

355.9-208 Additional duties of secured party having control of collateral.

- (1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.
- (2) Within ten (10) days after receiving an authenticated demand by the debtor:
 - (a) A secured party having control of a deposit account under KRS 355.9-104(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;
 - (b) A secured party having control of a deposit account under KRS 355.9-104(1)(c) shall:
 1. Pay the debtor the balance on deposit in the deposit account; or
 2. Transfer the balance on deposit into a deposit account in the debtor's name;
 - (c) A secured party, other than a buyer, having control of electronic chattel paper under KRS 355.9-105 shall:
 1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;
 2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and
 3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;
 - (d) A secured party having control of investment property under KRS 355.8-106(4)(b) or 355.9-106(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;
 - (e) A secured party having control of a letter-of-credit right under KRS 355.9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; and
 - (f) A secured party having control of an electronic document shall:
 1. Give control of the electronic document to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and
3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

Effective: July 1, 2013

History: Amended 2012 Ky. Acts ch. 132, sec. 64, effective July 1, 2013. -- Repealed and reenacted 2001 Ky. Acts ch. 119, sec. 5, effective July 1, 2001. -- Repealed and reenacted 2000 Ky. Acts ch. 408, sec. 38, effective July 1, 2001. -- Created 1958 Ky. Acts ch. 77, sec. 9-208, effective July 1, 1960.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

Legislative Research Commission Note (7/12/2012). In 2010, the National Conference of Commissioners on Uniform State Laws and the American Law Institute proposed a Uniform Act for adoption by the states that contained revisions to Article 9 of the Uniform Commercial Code. The effective date for all proposed Article 9 revisions was to be July 1, 2013. Those revisions were enacted in 2012 Ky. Acts Chapter 132, Sections 60 to 99. Sections 60 to 90 contained the substantive Article 9 revisions, and Sections 91 to 99 contained the transitional Article 9 revisions created to handle secured transactions made prior to July 1, 2013. Section 91 of that Act (codified as KRS 355.9-801) and Section 102 of that Act (a noncodified effective date provision) both stated, "Sections 91 to 99 of this Act take effect July 1, 2013." The normal effective date for legislation enacted at the 2012 Regular Session of the General Assembly is July 12, 2012. In Opinion of the Attorney General 12-010, issued July 3, 2012, Section 91 (codified as KRS 355.9-801) was determined to have contained a manifest clerical error, and should have instead read, "Sections 60 to 90 of this Act take effect July 1, 2013," thereby making the substantive Article 9 revisions effective on the same date as the transitional Article 9 provisions in conformity with the 2010 Uniform Act proposal and 2012 Ky. Acts Chapter 132, Section 102. This statute was one of the substantive provisions of Article 9 contained in 2012 Ky. Acts Chapter 132, Sections 60 to 90.