies or pays over for  
1674 application noncash proceeds shall do so in a commercially reasonable manner.
- 1675 (d) *Surplus or deficiency if obligation secured.* If the security interest under which a  
1676 disposition is made secures payment or performance of an obligation, after making the  
1677 payments and applications required by subsection (a) and permitted by subsection (c):
- 1678 (1) unless subsection (a)(4) requires the secured party to apply or pay over cash  
1679 proceeds to a consignor, the secured party shall account to and pay a debtor for any  
1680 surplus; and
- 1681 (2) the obligor is liable for any deficiency.
- 1682 (e) *Calculation of surplus or deficiency in disposition to secured party or related person.*  
1683 Following a disposition to the secured party or a person related to the secured party, the  
1684 surplus or deficiency is calculated based on the amount of proceeds that would have been  
1685 realized in a hypothetical disposition complying with this part to a person other than the  
1686 secured party or a person related to the secured party, if the debtor establishes that the  
1687 amount of proceeds of the actual disposition is significantly below the range of proceeds  
1688 that would have been brought by the hypothetical disposition. In this section, a secondary  
1689 obligor is a person related to the secured party.
- 1690 (f) *Cash proceeds received by junior secured party.* A secured party that receives cash  
1691 proceeds of a disposition in good faith and without knowledge that the receipt violates the  
1692 rights of the holder of a security interest or other lien that is not subordinate to the  
1693 security interest or agricultural lien under which the disposition is made:
- 1694 (1) takes the cash proceeds free of the security interest or other lien;  
1695 (2) is not obligated to apply the proceeds of the disposition to the satisfaction of  
1696 obligations secured by the security interest or other lien; and  
1697 (3) is not obligated to account to or pay the holder of the security interest or other lien  
1698 for any surplus.
- 1699 510.9-15. *Explanation of Calculation of Surplus or Deficiency.*
- 1700 (a) *Explanation of calculation.* In a consumer transaction, a secured party must provide  
1701 the debtor or consumer obligor a reasonably detailed explanation in a record of the

1702 manner in which any surplus or deficiency was calculated if the debtor or consumer  
1703 obligor demands such an explanation or, in any event, 10 tribal business days before  
1704 commencing an action for a deficiency.

1705 (b) *Charges for responses.* Each debtor or consumer obligor is entitled without charge to  
1706 one response to a request under this section during any six-month period in which the  
1707 secured party did not send to the debtor or consumer obligor an explanation pursuant to  
1708 subsection (b)(1). The secured party may require payment of a charge not exceeding \$25  
1709 for each additional response.

1710 510.9-16. *Rights of Transferee of Collateral.*

1711 (a) *Effects of disposition.* A secured party's disposition of collateral after default:

1712 (1) transfers to a transferee for value all of the debtor's rights in the collateral;

1713 (2) discharges the security interest under which the disposition is made; and

1714 (3) discharges any subordinate security interest or other subordinate lien.

1715 (b) *Rights of good-faith transferee.* A transferee that acts in good faith takes free of the  
1716 rights and interests described in subsection (a), even if the secured party fails to comply  
1717 with this Law or the requirements of any judicial proceeding.

1718 (c) *Rights of other transferee.* If a transferee does not take free of the rights and interests  
1719 described in subsection (a), the transferee takes the collateral subject to:

1720 (1) the debtor's rights in the collateral;

1721 (2) the security interest or agricultural lien under which the disposition is made;  
1722 and

1723 (3) any other security interest or other lien.

1724 510.9-17. *Rights and Duties of Certain Secondary Obligors.*

1725 (a) *Rights and duties of secondary obligor.* A secondary obligor acquires the rights and  
1726 becomes obligated to perform the duties of the secured party after the secondary obligor:

1727 (1) receives an assignment of a secured obligation from the secured party;

1728 (2) receives a transfer of collateral from the secured party and agrees to accept the  
1729 rights and assume the duties of the secured party; or

1730 (3) is subrogated to the rights of a secured party with respect to collateral.

1731 (b) Effect of assignment, transfer, or subrogation. An assignment, transfer, or subrogation  
1732 described in subsection (a):

1733 (1) is not a disposition of collateral under Section 510.9-10; and

1734 (2) relieves the secured party of further duties under this Law.

1735 510.9-18. *Transfer of Record or Legal Title*

1736 (a) "Transfer statement." In this section, "transfer statement" means a record signed by a  
1737 secured party stating:

1738 (1) that the debtor has defaulted in connection with an obligation secured by  
1739 specified collateral;

1740 (2) that the secured party has exercised its post-default remedies with respect to  
1741 the collateral;

1742 (3) that, by reason of the exercise, a transferee has acquired the rights of the  
1743 debtor in the collateral; and  
1744 (4) the name and mailing address of the secured party, debtor, and transferee.  
1745 (b) *Effect of transfer statement.* A transfer statement entitles the transferee to the transfer  
1746 of record of all rights of the debtor in the collateral specified in the statement in any  
1747 official filing, recording, registration, or certificate-of-title system covering the collateral.  
1748 If a transfer statement is presented with the applicable fee and request form to the official  
1749 or office responsible for maintaining the system, the official or office shall:  
1750 (1) accept the transfer statement;  
1751 (2) promptly amend its records to reflect the transfer; and  
1752 (3) if applicable, issue a new appropriate certificate of title in the name of the  
1753 transferee.  
1754 (c) *Transfer not a disposition; no relief of secured party's duties.* A transfer of the record  
1755 or legal title to collateral to a secured party under subsection (b) or otherwise is not of  
1756 itself a disposition of collateral under this Law and does not of itself relieve the secured  
1757 party of its duties under this Law.  
1758 510.9-19. *Acceptance of Collateral in Full or Partial Satisfaction of Obligation; Notification of*  
1759 *Proposal; Effect of Acceptance; Compulsory Disposition of Collateral.*  
1760 (a) *Proposal to accept collateral in full or partial satisfaction of obligation.* Except as  
1761 provided in subsection (e), a secured party may, after default, propose to retain the  
1762 collateral in full satisfaction of the obligation it secures or, in a transaction other than a  
1763 consumer transaction, in partial satisfaction of such obligation.  
1764 (b) *Notification of proposal to accept collateral.* A secured party shall send notice of a  
1765 proposal under subsection (a) to:  
1766 (1) the debtor;  
1767 (2) any person from whom the secured party has received, before the debtor  
1768 consented to the acceptance, a signed notification of a claim of an interest in the  
1769 collateral;  
1770 (3) any person that, 14 calendar days before the debtor consented to the  
1771 acceptance, held a security interest in or other lien on the collateral perfected by  
1772 means of a financing statement or compliance with other law that makes the  
1773 interest reasonably discoverable; and  
1774 (4) if the proposal is for partial satisfaction of the obligation, any secondary  
1775 obligor.  
1776 (c) *Conditions to acceptance.* A proposal under this section is not effective unless it is  
1777 covered by subsection (a) and:  
1778 (1) the debtor consents to the acceptance in a record signed after default and if the  
1779 record consists of a form supplied by the secured party, the term expressing  
1780 consent is separately signed by the debtor;

1781 (2) no other person specified in subsection (b), and no other person holding an  
1782 interest in the collateral subject to the secured party's interest, objects to the  
1783 acceptance within 14 tribal business days after notification was sent; and  
1784 (3) if the collateral is consumer goods, the collateral is not in the possession of the  
1785 debtor when the debtor consents to the acceptance.

1786 (d) *Effect of acceptance.* A secured party's acceptance of collateral pursuant to this  
1787 section:

- 1788 (1) discharges the obligation to the extent consented to by the debtor;  
1789 (2) transfers to the secured party all of the debtor's rights in the collateral;  
1790 (3) discharges the security interest or agricultural lien that is the subject of the  
1791 debtor's consent, and any security interest or other lien or interest that is  
1792 subordinate thereto, even if the secured party accepting the collateral fails to  
1793 comply with this article.  
1794 (4) *Mandatory disposition of consumer goods.* A secured party that has taken  
1795 possession of collateral shall dispose of the collateral pursuant to Sections 510.9-  
1796 10 through 510.9-16 if: 60 percent of the cash price has been paid in the case of a  
1797 purchase-money security interest in consumer goods; or  
1798 (5) 60 percent of the principal amount of the obligation secured has been paid in  
1799 the case of a non-purchase-money security interest in consumer goods.

1800 (e) A disposition under subsection (e) must be made no later than 90 calendar days after  
1801 taking possession, or within any longer period to which the debtor and all secondary  
1802 obligors have agreed in an agreement to that effect entered into and signed after default.

1803 510.9-20. *Right to redeem collateral.*

1804 (a) *Persons that may redeem.* A debtor, any secondary obligor, or any other secured party  
1805 or lienholder may redeem collateral.

1806 (b) *Requirements for redemption.* To redeem collateral, a person shall tender:

- 1807 (1) fulfillment of all obligations secured by the collateral; and  
1808 (2) the reasonable expenses and attorney's fees described in Section 510.9-  
1809 15(a)(1), dealing with application of proceeds of disposition.

1810 (c) *When redemption may occur.* A redemption may occur at any time before a secured  
1811 party:

- 1812 (1) has collected collateral under Section 510.9-7;  
1813 (2) has disposed of collateral or entered into a contract for its disposition under  
1814 Section 510.9-10; or  
1815 (3) has accepted collateral in full or partial satisfaction of the obligation it secures  
1816 under Section 510.9-17.

1817 510.9-21. *Waiver.*

1818 (a) *Waiver of disposition notification.* A debtor or secondary obligor may waive the right  
1819 to notification of disposition of collateral under Section 510.9-11 only by an agreement to  
1820 that effect entered into and signed after default.

1821 (b) *Waiver of mandatory disposition.* A debtor may waive the right to require disposition  
1822 of collateral under Section 510.9-17(e), which deals with mandatory disposition of  
1823 consumer goods, only by an agreement to that effect entered into and signed after default.

1824 (c) *Waiver of redemption right.* In a transaction other than a consumer transaction, a  
1825 debtor or secondary obligor may waive the right to redeem collateral under Section  
1826 510.9-20 only by an agreement to that effect entered into and signed after default. In a  
1827 consumer transaction, a debtor or secondary obligor may not waive such right.

1828 Section/Subpart 2. Noncompliance with Act/Code/Law.

1829 510.9-22. *Remedies for Secured Party's Failure to Comply with Act/Code/Law*

1830 (a) *Judicial orders concerning noncompliance.* If it is established that a secured party is  
1831 not proceeding in accordance with this Law, a court may order or restrain collection,  
1832 enforcement, or disposition of collateral on appropriate terms and conditions.

1833 (b) *Damages for noncompliance.* Subject to subsections (c), (d), and (f), a person is liable  
1834 for damages in the amount of any loss caused by a failure to comply with this Law. Loss  
1835 caused by a failure to comply may include loss resulting from the debtor's inability to  
1836 obtain, or increased costs of, alternative financing.

1837 (c) *Persons entitled to recover damages; statutory damages where collateral is consumer*  
1838 *goods.* Except as otherwise provided in Section 510.9-25, which deals with the  
1839 nonliability and limitations on liability of a secured party and the liability of a secondary  
1840 obligor:

1841 (1) a person that, at the time of the failure, was a debtor, was an obligor, or held a  
1842 security interest in or other lien on the collateral may recover damages under  
1843 subsection (b) for its loss; and

1844 (2) if the collateral is consumer goods, a person that was a debtor or a secondary  
1845 obligor at the time a secured party failed to comply with this part may recover for  
1846 that failure in any event an amount not less than the credit service charge plus 10  
1847 percent of the principal amount of the obligation or the time-price differential plus  
1848 10 percent of the cash price.

1849 (d) *Recovery when deficiency eliminated or reduced.* A debtor whose deficiency is  
1850 eliminated under Section 510.9-23, which deals with actions in which a deficiency or  
1851 surplus is in issue, may recover damages for the loss of any surplus.

1852 (e) *Statutory damages: noncompliance with specified provisions.* In addition to any  
1853 damages recoverable under subsection (b), the debtor, consumer obligor, or person  
1854 named as a debtor in a filed record, as applicable, may recover \$500 in each case from a  
1855 person that:

1856 (1) fails to comply with the provisions of this Law dealing with additional duties  
1857 of a secured party having control of an investment account (Section 510.5-5(b));

1858 (2) fails to comply with the provisions of this Law dealing with duties of a  
1859 secured party if an account debtor has been notified of assignment (Section 510.5-  
1860 5(c));

1861 (3) files a record that the person is not entitled to file under Section 510.8-2(g);  
1862 (4) fails to file, cause to be filed or send a termination statement as required by  
1863 Section 510.8-2(f);  
1864 (5) fails to comply with the provisions of this Law dealing with explanations of  
1865 calculations of surplus or deficiency (Section 510.9-16(a)), and whose failure is  
1866 part of a pattern, or consistent with a practice, of noncompliance.

1867 (f) *Statutory damages: noncompliance with the provisions of this Law dealing with a*  
1868 *request for an accounting.* A debtor or consumer obligor may recover damages under  
1869 subsection (b) and, in addition, \$500 in each case from a person that, without reasonable  
1870 cause, fails to comply with a request for an accounting (Section 510.5-7). A recipient of a  
1871 request under Section 510.5-7 which never claimed an interest in the collateral or  
1872 obligations that are the subject of a request under that section has a reasonable excuse for  
1873 failure to comply with the request within the meaning of this subsection.

1874 (g) *Limitation of security interest: noncompliance with Law.* If a secured party fails to  
1875 comply with a request regarding a list of collateral or a statement of account under  
1876 Section 510.5-7, the secured party may claim a security interest only as shown in the list  
1877 or statement included in the request as against a person that is reasonably misled by the  
1878 failure.

1879 510.9-23. *Action in Which Deficiency or Surplus is an Issue.* In an action in which the amount of  
1880 deficiency or surplus is an issue, the following rules apply:

1881 (a) A secured party need not prove compliance with the provisions of this part relating to  
1882 collection, enforcement, disposition, or acceptance unless the debtor or a secondary  
1883 obligor places the secured party's compliance in issue.

1884 (b) If the secured party's compliance is placed in issue, the secured party has the burden  
1885 of establishing that the collection, enforcement, disposition, or acceptance was conducted  
1886 in accordance with this part.

1887 (c) If, with respect to a consumer transaction, a secured party fails to prove that a  
1888 collection was conducted in accord with Section 510.9-7(b) or that a disposition was  
1889 conducted in accordance with Section 510.9-10(b), or fails to comply with Section 510.9-  
1890 9(c) or 510.9-23, the proceeds of the collection or disposition fully satisfy the sum of the  
1891 secured obligation, expenses, and allowable attorney's fees.

1892 (d) Except as provided in paragraph (3) or in Section 510.9-28, if a secured party fails to  
1893 prove that the collection, enforcement, disposition, or acceptance was conducted in  
1894 accordance with the provisions of this part relating to collection, enforcement,  
1895 disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency  
1896 is subject to setoff for an amount as stated in Section 510.9-25(b), which may be  
1897 measured by the amount recovered for conversion of collateral.

1898 (e) For purposes of paragraph (4), the liability of the debtor or a secondary obligor is  
1899 calculated on the presumption that the proceeds of disposition equal the sum of the

1900 secured obligation, expenses, and allowable attorney's fees, but the secured party may  
1901 rebut the presumption.

1902 510.9-24. *Determination of Whether Conduct was Commercially Reasonable.*

1903 (a) *Greater amount obtainable under other circumstances; no preclusion of commercial*  
1904 *reasonableness.* The fact that a greater amount could have been obtained by a collection,  
1905 enforcement, disposition, or acceptance at a different time or in a different method from  
1906 that selected by the secured party is not of itself sufficient to preclude the secured party  
1907 from establishing that the collection, enforcement, disposition, or acceptance was made in  
1908 a commercially reasonable manner.

1909 (b) *Dispositions that are commercially reasonable.* A disposition of collateral is made in  
1910 a commercially reasonable manner if the disposition is made:

1911 (1) in the usual manner on any recognized market;  
1912 (2) at the price current in any recognized market at the time of the disposition; or  
1913 otherwise in conformity with reasonable commercial practices among dealers in  
1914 (3) the type of property that was the subject of the disposition.

1915 (c) *Approval by court or on behalf of creditors.* A collection, enforcement, disposition, or  
1916 acceptance is commercially reasonable if it has been approved:

1917 (1) in a judicial proceeding;  
1918 (2) by a bona fide creditors' committee;  
1919 (3) by a representative of creditors; or  
1920 (4) by an assignee for the benefit of creditors.

1921 (d) Such approval need not be obtained, and lack of approval does not mean that the  
1922 collection, enforcement, disposition, or acceptance is not commercially  
1923 reasonable.

1924 510.9-25. *Nonliability and Limitation on Liability of Secured Party; Liability of Secondary*  
1925 *Obligor.*

1926 (a) *Limitation of liability of secured party for noncompliance with Law.* Unless a secured  
1927 party knows that a person is a debtor or obligor, knows the identity of the person, and  
1928 knows how to communicate with the person:

1929 (1) the secured party is not liable to the person, or to a secured party or lienholder  
1930 that has filed a financing statement against the person, for failure to comply with  
1931 this Law; and  
1932 (2) the secured party's failure to comply with this Law does not affect the liability  
1933 of the person for a deficiency.

1934 (b) *Limitation of liability based on status as secured party.* A secured party is not liable  
1935 because of its status as secured party:

1936 (1) to a person that is a debtor or obligor, unless the secured party knows:

1937 (i) that the person is a debtor or obligor;  
1938 (ii) the identity of the person; and  
1939 (iii) how to communicate with the person; or

1940 (2) to a secured party or lienholder that has filed a financing statement against a  
1941 person, unless the secured party knows:

1942 (i) that the person is a debtor; and

1943 (ii) the identity of the person.

1944 (c) *Limitation of liability if reasonable belief that transaction not a consumer transaction*  
1945 *or collateral is not consumer goods.* A secured party is not liable to any person, and a  
1946 person's liability for a deficiency is not affected, because of any act or omission arising  
1947 out of the secured party's reasonable belief that a transaction is not a consumer  
1948 transaction or that goods are not consumer goods, if the secured party's belief is based on  
1949 its reasonable reliance on:

1950 (1) a debtor's representation concerning the purpose for which collateral was to be  
1951 used, acquired, or held; or

1952 (2) an obligor's representation concerning the purpose for which a secured  
1953 obligation was incurred.

1954 (d) *Limitation of liability for statutory damages.* A secured party is not liable to any  
1955 person under Section 510.9-25(c)(2), which deals with statutory damages where the  
1956 collateral is consumer goods, for its failure to comply with Section 510.9-16, which deals  
1957 with explanations of calculations of surplus or deficiency.

1958 (e) *Limitation of multiple liability for statutory damages.* A secured party is not liable  
1959 under Section 510.9-23(c)(2), which deals with statutory damages where the collateral is  
1960 consumer goods, more than once with respect to any one secured obligation.

1961 510.9-26. *Attorney's Fees in Certain Transactions.* If the secured party's compliance with this  
1962 Law is placed in issue in an action, the following rules apply:

1963 (a) If the secured party would have been entitled by agreement to attorney's fees as the  
1964 prevailing party, and the original principal amount of the indebtedness secured does not  
1965 exceed \$25,000, a debtor or obligor prevailing on the issue is entitled to the costs of the  
1966 action and reasonable attorney's fees.

1967 (b) In other cases, the court may award to a consumer debtor or consumer obligor  
1968 prevailing on that issue the costs of the action and reasonable attorney's fees.

1969 (c) In determining the attorney's fees, the amount of the recovery on behalf of the  
1970 prevailing debtor or obligor is not a controlling factor.

## 1971 **510.10. Miscellaneous Provisions**

1972 510.10-1. *Severability.*

1973 SECTION 9-701. SEVERABILITY. If any provision of this Law or its application to any person  
1974 or circumstance is held invalid, the invalidity does not affect other provisions or applications of  
1975 this Law which can be given effect without the invalid provision or application, and to this end  
1976 the provisions of this Law are severable.

1977 SECTION 9-702. EFFECTIVE DATE. This Law takes effect

1978

1979 *End.*

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1981

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Adopted- BC-XX-XX-XX-X

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