

**278.690 Priority of transfer not impaired by modification -- Priority of conflicting interests.**

- (1) The priority of transfer perfected under KRS 278.686, 278.688, 278.690, and 278.692 shall not be impaired by any later modification of the financing order or securitized property or by the commingling of funds arising from securitized property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under KRS 278.686 and 278.688 and this section is terminated when those funds are transferred to a segregated account for the assignee or a financing party. If securitized property has been transferred to an assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing party.
- (2) The priority of the conflicting interest of assignees in the same interest or rights in any securitized property shall be determined as follows:
  - (a) Conflicting perfected interests or rights of assignees rank according to priority in time of perfection. Priority dates from the time of filing covering the transfer shall be made in accordance with KRS 278.692;
  - (b) A perfected interest or right of an assignee has priority over a conflicting unperfected interest or right of an assignee; and
  - (c) A perfected interest or right of an assignee has priority over a person who becomes a lien creditor after the perfection of the assignee's interest or right.
- (3) The description of securitized property being transferred to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security agreement, pledge agreement, or other security document, or indicated in any financing statement shall be sufficient only if the description or indication:
  - (a) Refers to the financing order that created the securitized property; and
  - (b) States that the agreement or financing statement covers all or part of the property described in the financing order.
- (4) KRS 278.670 to 278.696 and 65.114 shall apply to all purported transfers of, and all purported grants, liens, or security interests in, securitized property, regardless of whether the related sale agreement, purchase agreement, or transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any financing statement was filed.

**Effective:** June 29, 2023

**History:** Created 2023 Ky. Acts ch. 72, sec. 11, effective June 29, 2023.