

**§9-1328. Priority of security interests in investment property**

The following rules govern priority among conflicting security interests in the same investment property. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(1). A security interest held by a secured party having control of investment property under section 9-1106 has priority over a security interest held by a secured party that does not have control of the investment property.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(2). Except as otherwise provided in subsections (3) and (4), conflicting security interests held by secured parties each of which has control under section 9-1106 rank according to priority in time of:

(a). If the collateral is a security, obtaining control; [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

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

(i) If the secured party obtained control under section 8-1106, subsection (4), paragraph (a), the secured party's becoming the person for which the securities account is maintained;

(ii) If the secured party obtained control under section 8-1106, subsection (4), paragraph (b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(iii) If the secured party obtained control through another person under section 8-1106, subsection (4), paragraph (c), the time on which priority would be based under this paragraph if the other person were the secured party; or [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(c). If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in section 9-1106, subsection (2), paragraph (b) with respect to commodity contracts carried or to be carried with the commodity intermediary.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

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

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

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

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(5). A security interest in a certificated security in registered form that is perfected by taking delivery under section 9-1313, subsection (1) and not by control under section 9-1314 has priority over a conflicting security interest perfected by a method other than control.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(6). Conflicting security interests created by a broker, securities intermediary or commodity intermediary that are perfected without control under section 9-1106 rank equally.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(7). In all other cases, priority among conflicting security interests in investment property is governed by sections 9-1322 and 9-1323.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

## SECTION HISTORY

PL 1999, c. 699, §A2 (NEW). PL 1999, c. 699, §A4 (AFF).

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