**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5207**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Herbkersman

Document Path: LC-0292HA24.docx

Introduced in the House on March 5, 2024

Currently residing in the House Committee on **Ways and Means**

Summary: UCC

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/5/2024 House Introduced and read first time ([House Journal‑page 24](h:\hj\20240305.docx))

3/5/2024 House Referred to Committee on **Judiciary** ([House Journal‑page 24](h:\hj\20240305.docx))

3/20/2024 House Recalled from Committee on **Judiciary** ([House Journal‑page 70](h:\hj\20240320.docx))

3/20/2024 House Committed to Committee on **Ways and Means** ([House Journal‑page 70](h:\hj\20240320.docx))

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**VERSIONS OF THIS BILL**

[03/05/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5207_20240305.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 36‑8‑503, RELATING TO THE PROPERTY INTEREST OF ENTITLEMENT HOLDERS IN FINANCIAL ASSETS HELD BY SECURITIES INTERMEDIARIES, SO AS TO DELETE THE REFERENCE TO SECTION 36‑8‑511; BY AMENDING SECTION 36‑8‑511, RELATING TO PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS, SO AS TO DELETE THE PROVISIONS RELATED TO THE PRIORITY OF CLAIMS FOR A CREDITOR BY A SECURITIES INTERMEDIARY AND FOR THE PRIORITY OF CLAIMS FOR A CLEARING CORPORATION BY CREDITORS AND ENTITLEMENT HOLDERS; AND BY AMENDING SECTION 36‑9‑305, RELATING TO THE LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY, SO AS TO DELETE THE PROVISION REGARDING THE LOCAL LAW OF THE SECURITIES INTERMEDIARY’S JURISDICTION TO GOVERN PERFECTION AND PRIORITY OF AN INTEREST IN A SECURITY ENTITLEMENT OR ACCOUNT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 36‑8‑503(a) of the S.C. Code is amended to read:

(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 36‑8‑511.

SECTION 2. Section 36‑8‑511 of the S.C. Code is amended to read:

(a) Except as otherwise provided in subsections (b) and (c), 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. Section 36‑9‑305(a) of the S.C. Code is amended to read:

(a) Except as otherwise provided in subsection (c), 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 Section 36‑8‑110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in Section 36‑8‑110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4)(3) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

SECTION 4. This act takes effect upon approval by the Governor; provided, however, that the provisions of this act are contingent upon any necessary funding as provided by the General Assembly.

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