

CHAPTER 91
(HB 392)

AN ACT relating to voluntary energy cost assistance funds.

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

➔Section 1. KRS 278.287 is amended to read as follows:

- (1) As used in this section:
 - (a) "Voluntary energy cost assistance fund" means a fund that shall:
 1. Be administered by a utility or provider for the purpose of receiving voluntary contributions from customers and disbursing subsidies to customers;
 2. Be administered in coordination with one (1) or more community action agencies that assist the Cabinet for Health and Family Services in administering federal Low-Income Home Energy Assistance Program (LIHEAP) funding; and
 3. Be maintained in trust and separate from any customer assistance program otherwise implemented by the utility or provider;
 - (b) "Provider" means any person or persons, excluding an electric power system owned and operated by a municipality, that provide service to retail customers and that own, control, operate, or manage any facility used or to be used for or in connection with any activity described in KRS 278.010(3)(a) or (b) but are not regulated by KRS Chapter 278; and
 - (c) "Fund" means a voluntary energy cost assistance fund.
- (2) Any utility as defined in KRS 278.010(3)(a) or (b) that provides service to retail customers and that does not already administer an energy assistance program prior to July 12, 2006, may establish a fund.
- (3) Any provider that does not already administer an energy assistance program prior to July 12, 2006, may establish a fund.
- (4) A customer's voluntary monthly contribution amount to the fund shall be:
 - (a) An amount equal to the difference of the customer's monthly bill and the amount of the next highest whole dollar; or
 - (b) A standard amount not to exceed one dollar (\$1).
- (5) A customer may make a special contribution to the fund at any time in any amount.
- (6) Annual disbursements from the fund may be made in November and December of each year by the utility or provider upon the recommendation of a community action agency for the purpose of providing a utility or provider bill subsidy for residential customers who:
 - (a) Use electricity or natural or manufactured gas as a principal source of home energy;
 - (b) Are responsible for their home heating costs either directly or indirectly as an undesignated portion of the rent;
 - (c) Have a total household income that is at or below **the percentage**~~[one hundred ten percent (110%)]~~ of the federal poverty guidelines **required for eligibility in the subsidy component of LIHEAP, as specified in the latest federally approved version of the Kentucky LIHEAP State Plan submitted by the Department for Community Based Services**~~[as defined in KRS 205.5621]~~;
 - (d) Have liquid monetary resources that do not exceed one thousand five hundred dollars (\$1,500) if those liquid monetary resources are not used for the medical and living expenses of a household member with a catastrophic illness;
 - (e) Have liquid monetary resources that do not exceed four thousand dollars (\$4,000) if those liquid monetary resources are used for the medical and living expenses of a household member with a catastrophic illness; and

- (f) Are customers of the utility or provider.
- (7) If available, additional disbursements from the fund may be made from January 1 through March 15 of each year by the utility or provider upon the recommendation of a community action agency for the purpose of providing a utility or provider bill subsidy for residential customers who:
- (a) Use electricity or natural or manufactured gas as a principal source of home energy;
 - (b) Are responsible for their home heating costs either directly or indirectly as an undesignated portion of the rent;
 - (c) Have a total household income that is at or below ***the percentage***~~{one hundred ten percent (110%)}~~ of the federal poverty guidelines ***required for eligibility in the subsidy component of LIHEAP, as specified in the latest federally approved version of the Kentucky LIHEAP State Plan submitted by the Department for Community Based Services***~~{as defined in KRS 205.5621}~~;
 - (d) Have liquid monetary resources that do not exceed one thousand five hundred dollars (\$1,500) if those liquid monetary resources are not used for the medical and living expenses of a household member with a catastrophic illness;
 - (e) Have liquid monetary resources that do not exceed four thousand dollars (\$4,000) if those liquid monetary resources are used for the medical and living expenses of a household member with a catastrophic illness; and
 - (f) Are utility or provider customers who:
 1. Have received a disconnect notice from the utility or provider;
 2. Are within four (4) days of running out of fuel oil, propane, kerosene, wood, or coal; or
 3. Have received an eviction notice for nonpayment of rent, when heat is included as an undesignated portion of the rent.
- (8) If available, additional summer cooling disbursements from the fund may be made on a one (1) time basis from May through August of each year by the utility or provider upon the recommendation of a community action agency for the purpose of providing an air-conditioning unit to residential customers who:
- (a) Are responsible for their home heating costs either directly or indirectly as an undesignated portion of the rent;
 - (b) Have a total household income that is at or below ***the percentage***~~{one hundred ten percent (110%)}~~ of the federal poverty guidelines ***required for eligibility in the subsidy component of LIHEAP, as specified in the latest federally approved version of the Kentucky LIHEAP State Plan submitted by the Department for Community Based Services***~~{as defined in KRS 205.5621}~~;
 - (c) Have liquid monetary resources that do not exceed one thousand five hundred dollars (\$1,500) if those liquid monetary resources are not used for the medical and living expenses of a household member with a catastrophic illness;
 - (d) Have liquid monetary resources that do not exceed four thousand dollars (\$4,000) if those liquid monetary resources are used for the medical and living expenses of a household member with a catastrophic illness;
 - (e) Are customers of the utility or provider;
 - (f) Do not have access to an air conditioner; and
 - (g) Have a household member who:
 1. Has a health condition or disability that requires cooling to prevent further deterioration as verified by a physician's statement;
 2. Is sixty-five (65) years of age or older; or
 3. Is under the age of six (6).
- (9) For the six (6) month period from January 1 to June 30 of each year, each utility or provider that administers a fund shall provide a detailed report of costs in administering the fund and a detailed report of receipts to and disbursements from the fund to the commission no later than July 31, and for the six (6) month period from

July 1 to December 31, no later than January 31 of the following year. Any balances remaining in the fund at the end of a year shall remain in the fund for use in succeeding years.

- (10) The commission shall require all utilities as defined in KRS 278.010(3)(a) and (b) that administer a fund and provide service to retail customers in Kentucky to develop and implement a mechanism for soliciting and receiving contributions to the fund. The mechanism and format shall be approved by the commission and may include but shall not be limited to a check-the-box format. Contributions shall be made as described in subsections (4) and (5) of this section.
- (11) Any provider that administers a fund shall comply with the requirements to implement a mechanism for soliciting and receiving contributions to the fund as provided in subsection (10) of this section.
- (12) Those utilities and providers that are already administering an energy assistance program prior to July 12, 2006, shall not be subject to subsections (9), (10), and (11) of this section.
- (13) All contributions to the fund shall be voluntary and shall be uniformly assessed monthly, except in the case of a special contribution, which can be made in any amount at any time, for all customers of the utility or provider. A customer shall not be subject to making contributions until such time as his or her intent is submitted to the applicable utility in a manner prescribed by the commission. A customer who no longer wishes to contribute to the fund shall be exempted from making further contributions to the fund once his or her intent is submitted to the applicable utility in a manner prescribed by the commission.
- (14) Contributions received by utilities or providers, together with any interest accruing thereon, shall be transferred to the fund immediately upon receipt.
- (15) A utility or provider that administers a fund may recover up to three percent (3%) of each contribution received for its costs in administering the fund. The commission shall allow any additional, reasonable cost a utility incurs in administering the receipt and disbursement of contributions to the fund in the cost of service of the utility for ratemaking purposes.

Signed by Governor March 23, 2021.