



Ohio Revised Code

Section 1309.328 Priority of security interests in investment property - UCC 9-328.

Effective: July 1, 2001

Legislation: Senate Bill 74 - 124th General Assembly

The following rules govern priority among conflicting security interests in the same investment property:

(A) A security interest held by a secured party having control of investment property under section 1309.106 of the Revised Code has priority of a security interest held by a secured party that does not have control of the investment property.

(B) Except as otherwise provided in divisions (C) and (D) of this section, conflicting security interests held by secured parties each of which has control under section 1309.106 of the Revised Code rank according to priority in time of:

(1) If the collateral is a security, obtaining control;

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

(a) If the secured party obtained control under division (D)(1) of section 1308.24 of the Revised Code, the secured party's becoming the person for which the securities account is maintained;

(b) If the secured party obtained control under division (D)(2) of section 1308.24 of the Revised Code, 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

(c) If the secured party obtained control through another person under division (D)(3) of section 1308.24 of the Revised Code, the time on which priority would be based under this paragraph if the other person were the secured party; or

(3) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction



of the requirement for control specified in division (B)(2) of section 1309.106 of the Revised Code with respect to commodity contracts carried or to be carried with the commodity intermediary.

(C) 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.

(D) 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.

(E) A security interest in a certificated security in registered form that is perfected by taking delivery under division (A) of section 1309.313 of the Revised Code and not by control under section 1309.314 of the Revised Code has priority over a conflicting security interest perfected by a method other than control.

(F) Conflicting security interests created by a broker, a securities intermediary, or a commodity intermediary that are perfected without control under section 1309.106 of the Revised Code rank equally.

(G) In all other cases, priority between conflicting security interests in investment property is governed by sections 1309.322 and 1309.323 of the Revised Code.