



State of Wisconsin  
2025 - 2026 LEGISLATURE

LRB-0061/1

ARG:amn

## 2025 SENATE BILL 123

March 14, 2025 - Introduced by Senators JACQUE, NASS and WANGGAARD, cosponsored by Representatives ARMSTRONG, BEHNKE, DITTRICH, GUNDRUM, KREIBICH, MURSAU and WICHGERS. Referred to Committee on Financial Institutions and Sporting Heritage.

1     **AN ACT** *to repeal* 408.110 (2) (a), (b), (c) and (d), 408.110 (5) and (6), 408.511 (2)  
2             and (3) and 409.305 (1) (c); *to renumber and amend* 408.110 (2) (intro.) and  
3             408.511 (1); *to amend* 408.503 (1) of the statutes; **relating to:** investment  
4             securities under the Uniform Commercial Code.

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### ***Analysis by the Legislative Reference Bureau***

This bill makes changes to the Uniform Commercial Code (UCC), as adopted in this state, related to jurisdiction and creditor claims involving assets held in a customer's brokerage account that are not held directly in the customer's name, commonly referred to as securities held in "street name" in the customer's account.

Under current law, the UCC provides guiding rules for both creditor-debtor relationships involving a security interest in collateral and transactions that involve investment securities. These latter rules govern such matters as proper endorsement of securities being transferred, persons who have authority to make such transfers, and rights of creditors in these securities. These rules frequently distinguish between a security held directly by the owner and represented by a security certificate (certificated security), a security held directly by the owner and represented only by a book entry instead of a security certificate (uncertificated security), and a security not held directly by the owner but instead held directly by

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a broker or bank in an aggregated account in which the owner's interest is represented by a book entry (security entitlement).

Under current law, a person generally acquires a security entitlement if 1) a securities broker-dealer, bank, or securities clearing corporation (securities intermediary) credits a financial asset (security), by book entry, to the person's securities account; 2) the securities intermediary holds the security for the person; and 3) the security is not held in the person's name or directly by the person. The person who acquires the security entitlement, as identified in the securities intermediary's records, is the "entitlement holder," and the security entitlement constitutes the rights and property interest in the security. In addition to holding securities for its customers, certain securities intermediaries, such as broker-dealers, may hold securities for their own account.

Generally, under current law, the interests in a security held by a securities intermediary for entitlement holders are not property of the securities intermediary and are not subject to the claims of the securities intermediary's creditors. The entitlement holders of the security have a prorated property interest in the aggregate holdings of the security. The securities intermediary has a duty to maintain the security in a quantity corresponding to the aggregate of all security entitlements it established for its entitlement holders and may not grant to any creditor a security interest in the security unless agreed to by an entitlement holder. With an exception (discussed below), if a securities intermediary does not have sufficient interests in a security to satisfy its obligations to entitlement holders and to its own creditors, the claims of the entitlement holders have priority over the claims of the creditors.

Current law allows an entitlement holder and a securities intermediary to modify their relative rights and obligations. A securities intermediary and an entitlement holder may enter into a creditor-debtor relationship in which the securities intermediary takes a security interest in the security entitlement when the entitlement holder buys the security on credit through the securities intermediary. The security interest secures the obligation to pay for the security, and the entitlement holder may grant its interest in the securities entitlement to the securities intermediary, giving the securities intermediary control. Also, the rights and obligations of a clearing corporation and its participants may be governed by the clearing corporation's rules, and a security interest may arise automatically during settlement of a transaction involving a certificated security.

Current law specifies rules governing priority among conflicting security interests in a security, including that a secured party having control of a security has priority over a secured party that does not have control of the security. A security interest held by a securities intermediary in a security entitlement has priority over a conflicting security interest held by another secured party. If a securities intermediary's creditor has control over a security held by the securities intermediary and the creditor has a security interest in the security, the creditor's claim has priority over claims of the securities intermediary's entitlement holders,

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except that, if the securities intermediary is a clearing corporation, it need not have control over the security. This is an exception to the general rule that a securities intermediary's entitlement holders have priority in claims to a security over the security intermediary's creditors.

The bill eliminates this exception, providing an entitlement holder with priority in claims to a security even if the entitlement holder has purchased the security on margin and provided the securities intermediary with a security interest in the security.

Current law also specifies that the law of the securities intermediary's jurisdiction (as described below) governs all of the following: 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 duty to an adverse claimant to a security entitlement; 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 from an entitlement holder; and 5) perfection and priority of a security interest in a security entitlement. Specific principles dictate in which state a securities intermediary's jurisdiction lies, including that an agreement between the securities intermediary and the entitlement holder on the subject will control or, in the absence of an agreement, the securities intermediary's jurisdiction lies in the state of the office identified on the entitlement holder's account statement.

The bill eliminates all of these jurisdictional provisions and instead provides that the law of the entitlement holder's jurisdiction governs.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 408.110 (2) (intro.) of the statutes is renumbered 408.110 (2) and  
2 amended to read:

3           408.110 (2) The local law of the securities intermediary's entitlement holder's  
4 jurisdiction, ~~as specified in sub. (5),~~ governs.

5           **SECTION 2.** 408.110 (2) (a), (b), (c) and (d) of the statutes are repealed.

6           **SECTION 3.** 408.110 (5) and (6) of the statutes are repealed.

7           **SECTION 4.** 408.503 (1) of the statutes is amended to read:

8           408.503 (1) To the extent necessary for a securities intermediary to satisfy all

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1 security entitlements with respect to a particular financial asset, all interests in  
2 that financial asset held by the securities intermediary are held by the securities  
3 intermediary for the entitlement holders, are not property of the securities  
4 intermediary, and are not subject to claims of creditors of the securities  
5 intermediary, ~~except as otherwise provided in s. 408.511.~~

6 **SECTION 5.** 408.511 (1) of the statutes is renumbered 408.511 and amended to  
7 read:

8 **408.511 Priority among security interests and entitlement holders.**

9 ~~Except as otherwise provided in subs. (2) and (3), if~~ If a securities intermediary does  
10 not have sufficient interests in a particular financial asset to satisfy both its  
11 obligations to entitlement holders who have security entitlements to that financial  
12 asset and its obligation to a creditor of the securities intermediary who has a  
13 security interest in that financial asset, the claims of entitlement holders, other  
14 than the creditor, have priority over the claim of the creditor.

15 **SECTION 6.** 408.511 (2) and (3) of the statutes are repealed.

16 **SECTION 7.** 409.305 (1) (c) of the statutes is repealed.

17 **SECTION 8. Initial applicability.**

18 (1) This act first applies to security interests perfected on the effective date of  
19 this subsection.

20 **SECTION 9. Effective date.**

21 (1) This act takes effect on the first day of the 4th month beginning after  
22 publication.

23 (END)