

**355.9-625 Remedies for secured party's failure to comply with article.**

- (1) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.
- (2) Subject to subsections (3), (4), and (6) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.
- (3) Except as otherwise provided in KRS 355.9-628:
  - (a) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) of this section for its loss; and
  - (b) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part of this article may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.
- (4) A debtor whose deficiency is eliminated under KRS 355.9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under KRS 355.9-626 may not otherwise recover under subsection (2) of this section for noncompliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.
- (5) In addition to any damages recoverable under subsection (2) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars (\$500) in each case from a person that:
  - (a) Fails to comply with KRS 355.9-208;
  - (b) Fails to comply with KRS 355.9-209;
  - (c) Files a record that the person is not entitled to file under KRS 355.9-509(1);
  - (d) Fails to cause the secured party of record to file or send a termination statement as required by KRS 355.9-513(1) or (3);
  - (e) Fails to comply with KRS 355.9-616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
  - (f) Fails to comply with KRS 355.9-616(2)(b).
- (6) A debtor or consumer obligor may recover damages under subsection (2) of this section and, in addition, five hundred dollars (\$500) in each case from a person that, without reasonable cause, fails to comply with a request under KRS 355.9-210. A recipient of a request under KRS 355.9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

- (7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under KRS 355.9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

**Effective:** July 1, 2001

**History:** Created 2000 Ky. Acts ch. 408, sec. 143, effective July 1, 2001.