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Article 8: Investment Securities

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made this distinction in framing their pleadings if, indeed, such a distinction had been intended.

B.M.H.

SECTION 3-802. Effect of Instrument on Obligation for Which It Is Given

(1) Unless otherwise agreed where an instrument is taken for an underlying obligation

- (a) the obligation is pro tanto discharged if a bank is drawer, maker or acceptor of the instrument and there is no recourse on the instrument against the underlying obligor; and
- (b) in any other case the obligation is suspended pro tanto until the instrument is due or if it is payable on demand until its presentment. If the instrument is dishonored action may be maintained on either the instrument or the obligation; discharge of the underlying obligor on the instrument also discharges him on the obligation.

CASES ANNOTATED UNDER OTHER SECTIONS

HOWARD V. ZILCH

— Mass. —, 190 N.E.2d 77 (1963)

See the Annotation to Section 3-413(2), supra.

ARTICLE 8: INVESTMENT SECURITIES

SECTION 8-317. Attachment or Levy Upon Security

(1) No attachment or levy upon a security or any share or other interest evidenced thereby which is outstanding shall be valid until the security is actually seized by the officer making the attachment or levy but a security which has been surrendered to the issuer may be attached or levied upon at the source.

(2) A creditor whose debtor is the owner of a security shall be entitled to such aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching such security or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

ANNOTATION

UNITED STATES V. BRODY

213 F. Supp. 905 (D. Mass. 1963)

Prior to the commencement of an action by the United States against a delinquent taxpayer and his insurer to foreclose tax liens on the taxpayer's life insurance policies, the United States served upon the insurer a notice of levy on all of the taxpayer's property in the insurer's possession. Two endowment policies issued to the taxpayer provided that at their maturity, insurer would pay the taxpayer the face value of the policies upon demand and sur-

render of the policies. When both policies had matured, the United States sought to obtain their face value as partial payment of the delinquent taxes owed by the insured taxpayer. The taxpayer could not be found in the district and service was by publication. The policies were in Florida.

Among its other defenses, the insurer argued that the policies were analogous to investment securities and the United States could not validly levy on them unless they could actually be physically attached. The court entered summary judgment for the United States, holding that the policies, being non-negotiable, were not analogous to investment securities which require, under Section 8-317, physical seizure for attachment. Since the interests in a non-negotiable insurance policy were similar to interests in any contract, the court had the power to deal effectively with the obligation by jurisdiction over the obligor.

B.M.H.

ARTICLE 9: SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

SECTION 9-102. Policy and Scope of Article

(1) Except as otherwise provided in Section 9-103 on multiple state transactions and in Section 9-104 on excluded transactions, this Article applies so far as concerns any personal property and fixtures within the jurisdiction of this state

(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, accounts or contract rights; and also

(b) to any sale of accounts, contract rights or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in Section 9-310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

CASES ANNOTATED UNDER OTHER SECTIONS

SPURLINE V. SLOANE

368 S.W.2d 314 (Ky. 1963)

See the Annotation to Section 1-201(37), *supra*.

UNITED RENTAL EQUIP. CO. V. POTTS & CALLAHAN CONTRACTING CO.

— Md. —, 191 A.2d 570 (1963)

See the Annotation to Section 1-201(37), *supra*.