

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.