

355.5-116 Choice of law and forum. (Effective January 1, 2025)

- (1) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed by the affected parties or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.
- (2) Unless subsection (1) of this section applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one (1) address is indicated, the person is considered to be located at the address from which the person's undertaking was issued.
- (3) For purposes of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under subsection (4) of this section.
- (4) A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one (1) address is indicated, the branch is considered to be located at the address from which the undertaking was issued.
- (5)
 - (a) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject.
 - (b) If this article would govern the liability of an issuer, nominated person, or adviser under subsection (1) or (2) of this section, the relevant undertaking incorporates rules of custom or practice, and there is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in KRS 355.5-103(3).
- (6) If there is conflict between this article and Article 3, 4, 4A, or 9 of this chapter, this article governs.
- (7) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (1) of this section.

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History: Amended 2024 Ky. Acts ch. 10, sec. 36, effective January 1, 2025. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 16, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 8, effective July 1, 1987 -- Created 1958 Ky. Acts ch. 77, sec. 5-116, effective July 1, 1960.