

CHAPTER 124**(HB 649)**

AN ACT relating to Article 9 of the Uniform Commercial Code and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.9-109 is amended to read as follows:

- (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;~~{or}~~
- (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.*

Section 2. Whereas Kentucky state and local government issuers of debt are now subject to the perfection and filing requirements of the revised Article 9 of the Uniform Commercial Code and on July 1, 2002, will be required to comply with these requirements with respect to outstanding debt obligations, resulting in an increase in the burdens and costs of borrowing for these state and local governmental entities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 2, 2002