AN ACT relating to the Uniform Commercial Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

 SECTION 1. ARTICLE 12 OF KRS CHAPTER 355 IS ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This article may be cited as Uniform Commercial Code – Controllable Electronic Records.

 SECTION 2. A NEW SECTION OF ARTICLE 12 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) In this article:

(a) 1. "Controllable electronic record" means an electronic record that can be subjected to control under Section 5 of this Act.

2. Except as otherwise provided or the context otherwise requires, the term includes a controllable account or a controllable payment intangible evidenced by a controllable electronic record.

3. The term does not include:

 a. Deposit accounts;

 b. Chattel paper;

 c. Electronic documents of title;

 d. Intangible money;

 e. Investment property; or

 f. A transferable record, as defined in:

 i. The Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7021; or

 ii. The Uniform Electronic Transactions Act, Section 53 of this Act; and

(b) "Electronic record" means a record stored in an electronic medium.

(2) The following definitions in Section 24 of this Act apply to this article:
(a) "Account debtor";
(b) "Authenticate";
(c) "Chattel paper";
(d) "Controllable account";
(e) "Controllable payment intangible";
(f) "Deposit account";
(g) "Intangible money";
(h) "Investment property"; and
(i) "Proceeds."

(3) In this article, "value" has the meaning provided in KRS 355.3-303(1).

SECTION 3. A NEW SECTION OF ARTICLE 12 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) This article applies to controllable electronic records.

(2) If there is conflict between this article and Article 9 of this chapter, Article 9 governs.

(3) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers.

(4) (a) In case of conflict between this article and a rule of law described in subsection (3) of this section, the rule of law controls.

(b) Failure to comply with a rule of law described in subsection (3) of this section has only the effect the rule of law specifies.

(5) This article does not:

(a) Validate any rate, charge, agreement, or practice that violates a rule of law described in subsection (3) of this section; or

(b) Extend the application of a rule of law described in subsection (3) of this section to a transaction not otherwise subject to it.

SECTION 4. A NEW SECTION OF ARTICLE 12 OF KRS CHAPTER 355 IS
CREATED TO READ AS FOLLOWS:

(1) In this section, "qualifying purchaser" means a purchaser of a controllable electronic record, or an interest in the controllable electronic record, that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

(2) Except as provided in this section, law other than this article determines whether a person acquires a right in a controllable electronic record and the right, if any, the person acquires.

(3) A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer.

(4) A purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(5) A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(6) Except as provided in subsection (5) of this section or law other than this article, a qualifying purchaser takes a right to payment, right to performance, or interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

(7) An action based on a claim of a property right in a controllable electronic record, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a qualifying purchaser of any controllable electronic record.

(8) Filing of a financing statement under Article 9 of this chapter is not notice of a claim of a property right in a controllable electronic record.
A person has control of a controllable electronic record if:

(a) The controllable electronic record, a record attached to or logically associated with the controllable electronic record, or the system in which the controllable electronic record is recorded, if any, gives the person:

1. The power to avail itself of substantially all the benefit from the controllable electronic record; and

2. Subject to subsection (2) of this section, the exclusive power to:

   a. Prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

   b. Transfer control of the controllable electronic record to another person or cause another person to obtain control of a controllable electronic record that is derived from the controllable electronic record; and

(b) The controllable electronic record, a record attached to or logically associated with the controllable electronic record, or the system in which the controllable electronic record is recorded, if any, enables the person to readily identify itself in any way as having the powers specified in paragraph (a) of this subsection, including by name, identifying number, cryptographic key, office, or account number.

(2) A power specified in subsection (1)(a) of this section is exclusive, even if:

(a) The controllable electronic record or the system in which the controllable electronic record is recorded, if any:

   1. Limits the use to which the controllable electronic record may be put; or

   2. Has a protocol that is programmed to result in a transfer of control; or

(b) The person has agreed to share the power with another person.
CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an account debtor on a controllable account or controllable payment intangible may discharge its obligation:

(a) By paying the person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible;

or

(b) By paying a person that formerly had control of the controllable electronic record.

(2) Subject to subsections (4) and (8) of this section, an account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(a) Is authenticated by:

1. A person that formerly had control; or

2. The person to which control was transferred;

(b) Reasonably identifies the controllable account or controllable payment intangible;

(c) Notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(d) Identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and

(e) Provides a commercially reasonable method by which the account debtor is to pay the transferee.

(3) After receipt of a notification that complies with subsection (2) of this section, the account debtor may:

(a) Discharge its obligation only by paying in accordance with the notification; and
(b) Not discharge the obligation by paying a person that formerly had control.

(4) Subject to subsection (8) of this section, notification is ineffective under subsection (2) of this section:

(a) Unless, before the notification is sent, the account debtor and the person that at that time had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in an authenticated record to a commercially reasonable method by which a person can furnish reasonable proof that control has been transferred;

(b) To the extent that an agreement between the account debtor and the seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of the account debtor, if the notification notifies the account debtor to:

1. Divide a payment;

2. Make less than the full amount of any required payment; or

3. Pay any portions of a payment by more than one (1) method or to more than one (1) person.

(5) Subject to subsection (8) of this section:

(a) If requested by the account debtor, the person giving the notification shall seasonably furnish reasonable proof, using the agreed method, that control of the controllable electronic record has been transferred; and

(b) Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (2) of this section.

(6) A person furnishes reasonable proof that control has been transferred if the
person demonstrates, using the agreed method, that the transferee has the power
to:

(a) Avail itself of substantially all the benefit from the controllable electronic
    record;

(b) Prevent others from availing themselves of substantially all the benefit from
    the controllable electronic record; and

(c) Transfer these powers to another person.

(7) Subject to subsection (8) of this section, an account debtor may not waive or vary
    its option under subsection (4)(c) of this section.

(8) This section is subject to law other than this article which establishes a different
    rule for an account debtor who:

(a) Is an individual; and

(b) Incurred the obligation primarily for personal, family, or household
    purposes.

SECTION 7. A NEW SECTION OF ARTICLE 12 OF KRS CHAPTER 355 IS
CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (3) of this section, the local law of a controllable
    electronic record's jurisdiction governs the matters covered by this article.

(2) The following rules determine a controllable electronic record's jurisdiction for
    purposes of this section:

(a) If the controllable electronic record, or a record attached to or logically
    associated with the controllable electronic record which is readily available
    for review, expressly provides that a particular jurisdiction is the
    controllable electronic record's jurisdiction for purposes of this article or
    chapter, that jurisdiction is the controllable electronic record's jurisdiction;

(b) If paragraph (a) of this subsection does not apply and the rules of the
    system in which the controllable electronic record is recorded are readily
available for review and expressly provide that a particular jurisdiction is
the controllable electronic record's jurisdiction for purposes of this article
or this chapter, that jurisdiction is the controllable electronic record's
jurisdiction;

(c) If neither paragraph (a) nor paragraph (b) of this subsection applies and
the controllable electronic record, or a record attached to or logically
associated with the controllable electronic record which is readily available
for review, expressly provides that the controllable electronic record is
governed by the law of a particular jurisdiction, that jurisdiction is the
controllable electronic record's jurisdiction;

(d) If none of the preceding paragraphs applies and the rules of the system in
which the controllable electronic record is recorded are readily available for
review and expressly provide that the controllable electronic record or the
system is governed by the law of a particular jurisdiction, that jurisdiction is
the controllable electronic record's jurisdiction; and

(e) If none of the preceding paragraphs applies, the controllable electronic
record's jurisdiction is the jurisdiction in which the transferor is located,
unless the location of the transferor cannot readily be determined.

(3) If none of paragraphs (a) to (e) of subsection (2) of this section applies, the law
that governs the matters covered by this article is determined under KRS 355.1-
301.

Section 8. KRS 355.1-201 is amended to read as follows:

(1) Unless the context otherwise requires, words or phrases defined in this section, or in
the additional definitions contained in other articles of this chapter[the Uniform
Commercial Code] that apply to particular articles or parts thereof, have the
meanings stated.

(2) Subject to definitions contained in other articles of this chapter[the Uniform
Commercial Code] that apply to particular articles or parts thereof:

(a) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined;

(b) "Aggrieved party" means a party entitled to pursue a remedy;

(c) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in KRS 355.1-303;

(d) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company;

(e) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, a negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank;

(f) 1. "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods.

2. The term does not include a warehouse receipt;

(g) "Branch" includes a separately incorporated foreign branch of a bank;

(h) "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence;

(i) 1. "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind.

2. A person buys goods in the ordinary course if the sale to the person
comports with the usual or customary practices in the kind of business in
which the seller is engaged or with the seller’s own usual or customary
practices.

3. A person that sells oil, gas, or other minerals at the wellhead or
minehead is a person in the business of selling goods of that kind.

4. A buyer in ordinary course of business may buy for cash, by exchange of
other property, or on secured or unsecured credit, and may acquire goods
or documents of title under a preexisting contract for sale.

5. Only a buyer that takes possession of the goods or has a right to recover
the goods from the seller under Article 2 of this chapter may be a buyer
in ordinary course of business.

6. "Buyer in ordinary course of business" does not include a person that
acquires goods in a transfer in bulk or as security for or in total or partial
satisfaction of a money debt;

(j) "Conspicuous," with reference to a term, means so written, displayed, or
presented that a reasonable person against which it is to operate ought to have
noticed it[. Whether a term is "conspicuous" or not is a decision for the court.

Conspicuous terms include the following:

1. A heading in capitals equal to or greater in size than the surrounding
text, or in contrasting type, font, or color to the surrounding text of the
same or lesser size; and

2. Language in the body of a record or display in larger type than the
surrounding text, or in contrasting type, font, or color to the surrounding
text of the same size, or set off from surrounding text of the same size
by symbols or other marks that call attention to the language[;]

(k) "Consumer" means an individual who enters into a transaction primarily for
personal, family, or household purposes;
"Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by this chapter and the Uniform Commercial Code as supplemented by any other applicable laws;

"Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate;

"Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim;

"Delivery":
1. With respect to an electronic document of title, means voluntary transfer of control; and
2. With respect to an instrument, document of title, or chattel paper, means voluntary transfer of possession;

"Document of title" means a record that:
1. In the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers; and
2. Purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title is evidenced by a record consisting of information stored in an electronic medium. A tangible document of title
is evidenced by a record consisting of information that is inscribed on a tangible medium;

(q) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(r) "Fault" means a default, breach, or wrongful act or omission;

(s) "Fungible goods" means:

1. Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or
2. Goods that by agreement are treated as equivalent;

(t) "Genuine" means free of forgery or counterfeiting;

(u) "Good faith," except as otherwise provided in Article 5 of this chapter, means honesty in fact and the observance of reasonable commercial standards of fair dealing;

(v) "Holder" means:

1. The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;
2. The person in possession of a document of title if the goods are deliverable either to bearer or to the order of the person in possession; or
3. A person in control of a negotiable electronic document of title;

(w) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved;

(x) "Insolvent" means:

1. Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;
2. Being unable to pay debts as they become due; or
3. Being insolvent within the meaning of federal bankruptcy law;

1. "Money" means a medium of exchange currently authorized or
adopted by a domestic or foreign government, by an intergovernmental
organization, or pursuant to an agreement between two (2) or more
governments.

2. The term does not include a medium of exchange unless it was initially
issued, created, or distributed by one (1) or more of such
persons (includes a monetary unit of account established by an
intergovernmental organization or by agreement between two (2) or
more countries);

3. "Organization" means a person other than an individual;

4. "Party," as distinguished from "third party," means a person that has
engaged in a transaction or made an agreement subject to this chapter;

5. "Person" means an individual, corporation, business trust, estate,
trust, partnership, limited liability company, association, joint venture,
government, governmental subdivision, agency, or instrumentality,
public corporation, or any other legal or commercial entity;

6. The term includes a protected series, however denominated, of an
entity if the protected series is established under law other than this
chapter that limits, or limits if conditions specified under such law are
satisfied, the ability of a creditor of the entity, or any other protected
series of the entity, to satisfy a claim from assets of the protected
series;

7. "Present value" means the amount as of a date certain of one (1) or more
sums payable in the future, discounted to the date certain by use of either an
interest rate specified by the parties if that rate is not manifestly unreasonable
at the time the transaction is entered into or, if an interest rate is not so
specified, a commercially reasonable rate that takes into account the facts and
circumstances at the time the transaction is entered into;

1. "Purchase" means taking by sale, lease, discount, negotiation, mortgage,
   pledge, lien, security interest, issue or reissue, gift, or any other voluntary
   transaction creating an interest in property;

2. "Purchaser" means a person that takes by purchase;

3. "Record" means information that is inscribed on a tangible medium or
   that is stored in an electronic or other medium and is retrievable in perceivable
   form;

4. "Remedy" means any remedial right to which an aggrieved party is
   entitled with or without resort to a tribunal;

5. "Representative" means a person empowered to act for another,
   including an agent, an officer of a corporation or association, and a trustee,
   executor, or administrator of an estate;

6. "Right" includes remedy;

1. "Security interest" means an interest in personal property or
   fixtures which secures payment or performance of an obligation.

2. The term "Security interest" includes any interest of a consignor and a
   buyer of accounts, chattel paper, a payment intangible, or a promissory
   note in a transaction that is subject to Article 9 of this chapter.

3. The term "Security interest" does not include the special property
   interest of a buyer of goods on identification of those goods to a contract
   for sale under KRS 355.2-401, but a buyer may also acquire a "security
   interest" by complying with Article 9 of this chapter.

4. Except as otherwise provided in KRS 355.2-505, the right of a seller or
   lessor of goods under Article 2 or 2A of this chapter to retain or acquire
possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9 of this chapter.

5. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under KRS 355.2-401 is limited in effect to a reservation of a "security interest."

6. Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to KRS 355.1-203;

(a) "Send" in connection with a writing, record, or notice means:

1. To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

2. In any other way to cause to be received any record or notice within the time it would have arrived if properly sent;

(al) "Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing;

(am) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(an) "Surety" includes a guarantor or other secondary obligor;

(ao) "Term" means a portion of an agreement that relates to a particular matter;

(ap) "Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery;

(aq) "Warehouse receipt" means a document of title issued by a person
engaged in the business of storing goods for hire; and

1. "Writing" includes printing, typewriting, or any other intentional reduction to tangible form.

2. "Written" has a corresponding meaning.

Section 9. KRS 355.1-204 is amended to read as follows:

Except as otherwise provided in Articles 3, 4, and 5, and 12 of this chapter, a person gives value for rights if the person acquires them:

(1) In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2) As security for, or in total or partial satisfaction of, a preexisting claim;

(3) By accepting delivery under a preexisting contract for purchase; or

(4) In return for any consideration sufficient to support a simple contract.

Section 10. KRS 355.3-104 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section, "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(a) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(b) Is payable on demand or at a definite time; and

(c) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain:

1. An undertaking or power to give, maintain, or protect collateral to secure payment;

2. An authorization or power to the holder to confess judgment or realize
on or dispose of collateral;

3. A waiver of the benefit of any law intended for the advantage or protection of an obligor;

4. An agreement as to what law governs the instrument or the rights and obligations created by the instrument; or

5. An undertaking to resolve a dispute concerning the promise or order in a specified forum.

(2) "Instrument" means a negotiable instrument.

(3) An order that meets all of the requirements of subsection (1) of this section, except paragraph (a) of that subsection, and otherwise falls within the definition of "check" in subsection (6) of this section is a negotiable instrument and a check.

(4) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

(5) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

(6) "Check" means:

(a) A draft, other than a documentary draft, payable on demand and drawn on a bank; or

(b) A cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order."

(7) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(8) "Teller's check" means a draft drawn by a bank:

(a) On another bank; or
(b) Payable at or through a bank.

(9) "Traveler's check" means an instrument that:

(a) Is payable on demand;

(b) Is drawn on or payable at or through a bank;

(c) Is designated by the term "traveler's check" or by a substantially similar term;

and

(d) Requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(10) (a) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money.

(b) A certificate of deposit is a note of the bank.

Section 11. KRS 355.3-105 is amended to read as follows:

(1) "Issue" means the first delivery of an instrument, or first transmission of an image of an item and information describing the item, by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

(2) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(3) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

Section 12. KRS 355.3-604 is amended to read as follows:

(1) (a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument:

L[(a)] By an intentional voluntary act, such as surrender of the instrument
to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge; or

2. (b) By agreeing not to sue or otherwise renouncing rights against the party by a signed record.

(b) The obligation of a party to pay the instrument is not discharged solely by the destruction of a check in connection with a process by which, initially, information is extracted from the check or an image is made and, subsequently, the information or image is transmitted for payment.

(2) Cancellation or striking out of an indorsement pursuant to subsection (1) of this section does not affect the status and rights of a party derived from the indorsement.

(3) In this section, "signed," with respect to a record that is not in writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.

Section 13. KRS 355.4-406 is amended to read as follows:

(1) (a) A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide information in the statement of account sufficient to allow the customer reasonably to identify the items paid.

(b) A statement of account that describes each item paid provides sufficient information if the item is described by item number, amount, and date of payment and includes an image of each item showing the name of the payee and the date of the item is sufficient.

(c) Whether a statement of account that does not include an image of each item is sufficient is a question of fact.

(2) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish
legible copies of the items until the expiration of seven (7) years after receipt of the
items. A customer may request an item from the bank that paid the item, and that
bank must provide in a reasonable time either the item or, if the item has been
destroyed or is not otherwise obtainable, a legible copy of the item.

(3) If a bank sends or makes available a statement of account or items pursuant to
subsection (1) of this section, the customer must exercise reasonable promptness in
examining the statement or the items to determine whether any payment was not
authorized because of an alteration of an item or because a purported signature by or
on behalf of the customer was not authorized. If, based on the statement or items
provided, the customer should reasonably have discovered the unauthorized
payment, the customer must promptly notify the bank of the relevant facts.

(4) If the bank proves that the customer failed, with respect to an item, to comply with
the duties imposed on the customer by subsection (3) of this section, the customer is
precluded from asserting against the bank:

(a) The customer's unauthorized signature or any alteration on the item, if the
bank also proves that it suffered a loss by reason of the failure; and

(b) The customer's unauthorized signature or alteration by the same wrongdoer on
any other item paid in good faith by the bank if the payment was made before
the bank received notice from the customer of the unauthorized signature or
alteration and after the customer had been afforded a reasonable period of
time, not exceeding thirty (30) days, in which to examine the item or
statement of account and notify the bank.

(5) If subsection (4) of this section applies and the customer proves that the bank failed
to exercise ordinary care in paying the item and that the failure substantially
contributed to loss, the loss is allocated between the customer precluded and the
bank asserting the preclusion according to the extent to which the failure of the
customer to comply with subsection (3) of this section and the failure of the bank to
exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection (4) of this section does not apply.

(6) Without regard to care or lack of care of either the customer or the bank, a customer who does not within one (1) year after the statement or items are made available to the customer (subsection (1)) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under KRS 355.4-208 with respect to the unauthorized signature or alteration to which the preclusion applies.

Section 14. KRS 355.4A-103 is amended to read as follows:

(1) In this article:

(a) "Payment order" means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in a record, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

1. The instruction does not state a condition to payment to the beneficiary other than time of payment;

2. The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

3. The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

(b) "Beneficiary" means the person to be paid by the beneficiary's bank.

(c) "Beneficiary's bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which
otherwise is to make payment to the beneficiary if the order does not provide
for payment to an account.

(d) "Receiving bank" means the bank to which the sender's instruction is
addressed.

(e) "Sender" means the person giving the instruction to the receiving bank.

(2) If an instruction complying with subsection (1)(a) is to make more than one (1)
payment to a beneficiary, the instruction is a separate payment order with respect to
each payment.

(3) A payment order is issued when it is sent to the receiving bank.

.Section 15. KRS 355.4A-201 is amended to read as follows:

(1) "Security procedure" means a procedure established by agreement of a customer and
a receiving bank for the purpose of:

(a) Verifying that a payment order or communication amending or canceling
a payment order is that of the customer; or

(b) Detecting error in the transmission or the content of the payment order
or communication.

(2) A security procedure may:

(a) Impose an obligation on the receiving bank or the customer; and

(b) Require the use of algorithms or other codes, identifying words, numbers,
symbols, sounds, or biometrics, encryption, callback procedures, or similar
security devices.

(3) Comparison of a signature on a payment order or communication with an
authorized specimen signature of the customer or requiring that a payment order
be sent from a known email address, IP address, or phone number is not by itself
a security procedure.

.Section 16. KRS 355.4A-202 is amended to read as follows:

(1) A payment order received by the receiving bank is the authorized order of the
person identified as sender if that person authorized the order or is otherwise bound
by it under the law of agency.

(2) (a) If a bank and its customer have agreed that the authenticity of payment orders
issued to the bank in the name of the customer as sender will be verified
pursuant to a security procedure, a payment order received by the receiving
bank is effective as the order of the customer, whether or not authorized, if:

1. The security procedure is a commercially reasonable method of
   providing security against unauthorized payment orders; and

2. The bank proves that it accepted the payment order in good faith
   and in compliance with the bank's obligations under the
   security procedure and any written agreement or instruction of the customer,
   evidenced by a record, restricting acceptance of payment orders issued
   in the name the customer.

(b) The bank is not required to follow an instruction that violates an written
agreement, evidenced by a record, with the customer or notice of which is not
received at a time and in a manner affording the bank a reasonable opportunity
 to act on it before the payment order is accepted.

(3) Commercial reasonableness of a security procedure is a question of law to be
determined by considering the wishes of the customer expressed to the bank, the
circumstances of the customer known to the bank, including the size, type, and
frequency of payment orders normally issued by the customer to the bank,
alternative security procedures offered to the customer, and security procedures in
general use by customers and receiving banks similarly situated. A security
procedure is deemed to be commercially reasonable if:

(a) The security procedure was chosen by the customer after the bank offered, and
the customer refused, a security procedure that was commercially reasonable
for that customer; and
(b) The customer expressly agreed in a record to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with the bank's obligation under the security procedure chosen by the customer.

(4) The term "sender" in this article includes the customer in whose name a payment order is issued if the order is:

(a) The authorized order of the customer under subsection (1) of this section; or

(b) Effective as the order of the customer under subsection (2) of this section.

(5) This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

(6) Except as provided in this section and in KRS 355.4A-203(1)(a), rights and obligations arising under this section or KRS 355.4A-203 may not be varied by agreement.

Section 17. KRS 355.4A-203 is amended to read as follows:

(1) If an accepted payment order is not, under KRS 355.4A-202(1), an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to KRS 355.4A-202(2), the following rules apply:

(a) By express agreement, evidenced by a record, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order; and

(b) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person:

1. Entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure; or

2. Who obtained access to transmitting facilities of the customer or who
obtained, from a source controlled by the customer and without authority
of the receiving bank, information facilitating breach of the security
procedure, regardless of how the information was obtained or whether
the customer was at fault. **Information includes any access device, computer software, or the like.**

[Information includes any access device, computer software, or the like.]

(2) This section applies to amendments of payment orders to the same extent it applies
to payment orders.

Section 18. KRS 355.4A-207 is amended to read as follows:

(1) Subject to subsection (2) of this section, if, in a payment order received by the
beneficiary's bank, the name, bank account number, or other identification of the
beneficiary refers to a nonexistent or unidentifiable person or account, no person
has rights as a beneficiary of the order and acceptance of the order cannot occur.

(2) If a payment order received by the beneficiary's bank identifies the beneficiary both
by name and by an identifying or bank account number and the name and number
identify different persons, the following rules apply:

(a) Except as otherwise provided in subsection (3) of this section:

1. If the beneficiary's bank does not know that the name and number refer
to different persons, it may rely on the number as the proper
identification of the beneficiary of the order; and

2. The beneficiary's bank need not determine whether the name and
number refer to the same person; and

(b) If the beneficiary's bank pays the person identified by name or knows
that the name and number identify different persons, no person has
rights as beneficiary except the person paid by the beneficiary's bank if
that person was entitled to receive payment from the originator of the
funds transfer.
2. If no person has rights as beneficiary, acceptance of the order cannot occur.

3. (a) If a payment order described in subsection (2) of this section is accepted, the originator's payment order described the beneficiary inconsistently by name and number and the beneficiary's bank pays the person identified by number as permitted by subsection (2)(a) of this section, the following rules apply:

   (a) If the originator is a bank, the originator is obliged to pay its order; and

   (b) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary.

2. Proof of notice may be made by any admissible evidence.

3. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, authenticated a record [signed a writing] stating the information to which the notice relates.

4. In a case governed by subsection (2)(a) of this section, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as
follows:

(a) If the originator is obliged to pay its payment order as stated in subsection (3) of this section, the originator has the right to recover; and

(b) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

Section 19. KRS 355.4A-208 is amended to read as follows:

(1) (a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(b) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(c) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) (a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(b) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons.

2. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank.

3. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(c) If the sender is not a bank and the receiving bank proves that the
sender, before the payment order was accepted, had notice that the
receiving bank might rely on the number as the proper identification of
the intermediary or beneficiary's bank even if it identifies a person
different from the bank identified by name, the rights and obligations of
the sender and the receiving bank are governed by subsection (1)(c)
of this section, as though the sender were a bank.

2. Proof of notice may be made by any admissible evidence.

3. The receiving bank satisfies the burden of proof if it proves that the
sender, before the payment order was accepted, authenticated a
record stating the information to which the notice relates.

(d)(c) 1. Regardless of whether the sender is a bank, the receiving bank may
rely on the name as the proper identification of the intermediary or
beneficiary's bank if the receiving bank, at the time it executes the
sender's order, does not know that the name and number identify
different persons.

2. The receiving bank need not determine whether the name and number
refer to the same person.

(e)(d) If the receiving bank knows that the name and number identify different
persons, reliance on either the name or the number in executing the sender's
payment order is a breach of the obligation stated in KRS 355.4A-302(1)(a).

Section 20. KRS 355.4A-210 is amended to read as follows:

(1) (a) A payment order is rejected by the receiving bank by a notice of rejection
transmitted to the sender orally or electronically or in a record.

(b) A notice of rejection need not use any particular words and is sufficient if it
indicates that the receiving bank is rejecting the order or will not execute or
pay the order.
(c) Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances.

(d) If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received.

(e) If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order:

1. Any means complying with the agreement is reasonable; and
2. Any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(2) (a) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order.

(b) If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to KRS 355.4A-211(4) or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(3) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(4) (a) Acceptance of a payment order precludes a later rejection of the order.

(b) Rejection of a payment order precludes a later acceptance of the order.
Section 21. KRS 355.4A-211 is amended to read as follows:

(1)  
(a) A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally or in a record.

(b) If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(2) Subject to subsection (1) of this section, a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(3)  
(a) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

(b) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(c) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order:

1. That is a duplicate of a payment order previously issued by the sender;
2. That orders payment to a beneficiary not entitled to receive payment from the originator; or
3. That orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(4) An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

(5) (a) A canceled payment order cannot be accepted.

(b) If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance.

(c) Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(6) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(7) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(8) A funds-transfer system rule is not effective to the extent it conflicts with
subsection (3)(c)(b) of this section.

Section 22. KRS 355.5-102 is amended to read as follows:

(1) In this article:

(a) "Adviser" means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended;

(b) "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer;

(c) "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit;

(d) "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another;

(e) "Dishonor" of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit;

(f) "Document" means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion: Which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in KRS 355.5-108(5); and
b. Which is capable of being examined for compliance with the terms and conditions of the letter of credit.

2. A document may not be oral.

(g) "Good faith" means honesty in fact in the conduct or transaction concerned.

(h) "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value.

2. Unless the letter of credit otherwise provides, "honor" occurs:

a. Upon payment;

b. If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

c. If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(i) "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

(j) "Letter of credit" means a definite undertaking that satisfies the requirements of KRS 355.5-104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

(k) "Nominated person" means a person whom the issuer:

1. Designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit; and

2. Undertakes by agreement or custom and practice to reimburse.

(l) "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(m) "Presenter" means a person making a presentation as or on behalf of a
beneficiary or nominated person;

(n) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form;

(o) "Signed," with respect to a record that is not a writing, means to attach to or logically associate with the record an electronic sound, symbol, biometric measurement or calculation, or process with present intent to adopt or accept the record; and

(p) "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(2) Definitions in other articles in this chapter applying to this article and the sections in which they appear are:

"Accept" or "Acceptance." KRS 355.3-409;

"Value." KRS 355.3-303 and 355.4-211.

(3) Article 1 of this chapter contains certain additional general definitions and principles of construction and interpretation applicable throughout this article.

SECTION 23. KRS 355.7-106 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A secured party has control of an electronic copy of a document of title if:

(a) The electronic copy, a record attached to or logically associated with the electronic copy, or the system in which the electronic copy is recorded, if any:

  1. Enables the secured party to readily identify each electronic copy of the document of title as an authoritative copy or nonauthoritative copy
of the document of title:

2. Enables the secured party to readily identify itself as the assignee of each authoritative electronic copy of the document of title; and

3. Subject to subsection (2) of this section, gives the secured party the exclusive power to:
   a. Prevent others from adding or changing an identified assignee of each authoritative electronic copy of the document of title; and
   b. Transfer control of the authoritative copy of the document of title; or
   (b) Another person on behalf of the secured party obtains control of the document of title or, having previously obtained control of the electronic copy, acknowledges in an authenticated record that it has control.

(2) A power specified in subsection (1)(a) of this section is exclusive, even if:
   (a) The electronic copy or the system in which the electronic copy is recorded, if any:
      1. Limits the use to which the electronic record may be put; or
      2. Has protocols that are programmed to result in a transfer of control;
      or
   (b) The secured party has agreed to share the power with another person.

(3) For the purposes of subsection (1)(a)2. of this section, a secured party may be identified in any way, including by name, identifying number, cryptographic key, office, or account number.

Section 24. KRS 355.9-102 is amended to read as follows:

(1) In this article:
   (a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;
(b) 1. "Account," except as used in "account for," and "on account of," means a right to payment of a monetary obligation, whether or not earned by performance:

a. For property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;
b. For services rendered or to be rendered;
c. For a policy of insurance issued or to be issued;
d. For a secondary obligation incurred or to be incurred;
e. For energy provided or to be provided;
f. For the use or hire of a vessel under a charter or other contract;
g. Arising out of the use of a credit or charge card or information contained on or for use with the card; or
h. As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.

2. The term includes:

a. **Controllable accounts; and**

b. Health-care-insurance receivables.

3. The term does not include:

a. [Rights to payment evidenced by Chattel paper or an instrument];
b. Commercial tort claims;
c. Deposit accounts;
d. Investment property;
e. Letter-of-credit rights or letters of credit;
f. Rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or
information contained on or for use with the card; **or**

g. **Rights to payment evidenced by an instrument;**

(c) **1.** "Account debtor" means a person obligated on an account, chattel paper, or general intangible.

2. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;

(d) "Accounting," except as used in "accounting for," means a record:

1. Authenticated by a secured party;

2. Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail;

(e) "Agricultural lien" means an interest in farm products:

1. Which secures payment or performance of an obligation for:
   a. Goods or services furnished in connection with a debtor's farming operation; or
   b. Rent on real property leased by a debtor in connection with its farming operation;

2. Which is created by statute in favor of a person that:
   a. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
   b. Leased real property to a debtor in connection with the debtor's farming operation; and

3. Whose effectiveness does not depend on the person's possession of the personal property;

(f) "As-extracted collateral" means:

1. Oil, gas, or other minerals that are subject to a security interest that:
a. Is created by a debtor having an interest in the minerals before extraction; and

b. Attaches to the minerals as extracted; or

2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;

(g) "Assignee" means a person:

1. In whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not an obligation to be secured is outstanding; or

2. To which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(h) "Assignor" means a person that:

1. Under a security agreement creates or provides for a security interest that secures an obligation; or

2. Sells accounts, chattel paper, payment intangibles, or promissory notes;

(i) "Authenticate" means:

1. To sign; or

2. With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process;

(j)(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(k)(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(l)(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be
indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

2. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

\((m)\) [\(f(k)\)]

1. "Chattel paper" means: a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:

1. Charters or other contracts involving the use or hire of a vessel; or

2. Records that evidence a right of payment arising out of the use of a credit or charge card or information contained on or for use with the card.

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper:

\(a\). A right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or
b. A right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation, if any, owed by the lessee in connection with the transaction giving rise to the lease, if:

i. The right to payment and lease agreement are evidenced by a record; and

ii. The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

2. The term does not include:

a. A right to payment arising out of a charter or other contract involving the use or hire of a vessel; or

b. A right to payment arising out of the use of a credit or charge card or information contained on or for use with the card:

(n) 1. "Collateral" means the property subject to a security interest or agricultural lien.

2. The term includes:

a. Proceeds to which a security interest attaches;

b. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

c. Goods that are the subject of a consignment;

(o) 1. "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the
death of an individual;

(p) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(q) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;

(r) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(s) "Commodity intermediary" means a person that:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(t) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;
"Consignee" means a merchant to which goods are delivered in a consignment;

"Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:
   a. Deals in goods of that kind under a name other than the name of the person making delivery;
   b. Is not an auctioneer; and
   c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation;

"Consignor" means a person that delivers goods to a consignee in a consignment;

"Consumer debtor" means a debtor in a consumer transaction;

"Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes;

"Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation;

"Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;
1. "Consumer transaction" means a transaction in which:
   a. An individual incurs an obligation primarily for personal, family, or household purposes;
   b. A security interest secures the obligation; and
   c. The collateral is held or acquired primarily for personal, family, or household purposes.

2. The term includes consumer-goods transactions;

"Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and
2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

"Controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under Section 5 of this Act of the controllable electronic record;

"Controllable payment intangible" means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under Section 5 of this Act of the controllable electronic record;

"Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or
3. A consignee;
1. "Deposit account" means a demand, time, savings, passbook, or
   similar account maintained with a bank.

2. The term includes an account that is money under Section 8 of this
   Act.

3. The term does not include investment property or accounts evidenced by
   an instrument;

4. "Document" means a document of title or a receipt of the type described
   in KRS 355.7-201(2);

5. "Electronic chattel paper" means chattel paper evidenced by a record or
   records consisting of information stored in an electronic medium;

6. "Encumbrance" means a right, other than an ownership interest, in
   real property.

7. The term includes mortgages and other liens on real property;

8. "Equipment" means goods other than inventory, farm products, or
   consumer goods;

9. "Farm products" means goods, other than standing timber, with
   respect to which the debtor is engaged in a farming operation and which
   are:

   a. Crops grown, growing, or to be grown, including:
      i. Crops produced on trees, vines, and bushes; and
      ii. Aquatic goods produced in aquacultural operations;

   b. Livestock, born or unborn, including aquatic goods produced in
      aquacultural operations;

   c. Supplies used or produced in a farming operation;

   d. Products of crops or livestock in their unmanufactured states; or

   e. Equine interests, including, but not limited to, interests in horses,
      mares, yearlings, foals, weanlings, stallions, syndicated stallions,
      ...
and stallion shares (including seasons and other rights in connection therewith), whether or not the debtor is engaged in farming operations and without regard to the use thereof.

2. If goods are farm products, they are neither equipment nor inventory;

(a1) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation;

(am) "File number" means the number assigned to an initial financing statement pursuant to KRS 355.9-519(1);

(an) "Filing office" means an office designated in KRS 355.9-501 as the place to file a financing statement;

(ao) "Filing-office rule" means a rule adopted pursuant to KRS 355.9-526;

(ap) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(aq) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying KRS 355.9-502(1) and (2).

1. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures;

(ar) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(as) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction.

2. The term includes payment intangibles and software;
"Goods" means all things that are movable when a security interest attaches.

The term includes:

a. Fixtures;
b. Standing timber that is to be cut and removed under a conveyance or contract for sale;
c. The unborn young of animals;
d. Crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and
e. Manufactured homes.

The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if:

a. The program is associated with the goods in such a manner that it customarily is considered part of the goods; or
b. By becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.

The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded.

The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;

"Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country.
2. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(aw) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided or to be provided;

(ax) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment.

2. The term does not include:

a. Investment property;

b. Letters of credit;

c. Writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card; or

d. Writings that evidence chattel paper:

(ay) "Intangible money" does not include a deposit account:

(az) "Inventory" means goods, other than farm products, which:

1. Are leased by a person as lessor;
2. Are held by a person for sale or lease or to be furnished under a contract of service;
3. Are furnished by a person under a contract of service; or
4. Consist of raw materials, work in process, or materials used or consumed in a business;

(ba) "Investment property" means a security, whether certificated or
uncertificated, security entitlement, securities account, commodity contract, or
commodity account;

(bb) "Jurisdiction of organization," with respect to a registered organization,
means the jurisdiction under whose law the organization is organized;

(bc) "Letter-of-credit right" means a right to payment or performance
under a letter of credit, whether or not the beneficiary has demanded or
is at the time entitled to demand payment or performance.

2. The term does not include the right of a beneficiary to demand payment
or performance under a letter of credit;

(bd) "Lien creditor" means:
1. A creditor that has acquired a lien on the property involved by
attachment, levy, or the like;
2. An assignee for benefit of creditors from the time of assignment;
3. A trustee in bankruptcy from the date of the filing of the petition; or
4. A receiver in equity from the time of appointment;

(be) "Manufactured home" means a structure, transportable in one (1)
or more sections, which, in the traveling mode, is eight (8) body feet or
more in width or forty (40) body feet or more in length, or, when erected
on site, is three hundred twenty (320) or more square feet, and which is
built on a permanent chassis and designed to be used as a dwelling with
or without a permanent foundation when connected to the required
utilities, and includes the plumbing, heating, air-conditioning, and
electrical systems contained therein.

2. The term includes any structure that meets all of the requirements of this
paragraph except the size requirements and with respect to which the
manufacturer voluntarily files a certification required by the United
States Secretary of Housing and Urban Development and complies with
the standards established under Title 42 of the United States Code;

(bf)(bb) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(bg)(be) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;

(bh)(bd) "New debtor" means a person that becomes bound as debtor under KRS 355.9-203(4) by a security agreement previously entered into by another person;

(bi)(be) 1. "New value" means:

a. [1.] Money;

b. [2.] Money's worth in property, services, or new credit; or

c. [3.] Release by a transferee of an interest in property previously transferred to the transferee.

2. The term does not include an obligation substituted for another obligation;

(bj)(bf) "Noncash proceeds" means proceeds other than cash proceeds;

(bk)(bg) 1. "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

a. [1.] Owes payment or other performance of the obligation;

b. [2.] Has provided property other than the collateral to secure payment or other performance of the obligation; or

c. [3.] Is otherwise accountable in whole or in part for payment or other performance of the obligation.

2. The term does not include issuers or nominated persons under a letter of
credit;

(bh) "Original debtor," except as used in KRS 355.9-310(3), means a person
that, as debtor, entered into a security agreement to which a new debtor has
become bound under KRS 355.9-203(4);

(bi) 1. "Payment intangible" means a general intangible under which the
account debtor's principal obligation is a monetary obligation.

2. **The term includes controllable payment intangibles:**

(bj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;
2. A brother, brother-in-law, sister, or sister-in-law of the individual;
3. An ancestor or lineal descendant of the individual or the individual's
   spouse; or
4. Any other relative, by blood or marriage, of the individual or the
   individual's spouse who shares the same home with the individual;

(bk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under
   common control with the organization;
2. An officer or director of, or a person performing similar functions with
   respect to, the organization;
3. An officer or director of, or a person performing similar functions with
   respect to, a person described in subparagraph 1. of this paragraph;
4. The spouse of an individual described in subparagraph 1., 2., or 3. of
   this paragraph; or
5. An individual who is related by blood or marriage to an individual
   described in subparagraph 1., 2., 3., or 4. of this paragraph and shares
   the same home with the individual;

(bp) "Proceeds," except as used in KRS 355.9-609(2), means the following
property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(bq) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(br) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to KRS 355.9-620, 355.9-621, and 355.9-622;

(bs) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;

2. All or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or
assignor or assignee of a security interest is a state or a governmental unit of a state;

"Public organic record" means a record that is available to the public for inspection and that is:

1. A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

2. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

3. A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization;

"Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

"Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

"Registered organization" means an organization formed or
organized solely under the law of a single state or the United States by
the filing of a public organic record with, the issuance of a public
organic record by, or the enactment of legislation by the state or the
United States.

2. The term includes a business trust that is formed or organized under the
law of a single state if a statute of the state governing business trusts
requires that the business trust's organic record be filed with the state;

"Secondary obligor" means an obligor to the extent that:
1. The obligor's obligation is secondary; or
2. The obligor has a right of recourse with respect to an obligation secured
by collateral against the debtor, another obligor, or property of either;

"Secured party" means:
1. A person in whose favor a security interest is created or provided for
under a security agreement, whether or not any obligation to be secured
is outstanding;
2. A person that holds an agricultural lien;
3. A consignor;
4. A person to which accounts, chattel paper, payment intangibles, or
promissory notes have been sold;
5. A trustee, indenture trustee, agent, collateral agent, or other
representative in whose favor a security interest or agricultural lien is
created or provided for; or
6. A person that holds a security interest arising under KRS 355.2-401,
355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118;

"Security agreement" means an agreement that creates or provides for a
security interest;

"Send," in connection with a record or notification, means:
1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1. of this paragraph;

(cb) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

(cc) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(cd) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

(ca) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

(ce) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective; and

(cf) "Transmitting utility" means a person primarily engaged in the business...
of:

1. Operating a railroad, subway, street railway, or trolley bus;
2. Transmitting communications electrically, electromagnetically, or by light;
3. Transmitting goods by pipeline or sewer; or
4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other articles of this chapter apply to this article:

(a) "Applicant." KRS 355.5-102;
(b) "Beneficiary." KRS 355.5-102;
(c) "Broker." KRS 355.8-102;
(d) "Certificated security." KRS 355.8-102;
(e) "Check." KRS 355.3-104;
(f) "Clearing corporation." KRS 355.8-102;
(g) "Contract for sale." KRS 355.2-106;
(h) "Controllable electronic record." Section 2 of this Act;
(i) "Customer." KRS 355.4-104;
(j) "Entitlement holder." KRS 355.8-102;
(k) "Financial asset." KRS 355.8-102;
(l) "Holder in due course." KRS 355.3-302;
m) "Issuer." (with respect to a letter of credit or letter-of-credit right) KRS 355.5-102;
(n) "Issuer." (with respect to a security) KRS 355.8-201;
o) "Lease." KRS 355.2A-103;
p) "Lease agreement." KRS 355.2A-103;
q) "Lease contract." KRS 355.2A-103;
r) "Leasehold interest." KRS 355.2A-103;
"Lessee." KRS 355.2A-103;
"Lessee in ordinary course of business." KRS 355.2A-103;
"Lessor." KRS 355.2A-103;
"Lessor's residual interest." KRS 355.2A-103;
"Letter of credit." KRS 355.5-102;
"Merchant." KRS 355.2-104;
"Negotiable instrument." KRS 355.3-104;
"Nominated person." KRS 355.5-102;
"Note." KRS 355.3-104;
"Proceeds of a letter of credit." KRS 355.5-114;
"Prove." KRS 355.3-103;
"Qualifying purchaser." Section 4 of this Act;
"Sale." KRS 355.2-106;
"Securities account." KRS 355.8-501;
"Securities intermediary." KRS 355.8-102;
"Security." KRS 355.8-102;
"Security certificate." KRS 355.8-102;
"Security entitlement." KRS 355.8-102; and
"Uncertificated security." KRS 355.8-102.

(3) Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

SECTION 25. KRS 355.9-105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A secured party has control of an electronic copy of a record evidencing chattel paper if:

(a) The electronic copy, a record attached to or logically associated with the electronic copy, or the system in which the electronic copy is recorded, if
any:

1. Enables the secured party to readily identify each electronic copy of the record as an authoritative copy or nonauthoritative copy of the record;

2. Enables the secured party to readily identify itself as the assignee of each authoritative electronic copy of the record; and

3. Subject to subsection (2) of this section, gives the secured party the exclusive power to:
   a. Prevent others from adding or changing an identified assignee of each authoritative electronic copy of the record; and
   b. Transfer control of the authoritative copy of the record; or

   (b) Another person on behalf of the secured party obtains control of the electronic copy of a record evidencing chattel paper or, having previously obtained control of the electronic copy, acknowledges in an authenticated record that it has control.

(2) A power specified in subsection (1)(a) is exclusive, even if:

(a) The electronic copy, or the system in which the electronic copy is recorded, if any:
   1. Limits the use to which the electronic record may be put; or
   2. Has protocols that are programmed to result in a transfer of control;

   or

(b) The secured party has agreed to share the power with another person.

(3) For purposes of subsection (1)(a)2. of this section, a secured party may be identified in any way, including by name, identifying number, cryptographic key, office, or account number.
A person has control of intangible money if the following conditions are met:

(a) The intangible money or the system in which the intangible money is recorded, if any, gives the person:

1. The power to avail itself of substantially all the benefit from the intangible money; and

2. Subject to subsection (2) of this section, the exclusive power to:

   a. Prevent others from availing themselves of substantially all the benefit from the intangible money; and

   b. Transfer control of the intangible money to another person or cause another person to obtain control of intangible money that is traceable to the intangible money; and

(b) 1. The intangible money, a record attached to or logically associated with the intangible money, or the system in which the intangible money is recorded, if any, enables the person to readily identify itself as having the powers under paragraph (a) of this subsection.

2. The person may be identified in any way, including by name, identifying number, cryptographic key, office, or account number.

A power specified in subsection (1) of this section is exclusive, even if:

(a) The intangible money, or the system in which the intangible money is recorded, if any:

1. Limits the use to which the intangible money may be put; or

2. Has protocols that are programmed to result in a transfer of control;

or

(b) The person has agreed to share the power with another person.
Section 5 of this Act.

(2) A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

Section 28. KRS 355.9-203 is amended to read as follows:

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) to (10) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One (1) of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under KRS 355.9-313 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under KRS 355.8-301 pursuant to the debtor's security agreement;

4. The collateral is controllable electronic records, controllable accounts, controllable payment intangibles, deposit accounts, electronic documents (chattel paper), intangible money, investment property, or
letter-of-credit rights, or electronic documents, and the secured party
has control under KRS 355.7-106, 355.9-104, or Section 26
of this Act, 355.9-106, or Section 27 of this Act
pursuant to the debtor's security agreement; or

5. The collateral is chattel paper and the secured party has possession
and control under Section 38 of this Act pursuant to the debtor's
security agreement.

(3) Subsection (2) of this section is subject to KRS 355.4-210 on the security interest of
a collecting bank, KRS 355.5-118 on the security interest of a letter-of-credit issuer
or nominated person, KRS 355.9-110 on a security interest arising under Article 2
or 2A of this chapter, and KRS 355.9-206 on security interests in investment
property.

(4) A person becomes bound as debtor by a security agreement entered into by another
person if, by operation of law other than this article or by contract:
(a) The security agreement becomes effective to create a security interest in the
person's property; or
(b) The person becomes generally obligated for the obligations of the other
person, including the obligation secured under the security agreement, and
acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by
another person:
(a) The agreement satisfies subsection (2)(c) of this section with respect to
existing or after-acquired property of the new debtor to the extent the property
is described in the agreement; and
(b) Another agreement is not necessary to make a security interest in the property
enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights
to proceeds provided by KRS 355.9-315 and is also attachment of a security interest
in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured
by a security interest or other lien on personal or real property is also attachment of
a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a
security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a
security interest in the commodity contracts carried in the commodity account.

(10) The attachment of a security interest in a controllable electronic record that
evidences a controllable account or controllable payment intangible is also
attachment of a security interest in the controllable account or controllable
payment intangible.

Section 29. KRS 355.9-207 is amended to read as follows:

(1) Except as otherwise provided in subsection (4) of this section:

(a) A secured party shall use reasonable care in the custody and preservation of
collateral in the secured party's possession;

(b) In the case of chattel paper or an instrument, reasonable care includes taking
necessary steps to preserve rights against prior parties unless otherwise
agreed.

(2) Except as otherwise provided in subsection (4) of this section, if a secured party has
possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or
other charges, incurred in the custody, preservation, use, or operation of the
collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a
deficiency in any effective insurance coverage;
(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:
   1. For the purpose of preserving the collateral or its value;
   2. As permitted by an order of a court having competent jurisdiction; or
   3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4) of this section, a secured party having possession of collateral or control of collateral under KRS 355.7-106, 355.9-104, 355.9-105, 355.9-106, 355.9-107, or Section 27 of this Act:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) of this section does not apply unless the secured party is entitled under an agreement:
   1. To charge back uncollected collateral; or
   2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) of this section do not apply.

Section 30. KRS 355.9-208 is amended to read as follows:

(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 an electronic copy of a record evidencing chattel paper under KRS 355.9-105 shall transfer control of the electronic copy to:

1. The debtor; or

2. A person designated by the debtor; or

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:
   a. Releasing the designated custodian from any further obligation to comply with instructions originated by the secured party; and
   b. 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;

(g) A secured party having control of a controllable electronic record shall
transfer control of the controllable electronic record to:

1. The debtor; or

2. A person designated by the debtor; and

(h) A secured party having control of intangible money under Section 26 of this Act shall transfer control of the intangible money to:

1. The debtor; or

2. A person designated by the debtor.

Section 31. KRS 355.9-301 is amended to read as follows:

Except as otherwise provided in KRS 355.9-303 to Section 32 of this Act[355.9-306], the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) Except as otherwise provided in subsection (5) of this section, while collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4) of this section, while tangible negotiable documents, goods, instruments, or tangible money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the goods by filing a fixture filing;

(b) Perfection of a security interest in timber to be cut; and

(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a
security interest in as-extracted collateral.

(5) While a tangible authoritative copy of a record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the chattel paper by possession and control under Section 38 of this Act; and

(b) The effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

SECTION 32. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record are governed by:

(a) The local law of the controllable electronic record's jurisdiction, as specified in subsections (2)(a) to (d) of Section 7 of this Act; or

(b) If none of the subsections referenced in paragraph (a) of this subsection apply, the local law of the jurisdiction in which the debtor is located.

(2) The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in a controllable electronic record by filing.

(3) If the location of the debtor cannot readily be determined, the debtor is deemed to be located in this state.

SECTION 33. KRS 355.9-308 is amended to read as follows:

(1) Except as otherwise provided in this section and KRS 355.9-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in KRS 355.9-310 to 355.9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable
requirements for perfection in KRS 355.9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one (1) method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

(8) **Perfection of a security interest in a controllable electronic record that evidences a controllable account or controllable payment intangible also perfects a security interest in the controllable account or controllable payment intangible.**

=> Section 34. KRS 355.9-310 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section and KRS 355.9-312(2), a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under KRS 355.9-308(4), (5), (6), or (7);

(b) That is perfected under KRS 355.9-309 when it attaches;

(c) In property subject to a statute, regulation, or treaty described in KRS 355.9-311(1);
(d) In goods in possession of a bailee which is perfected under KRS 355.9-312(4)(a) or (b);

(e) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under KRS 355.9-312(5), (6), or (7);

(f) In collateral in the secured party's possession under KRS 355.9-313;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under KRS 355.9-313;

(h) In \textit{controllable electronic records,} deposit accounts, electronic chattel paper, electronic documents, \textit{intangible money}, investment property, or letter-of-credit rights which is perfected by control under KRS 355.9-314;

(i) In proceeds which is perfected under KRS 355.9-315; \[or\]

(j) That is perfected under KRS 355.9-316; \textit{or}

(k) \textit{In chattel paper which is perfected by possession and control under Section 38 of this Act.}

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

\textit{Section 35.} KRS 355.9-312 is amended to read as follows:

(1) A security interest in chattel paper, \textit{controllable electronic records\[negotiable documents,\]} instruments, \[or\] investment property, \textit{or negotiable documents} may be perfected by filing.

(2) Except as otherwise provided in KRS 355.9-315(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under KRS 355.9-314;

(b) And except as otherwise provided in KRS 355.9-308(4), a security interest in a letter-of-credit right may be perfected only by control under KRS 355.9-314; \[and\]
A security interest in tangible money may be perfected only by the secured party's taking possession under KRS 355.9-313; and

A security interest in intangible money may be perfected only by control under Section 26 of this Act.

While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

- A security interest in the goods may be perfected by perfecting a security interest in the document; and
- A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

- Issuance of a document in the name of the secured party;
- The bailee's receipt of notification of the secured party's interest; or
- Filing as to the goods.

A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

- Ultimate sale or exchange; or
- Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their
sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the twenty (20) day period specified in subsection (5), (6), or (7) of this section expires, perfection depends upon compliance with this article.

Section 36. KRS 355.9-313 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, or tangible money, or tangible chattel paper, by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under KRS 355.8-301.

(2) With respect to goods covered by a certificate of title issued by this Commonwealth, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in KRS 355.9-316(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.
(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under KRS 355.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(7) If a person acknowledges that it holds possession for the secured party's benefit:
   (a) The acknowledgment is effective under subsection (3) of this section or KRS 355.8-301(1), even if the acknowledgment violates the rights of a debtor; and
   (b) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:
   (a) To hold possession of the collateral for the secured party's benefit; or
   (b) To redeliver the collateral to the secured party.

(9) (a) A secured party does not relinquish possession, even if a delivery under subsection (8) of this section violates the rights of a debtor.
    (b) A person to which collateral is delivered under subsection (8) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.
Section 37. KRS 355.9-314 is amended to read as follows:

(1) A security interest in controllable electronic records, deposit accounts, electronic documents, investment property, intangible money [deposit accounts], or letter-of-credit rights [electronic chattel paper, or electronic documents] may be perfected by control of the collateral under KRS 355.7-106, 355.9-104, [355.9-105,] Section 26 of this Act, 355.9-106, [or] 355.9-107, or Section 27 of this Act.

(2) A security interest in controllable electronic records, deposit accounts, electronic documents, intangible money [electronic chattel paper], or letter-of-credit rights [or electronic documents] is perfected by control under KRS 355.7-106, 355.9-104, [355.9-105,] Section 26 of this Act, or 355.9-107, or Section 27 of this Act when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under KRS 355.9-106 from the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One (1) of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

SECTION 38. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) A secured party may perfect a security interest in chattel paper by:

(a) Taking possession of the tangible authoritative copy, if any, of the record
evidencing the chattel paper; and

(b) Obtaining control of the electronic authoritative copy, if any, of the electronic record evidencing the chattel paper.

(2) A security interest:

(a) Is perfected under subsection (1) of this section when the secured party takes possession and obtains control; and

(b) Remains perfected under subsection (1) of this section only while the secured party retains possession and control.

(3) Subsections (3) and (6) to (9) of Section 36 of this Act apply to perfection by possession of tangible authoritative copies of records evidencing chattel paper.

Section 39. KRS 355.9-316 is amended to read as follows:

(1) A security interest perfected pursuant to the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3), or subsection (1)(b) or (2) of Section 32 of this Act remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously
perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this Commonwealth remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under KRS 355.9-311(2) or 355.9-313 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this Commonwealth; or

(b) The expiration of four (4) months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law
of that jurisdiction; or

(b) The expiration of four (4) months after a change of the applicable jurisdiction
to another jurisdiction.

(7) If a security interest described in subsection (6) of this section becomes perfected
under the law of the other jurisdiction before the earlier of the time or the end of the
period described in that subsection, it remains perfected thereafter. If the security
interest does not become perfected under the law of the other jurisdiction before the
earlier of that time or the end of that period, it becomes unperfected and is deemed
never to have been perfected as against a purchaser of the collateral for value.

(8) The following rules apply to collateral to which a security interest attaches within
four (4) months after the debtor changes its location to another jurisdiction:

(a) A financing statement filed before the change pursuant to the law of the
jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) is effective to
perfect a security interest in the collateral if the financing statement would
have been effective to perfect a security interest in the collateral if the debtor
had not changed its location; and

(b) If a security interest that is perfected by a financing statement that is effective
under paragraph (a) of this subsection becomes perfected under the law of the
other jurisdiction before the earlier of the time the financing statement would
have become ineffective under the law of the jurisdiction designated in KRS
355.9-301(1) or 355.9-305(3) or the expiration of the four (4) month period, it
remains perfected thereafter. If the security interest does not become perfected
under the law of the other jurisdiction before the earlier time or event, it
becomes unperfected and is deemed never to have been perfected as against a
purchaser of the collateral for value.

(9) If a financing statement naming an original debtor is filed pursuant to the law of the
jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) and the new debtor is
located in another jurisdiction, the following rules apply:

(a) The financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires rights before or within four (4) months after the new debtor becomes bound under KRS 355.9-203(4), if the financing statement would have been effective to perfect a security interest in the collateral if the collateral had been acquired by the original debtor; and

(b) A security interest that is perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the expiration of the four (4) month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(10) (a) A security interest that is perfected pursuant to the law designated in subsection (1)(a) of Section 32 of this Act remains perfected until the expiration of four (4) months after a change of the applicable law to another jurisdiction.

(b) If a security interest described in paragraph (a) of this subsection becomes perfected under the law of the other jurisdiction before the end of the period described in that paragraph, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Section 40. KRS 355.9-317 is amended to read as follows:
(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under KRS 355.9-322; and

(b) Except as otherwise provided in subsection (5) of this section, a person that becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One (1) of the conditions specified in KRS 355.9-203(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in KRS 355.9-320 and 355.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

(6) A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected.
the buyer:

(a) Gives value and receives delivery of the tangible authoritative copy, if any, of the record evidencing the chattel paper; and

(b) Obtains control of the electronic authoritative copy, if any, of the record evidencing the chattel paper.

SECTION 41. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

A security interest in a controllable electronic record held by a secured party having control of the controllable electronic record has priority over a conflicting security interest held by a secured party that does not have control.

SECTION 42. KRS 355.9-330 is amended to read as follows:

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser:

1. Gives new value and takes possession of the tangible authoritative copy, if any, of the record evidencing the chattel paper; and

2. Obtains control of the electronic authoritative copy, if any, of the record evidencing the chattel paper under KRS 355.9-105; and

(b) The authoritative copy of the record evidencing the chattel paper does not indicate that the copy has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser:

(a) Gives new value and takes possession of the tangible authoritative copy, if any, of the record evidencing the chattel paper; and
(b) Obtains control of the electronic authoritative copy, if any, of the record evidencing the chattel paper \[\text{under KRS 355.9-105}\] in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in KRS 355.9-327, a purchaser having priority in chattel paper under subsection (1) or (2) of this section also has priority in proceeds of the chattel paper to the extent that:

(a) KRS 355.9-322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in KRS 355.9-331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4) of this section, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Section 43. KRS 355.9-331 is amended to read as follows:

(1) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security.
controllable electronic record. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, 8 and 12 of this chapter.

(2) This article does not limit the rights of a person to the extent that the person is protected against the assertion of a claim under Article 8 or 12 of this chapter.

(3) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (1) and (2) of this section.

Section 44. KRS 355.9-332 is amended to read as follows:

(1) A transferee of tangible money takes the money free of a security interest if the transferee receives delivery of the money without acting in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of intangible money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.

(3) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

Section 45. KRS 355.9-406 is amended to read as follows:

(1) Subject to subsections (2) to (9) of this section and subsection (10) of this section:

(a) An account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is
to be made to the assignee; and

(b) After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8) and (10) of this section, notification is ineffective under subsection (1) of this section:

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8) and (10) of this section:

(a) If requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made; and

(b) Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1) of this section.

(4) Except as otherwise provided in subsection (5) of this section and KRS 355.2A-303 and 355.9-407, and subject to subsection (8) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to
the extent that it:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under KRS 355.9-610 or an acceptance of collateral under KRS 355.9-620.

(6) Except as otherwise provided in KRS 355.2A-303 and 355.9-407 and subject to subsections (8) and (9) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.
Subject to subsection (8) of this section, an account debtor may not waive or vary its option under subsection (2)(c) of this section.

This section is subject to law other than this article which establishes a different rule for an account debtor who:

(a) Is an individual; and

(b) Incurred the obligation primarily for personal, family, or household purposes.

This section does not apply to an assignment of a health-care-insurance receivable.

Subsections (1) to (3) of this section and subsection (7) of this section do not apply to a controllable account or controllable payment intangible.

Section 46. KRS 355.9-601 is amended to read as follows:

(1) After default, a secured party has the rights provided in this part of this article and, except as otherwise provided in KRS 355.9-602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under KRS 355.7-106, 355.9-104, 355.9-105, 355.9-106, or 355.9-107, or Section 26 of this Act has the rights and duties provided in KRS 355.9-207.

(3) The rights under subsections (1) and (2) of this section are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) of this section and KRS 355.9-605, after default, a debtor and an obligor have the rights provided in this part of this article and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates
back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(7) Except as otherwise provided in KRS 355.9-607(3), this part of this article imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Section 47. KRS 355.9-605 is amended to read as follows:

(1) Subject to subsection (2) of this section, a secured party does not owe a duty based on its status as secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:
   1. That the person is a debtor or obligor;
   2. The identity of the person; and
   3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
   1. That the person is a debtor; and
   2. The identity of the person.

(2) Subsection (1) of this section does not apply to a secured party that, at the time the secured party's security interest attaches to a controllable electronic record, has notice that the nature of the collateral, or the system in which the collateral is recorded, if any, would prevent the secured party from acquiring the knowledge
Section 48. KRS 355.9-628 is amended to read as follows:

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(b) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(2) **Subject to subsection (3) of this section,** a secured party is not liable because of its status as secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) **Subsection (2) of this section does not apply to a secured party that, at the time the secured party's security interest attaches to a controllable electronic record, has notice that the nature of the collateral, or the system in which the collateral is recorded, if any, would prevent the secured party from acquiring the knowledge specified in that subsection.**

(4) A secured party is not liable to any person, and a person’s liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a
consumer transaction or that goods are not consumer goods, if the secured party's
belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to
be used, acquired, or held; or

(b) An obligor's representation concerning the purpose for which a secured
obligation was incurred.

A secured party is not liable to any person under KRS 355.9-625(3)(b) for its
failure to comply with KRS 355.9-616.

A secured party is not liable under KRS 355.9-625(3)(b) more than once with
respect to any one (1) secured obligation.

Section 49. KRS 355.2A-103 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith
and without knowledge that the sale to him or her is in violation of the
ownership rights or security interest or leasehold interest of a third party
in the goods, buys in ordinary course from a person in the business of
selling goods of that kind but does not include a pawnbroker.

(b) "Buying" may be for cash or by exchange of other property or on
secured or unsecured credit and includes receiving goods or documents
of title under a pre-existing contract for sale but does not include a
transfer in bulk or as security for or in total or partial satisfaction of a
money debt;

(c) "Cancellation" occurs when either party puts an end to the lease contract for
default by the other party;

(d) "Commercial unit" means such a unit of goods as by commercial usage
is a single whole for purposes of lease and division of which materially
impairs its character or value on the market or in use.
2. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole;

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract;

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose;

(f) "Fault" means wrongful act, omission, breach, or default;

(g) "Finance lease" means a lease with respect to which:

   1. The lessor does not select, manufacture, or supply the goods;

   2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

   3. One (1) of the following occurs:

      a. The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

      b. The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

      c. The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by
the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

d. If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing:

Of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person;

That the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods;

That the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies;

(h) 1. "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (KRS 355.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction.

2. The term also includes the unborn young of animals;

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though
the lease contract contains a clause "each delivery is a separate lease" or its equivalent;

(j) **1.** "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease.

2. Unless the context clearly indicates otherwise, the term includes a sublease;

(k) **1.** "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article.

2. Unless the context clearly indicates otherwise, the term includes a sublease agreement;

(l) **1.** "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law.

2. Unless the context clearly indicates otherwise, the term includes a sublease contract;

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract;

(n) **1.** "Lessee" means a person who acquires the right to possession and use of goods under a lease.

2. Unless the context clearly indicates otherwise, the term includes a sublessee;

(o) **1.** "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the
ownership rights or security interest or leasehold interest of a third party
in the goods leases in ordinary course from a person in the business of
selling or leasing goods of that kind but does not include a pawnbroker.

2. "Leasing" may be for cash or by exchange of other property or on
secured or unsecured credit and includes receiving goods or documents
of title under a pre-existing lease contract but does not include a transfer
in bulk or as security for or in total or partial satisfaction of a money
debt;

(p) 1. "Lessor" means a person who transfers the right to possession and use of
goods under a lease.

2. Unless the context clearly indicates otherwise, the term includes a
sublessor;

(q) "Lessor's residual interest" means the lessor's interest in the goods after
expiration, termination, or cancellation of the lease contract;

(r) "Lien" means a charge against or interest in goods to secure payment of a debt
or performance of an obligation, but the term does not include a security
interest;

(s) "Lot" means a parcel or a single article that is the subject matter of a separate
lease or delivery, whether or not it is sufficient to perform the lease
contract;

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of
the kind subject to the lease;

(u) 1. "Present value" means the amount as of a date certain of one (1) or more
sums payable in the future, discounted to the date certain.

2. The discount is determined by the interest rate specified by the parties if
the rate was not manifestly unreasonable at the time the transaction was
entered into; otherwise, the discount is determined by a commercially
reasonable rate that takes into account the facts and circumstances of
each case at the time the transaction was entered into;

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge,
gift, or any other voluntary transaction creating an interest in goods;

(w) "Sublease" means a lease of goods the right to possession and use of which
was acquired by the lessor as a lessee under an existing lease;

(x) "Supplier" means a person from whom a lessor buys or leases goods to be
leased under a finance lease;

(y) "Supply contract" means a contract under which a lessor buys or leases goods
to be leased; and

(z) "Termination" occurs when either party pursuant to a power created by
agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

(a) "Accessions." KRS 355.2A-310[(1)];

(b) "Construction mortgage." KRS 355.2A-309[(1)(d)];

(c) "Encumbrance." KRS 355.2A-309[(1)(e)];

(d) "Fixtures." KRS 355.2A-309[(1)(a)];

(e) "Fixture filing." KRS 355.2A-309[(1)(b)]; and

(f) "Purchase money lease." KRS 355.2A-309[(1)(e)].

(3) The following definitions in other articles of this chapter apply to this article:

(a) "Account." KRS 355.9-102[(1)(b)];

(b) "Between merchants." KRS 355.2-104[(3)];

(c) "Buyer." KRS 355.2-103[(1)(a)];

(d) "Chattel paper." KRS 355.9-102[(1)(k)];

(e) "Consumer goods." KRS 355.9-102[(1)(w)];

(f) "Document." KRS 355.9-102[(1)(ad)];

(g) "Entrusting." KRS 355.2-403[(3)];
(h) "General intangible." KRS 355.9-102{(1)(ap)};
(i) "Instrument." KRS 355.9-102{(1)(au)};
(j) "Merchant." KRS 355.2-104{(1)};
(k) "Mortgage." KRS 355.9-102{(1)(be)};
(l) "Pursuant to commitment." KRS 355.9-102{(1)(be)};
(m) "Receipt." KRS 355.2-103{(1)(c)};
(n) "Sale." KRS 355.2-106{(1)};
(o) "Sale on approval." KRS 355.2-326;
(p) "Sale or return." KRS 355.2-326; and
(q) "Seller." KRS 355.2-103{(1)(d)}.

(4) In addition, Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 50. KRS 355.8-103 is amended to read as follows:

(1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) (a) An "investment company security" is a security.
    (b) "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered.
    (c) Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company
is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this article and not by Article 3 of this chapter, even though it also meets the requirements of that article. However, a negotiable instrument governed by Article 3 of this chapter is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in KRS 355.9-102(1)(o), is not a security or a financial asset.

(7) A document of title, as defined in KRS 355.1-201(2)(p), is not a financial asset unless KRS 355.8-102(1)(i) applies.

Section 51. KRS 355.9-338 is amended to read as follows:

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in KRS 355.9-516(2)(e) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Section 52. KRS 367.976 is amended to read as follows:

As used in KRS 367.976 to 367.985, unless the context otherwise requires:

(1) "Advertisement" means a commercial message in any medium that aids, promotes,
or assists directly or indirectly a rental-purchase agreement, excluding in-store merchandising aids.

(2) "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the rental-purchase agreement.

(3) "Consumer" means a natural person who rents personal property under a rental-purchase agreement.

(4) "Consummation" means the time a consumer becomes contractually obligated on a rental-purchase agreement.

(5) "Division" means the Division of Consumer Protection in the Office of the Attorney General.

(6) "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a rental-purchase agreement.

(7) (a) "Rental-purchase agreement" means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four (4) months or less, whether or not there is any obligation beyond the initial period, that is automatically renewable with each payment and that permits the consumer to become the owner of the property.

(b) The term rental-purchase agreement shall not be construed to be, nor be governed by, any of the following:

1. A lease or agreement which constitutes a credit sale as defined in 12 C.F.R. part 226.2(a)(16) and Section 1602(g) of the Truth in Lending Act, 15 U.S.C. secs. 1601 et seq.;

2. A lease which constitutes a consumer lease as defined in 12 C.F.R. part 213.2(a)(6);

3. Any lease for agricultural, business, or commercial purposes;
4. \[(d)\] Any lease made to an organization;
5. \[(e)\] A lease or agreement which constitutes a retail installment transaction or retail installment contract as defined in KRS 371.210;
6. \[(f)\] A security interest as defined in KRS 355.1-201(37); or
7. \[(g)\] A home solicitation sale as that term is defined in KRS 367.410.

Section 53. KRS 369.116 is amended to read as follows:

(1) In this section, "transferable record" means an electronic record that:

(a) Would be a note under Article 3 of KRS Chapter 355 or a document under Article 7 of KRS Chapter 355 if the electronic record were in writing; and
(b) The issuer of the electronic record expressly has agreed is a transferable record.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies subsection (2) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(a) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e), and (f) of this subsection, unalterable;

(b) The authoritative copy identifies the person asserting control as:

1. The person to which the transferable record was issued; or
2. If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;
(d) Copies of revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in KRS 355.1-201[(20)], of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under KRS Chapter 355, including, if the applicable statutory requirements under KRS 355.3-302(1), 355.7-501, or 355.9-330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writing under KRS Chapter 355.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.