

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.