

### **355.9-323 Future advances.**

- (1) Except as otherwise provided in subsection (3) of this section, for purposes of determining the priority of a perfected security interest under KRS 355.9-322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:
  - (a) Is made while the security interest is perfected only:
    1. Under KRS 355.9-309 when it attaches; or
    2. Temporarily under KRS 355.9-312(5), (6), or (7); and
  - (b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under KRS 355.9-309 or 355.9-312(5), (6), or (7).
- (2) Except as otherwise provided in subsection (3) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:
  - (a) Without knowledge of the lien; or
  - (b) Pursuant to a commitment entered into without knowledge of the lien.
- (3) Subsections (1) and (2) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.
- (4) Except as otherwise provided in subsection (5) of this section, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:
  - (a) The time the secured party acquires knowledge of the buyer's purchase; or
  - (b) Forty-five (45) days after the purchase.
- (5) Subsection (4) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.
- (6) Except as otherwise provided in subsection (7) of this section, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:
  - (a) The time the secured party acquires knowledge of the lease; or
  - (b) Forty-five (45) days after the lease contract becomes enforceable.
- (7) Subsection (6) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

**Effective:** July 1, 2001

**History:** Created 2000 Ky. Acts ch. 408, sec. 63, effective July 1, 2001.