From Politics to Efficiency in Choice of Law

A rather unusual article has appeared on SSRN by Erin O'Hara (Vanderbilt University School of Law) and Larry Ribstein (University of Illinois College of Law), entitled, "**From Politics to Efficiency in Choice of Law**". Here's the abstract:

> *This article proposes a comprehensive system for choice of law that is designed to enhance social wealth by focusing on individual rather than governmental interests. To the extent practicable, parties should be able to choose their governing law. In the absence of an explicit agreement, courts should apply rules that facilitate party choice or that select the law the parties likely would have contracted for — that is, the law of the state with the comparative regulatory advantage. The system relies on clear rules that enable the parties to determine, at low cost and ex ante, what law applies to given conduct, and therefore to choose the applicable law by altering their conduct. State regulatory concerns are accounted for through explicit state legislation on choice of law rather than ad hoc judicial determination of the states' interests. The article shows how this system might be implemented through jurisdictional competition.*

You can download the article from here.