

## 2021 Kansas Statutes

**84-9-328. Priority of security interests in investment property.** The following rules govern priority among conflicting security interests in the same investment property:

- (1) A security interest held by a secured party having control of investment property under K.S.A. 2021 Supp. 84-9-106, and amendments thereto, has priority over a security interest held by a secured party that does not have control of the investment property.
- (2) Except as otherwise provided in paragraphs (3) and (4), conflicting security interests held by secured parties each of which has control under K.S.A. 2021 Supp. 84-9-106, and amendments thereto, rank according to priority in time of:
  - (A) If the collateral is a security, obtaining control;
  - (B) if the collateral is a security entitlement carried in a securities account and: (i) If the secured party obtained control under K.S.A. 84-8-106(d)(1), and amendments thereto, the secured party's becoming the person for which the securities account is maintained; (ii) if the secured party obtained control under K.S.A. 84-8-106(d)(2), and amendments thereto, 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 K.S.A. 84-8-106(d)(3), and amendments thereto, the time on which priority would be based under this paragraph if the other person were the secured party; or
  - (C) if the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in K.S.A. 2021 Supp. 84-9-106(b)(2), and amendments thereto, with respect to commodity contracts carried or to be carried with the commodity intermediary.
- (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.
- (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.
- (5) A security interest in a certificated security in registered form which is perfected by taking delivery under K.S.A. 2021 Supp. 84-9-313(a), and amendments thereto and not by control under K.S.A. 2021 Supp. 84-9-314, and amendments thereto, has priority over a conflicting security interest perfected by a method other than control.
- (6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under K.S.A. 2021 Supp. 84-9-106 and amendments thereto rank equally.
- (7) In all other cases, priority among conflicting security interests in investment property is governed by K.S.A. 2021 Supp. 84-9-322 and 84-9-323, and amendments thereto.

**History:** L. 2000, ch. 142, § 48; July 1, 2001.