

This is a generic template of the suggested amendment language to address the concerns over property ownership of securities by investors. The state law to be amended is in Articles 8 and 9 of the Uniform Commercial Code (UCC). The location of the UCC provisions (Title) varies from state to state. When a legislator is interested in this issue, we are available to assist in making state specific changes to this suggested language.

New wording is underlined and existing wording ~~to be removed is identified as strikethrough.~~

Section 1.

§-8-110. Applicability; Choice of Law.

(b) ~~The local law of [insert State] the securities intermediary's jurisdiction, as specified in subsection (e) of this section, governs:~~

- (1) acquisition of a security entitlement from the securities intermediary;
- (2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
- (3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and
- (4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

~~(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:~~

- ~~— (1) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this article, or this title, that jurisdiction is the securities intermediary's jurisdiction;~~
- ~~— (2) If paragraph (1) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.~~
- ~~— (3) If neither paragraph (1) nor paragraph (2) of this subsection applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;~~
- ~~— (4) If none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an~~
~~— account statement as the office serving the entitlement holder's account is located; and~~
- ~~— (5) If none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.~~

~~(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other recordkeeping concerning the account.~~

Section 2.

§-8-503. Property Interest of Entitlement Holder in Financial Asset Held by Securities Intermediary.

(a) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, ~~except as otherwise provided in Section 8-511 of this title.~~

§-8-511. Priority Among Security Interests and Entitlement Holders.

~~(a) Except as otherwise provided in subsections (b) and (c) of this section, if~~ If a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

~~(b) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.~~

~~(c) If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders.~~

Section 3.

§-1-9-305. Law governing perfection and priority of security interests in investment property.

LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY

(a) Except as otherwise provided in subsection (c) of this section, the following rules apply:

(1) 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.

(2) The local law of the issuer's jurisdiction as specified in subsection (d) of Section 8-110 of this title governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of [insert state] ~~the securities intermediary's jurisdiction as specified in subsection (e) of Section 8-110 of this title~~ governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.