

355.9-516A Administrative rejection of unauthorized records.

- (1) Upon approval of the Secretary of State, a filing office may refuse to accept a record communicated for filing under this article if it is evident from the contents of the record, including the described collateral, or from information in a record accompanying the record communicated for filing, that the person filing the record is not authorized to do so under KRS 355.9-509 or 355.9-708. This section only applies if all debtors and secured parties indicated on the record are individuals.
- (2) If a filing office refuses to accept a record pursuant to subsection (1) of this section, it shall immediately inform the person attempting to file the record and all persons identified on the record as secured parties that the record has not been accepted, and may request additional documentation supporting the filing. The Secretary of State shall review all documentation received pursuant to a request under this subsection, and if the Secretary of State concludes that the record is authorized under KRS 355.9-509 or 355.9-708, the Secretary of State shall direct the filing office to promptly accept the record.
- (3) A person indicated as a secured party of record on a financing statement that is refused pursuant to subsection (1) of this section may request from the Secretary of State an expedited administrative review of the decision to refuse filing.
- (4) A person indicated as a secured party of record on a financing statement that is refused filing pursuant to subsection (1) of this section may bring an action against the Secretary of State seeking a determination that the financing statement was filed by a person entitled to do so under KRS 355.9-509(1) and was authorized. An action under this subsection shall have priority on the court's calendar and shall proceed by expedited hearing. If the individual who filed the affidavit resides in this state, the exclusive venue in this state for the action shall be in the Circuit Court for the county where the individual principally resides in this state. If the individual who filed the affidavit does not reside in this state, the exclusive venue in this state shall be in the Circuit Court for the county where the filing office in which the financing statement was filed is located.
- (5) If the Secretary of State determines in an expedited administrative review initiated under subsection (3) of this section, or if a court determines in an action brought pursuant to subsection (4) of this section, that a rejected record was filed by a person entitled to do so under KRS 355.9-509(1) and should have been accepted for filing, upon receipt of a certified copy of that determination the filing office shall promptly file the record. Upon the filing of a record improperly refused under subsection (1) of this section, the record shall be treated as if it had been filed and effective as of the date originally submitted, except against a person that purchased the collateral in good faith between the date the record was rejected for filing and the subsequent actual date of the filing, to the extent that the person gave new value in reliance on the absence of the record from the files.

Effective: July 1, 2013

History: Created 2012 Ky. Acts ch. 132, sec. 85, effective July 1, 2013.

Legislative Research Commission Note (3/14/2013). 2013 Ky. Acts ch. 10, secs. 2 and 3 provide that the statutes in Article 9 of the Uniform Commercial Code that were

amended or created in 2012 Ky. Acts ch. 132, secs. 60 to 99, are effective July 1, 2013. This statute was one of those sections. Since only the effective date of a prior Act was altered, and not the text of the affected statutes, reference to 2013 Ky. Acts ch. 10 does not appear in the history for this statute.

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