

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.