

ELFA DRAFT Amendment to Kentucky BR 144

(4) This section shall not apply to:

(c) Any banks, trust companies, savings and loan associations, savings banks, credit unions, industrial loan companies or finance or credit companies licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed or organized under the laws of any state of the United States, or any subsidiary or affiliate thereof;

Full Text of Kentucky BR 144

AN ACT relating to contracts.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) Any person that sells or offers to sell any products or services to a consumer pursuant to a contract that automatically renews unless the consumer cancels the contract shall disclose the automatic renewal clause clearly and conspicuously in the contract, including the cancellation procedure.
- (2) Any person that sells or offers to sell any products or services to a consumer pursuant to a contract that is for a specified term of twelve (12) months or more, and which automatically renews for a specified term of more than one (1) month unless the consumer cancels the contract, shall notify the consumer in writing of the automatic renewal. This written notice shall be provided to the consumer no less than thirty (30) days and no more than sixty (60) days before the cancellation deadline pursuant to the automatic renewal clause and shall disclose clearly and conspicuously:
- (a) That unless the consumer cancels the contract, it will automatically renew; and
- (b) The location where the consumer can obtain details of the automatic renewal provision and its cancellation procedure.
- (3) A person shall not be liable for a violation of this section if the person demonstrates, as part of the person's routine business practice, that:
- (a) The person enforces established written procedures to comply with this section;
- (b) Any failure to comply with this section was the result of inadvertent error; and
- (c) Where an error causes a failure to comply with this section, the person provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the account, or the date of the subsequent notice of renewal, whichever occurs first.
- (4) This section shall not apply to:
- (a) A contract entered into before the effective date of this Act;
- (b) A business-to-business contract unless the business receiving the product or services has five (5) or fewer employees;
- (c) To banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed or organized under the laws of any state of the United States, or any subsidiary or affiliate thereof;
- (d) A contract that is extended beyond the original term of the contract as the result of the consumer's initiation of a change in the original contract terms; or
- (e) A contract where one (1) of the parties is the federal or state government, a unit of local government, or a political subdivision of this state, including a school district.
- (5) (a) A violation of this section shall be deemed an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce

in violation of KRS 367.170.

(b) All of the remedies, powers, and duties delegated to the Attorney General by KRS 367.190 to 367.300, and the penalties provided in KRS 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall be applied to acts and practices declared unlawful by this section.

(c) Nothing in this section shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General, which he or she is authorized to exercise or perform by law.

(d) The Attorney General may promulgate administrative regulations in accordance with KRS Chapter 13A for the proper administration of this section, including the setting of standards relating to the means by which a required communication with a consumer may satisfy this section's clear and conspicuous communication requirement.