

### **355.9-324 Priority of purchase-money security interests.**

- (1) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in KRS 355.9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.
- (2) Subject to subsection (3) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in KRS 355.9-330, and, except as otherwise provided in KRS 355.9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:
  - (a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;
  - (b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
  - (c) The holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and
  - (d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.
- (3) Subsection (2)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:
  - (a) If the purchase-money security interest is perfected by filing, before the date of the filing; or
  - (b) If the purchase-money security interest is temporarily perfected without filing or possession under KRS 355.9-312(6), before the beginning of the twenty (20) day period thereunder.
- (4) Subject to subsection (5) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in KRS 355.9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:
  - (a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;
  - (b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

- (c) The holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and
  - (d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.
- (5) Subsection (4)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:
- (a) If the purchase-money security interest is perfected by filing, before the date of the filing; or
  - (b) If the purchase-money security interest is temporarily perfected without filing or possession under KRS 355.9-312(6), before the beginning of the twenty (20) day period thereunder.
- (6) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in KRS 355.9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.
- (7) If more than one security interest qualifies for priority in the same collateral under subsection (1), (2), (4), or (6) of this section:
- (a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and
  - (b) In all other cases, KRS 355.9-322(1) applies to the qualifying security interests.

**Effective:** July 1, 2001

**History:** Created 2000 Ky. Acts ch. 408, sec. 64, effective July 1, 2001.