

CHAPTER 81

(SB 30)

AN ACT relating to the termination of automatic renewal offers and continuous service offers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:

- (1) *"Automatic renewal" means a plan or arrangement in which a paid subscription, membership, or purchase agreement is automatically renewed at the end of a definite paid term for a subsequent paid term of more than one (1) month;*
- (2) *"Automatic renewal offer terms" means the following clear and conspicuous disclosures:*
 - (a) *That the paid subscription or purchase agreement will continue until the consumer cancels;*
 - (b) *The description of the cancellation policy that applies to the offer;*
 - (c) *The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known;*
 - (d) *The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and*
 - (e) *The minimum purchase obligation, if any;*
- (3) *"Clear and conspicuous" means 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 the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" mean in a volume and cadence sufficient to be readily audible and understandable;*
- (4) *"Consumer" means an individual who acquires goods or services for personal, family, or household purposes; and*
- (5) *"Continuous service" means a plan or arrangement in which a paid subscription or purchase agreement continues for an indefinite term until the consumer cancels the service.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

- (1) *A business that makes an automatic renewal or continuous service offer to a consumer in this state shall:*
 - (a) *Present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchase agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer. If the offer also includes a free gift or trial, the offer shall include a clear and conspicuous explanation of the price that will be charged after the trial ends or the manner in which the subscription or purchase agreement pricing will change upon conclusion of the trial;*
 - (b) *Obtain the consumer's affirmative consent to the purchase agreement with the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of time, before charging the consumer's credit or debit card, or the consumer's account with a third party, for an automatic renewal offer or continuous service offer; and*
 - (c) *Provide an acknowledgment that includes the automatic renewal offer terms or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the automatic renewal offer or continuous service offer includes a free gift or trial, the business shall also disclose in the acknowledgment how to cancel, and allow the consumer to cancel, the automatic renewal or continuous service before the consumer pays for the goods or service.*

- (2) *A business that makes an automatic renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail address, postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in subsection (1)(c) of this section.*
- (3) *A business that allows a consumer to accept an automatic renewal or continuous service online shall allow that consumer to terminate the automatic renewal or continuous service offer exclusively online which may include a termination e-mail formatted and provided by the business that a consumer can send to the business without additional information.*
- (4) *In the event of a material change in the terms of the automatic renewal or continuous service that has been accepted by a consumer in this state, the business shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Sections 1 and 2 of this Act shall not apply to:

- (1) *Any service provided by a business or its affiliate where either the business or its affiliate is operating pursuant to a franchise issued by a political subdivision of this state or a license, franchise, certificate, or other authorization issued by the Kentucky Public Service Commission;*
- (2) *Any service provided by a business or its affiliate where either the business or its affiliate is regulated by the Kentucky Public Service Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission;*
- (3) *Any person or entity that is an insurer as defined in KRS 304.1-040 or regulated under KRS Chapter 304 or an affiliate of that person or entity;*
- (4) *Any person or entity providing service contracts as described in KRS 304.5-070 or an affiliate of that person or entity;*
- (5) *A bank as defined in 12 U.S.C. sec. 1813(a) or Subtitle 3 of KRS Chapter 286;*
- (6) *A federal or state credit union as defined in 12 U.S.C. sec. 1752 or a credit union as defined in Subtitle 6 of KRS Chapter 286;*
- (7) *A savings association as defined in 12 U.S.C. sec. 1813(b);*
- (8) *A consumer loan company as licensed under Subtitle 4 of KRS Chapter 286;*
- (9) *Providers of in-vehicle, roadside assistance, or travel subscription services; or*
- (10) *Solid waste management services as defined in KRS 109.012.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

- (1) *If a business fails to comply with Section 2 of this Act and it is the business's first violation, the business shall provide a prorated refund for the contract subject to an automatic renewal provision from the start of the most recent term to the date on which the business was notified of and corrects the error.*
- (2) *If the business fails to provide a prorated refund as required in subsection (1) of this section or it is a business's second or subsequent violation, the Attorney General may bring an action to obtain:*
 - (a) *A temporary or permanent injunction prohibiting the use of any method, act, or practice in violation of Section 2 of this Act;*
 - (b) *Restitution for consumers who are residents of this state and incurred a loss of money or property as the direct result of a violation of Section 2 of this Act; and*
 - (c) *Penalties that shall not exceed five hundred dollars (\$500) for each violation of Section 2 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall not apply to contracts entered into prior to the effective date of this Act.

➔Section 6. This Act takes effect on January 1, 2024.

Signed by Governor March 23, 2023.

