355.9-101 Short title.

This article may be cited as Uniform Commercial Code -- Secured Transactions.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 21, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-101, effective July 1, 1960.

355.9-102 Definitions and index of definitions.

(1) In this article:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(b) 1. "Account," except as used in "account for," "account statement," "account to," "commodity account" in paragraph (p) of this subsection, "customer's account," "deposit account" in paragraph (ag) of this subsection, "on account of," and "statement of account," means a right to payment of a monetary obligation, whether or not earned by performance:

a. For property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

b. For services rendered or to be rendered;

c. For a policy of insurance issued or to be issued;

d. For a secondary obligation incurred or to be incurred;

e. For energy provided or to be provided;

f. For the use or hire of a vessel under a charter or other contract;

g. Arising out of the use of a credit or charge card or information contained on or for use with the card; or

h. As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.

2. The term includes:

a. Controllable accounts; and

b. Health-care-insurance receivables.

3. The term does not include:

a. Chattel paper;

b. Commercial tort claims;

c. Deposit accounts;

d. Investment property;

e. Letter-of-credit rights or letters of credit;

f. Rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card; or

g. Rights to payment evidenced by an instrument;

(c) 1. "Account debtor" means a person obligated on an account, chattel paper, or general intangible.

2. The term does not include persons obligated to pay a negotiable instrument, even if the negotiable instrument evidences chattel paper;

(d) "Accounting," except as used in "accounting for," means a record:

1. Signed by a secured party;
2. Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and
3. Identifying the components of the obligations in reasonable detail;

(e) "Agricultural lien" means an interest in farm products:
1. Which secures payment or performance of an obligation for:
a. Goods or services furnished in connection with a debtor's farming operation; or
b. Rent on real property leased by a debtor in connection with its farming operation;
2. Which is created by statute in favor of a person that:
a. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
b. Leased real property to a debtor in connection with the debtor's farming operation; and
3. Whose effectiveness does not depend on the person's possession of the personal property;

(f) "As-extracted collateral" means:
1. Oil, gas, or other minerals that are subject to a security interest that:
a. Is created by a debtor having an interest in the minerals before extraction; and
b. Attaches to the minerals as extracted; or
2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;

(g) Reserved;

(h) 1. "Assignee," except as used in "assignee for benefit of creditors," means a person:
a. In whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding; or
b. To which an account, chattel paper, payment intangible, or promissory note has been sold.
2. The term includes a person to which a security interest has been transferred by a security party;

(i) 1. "Assignor" means a person that:
a. Under a security agreement, creates or provides for a security interest that secures an obligation; or
b. Sells an account, chattel paper, payment intangible, or promissory note.
2. The term includes a security party that has transferred a security interest

to another person;

(j) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(k) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(l) 1. "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

2. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(m) 1. "Chattel paper" means:

a. A right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

b. A right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

i. The right to payment and lease agreement are evidenced by a record; and

ii. The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

2. The term does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;

(n) 1. "Collateral" means the property subject to a security interest or agricultural lien.

2. The term includes:

a. Proceeds to which a security interest attaches;

b. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

c. Goods that are the subject of a consignment;

(o) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the death of an individual;

(p) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(q) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;

(r) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(s) "Commodity intermediary" means a person that:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(t) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(u) "Consignee" means a merchant to which goods are delivered in a consignment;

(v) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation;

(w) "Consignor" means a person that delivers goods to a consignee in a consignment;

(x) "Consumer debtor" means a debtor in a consumer transaction;

(y) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes;

(z) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation;

(aa) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;

(ab) 1. "Consumer transaction" means a transaction in which:

a. An individual incurs an obligation primarily for personal, family, or household purposes;

b. A security interest secures the obligation; and

c. The collateral is held or acquired primarily for personal, family, or household purposes.

2. The term includes consumer-goods transactions;

(ac) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

(ad) "Controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under KRS 355.12-105 of the controllable electronic record;

(ae) "Controllable payment intangible" means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under KRS 355.12-105 of the controllable electronic record;

(af) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee;

(ag) 1. "Deposit account" means a demand, time, savings, passbook, or similar

account maintained with a bank.

2. The term does not include investment property or accounts evidenced by an instrument;

(ah) "Document" means a document of title or a receipt of the type described in KRS 355.7-201(2);

(ai) Reserved;

(aj) "Electronic money" means money in an electronic form;

(ak) 1. "Encumbrance" means a right, other than an ownership interest, in real property.

2. The term includes mortgages and other liens on real property;

(al) "Equipment" means goods other than inventory, farm products, or consumer goods;

(am) 1. "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

a. Crops grown, growing, or to be grown, including:

i. Crops produced on trees, vines, and bushes; and

ii. Aquatic goods produced in aquacultural operations;

b. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

c. Supplies used or produced in a farming operation;

d. Products of crops or livestock in their unmanufactured states; or

e. Equine interests, including, but not limited to, interests in horses, mares, yearlings, foals, weanlings, stallions, syndicated stallions, and stallion shares (including seasons and other rights in connection therewith), whether or not the debtor is engaged in farming operations and without regard to the use thereof.

2. If goods are farm products, they are neither equipment nor inventory;

(an) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation;

(ao) "File number" means the number assigned to an initial financing statement pursuant to KRS 355.9-519(1);

(ap) "Filing office" means an office designated in KRS 355.9-501 as the place to file a financing statement;

(aq) "Filing-office rule" means a rule adopted pursuant to KRS 355.9-526;

(ar) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(as) 1. "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying KRS 355.9-502(1) and (2).

2. The term includes the filing of a financing statement covering goods of a

transmitting utility which are or are to become fixtures;

(at) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(au) 1. "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction.

2. The term includes:

a. Controllable electronic records;

b. Payment intangibles; and

c. Software;

(av) Reserved;

(aw) 1. "Goods" means all things that are movable when a security interest attaches.

2. The term includes:

a. Fixtures;

b. Standing timber that is to be cut and removed under a conveyance or contract for sale;

c. The unborn young of animals;

d. Crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and

e. Manufactured homes.

3. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if:

a. The program is associated with the goods in such a manner that it customarily is considered part of the goods; or

b. By becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.

4. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded.

5. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;

(ax) 1. "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country.

2. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(ay) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided or to be provided;

(az) 1. "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment.

2. The term does not include:

a. Investment property;

b. Letters of credit;

c. Writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card; or

d. Writings that evidence chattel paper;

(ba) "Inventory" means goods, other than farm products, which:

1. Are leased by a person as lessor;

2. Are held by a person for sale or lease or to be furnished under a contract of service;

3. Are furnished by a person under a contract of service; or

4. Consist of raw materials, work in process, or materials used or consumed in a business;

(bb) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account;

(bc) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized;

(bd) 1. "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance.

2. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(be) "Lien creditor" means:

1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment;

(bf) 1. "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is

built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

2. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;

(bg) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(bh) "Money" has the meaning in KRS 355.1-201, but does not include:

1. A deposit account; or

2. Money in an electronic form that cannot be subjected to control under KRS 355.9-1051;

(bi) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;

(bj) "New debtor" means a person that becomes bound as debtor under KRS 355.9-203(4) by a security agreement previously entered into by another person;

(bk) 1. "New value" means:

a. Money;

b. Money's worth in property, services, or new credit; or

c. Release by a transferee of an interest in property previously transferred to the transferee.

2. The term does not include an obligation substituted for another obligation;

(bl) "Noncash proceeds" means proceeds other than cash proceeds;

(bm) 1. "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

a. Owes payment or other performance of the obligation;

b. Has provided property other than the collateral to secure payment or other performance of the obligation; or

c. Is otherwise accountable in whole or in part for payment or other performance of the obligation.

2. The term does not include issuers or nominated persons under a letter of credit;

(bn) "Original debtor," except as used in KRS 355.9-310(3), means a person that, as debtor, entered into a security agreement to which a new debtor has

become bound under KRS 355.9-203(4);

(bo) 1. "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

2. The term includes a controllable payment intangible;

(bp) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

(bq) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;

2. An officer or director of, or a person performing similar functions with respect to, the organization;

3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1. of this paragraph;

4. The spouse of an individual described in subparagraph 1., 2., or 3. of this paragraph; or

5. An individual who is related by blood or marriage to an individual described in subparagraph 1., 2., 3., or 4. of this paragraph and shares the same home with the individual;

(br) "Proceeds," except as used in KRS 355.9-609(2), means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(bs) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(bt) "Proposal" means a record signed by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial

satisfaction of the obligation it secures pursuant to KRS 355.9-620, 355.9-621, and 355.9-622;

(bu) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;
2. All or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and
3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state;

(bv) "Public organic record" means a record that is available to the public for inspection and that is:

1. A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;
2. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or
3. A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization;

(bw) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

(bx) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

(by) 1. "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States.

2. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state;

(bz) "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or
2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;

(ca) "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
2. A person that holds an agricultural lien;
3. A consignor;
4. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
6. A person that holds a security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118;

(cb) "Security agreement" means an agreement that creates or provides for a security interest;

(cc) Reserved;

(cd) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

(ce) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(cf) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

(cg) Reserved;

(ch) "Tangible money" means money in a tangible form;

(ci) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and
2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective; and

(cj) "Transmitting utility" means a person primarily engaged in the business of:

1. Operating a railroad, subway, street railway, or trolley bus;
2. Transmitting communications electrically, electromagnetically, or by light;
3. Transmitting goods by pipeline or sewer; or

4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) "Control" as provided in KRS 355.7-106 and the following definitions in other articles of this chapter apply to this article:

(a) "Applicant." KRS 355.5-102;

(b) "Beneficiary." KRS 355.5-102;

(c) "Broker." KRS 355.8-102;

(d) "Certificated security." KRS 355.8-102;

(e) "Check." KRS 355.3-104;

(f) "Clearing corporation." KRS 355.8-102;

(g) "Contract for sale." KRS 355.2-106;

(h) "Controllable electronic record." KRS 355.12-102;

(i) "Customer." KRS 355.4-104;

(j) "Entitlement holder." KRS 355.8-102;

(k) "Financial asset." KRS 355.8-102;

(l) "Holder in due course." KRS 355.3-302;

(m) "Issuer." (with respect to a letter of credit or letter-of-credit right) KRS 355.5-102;

(n) "Issuer." (with respect to a security) KRS 355.8-201;

(o) "Lease." KRS 355.2A-103;

(p) "Lease agreement." KRS 355.2A-103;

(q) "Lease contract." KRS 355.2A-103;

(r) "Leasehold interest." KRS 355.2A-103;

(s) "Lessee." KRS 355.2A-103;

(t) "Lessee in ordinary course of business." KRS 355.2A-103;

(u) "Lessor." KRS 355.2A-103;

(v) "Lessor's residual interest." KRS 355.2A-103;

(w) "Letter of credit." KRS 355.5-102;

(x) "Merchant." KRS 355.2-104;

(y) "Negotiable instrument." KRS 355.3-104;

(z) "Nominated person." KRS 355.5-102;

(aa) "Note." KRS 355.3-104;

(ab) "Proceeds of a letter of credit." KRS 355.5-114;

(ac) "Protected purchaser." KRS 355.8-303;

(ad) "Prove." KRS 355.3-103;

(ae) "Qualifying purchaser." KRS 355.12-102;

(af) "Sale." KRS 355.2-106;

(ag) "Securities account." KRS 355.8-501;

(ah) "Securities intermediary." KRS 355.8-102;

(ai) "Security." KRS 355.8-102;

(aj) "Security certificate." KRS 355.8-102;

(ak) "Security entitlement." KRS 355.8-102; and

(al) "Uncertificated security." KRS 355.8-102.

(3) Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 44, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 60, effective July 1, 2013. -- Amended 2006 Ky. Acts ch. 242, sec. 57, effective July 12, 2006. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 22, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 54, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-102, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-103 Purchase-money security interest -- Application of payments -- Burden of establishing.

(1) In this section:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(b) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one (1) obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations

were incurred.

(6) In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(8) The limitation of the rules in subsections (5), (6), and (7) of this section to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 23, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 165, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 55, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-103, effective July 1, 1960.

355.9-104 Control of deposit account.

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in a signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor;

(c) The secured party becomes the bank's customer with respect to the deposit account; or

(d) Another person, other than the debtor:

1. Has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

2. Obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.

(2) A secured party that has satisfied subsection (1) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 45, effective January 1, 2025. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 24, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 56, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-104, effective July 1, 1960.

355.9-105 Control of electronic copy of record evidencing chattel paper.

(1) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

(2) A system satisfies subsection (1) of this section if the record or records evidencing the chattel paper are created, stored, and assigned in a manner that:

(a) A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e), and (f) of this subsection, unalterable;

(b) The authoritative copy identifies the purchaser as the assignee of the record or records;

(c) The authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(d) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(3) A system satisfies subsection (1) of this section, and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(a) Enables the purchaser to readily identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(b) Enables the purchaser to readily identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the assignee of the authoritative electronic copy; and

(c) Gives the purchaser exclusive power, subject to subsection (4) of this section, to:

1. Prevent others from adding or changing an identified assignee of the authoritative electronic copy; and

2. Transfer control of the authoritative electronic copy.

(4) Subject to subsection (5) of this section, a power is exclusive under subsection (3)(c)1. and 2. of this section even if:

(a) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss of control; or

(b) The power is shared with another person.

(5) A power of a purchaser is not shared with another person under subsection (4)(b) of this section and the purchaser's power is not exclusive if:

(a) The purchaser can exercise the power only if the power also is exercised by the other person; and

(b) The other person:

1. Can exercise the power without exercise of the power by the purchaser; or

2. Is the transferor to the purchaser of an interest in the chattel paper.

(6) If a purchaser has the powers specified in subsection (3)(c)1. and 2. of this section, the powers are presumed to be exclusive.

(7) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

(a) Has control of the authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(b) Obtains control of the authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.

Effective: January 1, 2025

History: Repealed and reenacted 2024 Ky. Acts ch. 10, sec. 46, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 61, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 25, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 3, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 130, sec. 166, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 57, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-105, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010

Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-1051 Control of electronic money.

(1) A person has control of electronic money if the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded:

(a) Gives the person:

1. Power to avail itself of substantially all the benefit from the electronic money; and

2. Exclusive power, subject to subsection (2) of this section, to:

a. Prevent others from availing themselves of substantially all the benefit from the electronic money; and

b. Transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and

(b) Enables the person to readily identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers under paragraph (a) of this subsection.

(2) Subject to subsection (3) of this section, a power is exclusive under subsection (1)(a)2.a. and b. of this section even if:

(a) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or

(b) The power is shared with another person.

(3) A power of a person is not shared with another person under subsection (2)(b) of this section and the person's power is not exclusive if:

(a) The person can exercise the power only if the power also is exercised by the other person; and

(b) The other person:

1. Can exercise the power without exercise of the power by the person; or

2. Is the transferor to the person of an interest in the electronic money.

(4) If a person has the powers specified in subsection (1)(a)2.a. and b. of this section, the powers are presumed to be exclusive.

(5) A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

(a) Has control of the electronic money and acknowledges that it has control on behalf of the person; or

(b) Obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 47, effective January 1, 2025.

355.9-106 Control of investment property.

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in KRS 355.8-106.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Effective: July 1, 2001

History: Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 2, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 26, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 167, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 58, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-106, effective July 1, 1960.

355.9-107 Control of letter-of-credit right.

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under KRS 355.5-114(3) or otherwise applicable law or practice.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 27, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-107, effective July 1, 1960.

355.9-1071 Control of controllable electronic record, controllable account, or controllable payment intangible.

(1) A secured party has control of a controllable electronic record as provided in KRS 355.12-105.

(2) A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 48, effective January 1, 2025.

355.9-1072 No requirement to acknowledge or confirm -- No duties.

(1) A person that has control under KRS 355.9-104, 355.9-105, or 355.9-1051 is not required to acknowledge that it has control on behalf of another person.

(2) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 49, effective January 1, 2025.

355.9-108 Sufficiency of description.

(1) Except as otherwise provided in subsections (3), (4), and (5) of this section, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(2) Except as otherwise provided in subsection (4) of this section, a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5) of this section, a type of collateral defined in this chapter;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3) of this section, any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(4) Except as otherwise provided in subsection (5) of this section, a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in this chapter is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 28, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-108, effective July 1, 1960.

355.9-109 Scope.

(1) Except as otherwise provided in subsections (3) and (4) of this section, this article applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), as provided in KRS 355.9-110; and

(f) A security interest arising under KRS 355.4-210 or 355.5-118.

(2) 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.

(3) This article does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this article;

(b) Another statute of this Commonwealth expressly governs the creation, perfection, priority, or enforcement of a security interest created by this Commonwealth or a governmental unit of this Commonwealth;

(c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under KRS 355.5-114.

(4) This article does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but KRS 355.9-333 applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee, or for workers' compensation benefits payable to an individual;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. KRS 355.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and
2. KRS 355.9-404 applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in KRS 355.9-203 and 355.9-308;
2. Fixtures in KRS 355.9-334;
3. Fixture filings in KRS 355.9-501, 355.9-502, 355.9-512, 355.9-516, and 355.9-519; and
4. Security agreements covering personal and real property in KRS 355.9-604;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account in a consumer transaction, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;

(n) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. sec. 104(a)(1) or (2), as amended from time to time;

(o) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. sec. 1396p(d)(4), as amended from time to time;

(p) A right to receive money under a structured settlement as defined by KRS 454.430; or

(q) A public-finance transaction or a transfer by a government or governmental unit.

Effective: April 2, 2002

History: Amended 2002 Ky. Acts ch. 124, sec. 1, effective April 2, 2002. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 3, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 29, effective July 1, 2001. -- Amended 1990 Ky. Acts ch. 478, sec. 2, effective July 13, 1990. -- Created 1958 Ky. Acts ch. 77, sec. 9-109, effective July 1, 1960.

355.9-110 Security interests arising under Article 2 or 2A.

A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5) is subject to this article. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if KRS 355.9-203(2)(c) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by Article 2 or 2A of this chapter; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 30, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-110, effective July 1, 1960.

355.9-111 Repealed, 1992.

Catchline at repeal: Applicability of bulk transfer laws.

History: Repealed 1992 Ky. Acts ch. 116, sec. 65, effective July 14, 1992. -- Created 1958 Ky. Acts ch. 77, sec. 9-111, effective July 1, 1960.

355.9-112 Repealed, 2000.

Catchline at repeal: Where collateral is not owned by debtor.

History: Repealed 2000 Ky. Acts ch. 408, sec. 186, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-112, effective July 1, 1960.

355.9-113 Repealed, 2000.

Catchline at repeal: Security interest arising under article on sales or article on leases.

History: Repealed 2000 Ky. Acts ch. 408, sec. 186, effective July 1, 2001. -- Amended 1990 Ky. Acts ch. 363, sec. 81, effective January 1, 1991. -- Created 1958 Ky. Acts ch. 77, sec. 9-113, effective July 1, 1960.

355.9-114 Repealed, 2000.

Catchline at repeal: Consignment.

History: Repealed 2000 Ky. Acts ch. 408, sec. 186, effective July 1, 2001. -- Created 1986 Ky. Acts ch. 118, sec. 59, effective July 1, 1987.

355.9-115 Repealed, 2000.

Catchline at repeal: Investment property.

History: Repealed 2000 Ky. Acts ch. 408, sec. 186, effective July 1, 2001. -- Created 1996 Ky. Acts ch. 130, sec. 168, effective January 1, 1997.

355.9-116 Repealed, 2000.

Catchline at repeal: Security interest arising in purchase or delivery of financial asset.

History: Repealed 2000 Ky. Acts ch. 408, sec. 186, effective July 1, 2001. -- Created 1996 Ky. Acts ch. 130, sec. 169, effective January 1, 1997.

355.9-201 General effectiveness of security agreement.

(1) Except as otherwise provided in this chapter, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law, statute, or regulation that establishes a different rule for consumers.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2) of this section, the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) of this section has only the effect the statute or regulation specifies.

(4) This article does not:

(a) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2) of this section; or

(b) Extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 31, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-201, effective July 1, 1960.

355.9-202 Title to collateral immaterial.

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 32, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-202, effective July 1, 1960.

355.9-203 Attachment and enforceability of security interest -- Proceeds -- Supporting obligations -- Formal requisites.

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) to (9) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One (1) of the following conditions is met:

1. The debtor has signed a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under KRS 355.9-313 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under KRS 355.8-301 pursuant to the debtor's security agreement;

4. The collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights, and the secured party has control under KRS 355.7-106, 355.9-104, 355.9-1051, 355.9-106, 355.9-107, or 355.9-1071 pursuant to the debtor's security agreement; or

5. The collateral is chattel paper and the secured party has possession and control under KRS 355.9-3141 pursuant to the debtor's security agreement.

(3) Subsection (2) of this section is subject to KRS 355.4-210 on the security interest of a collecting bank, KRS 355.5-118 on the security interest of a letter-of-credit issuer or nominated person, KRS 355.9-110 on a security interest arising under Article 2 or 2A of this chapter, and KRS 355.9-206 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(a) The security agreement becomes effective to create a security interest in the person's property; or

(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by

another person:

(a) The agreement satisfies subsection (2)(c) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by KRS 355.9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 50, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 62, effective July 1, 2013. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 4, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 33, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 170, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 60, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-203, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

Legislative Research Commission Note (7/14/2000). Although 2000 Acts ch. 408, sec. 33, has a reference to "Section 170 of this Act" (which was codified as KRS 355.8-106) in subsection (2)(c)3. of this statute, that reference has been codified as KRS 355.8-301 (which was Section 172 of Chapter 408) in order to match the official text of Revised Article 9. Amendments to the introduced version of this bill in the Senate inadvertently did not make the necessary adjustment to this internal reference; this failure was clearly a manifest typographical or clerical error and has been corrected in codification under KRS 7.136(1)(h).

Legislative Research Commission Note (7/14/2000). Although 2000 Acts ch. 408, sec. 33, has a reference to "Section 165 of this Act" (which was codified as KRS 355.2A-307) in subsection (3) of this statute, that reference has been codified as KRS 355.4-210 (which was Section 167 of Chapter 408) in order to match the official text of Revised Article 9. Amendments to the introduced version of this bill in the Senate inadvertently did not make the necessary adjustment to this internal reference; this failure was clearly a manifest typographical or clerical error and has been corrected in codification under KRS 7.136(1)(h).

355.9-204 After-acquired property -- Future advances.

(1) Except as otherwise provided in subsection (2) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(2) (a) Subject to paragraph (b) of this subsection, a security interest does not attach under a term constituting an after-acquired property clause to:

1. Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten (10) days after the secured party gives value; or
2. A commercial tort claim.

(b) Paragraph (a) of this subsection does not prevent a security interest from attaching:

1. To consumer goods as proceeds under KRS 355.9-315(1) or commingled goods under KRS 355.9-336(3);
2. To a commercial tort claim as proceeds under KRS 355.9-315(1); or
3. Under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 51, effective January 1, 2025. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 34, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 61, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-204, effective July 1, 1960.

355.9-205 Use or disposition of collateral permissible.

(1) A security interest is not invalid or fraudulent against creditors solely because:

(a) The debtor has the right or ability to:

1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

2. Collect, compromise, enforce, or otherwise deal with collateral;

3. Accept the return of collateral or make repossessions; or

4. Use, commingle, or dispose of proceeds; or

(b) The secured party fails to require the debtor to account for proceeds or replace collateral.

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 35, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 62, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-205, effective July 1, 1960.

355.9-206 Security interest arising in purchase or delivery of financial asset.

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(2) The security interest described in subsection (1) of this section secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(a) The security or other financial asset:

1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(b) The agreement calls for delivery against payment.

(4) The security interest described in subsection (3) of this section secures the obligation to make payment for the delivery.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 36, effective July 1, 2001. -- Amended 1964 Ky. Acts ch. 130, sec. 22, effective July 1, 1964. -- Created 1958 Ky. Acts ch. 77, sec. 9-206, effective July 1, 1960.

355.9-207 Rights and duties of secured party having possession or control of collateral.

(1) Except as otherwise provided in subsection (4) of this section:

(a) A secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession; and

(b) In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4) of this section, if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4) of this section, a secured party having possession of collateral or control of collateral under KRS 355.7-106, 355.9-104, 355.9-105, 355.9-1051, 355.9-106, 355.9-107, or 355.9-1071:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) of this section does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) of this section do not apply.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 52, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 63, effective July 1, 2013. -- Repealed and

reenacted 2000 Ky. Acts ch. 408, sec. 37, effective July 1, 2001. -- Amended 1962 Ky. Acts ch. 83, sec. 5. -- Created 1958 Ky. Acts ch. 77, sec. 9-207.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-208 Additional duties of secured party having control of collateral.

(1) This section applies to cases in which:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within ten (10) days after receiving a signed demand by the debtor:

(a) A secured party having control of a deposit account under KRS 355.9-104(1)(b) shall send to the bank with which the deposit account is maintained a signed record that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under KRS 355.9-104(1)(c) shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control under KRS 355.9-105 of an authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(d) A secured party having control of investment property under KRS 355.8-106(4)(b) or 355.9-106(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained a signed record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(e) A secured party having control of a letter-of-credit right under KRS 355.9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party a signed release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party;

(f) A secured party having control under KRS 355.7-106 of an authoritative electronic copy of an electronic document shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(g) A secured party having control under KRS 355.9-1051 of electronic money shall transfer control of the electronic copy to the debtor or a person designated by the debtor; and

(h) A secured party having control under KRS 355.12-105 of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 53, effective January 1, 2025. --

Amended 2012 Ky. Acts ch. 132, sec. 64, effective July 1, 2013. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 5, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 38, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-208, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-209 Duties of secured party if account debtor has been notified of assignment.

(1) Except as otherwise provided in subsection (3) of this section, this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within ten (10) days after receiving a signed demand by the debtor, a secured party shall send to an account debtor that has received notification under KRS 355.9-406(1) or 355.12-106(2) of an assignment to the secured party as assignee a signed record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 54, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 39, effective July 1, 2001.

355.9-210 Request for accounting -- Request regarding list of collateral or statement of account.

(1) In this section:

(a) "Request" means a record of a type described in paragraph (b), (c), or (d) of this subsection.

(b) "Request for an accounting" means a record signed by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record signed by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record signed by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(2) Subject to subsections (3), (4), (5), and (6) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen (14) days after receipt:

(a) In the case of a request for an accounting, by signing and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by signing and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor a signed record including a statement to that effect within fourteen (14) days after receipt.

(4) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor a signed record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor a signed record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) (a) A debtor is entitled without charge to one (1) response to a request under this section during any six (6) month period.

(b) The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 55, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 40, effective July 1, 2001.

355.9-301 Law governing perfection and priority of security interests.

Except as otherwise provided in KRS 355.9-303 to 355.9-3062, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor 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 collateral;

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral;

(3) Except as otherwise provided in subsection (4) of this section, while negotiable tangible documents, goods, instruments, or tangible money is located in a jurisdiction, the local law of that jurisdiction governs:

  (a) Perfection of a security interest in the goods by filing a fixture filing;

  (b) Perfection of a security interest in timber to be cut; and

  (c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral; and

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 56, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 65, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 41, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 171, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 63, effective July 1, 1987. -- Amended 1982 Ky. Acts ch. 199, sec. 1, effective July 15, 1982. -- Amended 1962 Ky. Acts ch. 83, sec. 6. -- Created 1958 Ky. Acts ch. 77, sec. 9-301.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a

manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-302 Law governing perfection and priority of agricultural liens.

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 42, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 172, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 64, effective July 1, 1987. -- Amended 1968 Ky. Acts ch. 50, sec. 1. -- Amended 1966 Ky. Acts ch. 164, sec. 1. -- Amended 1964 Ky. Acts ch. 118, sec. 1. -- Created 1958 Ky. Acts ch. 77, sec. 9-302, effective July 1, 1960.

355.9-303 Law governing perfection and priority of security interests in goods covered by a certificate of title.

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 43, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 173, effective January 1, 1997. -- Created 1958 Ky. Acts ch. 77, sec. 9-303, effective July 1, 1960.

355.9-304 Law governing perfection and priority of security interests in deposit accounts.

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank even if the transaction does not bear any relation to the bank's jurisdiction.

(2) The following rules determine a bank's jurisdiction for purposes of this part of this article:

(a) If an agreement between the bank and its customer governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the bank's jurisdiction;

(b) If paragraph (a) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(c) If neither paragraph (a) nor (b) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located; and

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 57, effective January 1, 2025. -- Amended 2006 Ky. Acts ch. 242, sec. 58, effective July 12, 2006. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 44, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 174, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 65, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-304, effective July 1, 1960.

355.9-305 Law governing perfection and priority of security interests in investment property.

(1) Except as otherwise provided in subsection (3) of this section, the following rules apply:

(a) 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;

(b) The local law of the issuer's jurisdiction as specified in KRS 355.8-110(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security;

(c) The local law of the securities intermediary's jurisdiction as specified in KRS 355.8-110(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account;

(d) 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; and

(e) Paragraphs (b), (c), and (d) of this subsection apply even if the transaction does not bear any relation to the jurisdiction.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part of this article:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction;

(b) If paragraph (a) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located; and

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 58, effective January 1, 2025. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 6, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 45, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 175, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 66, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-305, effective July 1, 1960.

Legislative Research Commission Note (7/14/2000). Although 2000 Acts ch. 408, sec. 45, has a reference to "subsection (4) of Section 169 of this Act" (which Section was codified as KRS 355.8-103) in subsection (1)(b) of this statute, that reference has been codified as KRS 355.8-110(4) (which was subsection (4) of Section 171 of Chapter 408) in order to match the official text of Revised Article 9. Amendments to the introduced version of this bill in the Senate inadvertently did not make the necessary adjustment to this internal reference; this failure was clearly a manifest typographical or clerical error and has been corrected in codification under KRS 7.136(1)(h).

Legislative Research Commission Note (7/14/2000). Although 2000 Acts ch. 408, sec. 45, has a reference to "subsection (5) of Section 169 of this Act" (which Section was codified as KRS 355.8-103) in subsection (1)(c) of this statute, that reference has been codified as KRS 355.8-110(5) (which was subsection (5) of Section 171 of Chapter 408) in order to match the official text of Revised Article 9. Amendments to the introduced version of this bill in the Senate inadvertently did not make the necessary adjustment to this internal reference; this failure was clearly a manifest typographical or clerical error and has been corrected in codification under KRS 7.136(1)(h).

355.9-306 Law governing perfection and priority of security interests in letter-of-credit rights.

(1) Subject to subsection (3) of this section, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part of this article, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in KRS 355.5-116.

(3) This section does not apply to a security interest that is perfected only under KRS 355.9-308(4).

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 46, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 176, effective January 1, 1997. -- Amended 1986 Ky. Acts ch. 118, sec. 67, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-306, effective July 1, 1960.

355.9-3061 Law governing perfection and priority of security interests in chattel paper.

(1) Except as provided in subsection (4) of this section, if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper's jurisdiction.

(2) The following rules determine the chattel paper's jurisdiction under this section:

(a) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this article, or this chapter, that jurisdiction is the chattel paper's jurisdiction;

(b) If paragraph (a) of this subsection does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this article, or this chapter, that jurisdiction is the chattel paper's jurisdiction;

(c) If paragraphs (a) and (b) of this subsection do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction;

(d) If paragraphs (a), (b), and (c) of this subsection do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction; and

(e) If paragraphs (a) to (d) of this subsection do not apply, the chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

(3) If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the chattel paper by possession under KRS 355.9-3141; and

(b) The effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

(4) The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 59, effective January 1, 2025.

355.9-3062 Law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles.

(1) Except as provided in subsection (2) of this section, the local law of the controllable electronic record's jurisdiction specified in KRS 355.12-107(3) and (4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(2) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and

(b) Automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 60, effective January 1, 2025.

355.9-307 Location of debtor.

(1) In this section, "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one (1) place of business is located at its place of business.

(c) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(3) Subsection (2) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) of this section does not apply, the debtor is located in the District of Columbia.

(4) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3) of this section.

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) of this subsection applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or (6) of this section notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one (1) state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part of this article.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 66, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 47, effective July 1, 2001. -- Amended 1990 Ky. Acts ch. 251, sec. 1, effective July 13, 1990; and ch. 396, sec. 9, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 118, sec. 68, effective July 1, 1987. -- Amended 1984 Ky. Acts ch. 111, sec. 146, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 89, sec. 1, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 90, sec. 2. -- Amended 1974 Ky. Acts ch. 315, sec. 79. -- Amended 1968 Ky. Acts ch. 50, sec. 2. -- Amended 1962 Ky. Acts ch. 83, sec. 7. -- Created 1958 Ky. Acts ch. 77, sec. 9-307, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-308 When security interest or agricultural lien is perfected -- Continuity of perfection.

(1) Except as otherwise provided in this section and KRS 355.9-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in KRS 355.9-310 to 355.9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in KRS 355.9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one (1) method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 48, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 69, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-308, effective July 1, 1960.

355.9-309 Security interest perfected upon attachment.

The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in KRS 355.9-311(2) with respect to consumer goods that are subject to a statute or treaty described in KRS 355.9-311(1);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under KRS 355.4-210;

(8) A security interest of an issuer or nominated person arising under KRS 355.5-118;

(9) A security interest arising in the delivery of a financial asset under KRS 355.9-206(3);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder;

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate; and

(14) A sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 242, sec. 59, effective July 12, 2006. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 7, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 49, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 177, effective January 1, 1997 -- Amended 1986 Ky. Acts ch. 118, sec. 70, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-309, effective July 1, 1960.

355.9-310 When filing required to perfect security interest or agricultural lien -- Security interests and agricultural liens to which filing provisions do not apply.

(1) Except as otherwise provided in subsection (2) of this section and KRS 355.9-312(2), a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under KRS 355.9-308(4), (5), (6), or (7);

(b) That is perfected under KRS 355.9-309 when it attaches;

(c) In property subject to a statute, regulation, or treaty described in KRS 355.9-311(1);

(d) In goods in possession of a bailee which is perfected under KRS 355.9-312(4)(a) or (b);

(e) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under KRS 355.9-312(5), (6), or (7);

(f) In collateral in the secured party's possession under KRS 355.9-313;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under KRS 355.9-313;

(h) In controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, investment property, or letter-of-credit rights which is perfected by control under KRS 355.9-314;

(i) In proceeds which is perfected under KRS 355.9-315;

(j) That is perfected under KRS 355.9-316; or

(k) In chattel paper which is perfected by possession and control under KRS 355.9-3141.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 61, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 67, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 50, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-310, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle

secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-311 Perfection of security interests in property subject to certain statutes, regulations, and treaties.

(1) Except as otherwise provided in subsection (4) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt KRS 355.9-310(1);

(b) KRS Chapter 186A; or

(c) A statute of another jurisdiction which provides for a security interest to be indicated on a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in subsection (1) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (4) of this section and KRS 355.9-313 and 355.9-316(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) of this section and KRS 355.9-316(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(4) During any period in which collateral subject to a statute specified in subsection (1)(b) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 68, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 51, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-311, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions

was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-312 Perfection of security interests in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, negotiable documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money -- Perfection by permissive filing -- Temporary perfection without filing or transfer of possession.

(1) A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, instruments, investment property, or negotiable documents may be perfected by filing.

(2) Except as otherwise provided in KRS 355.9-315(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under KRS 355.9-314;

(b) And except as otherwise provided in KRS 355.9-308(4), a security interest in a letter-of-credit right may be perfected only by control under KRS 355.9-314;

(c) A security interest in tangible money may be perfected only by the secured party's taking possession under KRS 355.9-313; and

(d) A security interest in electronic money may be perfected only by control under KRS 355.9-314.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under a signed security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the twenty (20) day period specified in subsection (5), (6), or (7) of this section expires, perfection depends upon compliance with this article.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 62, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 69, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 52, effective July 1, 2001. -- Amended 1996 Ky. Acts ch. 130, sec. 178, effective January 1, 1997 -- Amended 1986 Ky. Acts ch. 118, sec. 71, effective July 1, 1987. -- Amended 1982 Ky. Acts ch. 199, sec. 2, effective July 15, 1982. -- Amended 1962 Ky. Acts ch. 83, sec. 8. -- Created 1958 Ky. Acts ch. 77, sec. 9-312.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-313 When possession by or delivery to secured party perfects security interest without filing.

(1) (a) Except as otherwise provided in subsection (2) of this section, a secured party may perfect a security interest in goods, instruments, negotiable tangible documents, or tangible money by taking possession of the collateral.

(b) A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under KRS 355.8-301.

(2) With respect to goods covered by a certificate of title issued by this Commonwealth, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in KRS 355.9-316(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession signs a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having signed a record acknowledging that it will hold possession of the collateral for the secured party's benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under KRS 355.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(7) If a person acknowledges that it holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection (3) of this section or KRS 355.8-301(1), even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

(9) (a) A secured party does not relinquish possession, even if a delivery under subsection (8) of this section violates the rights of a debtor.

(b) A person to which collateral is delivered under subsection (8) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 63, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 70, effective July 1, 2013. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 8, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 53, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 72, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-313, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-314 Perfection by control.

(1) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights may be perfected by control of the collateral under KRS 355.7-106, 355.9-104, 355.9-1051, 355.9-106, 355.9-107, or 355.9-1071.

(2) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, or letter-of-credit rights is perfected by control under KRS 355.7-106, 355.9-104, 355.9-1051, 355.9-107, or 355.9-1071 not earlier than the time the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under KRS 355.9-106 not earlier than the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One (1) of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;
2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or
3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 64, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 71, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 54, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-314, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a

manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-3141 Perfection by possession and control of chattel paper.

(1) A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

(2) A security interest is perfected under subsection (1) of this section not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection (1) of this section only while the secured party retains possession and control.

(3) KRS 355.9-313(3) and (6) to (9) apply to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 65, effective January 1, 2025.

355.9-315 Secured party's rights on disposition of collateral and in proceeds.

(1) Except as otherwise provided in this article and in KRS 355.2-403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by KRS 355.9-336; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this article with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) of this section when the security interest attaches to the proceeds or within twenty (20) days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (4)(a) of this section becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under KRS 355.9-515 or is terminated under KRS 355.9-513; or

(b) The twenty-first day after the security interest attaches to the proceeds.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 55, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-315, effective July 1, 1960.

355.9-316 Continued perfection of security interest following change in governing law.

(1) A security interest perfected pursuant to the law of the jurisdiction designated in KRS 355.9-301(1), 355.9-305(3), 355.9-3061(4), or 355.9-3062(2) remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this Commonwealth remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under KRS 355.9-311(2) or 355.9-313 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this Commonwealth; or

(b) The expiration of four (4) months after the goods had become so covered.

(6) A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the bank's jurisdiction,

the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(8) The following rules apply to collateral to which a security interest attaches within four (4) months after the debtor changes its location to another jurisdiction:

(a) A financing statement filed before the change pursuant to the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral if the debtor had not changed its location; and

(b) If a security interest that is perfected by a financing statement that is effective under paragraph (a) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) or the expiration of the four (4) month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(9) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) and the new debtor is located in another jurisdiction, the following rules apply:

(a) The financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires rights before or within four (4) months after the new debtor becomes bound under KRS 355.9-203(4), if the financing statement would have been effective to perfect a security interest in the collateral if the collateral had been acquired by the original debtor; and

(b) A security interest that is perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the expiration of the four (4) month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been

perfected as against a purchaser of the collateral for value.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 66, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 72, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 56, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-316, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-317 Interests that take priority over or take free of security interest or agricultural lien.

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under KRS 355.9-322; and

(b) Except as otherwise provided in subsection (5) of this section, a person that becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One (1) of the conditions specified in KRS 355.9-203(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5) of this section, a buyer, other than a secured party, of goods, instruments, tangible documents, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) Subject to subsections (6) to (9) of this section, a licensee of a general intangible or a buyer, other than a secured party, of collateral other than electronic money, goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in KRS 355.9-320 and 355.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

(6) A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:

(a) Receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

(b) If each authoritative electronic copy of the record evidencing chattel paper can be subjected to control under KRS 355.9-105, obtains control of each authoritative electronic copy.

(7) A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under KRS 355.7-106, obtains control of each authoritative electronic copy.

(8) A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(9) A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 67, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 73, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 57, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-317, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-318 No interest retained in right to payment that is sold -- Rights and title of seller of account or chattel paper with respect to creditors and purchasers.

(1) A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 58, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 73, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-318, effective July 1, 1960.

355.9-319 Rights and title of consignee with respect to creditors and purchasers.

(1) Except as otherwise provided in subsection (2) of this section, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part of this article, a perfected security interest held by the consignor would have priority over the rights of the creditor.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 59, effective July 1, 2001. -- Created 1976 Ky. Acts ch. 90, sec. 1, effective June 19, 1976.

355.9-320 Buyer of goods.

(1) Except as otherwise provided in subsection (5) of this section, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5) of this section, a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2) of this section, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by KRS 355.9-316(1) and (2).

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) of this section do not affect a security interest in goods in the possession of the secured party under KRS 355.9-313.

(6) If any horse of a registered breed, the racing of which is regulated by KRS Chapter 230, or any interest in such a horse (including stallion shares and seasons), is subject to a lien or a security interest and that horse or interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling these horses or interests at public auction, a bona fide purchaser for value of the horse or interest takes title to the horse or interest free and clear of the lien or security interest, and the organization selling the horse or interest is not liable in any manner to the holder of the lien or security interest, except to the extent provided by the Federal Food Security Act, 7 U.S.C. sec. 1631. However, the lien or security interest attaches to the proceeds from the sale to the extent provided in KRS 355.9-315(1)(b).

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 60, effective July 1, 2001.

355.9-321 Licensee of general intangible and lessee of goods in ordinary course of business.

(1) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 61, effective July 1, 2001.

355.9-322 Priorities among conflicting security interests in and agricultural liens on same collateral.

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of subsection (1)(a) of this section:

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6) of this section, a security interest in collateral which qualifies for priority over a conflicting security interest under KRS 355.9-327, 355.9-328, 355.9-329, 355.9-330, or 355.9-331 also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) of this section and except as otherwise provided in subsection (6) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) to (5) of this section are subject to:

(a) Subsection (7) of this section and the other provisions of this part of this

article;

(b) KRS 355.4-210 with respect to a security interest of a collecting bank;

(c) KRS 355.5-118 with respect to a security interest of an issuer or nominated person; and

(d) KRS 355.9-110 with respect to a security interest arising under Article 2 or 2A of this chapter.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

Effective: July 1, 2001

History: Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 9, effective July 1, 2001. -- Created 2000 Ky. Acts ch. 408, sec. 62, effective July 1, 2001.

355.9-323 Future advances.

(1) Except as otherwise provided in subsection (3) of this section, for purposes of determining the priority of a perfected security interest under KRS 355.9-322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under KRS 355.9-309 when it attaches; or

2. Temporarily under KRS 355.9-312(5), (6), or (7); and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under KRS 355.9-309 or 355.9-312(5), (6), or (7).

(2) Except as otherwise provided in subsection (3) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5) of this section, a buyer of goods takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five (45) days after the purchase.

(5) Subsection (4) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.

(6) Except as otherwise provided in subsection (7) of this section, a lessee of goods takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five (45) days after the lease contract becomes enforceable.

(7) Subsection (6) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 68, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 63, effective July 1, 2001.

355.9-324 Priority of purchase-money security interests.

(1) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in KRS 355.9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.

(2) Subject to subsection (3) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in KRS 355.9-330, and, except as otherwise provided in KRS 355.9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

   (a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

   (b) The purchase-money secured party sends a signed notification to the holder of the conflicting security interest;

   (c) The holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

   (d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Subsection (2)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

   (a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

   (b) If the purchase-money security interest is temporarily perfected without filing or possession under KRS 355.9-312(6), before the beginning of the twenty (20) day period thereunder.

(4) Subject to subsection (5) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in KRS 355.9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

   (a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

   (b) The purchase-money secured party sends a signed notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Subsection (4)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under KRS 355.9-312(6), before the beginning of the twenty (20) day period thereunder.

(6) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in KRS 355.9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one (1) security interest qualifies for priority in the same collateral under subsection (1), (2), (4), or (6) of this section:

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, KRS 355.9-322(1) applies to the qualifying security interests.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 69, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 64, effective July 1, 2001.

355.9-325 Priority of security interests in transferred collateral.

(1) Except as otherwise provided in subsection (2) of this section, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter when the security interest is unperfected.

(2) Subsection (1) of this section subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under KRS 355.9-322(1) or 355.9-324; or

(b) Arose solely under KRS 355.2-711(3) or 355.2A-508(5).

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 65, effective July 1, 2001.

355.9-326 Priority of security interests created by new debtor.

(1) Subject to subsection (2) of this section, a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and perfected by a filed financing statement that would be ineffective to perfect the security interest but for the application of KRS 355.9-508, or KRS 355.9-316(9)(a) and 355.9-508, is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under KRS 355.9-508.

(2) The other provisions of this part of this article determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in subsection (1) of this section. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 74, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 66, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-3261 Priority of security interest in controllable account, controllable electronic record, and controllable payment intangible.

A security interest in a controllable account, controllable electronic record, or controllable payment intangible held by a secured party having control of the account, electronic record, or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 10, sec. 70, effective January 1, 2025.

355.9-327 Priority of security interests in deposit account.

The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under KRS 355.9-104 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4) of this section, security interests perfected by control under KRS 355.9-314 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4) of this section, a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under KRS 355.9-104(1)(c) has priority over a security interest held by the bank with which the deposit account is maintained.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 67, effective July 1, 2001.

355.9-328 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 KRS 355.9-106 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 subsections (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under KRS 355.9-106 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:

1. If the secured party obtained control under KRS 355.8-106(4)(a), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under KRS 355.8-106(4)(b), 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

3. If the secured party obtained control through another person under KRS 355.8-106(4)(c), 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 KRS 355.9-106(2)(b) 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 KRS 355.9-313(1) and not by control under KRS 355.9-314 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 KRS 355.9-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by KRS 355.9-322 and 355.9-323.

Effective: July 1, 2001

History: Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 10, effective July 1, 2001.

-- Created 2000 Ky. Acts ch. 408, sec. 68, effective July 1, 2001.

355.9-329 Priority of security interests in letter-of-credit right.

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under KRS 355.9-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under KRS 355.9-314 rank according to priority in time of obtaining control.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 69, effective July 1, 2001.

355.9-330 Priority of purchaser of chattel paper or instrument.

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under KRS 355.9-105 of each authoritative electronic copy of the record evidencing the chattel paper; and

(b) The authoritative copies of the record evidencing the chattel paper do not indicate that the chattel paper has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under KRS 355.9-105 of each authoritative electronic copy of the record evidencing the chattel paper in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in KRS 355.9-327, a purchaser having priority in chattel paper under subsection (1) or (2) of this section also has priority in proceeds of the chattel paper to the extent that:

(a) KRS 355.9-322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in KRS 355.9-331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4) of this section, if the authoritative copies of the record evidencing chattel paper or an instrument indicate that the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 71, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 70, effective July 1, 2001.

355.9-331 Priority of rights of purchasers of controllable accounts, controllable electronic records, controllable payment tangibles, documents, instruments, and securities under other articles -- Priority of interests in financial assets and security entitlements and protection against assertion of claim under Articles 8 and 12.

(1) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, a protected purchaser of a security, or a qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, 8, and 12 of this chapter.

(2) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 or 12 of this chapter.

(3) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (1) and (2) of this section.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 72, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 71, effective July 1, 2001.

355.9-332 Transfer of money -- Transfer of funds from deposit account.

(1) A transferee of tangible money takes the money free of a security interest if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

(3) A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 73, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 72, effective July 1, 2001.

355.9-333 Priority of certain liens arising by operation of law.

(1) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) Whose effectiveness depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 73, effective July 1, 2001.

355.9-334 Priority of security interests in fixtures and crops.

(1) (a) A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures.

(b) A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(2) This article does not prevent creation of an encumbrance upon fixtures under real property law.

(3) In cases not governed by subsections (4) to (8) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(4) Except as otherwise provided in subsection (8) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(a) The security interest is a purchase-money security interest;

(b) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(c) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty (20) days thereafter.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

1. Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

2. Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(b) Before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

1. Factory or office machines;

2. Equipment that is not primarily used or leased for use in the operation of the real property; or

3. Replacements of domestic appliances that are consumer goods;

(c) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(d) The security interest is:

1. Created in a manufactured home in a manufactured-home transaction; and

2. Perfected pursuant to a statute described in KRS 355.9-311(1)(b).

(6) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The encumbrancer or owner has, in a signed record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner.

(7) The priority of the security interest under subsection (6)(b) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(8) (a) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates.

(b) Except as otherwise provided in subsections (5) and (6) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(9) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 74, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 74, effective July 1, 2001.

355.9-335 Accessions.

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4) of this section, the other provisions of this part of this article determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under KRS 355.9-311(2).

(5) After default, subject to Part 6 of this article, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) of this section shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 75, effective July 1, 2001.

355.9-336 Commingled goods.

(1) In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) of this section is perfected.

(5) Except as otherwise provided in subsection (6) of this section, the other provisions of this part of this article determine the priority of a security interest that attaches to the product or mass under subsection (3) of this section.

(6) If more than one (1) security interest attaches to the product or mass under subsection (3) of this section, the following rules determine priority:

(a) A security interest that is perfected under subsection (4) of this section has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than one (1) security interest is perfected under subsection (4) of this section, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 76, effective July 1, 2001.

355.9-337 Priority of security interests in goods covered by certificate of title.

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this Commonwealth issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under KRS 355.9-311(2), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 77, effective July 1, 2001.

355.9-338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in KRS 355.9-516(2)(e) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 75, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 78, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-339 Priority subject to subordination.

This article does not preclude subordination by agreement by a person entitled to priority.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 79, effective July 1, 2001.

355.9-340 Effectiveness of right of recoupment or set-off against deposit account.

(1) Except as otherwise provided in subsection (3) of this section, a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3) of this section, the application of this article to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under KRS 355.9-104(1)(c), if the set-off is based on a claim against the debtor.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 80, effective July 1, 2001.

355.9-341 Bank's rights and duties with respect to deposit account.

Except as otherwise provided in KRS 355.9-340(3), and unless the bank otherwise agrees in a signed record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 75, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 81, effective July 1, 2001.

355.9-342 Bank's right to refuse to enter into or disclose existence of control agreement.

This article does not require a bank to enter into an agreement of the kind described in KRS 355.9-104(1)(b), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 82, effective July 1, 2001.

355.9-401 Alienability of debtor's rights.

(1) Except as otherwise provided in subsection (2) of this section and KRS 355.9-406, 355.9-407, 355.9-408, and 355.9-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this article.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 83, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 341, sec. 47, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 478, sec. 3, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 132, sec. 7, effective March 31, 1988. -- Amended 1986 Ky. Acts ch. 118, sec. 74, effective July 1, 1987; and ch. 204, sec. 98, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 384, sec. 489, effective June 17, 1978. -- Amended 1962 Ky. Acts ch. 83, sec. 9. -- Created 1958 Ky. Acts ch. 77, sec. 9-401.

355.9-401A Repealed, 2000.

Catchline at repeal: Filing of financing statement and related documents with Secretary of State.

History: Repealed 2000 Ky. Acts ch. 408, sec. 187, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 542, sec. 2, effective July 15, 1998.

355.9-402 Secured party not obligated on contract of debtor or in tort.

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 84, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 4, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 132, sec. 8, effective March 31, 1988. -- Amended 1986 Ky. Acts ch. 118, sec. 75, effective July 1, 1987. -- Amended 1968 Ky. Acts ch. 193. -- Amended 1966 Ky. Acts ch. 259, sec. 1. -- Amended 1962 Ky. Acts ch. 83, sec. 10. -- Created 1958 Ky. Acts ch. 77, sec. 9-402.

355.9-403 Agreement not to assert defenses against assignee.

(1) In this section, "value" has the meaning provided in KRS 355. 3-303(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(a) For value;

(b) In good faith;

(c) Without notice of a claim of a property or possessory right to the property assigned; and

(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under KRS 355.3-305(1).

(3) Subsection (2) of this section does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under KRS 355.3-305(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(a) The record has the same effect as if the record included such a statement; and

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4) of this section, this section does not displace law other than this article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 85, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 5, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 132, sec. 9. effective March 31, 1988. -- Amended 1986 Ky. Acts ch. 118, sec. 76, effective July 1, 1987. -- Amended 1978 Ky. Acts ch. 84, sec. 21, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 222, sec. 4. -- Amended 1972 Ky. Acts ch. 203, sec. 52. -- Amended 1966 Ky. Acts ch. 185, sec. 1. -- Amended 1964 Ky. Acts ch. 130, sec. 23, effective July 1, 1964. -- Amended 1962 Ky. Acts ch. 83, sec. 11. -- Created 1958 Ky. Acts ch. 77, sec. 9-403.

355.9-404 Rights acquired by assignee -- Claims and defenses against assignee.

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) to (5) of this section, the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment signed by the assignor or the assignee.

(2) Subject to subsection (3) of this section and except as otherwise provided in subsection (4) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) of this section only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 76, effective January 1, 2025. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 86, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 6, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 118, sec. 77, effective July 1, 1987; and ch. 204, sec. 9, effective July 15, 1986. -- Amended 1966 Ky. Acts ch. 83, sec. 3; and ch. 185, sec. 2. -- Amended 1962 Ky. Acts ch. 83, sec. 12. -- Created 1958 Ky. Acts ch. 77, sec. 9-404.

355.9-405 Modification of assigned contract.

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) to (4) of this section.

(2) Subsection (1) of this section applies to the extent that:

(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under KRS 355.9-406(1).

(3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 87, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 7, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 132, sec. 10, effective March 31, 1988. -- Amended 1986 Ky. Acts ch. 118, sec. 78, effective July 1, 1987. -- Amended 1978 Ky. Acts ch. 84, sec. 19, effective June 17, 1978. -- Amended 1962 Ky. Acts ch. 83, sec. 13. -- Created 1958 Ky. Acts ch. 77, sec. 9-405.

355.9-406 Discharge of account debtor -- Notification of assignment -- Identification and proof of assignment -- Restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(1) Subject to subsections (2) to (9) and (12) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, signed by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsections (8) and (12) of this section, notification is ineffective under subsection (1) of this section:

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsections (8) and (12) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1) of this section.

(4) (a) In this subsection, "promissory note" includes a negotiable instrument that evidences chattel paper.

(b) Except as otherwise provided in subsections (5) and (11) of this section and KRS 355.2A-303 and 355.9-407, and subject to subsection (8) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

1. Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

2. Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right

of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under KRS 355.9-610 or an acceptance of collateral under KRS 355.9-620.

(6) Except as otherwise provided in subsection (11) of this section and KRS 355.2A-303 and 355.9-407 and subject to subsections (8) and (9) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsections (8) and (12) of this section, an account debtor may not waive or vary its option under subsection (2)(c) of this section.

(8) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

(10) Reserved.

(11) Subsections (4) and (6) of this section do not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(12) Subsections (1) to (3) and (7) of this section do not apply to a controllable account or controllable payment intangible.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 77, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 76, effective July 1, 2013. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 11, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 88, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 8, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 118, sec. 79, effective July 1, 1987. -- Amended 1978 Ky. Acts ch. 84, sec. 20, effective June 17, 1978. -- Amended 1962 Ky. Acts ch. 83, sec. 20. -- Created 1958 Ky. Acts ch. 77, sec. 9-406.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-407 Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.

(1) Except as otherwise provided in subsection (2) of this section, a term in a lease agreement is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in KRS 355.2A-303(7), a term described in subsection (1)(b) of this section is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of KRS 355.2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

Effective: July 1, 2001

History: Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 12, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 89, effective July 1, 2001. -- Created 1986 Ky. Acts ch. 118, sec. 80, effective July 1, 1987.

355.9-408 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.

(1) Except as otherwise provided in subsections (2) and (6) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under KRS 355.9-610 or an acceptance of collateral under KRS 355.9-620.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection and subsection (6) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

1. Would impair the creation, attachment, or perfection of a security interest; or

2. Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Paragraph (a) of this subsection does not apply to the following statutes, including administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) of this section would be effective under law other than this article but is ineffective under subsection (1) or (3) of this section, the creation, attachment, or perfection of

a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent provisions of the following statutes and any administrative regulations based on those statutes: KRS 56.230(3), 138.320(5), 138.665(5), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 230.300(11), 234.330(6), 243.630(2), 260.815, 286.4-460(2), 292.320(3)(b), 286.8-036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(1), and 286.9-070(6).

(6) This section does not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(7) In this section, "promissory note" includes a negotiable instrument that evidences chattel paper.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 78, effective January 1, 2025. -- Amended 2022 Ky. Acts ch. 125, sec. 15, effective July 14, 2022. -- Amended 2012 Ky. Acts ch. 132, sec. 77, effective July 1, 2013. -- Amended 2009 Ky. Acts ch. 80, sec. 11, effective June 25, 2009. -- Amended 2002 Ky. Acts ch. 31, sec. 1, effective July 15, 2002. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 13, effective July 1, 2001. -- Created 2000 Ky. Acts ch. 408, sec. 90, effective July 1, 2001.

Legislative Research Commission Note (7/15/2016). Under the authority of KRS 7.136(1)(e), a reference to "KRS 286.8-036(3)" in subsection (5) of this statute has been changed to "KRS 286.8-036(2)" by the Reviser of Statutes following the enactment of 2016 Ky. Acts ch. 129, sec. 11, which deleted subsection (2) of KRS 286.8-036 and renumbered the subsequent subsections, but did not amend this statute to conform.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior

Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

Legislative Research Commission Note (7/12/2006). 2006 Ky. Acts ch. 247 instructs the Reviser of Statutes to adjust KRS references throughout the statutes to conform with the 2006 renumbering of the Financial Services Code, KRS Chapter 286. Such an adjustment has been made in this statute.

355.9-409 Restrictions on assignment of letter-of-credit rights ineffective.

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) of this section but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

(3) Subsection (1) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 91, effective July 1, 2001.

355.9-501 Filing office.

(1) Except as otherwise provided in subsection (2) of this section, if the local law of this Commonwealth governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(a) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(b) The office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 92, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 82, effective July 1, 1987. -- Amended 1962 Ky. Acts ch. 83, sec. 14. -- Created 1958 Ky. Acts ch. 77, sec. 9-501.

355.9-502 Contents of financing statement -- Record of mortgage as financing statement -- Time of filing financing statement.

(1) Subject to subsection (2) of this section, a financing statement is sufficient only if it:
   (a) Provides the name of the debtor;
   (b) Provides the name of the secured party or a representative of the secured party; and
   (c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in KRS 355.9-501(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) of this section and also:
   (a) Indicate that it covers this type of collateral;
   (b) Indicate that it is to be filed in the real property records;
   (c) Provide a description of the real property to which the collateral is related; and
   (d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
   (a) The record indicates the goods or accounts that it covers;
   (b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
   (c) The record satisfies the requirements for a financing statement in this section:
      1. The record need not indicate that it is to be filed in the real property records; and
      2. The record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom KRS 355.9-503(1)(d) applies; and
   (d) The record is recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 78, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 93, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 83, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-502, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior

Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-503 Name of debtor and secured party.

(1) A financing statement sufficiently provides the name of the debtor:

(a) Except as otherwise provided in paragraph (c) of this subsection, if the debtor is a registered organization, or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic recordmost recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name;

(b) Subject to subsection (6) of this section, if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;

(c) If the collateral is held in a trust that is not a registered organization, only if the financing statement:

1. Provides, as the name of the debtor:

a. If the organic record of the trust specifies a name for the trust, the name so specified; or

b. If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

2. In a separate part of the financing statement:

a. If the name is provided in accordance with subparagraph 1.a. of this paragraph, indicates that the collateral is held in a trust; or

b. If the name is provided in accordance with subparagraph 1.b. of this paragraph, provides additional information sufficient to distinguish the trust from other trusts having one (1) or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(d) Subject to subsection (7) of this section, if the debtor is an individual to whom this state has issued an operator's license that has not expired, only if the financing statement provides the name of the individual which is indicated on the operator's license;

(e) If the debtor is an individual to whom paragraph (d) of this subsection does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

(f) In other cases:

1. If the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person

named were the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) of this section is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subsection (1)(f)2. of this section, names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

(6) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (1)(b) of this section.

(7) If this state has issued to an individual more than one (1) operator's license of a kind described in subsection (1)(d) of this section, the one that was issued most recently is the one to which subsection (1)(d) of this section refers.

(8) The "name of the settlor or testator" means:

(a) If the settlor is a registered organization, the name of the registered organization indicated on the public organic record filed with or issued or enacted by the registered organization's jurisdiction of organization; or

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 79, effective July 1, 2013. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 94, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-503, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal

effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-504 Indication of collateral.

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to KRS 355.9-108; or

(2) An indication that the financing statement covers all assets or all personal property.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 95, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 84, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-504, effective July 1, 1960.

355.9-505 Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.

(1) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in KRS 355.9-311(1), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part of this article applies to the filing of a financing statement under subsection (1) of this section and, as appropriate, to compliance that is equivalent to filing a financing statement under KRS 355.9-311(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 96, effective July 1, 2001. -- Amended 1986 Ky. Acts ch. 118, sec. 85, effective July 1, 1987. -- Created 1958 Ky. Acts ch. 77, sec. 9-505, effective July 1, 1960.

355.9-506 Effect of errors or omissions.

(1) A financing statement substantially satisfying the requirements of this part of this article is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with KRS 355.9-503(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with KRS 355.9-503(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of KRS 355.9-508(2), the "debtor's correct name" in subsection (3) of this section means the correct name of the new debtor.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 97, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-506, effective July 1, 1960.

355.9-507 Effect of certain events on effectiveness of financing statement.

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) of this section and KRS 355.9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under KRS 355.9-506.

(3) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under KRS 355.9-503(1) so that the financing statement becomes seriously misleading under KRS 355.9-506:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the filed financing statement becomes seriously misleading; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after the filed financing statement becomes seriously misleading.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 80, effective July 1, 2013. -- Amended 2001 Ky. Acts ch. 65, sec. 2, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 98, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-507, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective

on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-508 Effectiveness of financing statement if new debtor becomes bound by security agreement.

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) of this section to be seriously misleading under KRS 355.9-506:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four (4) months after, the new debtor becomes bound under KRS 355.9-203(4); and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four (4) months after the new debtor becomes bound under KRS 355.9-203(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under KRS 355.9-507(1).

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 99, effective July 1, 2001.

355.9-509 Persons entitled to file a record.

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in a signed record or pursuant to subsection (2) or (3) of this section; or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By signing or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under KRS 355.9-315(1)(b), whether or not the security agreement expressly covers proceeds.

(3) By acquiring collateral in which a security interest or agricultural lien continues under KRS 355.9-315(1)(a), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under KRS 355.9-315(1)(b).

(4) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by KRS 355.9-513(1) or (3), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(5) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (4) of this section.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 79, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 100, effective July 1, 2001.

355.9-510 Effectiveness of filed record.

(1) A filed record is effective only to the extent that it was filed by a person that may file it under KRS 355.9-509 or 355.9-513A.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) A continuation statement that is not filed within the six (6) month period prescribed by KRS 355.9-515(4) is ineffective.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 81, effective July 1, 2013. -- Amended 2010 Ky. Acts ch. 155, sec. 9, effective July 15, 2010. -- Created 2000 Ky. Acts ch. 408, sec. 101, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-511 Secured party of record.

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under KRS 355.9-514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under KRS 355.9-514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 102, effective July 1, 2001.

355.9-512 Amendment of financing statement.

(1) Subject to KRS 355.9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(b) If the amendment relates to an initial financing statement filed in a filing office described in KRS 355.9-501(1)(a), provides the information specified in KRS 355.9-502(2).

(2) Except as otherwise provided in KRS 355.9-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 103, effective July 1, 2001.

355.9-513 Termination statement.

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1) of this section, a secured party shall cause the secured party of record to file the termination statement:

(a) Within one (1) month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within twenty (20) days after the secured party receives a signed demand from a debtor.

(3) In cases not governed by subsection (1) of this section, within twenty (20) days after a secured party receives a signed demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) (a) Except as otherwise provided in KRS 355.9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective.

(b) Except as otherwise provided in KRS 355.9-510, for purposes of KRS 355.9-519(7), 355.9-522(1), and 355.9-523(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 80, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 104, effective July 1, 2001.

355.9-513A Termination of wrongfully filed record -- Reinstatement.

(1) No person shall communicate a financing statement to a filing office for filing which is:

(a) Not authorized or permitted under KRS 355.9-509 or 355.9-708;

(b) Not related to a valid existing or potential commercial or financial transaction; and

(c) Filed with the intent to harass, hinder, or defraud a qualified person identified as an individual debtor in the financing statement.

(2) A qualified person may file in the office of the Secretary of State's Office of Business Services a notarized affidavit, signed under penalty of perjury, stating that:

(a) The affiant is a qualified person;

(b) None of the secured parties of record are financial institutions as defined in subsection (15) of this section;

(c) All secured parties of record are individuals; and

(d) The financing statement was filed by an individual not authorized or permitted to do so under KRS 355.9-509 or 355.9-708.

(3) (a) The Secretary of State shall adopt and make available a form of affidavit for use under this section.

(b) The filing office shall not charge a fee for the filing of an affidavit or a termination statement under this section. The filing office shall not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is subsequently reinstated.

(c) In a case in which KRS 355.9-501 provides that the proper office to file a financing statement is the office designated for the filing or recording of a record of a mortgage on real property, the Secretary of State shall promptly transmit to that office copies of all communications regarding an affidavit filed under this section, including the affidavit itself, any termination statement filed under subsection (4) of this section, and any amendment filed or preliminary or final court order received pursuant to subsection (7) or (8) of this section, and upon receipt the receiving office shall execute the actions described herein.

(4) If an affidavit is filed under subsection (2) of this section, the filing office shall promptly file a termination statement with respect to the financing statement identified in the affidavit. The termination statement shall indicate that it was filed pursuant to this section. Except as provided in subsections (7) and (8) of this section, a termination statement filed under this subsection shall take effect thirty (30) days after it is filed.

(5) On the same day that a filing office files a termination statement under subsection (4) of this section, it shall send to each secured party of record for the financing statement a notice advising the secured party of record that the termination statement has been filed. The notice shall be sent by certified mail, return receipt requested, to the address provided for the secured party in the financing statement.

(6) An individual indicated as a secured party of record on a financing statement for which a termination statement has been filed under subsection (4) of this section may, before or after the termination statement takes effect:

(a) Request from the Secretary of State an expedited administrative review of the decision to terminate the filing; or

(b) Bring an action against the individual who filed the affidavit under subsection (2) of this section seeking a determination that the financing statement was filed by a person entitled to do so under KRS 355.9-509(1). An action under this subsection shall have priority on the court's calendar and shall proceed by expedited hearing. If the individual who filed the affidavit resides in this state, the exclusive venue in this state for the action shall be in the Circuit Court for the county where the individual principally resides in this state. If the individual who filed the affidavit does not reside in this state, the exclusive venue in this state shall be in the Circuit Court for the county where the filing office in which the financing statement was filed is located.

(7) In an action brought pursuant to subsection (6) of this section, a court may, in appropriate circumstances, order preliminary relief, including but not limited to an order precluding the termination statement from taking effect or directing a party to take action to prevent the termination statement from taking effect. If the court issues such an order and the filing office receives a certified copy of the order before the termination statement takes effect as provided in subsection (4) of this section, the termination statement shall not take effect and the filing office shall promptly file an amendment to the financing statement that indicates that an order has prevented the termination statement from taking effect. If such an order ceases to be effective by reason of a subsequent order or a final judgment of that court or by an order issued by another court, and the filing office receives a certified copy of the subsequent judgment or order, the termination statement shall become immediately effective upon receipt of the certified copy and the filing office shall promptly file an amendment to the financing statement indicating that the termination statement is effective.

(8) If the Secretary of State determines in an expedited administrative review initiated under subsection (6)(a) of this section, or if a court determines in an action brought pursuant to subsection (6)(b) of this section, that the financing statement was filed by a person entitled to do so under KRS 355.9-509(1) and the filing office receives a certified copy of the administrative determination or court's final judgment or order before the termination statement takes effect, the termination statement shall not take effect and the filing office shall remove the termination statement and any amendments filed under subsection (7) of this section from the files. If the filing office receives the certified copy after the termination statement takes effect and within thirty (30) days after the final judgment or order was entered, the filing office shall promptly file an amendment to the financing statement that indicates that the financing statement has been reinstated.

(9) Except as provided in subsection (10) of this section, upon the filing of an amendment reinstating a financing statement under subsection (8) of this section,

the effectiveness of the financing statement is retroactively reinstated and the financing statement shall be considered never to have been ineffective against all persons and for all purposes.

(10) A financing statement whose effectiveness was terminated under subsection (4) of this section and has been reinstated under subsection (8) of this section shall not be effective as against a person that purchased the collateral in good faith between the time the termination statement was filed and the time of the filing of the amendment reinstating the financing statement, to the extent that the person gave new value in reliance on the termination statement.

(11) (a) A person who violates subsection (1) of this section shall be civilly liable to an injured qualified person for:

1. Actual damages caused by the violation;
2. Reasonable attorney fees; and
3. Exemplary damages in an amount determined by the court.

(b) Civil damages under paragraph (a) of this subsection are in addition to any recovery to which the qualified person is entitled under KRS 355.9-625, or under law other than this article.

(12) Neither the filing office nor any of its employees shall be subject to liability for the termination or amendment of a financing statement in the lawful performance of the duties of the office under this section.

(13) A person may not file an affidavit under this section with respect to a financing statement filed by a financial institution, as defined in subsection (15) of this section or a representative of a financial institution.

(14) In this section, the term "qualified person" means an individual who, at the time the financing statement referred to in subsection (2) of this section was filed or within five (5) years prior to the time of filing, was:

(a) An elected or appointed official of this state or a governmental unit of this state as defined in KRS 355.9-102(1);

(b) An officer or employee of a federal, state, or local judicial or prosecutorial office;

(c) An officer or employee of a federal, state, or local law enforcement office, including a correctional officer or employee; or

(d) An officer or employee of an office designated in KRS 355.9-501 as a place to file a financing statement.

(15) In this section, the term "financial institution" means a person that:

(a) Is in the business of extending credit and servicing loans, including acquiring, purchasing, selling, and brokering, or other extensions of credit; and

(b) Where applicable, holds whatever license, charter, or registration that is required to engage in such business.

The term includes banks, savings banks, savings associations, building and loan associations, credit unions, consumer and commercial finance companies, industrial banks, industrial loan companies, insurance companies, investment companies,

installment sellers, mortgage servicers, sales finance companies, and leasing companies.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 185, sec. 2, effective June 29, 2021. -- Created 2012 Ky. Acts ch. 132, sec. 82, effective July 1, 2013

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-514 Assignment of powers of secured party of record.

(1) Except as otherwise provided in subsection (3) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its file number, the initial financing statement to which it relates;

(b) Provides the name of the assignor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under KRS 355.9-502(3) may be made only by an assignment of record of the mortgage in the manner provided by law of this Commonwealth other than this chapter.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 105, effective July 1, 2001.

355.9-515 Duration and effectiveness of financing statement -- Effect of lapsed financing statement.

(1) Except as otherwise provided in subsections (2), (5), (6), and (7) of this section, a filed financing statement is effective for a period of five (5) years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7) of this section, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (1) of this section or the thirty (30) year period specified in subsection (2) of this section, whichever is applicable.

(5) Except as otherwise provided in KRS 355.9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (3) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (4) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under KRS 355.9-502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 83, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 106, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior

Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-516 What constitutes filing -- Effectiveness of filing.

(1) Except as otherwise provided in subsection (2) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable filing fee is not tendered;

(c) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide a name for the debtor;

2. In the case of an amendment or information statement, the record:

a. Does not identify the initial financing statement as required by KRS 355.9-512 or 355.9-518, as applicable; or

b. Identifies an initial financing statement whose effectiveness has lapsed under KRS 355.9-515;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or

4. In the case of a record filed in the filing office described in KRS 355.9-501(1)(a), the record does not provide a sufficient description of the real property to which it relates;

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor; or

2. Indicate whether the debtor is an individual or an organization;

(f) In the case of an assignment reflected in an initial financing statement under KRS 355.9-514(1) or an amendment filed under KRS 355.9-514(2), the record does not provide a name and mailing address for the assignee; or

(g) In the case of a continuation statement, the record is not filed within the six (6) month period prescribed by KRS 355.9-515(4).

(3) For purposes of subsection (2) of this section:

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by KRS 355.9-512, 355.9-514, or 355.9-518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 84, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 107, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-516A Administrative rejection of unauthorized records.

(1) Upon approval of the Secretary of State, a filing office may refuse to accept a record communicated for filing under this article if it is evident from the contents of the record, including the described collateral, or from information in a record accompanying the record communicated for filing, that the person filing the record is not authorized to do so under KRS 355.9-509 or 355.9-708. This section only applies if all debtors and secured parties indicated on the record are individuals.

(2) If a filing office refuses to accept a record pursuant to subsection (1) of this section, it shall immediately inform the person attempting to file the record and all persons identified on the record as secured parties that the record has not been accepted, and may request additional documentation supporting the filing. The Secretary of State shall review all documentation received pursuant to a request under this subsection, and if the Secretary of State concludes that the record is authorized under KRS 355.9-509 or 355.9-708, the Secretary of State shall direct the filing office to promptly accept the record.

(3) A person indicated as a secured party of record on a financing statement that is refused pursuant to subsection (1) of this section may request from the Secretary of State an expedited administrative review of the decision to refuse filing.

(4) A person indicated as a secured party of record on a financing statement that is refused filing pursuant to subsection (1) of this section may bring an action against the Secretary of State seeking a determination that the financing statement was filed by a person entitled to do so under KRS 355.9-509(1) and was authorized. An action under this subsection shall have priority on the court's calendar and shall proceed by expedited hearing. If the individual who filed the affidavit resides in this state, the exclusive venue in this state for the action shall be in the Circuit Court for the county where the individual principally resides in this state. If the individual who filed the affidavit does not reside in this state, the exclusive venue in this state shall be in the Circuit Court for the county where the filing office in which the financing statement was filed is located.

(5) If the Secretary of State determines in an expedited administrative review initiated under subsection (3) of this section, or if a court determines in an action brought pursuant to subsection (4) of this section, that a rejected record was filed by a person entitled to do so under KRS 355.9-509(1) and should have been accepted for filing, upon receipt of a certified copy of that determination the filing office shall promptly file the record. Upon the filing of a record improperly refused under subsection (1) of this section, the record shall be treated as if it had been filed and effective as of the date originally submitted, except against a person that purchased the collateral in good faith between the date the record was rejected for filing and the subsequent actual date of the filing, to the extent that the person gave new value in reliance on the absence of the record from the files.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 85, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were

amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-517 Effect of indexing errors.

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 108, effective July 1, 2001.

355.9-518 Claim concerning inaccurate or wrongfully filed record.

(1) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) An information statement filed under subsection (1) of this section shall:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(b) Indicate that it is an information statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under KRS 355.9-509(4).

(4) An information statement filed under subsection (3) of this section shall:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(b) Indicate that it is an information statement; and

(c) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under KRS 355.9-509(4).

(5) Except as provided in subsection (6) of this section, the filing of an information statement does not affect the effectiveness of an initial financing statement or other filed record.

(6) An information statement that is filed by a bank, or subsidiary or affiliate thereof, shall affect the effectiveness of the record to which it relates if:

(a) The information statement includes a written statement of an officer of the entity filing the information statement, which provides the information specified in subsection (2) of this section;

(b) The officer's written statement provides the officer's title and information identifying how the filer qualifies as a bank, or subsidiary or affiliate thereof;

(c) The officer's written statement has been duly acknowledged before a notary public; and

(d) The record to which the information statement relates was originally filed by or refers to a record filed by the entity filing the information statement.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 86, effective July 1, 2013. -- Amended 2010 Ky. Acts ch. 155, sec. 8, effective July 15, 2010. -- Created 2000 Ky. Acts ch. 408, sec. 109, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were

amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-519 Numbering, maintaining, and indexing records -- Communicating information provided in records.

(1) For each record filed in a filing office, the filing office shall:

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5) of this section.

(2) A file number must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5) of this section, the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this Commonwealth provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under KRS 355.9-514(1) or an amendment filed under KRS 355.9-514(2):

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this Commonwealth provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability:

(a) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office may not remove a debtor's name from the index until one (1) year after the effectiveness of a financing statement naming the debtor lapses under KRS 355.9-515 with respect to all secured parties of record.

(8) The filing office shall perform the acts required by subsections (1) to (5) of this section at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the record in question.

(9) Subsection (2) of this section does not apply to a filing office described in KRS 355.9-501(1)(a).

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 110, effective July 1, 2001.

355.9-520 Acceptance and refusal to accept record.

(1) A filing office shall refuse to accept a record for filing for a reason set forth in KRS 355.9-516(2) and may refuse to accept a record for filing only for a reason set forth in KRS 355.9-516(2) or 355.9-518.

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but in no event more than two (2) business days after the filing office receives the record.

(3) A filed financing statement satisfying KRS 355.9-502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1) of this section or refuses to accept for filing for a reason set forth in this section or KRS 355.9-518. However, KRS 355.9-338 applies to a filed financing statement providing information described in KRS 355.9-516(2)(e) which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one (1) debtor, this part of this article applies as to each debtor separately.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 87, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 111, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-521 Uniform form of written financing statement and amendment.

(1) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format set forth in the official text of the 2010 amendments to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in KRS 355.9-516(2).

(2) A filing office that accepts written records may not refuse to accept a written record in the form and format set forth as Form UCC3 and Form UCC3Ad in the final official text of the 2010 amendments to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in KRS 355.9-516(2).

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 88, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 112, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-522 Maintenance and destruction of records.

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least one (1) year after the effectiveness of the financing statement has lapsed under KRS 355.9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1) of this section.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 113, effective July 1, 2001.

355.9-523 Information from filing office -- Sale or license of records.

(1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to KRS 355.9-519(1)(a) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(a) Note upon the copy the number assigned to the record pursuant to KRS 355.9-519(1)(a) and the date and time of the filing of the record; and

(b) Send the copy to the person.

(2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(a) The information in the record;

(b) The number assigned to the record pursuant to KRS 355.9-519(1)(a); and

(c) The date and time of the filing of the record.

(3) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(a) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:

1. Designates a particular debtor;

2. Has not lapsed under KRS 355.9-515 with respect to all secured parties of record; and

3. If the request so states, has lapsed under KRS 355.9-515 and a record of which is maintained by the filing office under KRS 355.9-522(1);

(b) The date and time of filing of each financing statement; and

(c) The information provided in each financing statement.

(4) In complying with its duty under subsection (3) of this section, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(5) The filing office shall perform the acts required by subsections (1) to (4) of this section at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the request.

(6) At least weekly, the Secretary of State shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part of this article, in every medium from time to time available to the filing office.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 114, effective July 1, 2001.

355.9-524 Delay by filing office.

Delay by the filing office beyond a time limit prescribed by this part of this article is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 115, effective July 1, 2001.

355.9-525 Fees.

(1) Except as otherwise provided in subsection (4) of this section, the fee for filing and indexing a record under this part of this article is:

(a) Ten dollars ($10) if the record is communicated in writing and consists of one (1) or two (2) pages;

(b) Twenty dollars ($20) if the record is communicated in writing and consists of more than two (2) pages; and

(c) Five dollars ($5) if the record is communicated by another medium authorized by filing-office rule.

(2) The number of names required to be indexed does not affect the amount of the fee in subsection (1) of this section.

(3) The fee for issuing a certificate showing whether there is on file any financing statement naming a particular debtor is five dollars ($5).

(4) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under KRS 355.9-502(3). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 116, effective July 1, 2001.

355.9-526 Filing-office rules.

(1) The Secretary of State shall promulgate administrative regulations to implement this article as it relates to the Secretary of State. The filing-office administrative regulations must be:

(a) Consistent with this article; and

(b) Promulgated in accordance with KRS Chapter 13A.

(2) To keep the filing-office administrative regulations and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part of this article, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part of this article, the Secretary of State, so far as is consistent with the purposes, policies, and provisions of this article, in promulgating, amending, and repealing filing-office administrative regulations, shall:

(a) Consult with filing offices in other jurisdictions that enact substantially this part of this article; and

(b) Consult the most recent version of the model rules promulgated by the International Association of Corporate Administrators or any successor organization; and

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part of this article.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 117, effective July 1, 2001.

355.9-527 Duty to report.

The Secretary of State shall report annually on or before June 30 to the Governor and to the Legislative Research Commission on the operation of the filing office. The report must contain a statement of the extent to which:

(1) The filing-office administrative regulations are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part of this article and the reasons for these variations; and

(2) The filing-office administrative regulations are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 118, effective July 1, 2001.

355.9-601 Rights after default -- Judicial enforcement -- Consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(1) After default, a secured party has the rights provided in this part of this article and, except as otherwise provided in KRS 355.9-602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under KRS 355.7-106, 355.9-104, 355.9-105, 355.9-1051, 355.9-106, 355.9-107, or 355.9-1071 has the rights and duties provided in KRS 355.9-207.

(3) The rights under subsections (1) and (2) of this section are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) of this section and KRS 355.9-605, after default, a debtor and an obligor have the rights provided in this part of this article and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(7) Except as otherwise provided in KRS 355.9-607(3), this part of this article imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 81, effective January 1, 2025. -- Amended 2012 Ky. Acts ch. 132, sec. 89, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 119, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions

was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-602 Waiver and variance of rights and duties.

Except as otherwise provided in KRS 355.9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) KRS 355.9-207(2)(d)3., which deals with use and operation of the collateral by the secured party;

(2) KRS 355.9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) KRS 355.9-607(3), which deals with collection and enforcement of collateral;

(4) KRS 355.9-608(1) and 355.9-615(3) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) KRS 355.9-608(1) and 355.9-615(4) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) KRS 355.9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) KRS 355.9-610(2), 355.9-611, 355.9-613, and 355.9-614, which deal with disposition of collateral;

(8) KRS 355.9-615(6), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) KRS 355.9-616, which deals with explanation of the calculation of a surplus or deficiency;

(10) KRS 355.9-620, 355.9-621, and 355.9-622, which deal with acceptance of collateral in satisfaction of obligation;

(11) KRS 355.9-623, which deals with redemption of collateral;

(12) KRS 355.9-624, which deals with permissible waivers; and

(13) KRS 355.9-625 and 355.9-626, which deal with the secured party's liability for failure to comply with this article.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 120, effective July 1, 2001.

355.9-603 Agreement on standards concerning rights and duties.

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in KRS 355.9-602 if the standards are not manifestly unreasonable.

(2) Subsection (1) of this section does not apply to the duty under KRS 355.9-609 to refrain from breaching the peace.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 121, effective July 1, 2001.

355.9-604 Procedure if security agreement covers real property or fixtures.

(1) If a security agreement covers both personal and real property, a secured party may proceed:

(a) Under this part of this article as to the personal property without prejudicing any rights with respect to the real property; or

(b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part of this article do not apply.

(2) Subject to subsection (3) of this section, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(a) Under this part of this article; or

(b) In accordance with the rights with respect to real property, in which case the other provisions of this part of this article do not apply.

(3) Subject to the other provisions of this part of this article, if a secured party holding a security interest in fixtures has priority over all owners and encumbrances of the real property, the secured party, after default, may remove the collateral from the real property.

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 122, effective July 1, 2001.

355.9-605 Unknown debtor or secondary obligor.

(1) Except as provided in subsection (2) of this section, a secured party does not owe a duty based on its status as secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(2) A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(a) The person is a debtor or obligor; and

(b) The secured party knows that the information in subsection (1)(a)1., 2., or 3. of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 82, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 123, effective July 1, 2001.

355.9-606 Time of default for agricultural lien.

For purposes of this part of this article, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 124, effective July 1, 2001.

355.9-607 Collection and enforcement by secured party.

(1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under KRS 355.9-315;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under KRS 355.9-104(1)(a), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under KRS 355.9-104(1)(b) or (c), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under subsection (1)(c) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred with respect to the obligation secured by the mortgage; and

2. The secured party is entitled to enforce the mortgage nonjudicially.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 90, effective July 1, 2013. -- Created 2000 Ky. Acts ch. 408, sec. 125, effective July 1, 2001.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.

355.9-608 Application of proceeds of collection or enforcement -- Liability for deficiency and right to surplus.

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under KRS 355.9-607 in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives a signed demand for proceeds before distribution of the proceeds is completed;

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (a)3. of this subsection;

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under KRS 355.9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner; and

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 83, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 126, effective July 1, 2001.

355.9-609 Secured party's right to take possession after default.

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under KRS 355.9-610.

(2) A secured party may proceed under subsection (1) of this section:

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 127, effective July 1, 2001.

355.9-610 Disposition of collateral after default.

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one (1) or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4) of this section:

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) of this section if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

(7) The acquisition of a repossession title by a secured party shall not be deemed a disposition of collateral under this section.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 128, effective July 1, 2001.

355.9-611 Notification before disposition of collateral.

(1) In this section, "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor a signed notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4) of this section, a secured party that disposes of collateral under KRS 355.9-610 shall send to the persons specified in subsection (3) of this section a reasonable signed notification of disposition.

(3) To comply with subsection (2) of this section, the secured party shall send a signed notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from which the secured party has received, before the notification date, a signed notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, ten (10) days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, ten (10) days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in KRS 355.9-311(1).

(4) Subsection (2) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subsection (3)(c)2. of this section if:

(a) Not later than twenty (20) days or earlier than thirty (30) days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (3)(c)2. of this section; and

(b) Before the notification date, the secured party:

1. Did not receive a response to the request for information; or

2. Received a response to the request for information and sent a signed notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

History: Amended 2024 Ky. Acts ch. 10, sec. 84, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 129, effective July 1, 2001.

355.9-612 Timeliness of notification before disposition of collateral.

(1) Except as otherwise provided in subsection (2) of this section, whether a notification is sent within a reasonable time is a question of fact.

(2) In a transaction other than a consumer transaction, a notification of disposition sent after default and ten (10) days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 130, effective July 1, 2001.

355.9-613 Contents and form of notification before disposition of collateral: General.

(1) Except in a consumer-goods transaction, the following rules apply:

(a) The contents of a notification of disposition are sufficient if the notification:

1. Describes the debtor and the secured party;
2. Describes the collateral that is the subject of the intended disposition;
3. States the method of intended disposition;
4. States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
5. States the time and place of a public disposition or the time after which any other disposition is to be made;

(b) Whether the contents of a notification that lacks any of the information specified in paragraph (a) of this subsection are nevertheless sufficient is a question of fact;

(c) The contents of a notification providing substantially the information specified in paragraph (a) of this subsection are sufficient, even if the notification includes:

1. Information not specified by that paragraph; or
2. Minor errors that are not seriously misleading;

(d) A particular phrasing of the notification is not required; and

(e) The following form of notification and the form appearing in KRS 355.9-614(1)(c), when completed in accordance with the instructions in subsection (2) of this section and KRS 355.9-614(2), each provides sufficient information:

"NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

{1} Name of any debtor that is not an addressee: (Name of each debtor)

{2} We will sell (describe collateral) (to the highest qualified bidder) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

{3} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{4} You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell, or as applicable, lease or license.

{5} If you request an accounting, you must pay a charge of $ (amount).

{6} You may request an accounting by calling us at (telephone number).

[End of Form]".

(2) The following instructions apply to the form of notification in subsection (1)(e) of this section:

(a) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (1)(e) of this section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions;

(b) Include and complete item {1} only if there is a debtor that is not an addressee of the notification and list the name or names;

(c) Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words "to the highest qualified bidder" only if applicable;

(d) Include and complete items {4} and {6}; and

(e) Include and complete item {5} only if the sender will charge the recipient for an accounting.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 85, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 131, effective July 1, 2001.

355.9-614 Contents and form of notification before disposition of collateral: Consumer-goods transaction.

(1) In a consumer-goods transaction, the following rules apply:

(a) A notification of disposition must provide the following information:

1. The information specified in KRS 355.9-613(1)(a);
2. A description of any liability for a deficiency of the person to which the notification is sent;
3. A telephone number from which the amount that must be paid to the secured party to redeem the collateral under KRS 355.9-623 is available; and
4. A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available;

(b) A particular phrasing of the notification is not required;

(c) The following form of notification, when completed in accordance with the instructions in subsection (2) of this section, provides sufficient information:

"(Name and address of secured party)

(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: (Identify transaction)

We have your (describe collateral) because you broke promises in our agreement.

{1} We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

You may attend the sale and bring bidders if you want.

{2} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{3} The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

{4} You can get your property back at any time before we sell it by paying us the full amount you owe, not just the past due payments, including our expenses. To learn the exact amount you must pay, call us at (telephone number).

{5} If you want us to explain to you in (writing) (writing or in (description of electronic record)) (description of electronic record) how we have figured the amount you owe us, {6} call us at (telephone number) (or) (write us at (secured party's address)) (or contact us by (description of electronic

communication method)) {7} and request (a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record)).

{8} We will charge you $ (amount) for the explanation if we sent you another written explanation of the amount you owe us within the last six (6) months.

{9} If you need more information about the sale, (call us at (telephone number)) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)).

{10} We are sending this notice to the following other people who have an interest in (describe collateral) or who owe money under your agreement:

(Names of all other debtors and obligors, if any)

[End of Form]";

(d) A notification in the form of paragraph (c) of this subsection is sufficient, even if additional information appears at the end of the form;

(e) A notification in the form of paragraph (c) of this subsection is sufficient, even if it includes errors in information not required by paragraph (a) of this subsection, unless the error is misleading with respect to rights arising under this article; and

(f) If a notification under this section is not in the form of paragraph (c) of this subsection, law other than this article determines the effect of including information not required by paragraph (a) of this subsection.

(2) The following instructions apply to the form of notification in subsection (1)(c) of this section:

(a) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (1)(c) of this section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions;

(b) Include and complete either item {1}, if the notification relates to a public disposition of the collateral, or item {2}, if the notification relates to a private disposition of the collateral;

(c) Include and complete items {3}, {4}, {5}, {6}, and {7};

(d) In item {5}, include and complete any one (1) of the three (3) alternative methods for the explanation - writing, writing or electronic record, or electronic record;

(e) In item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two (2) additional alternative methods of communication - writing or electronic communication - for the recipient of the notification to communicate with the sender. Neither of the two (2) additional methods of communication is required to be included;

(f) In item {7}, include and complete the method or methods for the explanation – writing, writing or electronic record, or electronic record – included in item {5};

(g) Include and complete item {8} only if a written explanation is included in

item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation;

(h) In item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional method of communication – electronic communication – for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included; and

(i) If item {10} does not apply, insert "None" after "agreement".

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 86, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 132, effective July 1, 2001.

355.9-615 Application of proceeds of disposition -- Liability for deficiency and right to surplus.

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under KRS 355.9-610 in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

1. The secured party receives from the holder of the subordinate security interest or other lien a signed demand for proceeds before distribution of the proceeds is completed; and

2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor a signed demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (1)(c) of this section.

(3) (a) A secured party need not apply or pay over for application noncash proceeds of disposition under KRS 355.9-610 unless the failure to do so would be commercially unreasonable.

(b) A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) of this section and permitted by subsection (3) of this section:

(a) Unless subsection (1)(d) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part

of this article to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 87, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 133, effective July 1, 2001.

355.9-616 Explanation of calculation of surplus or deficiency.

(1) In this section:

(a) "Explanation" means a record that:

1. States the amount of the surplus or deficiency;
2. Provides an explanation in accordance with subsection (3) of this section of how the secured party calculated the surplus or deficiency;
3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and
4. Provides a telephone number or mailing address from which additional information concerning the transaction is available; and

(b) "Request" means a record:

1. Signed by a debtor or consumer obligor;
2. Requesting that the recipient provide an explanation; and
3. Sent after disposition of the collateral under KRS 355.9-610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under KRS 355.9-615, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

1. Before or when the secured party accounts to the debtor and pays any surplus or first makes demand in a record on the consumer obligor after the disposition for payment of the deficiency; and
2. Within fourteen (14) days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within fourteen (14) days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subsection (1)(a)2. of this section, an explanation must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than thirty-five (35) days before the secured party takes or receives possession; or
2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five (35) days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a) of this subsection; and

(f) The amount of the surplus or deficiency.

(4) (a) A particular phrasing of the explanation is not required.

(b) An explanation complying substantially with the requirements of subsection (1) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one (1) response to a request under this section during any six (6) month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (2)(a) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 88, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 134, effective July 1, 2001.

355.9-617 Rights of transferee of collateral.

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1) of this section, even if the secured party fails to comply with this article or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1) of this section, the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 135, effective July 1, 2001.

355.9-618 Rights and duties of certain secondary obligors.

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1) of this section:

(a) Is not a disposition of collateral under KRS 355.9-610; and

(b) Relieves the secured party of further duties under this article.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 136, effective July 1, 2001.

355.9-619 Transfer of record or legal title.

(1) In this section, "transfer statement" means a record signed by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) (a) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral.

(b) If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

1. Accept the transfer statement;

2. Promptly amend its records to reflect the transfer; and

3. If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) of this section or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

(4) A secured party who complies with KRS 186.045(6) is considered to have provided a transfer statement for purposes of this section.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 89, effective January 1, 2025. -- Amended 2006 Ky. Acts ch. 242, sec. 60, effective July 12, 2006. -- Created 2000 Ky. Acts ch. 408, sec. 137, effective July 1, 2001.

355.9-620 Acceptance of collateral in full or partial satisfaction of obligation -- Compulsory disposition of collateral.

(1) Except as otherwise provided in subsection (7) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3) of this section;

(b) The secured party does not receive, within the time set forth in subsection (4) of this section, a notification of objection to the proposal signed by:

1. A person to which the secured party was required to send a proposal under KRS 355.9-621; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to KRS 355.9-624.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in a signed record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) of this section are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record signed after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record signed after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

3. Does not receive a notification of objection signed by the debtor within twenty (20) days after the proposal is sent.

(4) To be effective under subsection (1)(b) of this section, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to KRS 355.9-621, within twenty (20) days after notification was sent to that person; and

(b) In other cases:

1. Within twenty (20) days after the last notification was sent pursuant to

KRS 355.9-621; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3) of this section.

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to KRS 355.9-610 within the time specified in subsection (6) of this section if:

(a) Sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5) of this section, the secured party shall dispose of the collateral:

(a) Within ninety (90) days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and signed after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 90, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 138, effective July 1, 2001.

355.9-621 Notification of proposal to accept collateral.

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from which the secured party has received, before the debtor consented to the acceptance, a signed notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, ten (10) days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, ten (10) days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in KRS 355.9-311(1).

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1) of this section.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 91, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 139, effective July 1, 2001.

355.9-622 Effect of acceptance of collateral.

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1) of this section, even if the secured party fails to comply with this article.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 140, effective July 1, 2001.

355.9-623 Right to redeem collateral.

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

(a) Fulfillment of all obligations secured by the collateral; and

(b) The reasonable expenses and attorney's fees described in KRS 355.9-615(1)(a).

(3) A redemption may occur at any time before a secured party:

(a) Has collected collateral under KRS 355.9-607;

(b) Has disposed of collateral or entered into a contract for its disposition under KRS 355.9-610; or

(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under KRS 355.9-622.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 141, effective July 1, 2001.

355.9-624 Waiver.

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under KRS 355.9-611 only by an agreement to that effect entered into and signed after default.

(2) A debtor may waive the right to require disposition of collateral under KRS 355.9-620(5) only by an agreement to that effect entered into and signed after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under KRS 355.9-623 only by an agreement to that effect entered into and signed after default.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 92, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 142, effective July 1, 2001.

355.9-625 Remedies for secured party's failure to comply with article.

(1) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(2) Subject to subsections (3), (4), and (6) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(3) Except as otherwise provided in KRS 355.9-628:

(a) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) of this section for its loss; and

(b) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part of this article may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(4) A debtor whose deficiency is eliminated under KRS 355.9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under KRS 355.9-626 may not otherwise recover under subsection (2) of this section for noncompliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.

(5) In addition to any damages recoverable under subsection (2) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500) in each case from a person that:

(a) Fails to comply with KRS 355.9-208;

(b) Fails to comply with KRS 355.9-209;

(c) Files a record that the person is not entitled to file under KRS 355.9-509(1);

(d) Fails to cause the secured party of record to file or send a termination statement as required by KRS 355.9-513(1) or (3);

(e) Fails to comply with KRS 355.9-616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(f) Fails to comply with KRS 355.9-616(2)(b).

(6) A debtor or consumer obligor may recover damages under subsection (2) of this section and, in addition, five hundred dollars ($500) in each case from a person that, without reasonable cause, fails to comply with a request under KRS 355.9-210. A recipient of a request under KRS 355.9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under KRS 355.9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 143, effective July 1, 2001.

355.9-626 Action in which deficiency or surplus is in issue.

(1) In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part of this article.

(c) Except as otherwise provided in KRS 355.9-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

1. The proceeds of the collection, enforcement, disposition, or acceptance; or

2. The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.

(d) For purposes of paragraph (c)2. of this subsection, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under KRS 355.9-615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(2) The limitation of the rules in subsection (1) of this section to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 144, effective July 1, 2001.

355.9-627 Determination of whether conduct was commercially reasonable.

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) of this section need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 145, effective July 1, 2001.

355.9-628 Nonliability and limitation on liability of secured party -- Liability of secondary obligor.

(1) Subject to subsection (6) of this section, unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(b) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(2) Subject to subsection (6) of this section, a secured party is not liable because of its status as secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under KRS 355.9-625(3)(b) for its failure to comply with KRS 355.9-616.

(5) A secured party is not liable under KRS 355.9-625(3)(b) more than once with respect to any one (1) secured obligation.

(6) Subsections (1) and (2) of this section do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(a) The person is a debtor or obligor; and

(b) The secured party knows that the information in subsection (2)(a)1., 2., or 3. of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which

the collateral is recorded.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 10, sec. 93, effective January 1, 2025. -- Created 2000 Ky. Acts ch. 408, sec. 146, effective July 1, 2001.

355.9-701 Effective date.

This article takes effect on July 1, 2001.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 147, effective July 1, 2001.

355.9-702 Savings clause.

(1) Except as otherwise provided in this part of this article, the revision of Article 9 in 2000 Ky. Acts ch. 408 applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2001.

(2) Except as otherwise provided in subsection (3) of this section and KRS 355.9-703 to 355.9-709:

(a) Transactions and liens that were not governed by the former Article 9 of this chapter, were validly entered into or created before July 1, 2001, and would be subject to the revision of Article 9 in 2000 Ky. Acts ch. 408 if they had been entered into or created on or after July 1, 2001, and the rights, duties, and interests flowing from those transactions and liens remain valid after July 1, 2001; and

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by the revision of Article 9 in 2000 Ky. Acts ch. 408 or by the law that otherwise would apply if 2000 Ky. Acts ch. 408 had not taken effect.

(3) The revision of Article 9 in 2000 Ky. Acts ch. 408 does not affect an action, case, or proceeding commenced before July 1, 2001.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 148, effective July 1, 2001.

355.9-703 Security interest perfected before effective date.

(1) A security interest that is enforceable immediately before July 1, 2001, and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under the revision of Article 9 in 2000 Ky. Acts ch. 408 if, on July 1, 2001, the applicable requirements for enforceability and perfection under the revision of Article 9 in 2000 Ky. Acts ch. 408 are satisfied without further action.

(2) Except as otherwise provided in KRS 355.9-705, if, immediately before July 1, 2001, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under the revision of Article 9 in 2000 Ky. Acts ch. 408 are not satisfied on July 1, 2001, the security interest:

(a) Is a perfected security interest for one (1) year after July 1, 2001;

(b) Remains enforceable thereafter only if the security interest becomes enforceable under KRS 355.9-203 before the year expires; and

(c) Remains perfected thereafter only if the applicable requirements for perfection under the revision of Article 9 in 2000 Ky. Acts ch. 408 are satisfied before the year expires.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 149, effective July 1, 2001.

355.9-704 Security interest unperfected before effective date.

A security interest that is enforceable immediately before July 1, 2001, but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) Remains an enforceable security interest for one (1) year after July 1, 2001;

(2) Remains enforceable thereafter if the security interest becomes enforceable under KRS 355.9-203 on July 1, 2001, or within one (1) year thereafter; and

(3) Becomes perfected:

(a) Without further action, on July 1, 2001, if the applicable requirements for perfection under the revision of Article 9 in 2000 Ky. Acts ch. 408 are satisfied before or at that time; or

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 150, effective July 1, 2001.

355.9-705 Effectiveness of action taken before effective date.

(1) If action, other than the filing of a financing statement, is taken before July 1, 2001, and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before July 1, 2001, the action is effective to perfect a security interest that attaches under the revision of Article 9 in 2000 Ky. Acts ch. 408 within one (1) year after July 1, 2001. An attached security interest becomes unperfected one (1) year after July 1, 2001, unless the security interest becomes a perfected security interest under the revision of Article 9 in 2000 Ky. Acts ch. 408 before the expiration of that period.

(2) The filing of a financing statement before July 1, 2001, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under the revision of Article 9 in 2000 Ky. Acts ch. 408.

(3) The revision of Article 9 in 2000 Ky. Acts ch. 408 does not render ineffective an effective financing statement that, before July 1, 2001, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the former KRS 355.9-103, or law determining the place of filing as provided in the former KRS 355.9-401. However, except as otherwise provided in subsections (4) and (5) of this section and KRS 355.9-706, the financing statement ceases to be effective at the earlier of:

   (a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

   (b) June 30, 2006.

(4) The filing of a continuation statement on or after July 1, 2001, does not continue the effectiveness of the financing statement filed before July 1, 2001. However, upon the timely filing of a continuation statement after July 1, 2001, and in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this article, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2001, continues for the period provided by the law of that jurisdiction.

(5) Subsection (3)(b) of this section applies to a financing statement that, before July 1, 2001, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the former KRS 355.9-103 only to the extent that Part 3 of this article provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before July 1, 2001, and a continuation statement filed on or after July 1, 2001, is effective only to the extent that it satisfies the requirements of Part 5 of this article for an initial financing statement.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 151, effective July 1, 2001.

355.9-706 When initial financing statement suffices to continue effectiveness of financing statement -- Minor errors or omissions.

(1) The filing of an initial financing statement in the office specified in KRS 355.9-501, continues the effectiveness of a financing statement filed before July 1, 2001, if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under the revision of Article 9 in 2000 Ky. Acts ch. 408;

(b) The pre-effective-date financing statement was filed in an office in another state or another office in this Commonwealth; and

(c) The initial financing statement satisfies subsection (3) of this section.

(2) The filing of an initial financing statement under subsection (1) of this section continues the effectiveness of the pre-effective-date financing statement:

(a) If the initial financing statement is filed before July 1, 2001, for the period provided in the former KRS 355.9-403 with respect to a financing statement; and

(b) If the initial financing statement is filed on or after July 1, 2001, for the period provided in KRS 355.9-515 with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1) of this section, an initial financing statement must:

(a) Satisfy the requirements of Part 5 of this article for an initial financing statement;

(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective-date financing statement remains effective.

(4) When a secured party files an initial financing statement with the Secretary of State under subsection (1) of this section or under KRS 355.9-707, the secured party may send a copy of the initial financing statement to the county clerk of the county in which the pre-effective-date financing statement was filed, and, additionally, may send to the county clerk copies of any continuation statement subsequently filed with the Secretary of State that relates to an initial financing statement filed under subsection (1) of this section or under KRS 355.9-707. The secured party's election not to send a copy of an initial financing statement or a continuation statement to the county clerk does not affect in any way the perfection of the secured party's security interest. The county clerk shall append to the pre-effective-date financing statement the copy of any initial financing statement or continuation statement received from a secured party and shall retain the entire file as required by KRS 355.9-710.

(5) KRS 355.9-506 shall apply to determine whether a financing statement filed under subsection (1) of this section satisfies the requirements of subsection (3)(a) of this section. A financing statement filed under subsection (1) of this section

substantially satisfying the requirements of subsection (3)(b) and (c) of this section is effective even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 242, sec. 61, effective July 12, 2006. -- Created 2000 Ky. Acts ch. 408, sec. 152, effective July 1, 2001.

355.9-707 Amendment of pre-effective-date financing statement.

(1) In this section, "pre-effective-date financing statement" means a financing statement filed before July 1, 2001.

(2) On or after July 1, 2001, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4) of this section, if the law of this Commonwealth governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended on or after July 1, 2001, only if:

(a) The pre-effective-date financing statement and an amendment are filed in the office specified in KRS 355.9-501;

(b) An amendment is filed in the office specified in KRS 355.9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies KRS 355.9-706(3); or

(c) An initial financing statement that provides the information as amended and satisfies KRS 355.9-706(3) is filed in the office specified in KRS 355.9-501.

(4) If the law of this Commonwealth governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under KRS 355.9-705(4) and (6) or 355.9-706.

(5) Whether or not the law of this Commonwealth governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this Commonwealth may be terminated on or after July 1, 2001, by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies KRS 355.9-706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 of this article as the office in which to file a financing statement.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 153, effective July 1, 2001.

355.9-708 Persons entitled to file initial financing statement or continuation statement.

A person may file an initial financing statement or a continuation statement under this part of this article if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part of this article:

(a) To continue the effectiveness of a financing statement filed before July 1, 2001; or

(b) To perfect or continue the perfection of a security interest.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 154, effective July 1, 2001.

355.9-709 Priority.

(1) The revision of Article 9 in 2000 Ky. Acts ch. 408 determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2001, the former Article 9 of this chapter determines priority.

(2) For purposes of KRS 355.9-322(1), the priority of a security interest that becomes enforceable under KRS 355.9-203 dates from July 1, 2001, if the security interest is perfected under the revision of Article 9 in 2000 Ky. Acts ch. 408 by the filing of a financing statement before July 1, 2001, which would not have been effective to perfect the security interest under the former Article 9 of this chapter. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 155, effective July 1, 2001.

355.9-710 Duties of county clerk.

(1) A county clerk who receives a statement tendered by a secured party under Part 4 of the former Article 9, prior to July 1, 2001, that has not been filed or indexed on July 1, 2001, shall file and index the statement as soon as practicable.

(2) Every county clerk shall append to the pre-effective-date financing statement the copies of any initial financing statement or continuation statement received from a secured party under KRS 355.9-706(4).

(3) The county clerk shall maintain all records filed under Part 4 of the former Article 9 and subsection (2) of this section until the later of:

(a) One (1) year after the lapse of the initial financing statement;

(b) July 1, 2008; or

(c) Such other record-retention requirement as may be applicable under other Kentucky law or administrative regulations.

(4) The county clerk shall respond to requests for information with respect to records maintained under this article in accordance with KRS 355.9-523(3) and (4) and may charge the fee for issuing certificates authorized in KRS 355.9-525.

(5) When Internet access is available through the AVIS system or its successor, every county clerk shall provide a means within his or her office by which the Secretary of State's filing system for this article can be searched and through which electronic filings under this article can be made with the Secretary of State. This subsection shall not be construed to require a secured party to file through the means provided by a county clerk. The county clerk shall neither be required to conduct a search of the Secretary of State's filing system nor to issue a certificate as to the contents of the system.

Effective: July 1, 2001

History: Created 2000 Ky. Acts ch. 408, sec. 156, effective July 1, 2001.

355.9-801 Effective date of statutory changes contained in 2012 Ky. Acts ch. 132.

Amendments to existing statutes and the creation of new statutes in this article contained in 2012 Ky. Acts ch. 132, secs. 60 to 99 shall take effect on July 1, 2013.

Effective: July 1, 2013

History: Repealed, reenacted, and amended 2013 Ky. Acts ch. 10, sec. 3, effective March 14, 2013. -- Created 2012 Ky. Acts ch. 132, sec. 91, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (3/14/2013). The statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, which are effective July 1, 2013, pursuant to 2013 Ky. Acts ch. 10, secs. 2 and 3, were: KRS 355.9-102, 355.9-105, 355.9-203, 355.9-207, 355.9-208, 355.9-301, 355.9-307, 355.9-310, 355.9-311, 355.9-312, 355.9-313, 355.9-314, 355.9-316, 355.9-317, 355.9-326, 355.9-338, 355.9-406, 355.9-408, 355.9-502, 355.9-503, 355.9-507, 355.9-510, 355.9-513A, 355.9-515, 355.9-516, 355.9-516A, 355.9-518, 355.9-520, 355.9-521, 355.9-601, 355.9-607, 355.9-801, 355.9-802, 355.9-803, 355.9-804, 355.9-805, 355.9-806, 355.9-807, 355.9-808, and 355.9-809.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 (codified as KRS 355.9-801 to 355.9-809) contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (this statute) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (this statute) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102.

355.9-802 Application.

(1) Except as otherwise provided in this article, this article applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2013.

(2) KRS 355.9-801 to 355.9-809 do not affect an action, case, or proceeding commenced before July 1, 2013.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 92, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

355.9-803 Security interest perfected before effective date.

(1) A security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under Article 9 as amended by KRS 355.9-801 to 355.9-809 if, on or after July 1, 2013, the applicable requirements for attachment and perfection under Article 9 as amended by KRS 355.9-801 to 355.9-809 are satisfied without further action.

(2) Except as otherwise provided in KRS 355.9-805, if, immediately before July 1, 2013, a security interest is a perfected security interest, but the applicable requirements for perfection under this article as amended by KRS 355.9-801 to 355.9-809, are not satisfied on July 1, 2013, the security interest remains perfected thereafter only if the applicable requirements for perfection under this article, as amended by KRS 355.9-801 to 355.9-809, are satisfied within one (1) year after July 1, 2013.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 93, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

355.9-804 Security interest unperfected before effective date.

A security interest that is an unperfected security interest immediately before July 1, 2013, becomes a perfected security interest:

(1) Without further action, on or after July 1, 2013, if the applicable requirements for perfection under this article as amended by KRS 355.9-801 to 355.9-809 are satisfied before or at the time; or

(2) When the applicable requirements for perfection are satisfied if the requirements are satisfied after July 1, 2013.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 94, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

355.9-805 Effectiveness of action taken before effective date.

(1) The filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this article, as amended by KRS 355.9-801 to 355.9-809.

(2) KRS 355.9-801 to 355.9-809 do not render ineffective an effective financing statement that, before July 1, 2013, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article as it existed before July 1, 2013. However, except as otherwise provided in subsections (3) and (4) of this section and KRS 355.9-806, the financing statement ceases to be effective:

(a) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this section not become law; or

(b) If the financing statement is filed in another jurisdiction, at the earlier of:

1. The time the financing statement would have ceased to be effective under the law of that jurisdiction; or

2. June 30, 2018.

(3) The filing of a continuation statement after July 1, 2013, does not continue the effectiveness of the financing statement filed before July 1, 2013. However, upon the timely filing of a continuation statement after July 1, 2013, and in accordance with the law of the jurisdiction governing perfection as provided in this article, as amended by KRS 355.9-801 to 355.9-809, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for the period provided by the law of that jurisdiction.

(4) Subsection (2)(b)2. of this section applies to a financing statement that, before July 1, 2013, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article as it existed before July 1, 2013, only to the extent that this article as amended by KRS 355.9-801 to 355.9-809 provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(5) A financing statement that includes a financing statement filed before July 1, 2013, and a continuation statement filed after July 1, 2013, is effective only to the extent that it satisfies the requirements of this article, as amended by KRS 355.9-801 to 355.9-809, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of KRS 355.9-503(1)(b). A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of KRS 355.9-503(1)(c).

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 95, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

355.9-806 When initial financing statement suffices to continue effectiveness of financing statement.

(1) The filing of an initial financing statement in the office specified in KRS 355.9-501 continues the effectiveness of a financing statement filed before July 1, 2013, if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this article as amended by KRS 355.9-801 to 355.9-809;

(b) The pre-effective-date financing statement was filed in an office in another state; and

(c) The initial financing statement satisfies subsection (3) of this section.

(2) The filing of an initial financing statement under subsection (1) of this section continues the effectiveness of the pre-effective-date financing statement:

(a) If the initial financing statement is filed before July 1, 2013, for the period provided in KRS 355.9-515 before July 12, 2012, with respect to an initial financing statement; and

(b) If the initial financing statement is filed after July 1, 2013, for the period provided in KRS 355.9-515 on July 12, 2012, with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1) of this section, an initial financing statement shall:

(a) Satisfy the requirements of KRS Chapter 355 as amended by KRS 355.9-801 to 355.9-809 for an initial financing statement;

(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective-date financing statement remains effective.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 96, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/1/2013). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal

effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. That date appears in subsection (2)(a) and (b) of this statute because the legislative enactment that created this statute (2012 Ky. Acts Chapter 132, Section 96) contains the phrase "the effective date of Section 83 of this Act." In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102.

355.9-807 Amendment of pre-effective-date financing statement.

(1) In this section, "pre-effective-date financing statement" means a financing statement filed before July 1, 2013.

(2) After July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this article as amended by KRS 355.9-801 to 355.9-809. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4) of this section, if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after July 1, 2013, only if:

(a) The pre-effective-date financing statement and an amendment are filed in the office specified in KRS 355.9-501;

(b) An amendment is filed in the office specified in KRS 355.9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies KRS 355.9-806(3); or

(c) An initial financing statement that provides the information as amended and satisfies KRS 355.9-806(3) is filed in the office specified in KRS 355.9-501.

(4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under KRS 355.9-805(3) and (5) or 355.9-806.

(5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after July 1, 2013, by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies KRS 355.9-806(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this article as amended by KRS 355.9-801 to 355.9-809 as the office in which to file a financing statement.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 97, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

355.9-808 Person entitled to file initial financing statement or continuation statement.

A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before July 1, 2013; or

(b) To perfect or continue the perfection of a security interest.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 98, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

355.9-809 Priority.

Amendments to existing statutes and the creation of new statutes in this article contained in 2012 Ky. Acts ch. 132, secs. 60 to 99 determine the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this article as it existed before amendment determines priority.

Effective: July 1, 2013

History: Repealed, reenacted, and amended 2013 Ky. Acts ch. 10, sec. 4, effective March 14, 2013. -- Created 2012 Ky. Acts ch. 132, sec. 99, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). The statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, which are effective July 1, 2013, pursuant to 2013 Ky. Acts ch. 10, secs. 2 and 3, were: KRS 355.9-102, 355.9-105, 355.9-203, 355.9-207, 355.9-208, 355.9-301, 355.9-307, 355.9-310, 355.9-311, 355.9-312, 355.9-313, 355.9-314, 355.9-316, 355.9-317, 355.9-326, 355.9-338, 355.9-406, 355.9-408, 355.9-502, 355.9-503, 355.9-507, 355.9-510, 355.9-513A, 355.9-515, 355.9-516, 355.9-516A, 355.9-518, 355.9-520, 355.9-521, 355.9-601, 355.9-607, 355.9-801, 355.9-802, 355.9-803, 355.9-804, 355.9-805, 355.9-806, 355.9-807, 355.9-808, and 355.9-809.