

**355.2A-519 Lessee's damages for nondelivery, repudiation, default, and breach of warranty in regard to accepted goods.**

- (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (KRS 355.2A-504) or otherwise determined pursuant to agreement of the parties (KRS 355.1-302 and 355.2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) of KRS 355.2A-518, or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.
- (2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.
- (3) Except as otherwise agreed, if the lessee has accepted goods and given notification (KRS 355.2A-516(3)), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.
- (4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 242, sec. 30, effective July 12, 2006. -- Amended 1992 Ky. Acts ch. 116, sec. 17, effective January 1, 1993. -- Created 1990 Ky. Acts ch. 363, sec. 66, effective January 1, 1991.