

355.9-305 Law governing perfection and priority of security interests in investment property.

- (1) Except as otherwise provided in subsection (3) of this section, the following rules apply:
 - (a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby;
 - (b) The local law of the issuer's jurisdiction as specified in KRS 355.8-110(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security;
 - (c) The local law of the securities intermediary's jurisdiction as specified in KRS 355.8-110(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account;
 - (d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account; and
 - (e) Paragraphs (b), (c), and (d) of this subsection apply even if the transaction does not bear any relation to the jurisdiction.
- (2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part of this article:
 - (a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction;
 - (b) If paragraph (a) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;
 - (c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;
 - (d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located; and
 - (e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

- (3) The local law of the jurisdiction in which the debtor is located governs:
- (a) Perfection of a security interest in investment property by filing;
 - (b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and
 - (c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 58, effective January 1, 2025. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 6, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 45, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 175, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 66, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-305, effective July 1, 1960.

Legislative Research Commission Note (7/14/2000). Although 2000 Acts ch. 408, sec. 45, has a reference to "subsection (4) of Section 169 of this Act" (which Section was codified as KRS 355.8-103) in subsection (1)(b) of this statute, that reference has been codified as KRS 355.8-110(4) (which was subsection (4) of Section 171 of Chapter 408) in order to match the official text of Revised Article 9. Amendments to the introduced version of this bill in the Senate inadvertently did not make the necessary adjustment to this internal reference; this failure was clearly a manifest typographical or clerical error and has been corrected in codification under KRS 7.136(1)(h).

Legislative Research Commission Note (7/14/2000). Although 2000 Acts ch. 408, sec. 45, has a reference to "subsection (5) of Section 169 of this Act" (which Section was codified as KRS 355.8-103) in subsection (1)(c) of this statute, that reference has been codified as KRS 355.8-110(5) (which was subsection (5) of Section 171 of Chapter 408) in order to match the official text of Revised Article 9. Amendments to the introduced version of this bill in the Senate inadvertently did not make the necessary adjustment to this internal reference; this failure was clearly a manifest typographical or clerical error and has been corrected in codification under KRS 7.136(1)(h).