

### **355.9-109 Scope.**

- (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;
- (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.

**Effective:** April 2, 2002

**History:** Amended 2002 Ky. Acts ch. 124, sec. 1, effective April 2, 2002. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 3, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 29, effective July 1, 2001. -- Amended 1990 Ky. Acts ch. 478, sec. 2, effective July 13, 1990. -- Created 1958 Ky. Acts ch. 77, sec. 9-109, effective July 1, 1960.