

355.9-404 Rights acquired by assignee -- Claims and defenses against assignee.

- (1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) to (5) of this section, the rights of an assignee are subject to:
 - (a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and
 - (b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.
- (2) Subject to subsection (3) of this section and except as otherwise provided in subsection (4) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) of this section only to reduce the amount the account debtor owes.
- (3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.
- (4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.
- (5) This section does not apply to an assignment of a health-care-insurance receivable.

Effective: July 1, 2001

History: Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 86, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 542, sec. 6, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 118, sec. 77, effective July 1, 1987; and ch. 204, sec. 9, effective July 15, 1986. -- Amended 1966 Ky. Acts ch. 83, sec. 3; and ch. 185, sec. 2. -- Amended 1962 Ky. Acts ch. 83, sec. 12. -- Created 1958 Ky. Acts ch. 77, sec. 9-404.