

### **367.46955 Prohibited telephone solicitation acts and practices.**

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation through telecommunications services or interconnected Voice over Internet Protocol or VoIP service to engage in the following conduct:

- (1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;
- (2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;
- (3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;
- (4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;
- (5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;
- (6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;
- (7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;
- (8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;
- (9)
  - (a) Causing misleading caller identification information to be transmitted to users of caller identification services, or to otherwise misrepresent the origin of the telephone solicitation.
  - (b)
    1. This subsection shall not apply to solicitations which block caller identification, nor shall it apply to solicitations in which the name and telephone number of the party on whose behalf the call is made is substituted for the name and telephone number of the actual caller.
    2. This subsection shall not apply to a telecommunications, broadband, or Voice over Internet Protocol service provider that is:
      - a. Acting in the telecommunications, broadband, or Voice over Internet Protocol service provider's capacity as an intermediary for the transmission of telephone service between the caller and the

- recipient;
  - b. Providing or configuring a service or service feature as requested by the customer;
  - c. Acting in a manner that is authorized or required by applicable law; or
  - d. Engaging in other conduct that is necessary to provide service;
- (10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;
  - (11) Threatening, intimidating, or using profane or obscene language;
  - (12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;
  - (13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;
  - (14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;
  - (15) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the national Do Not Call Registry maintained by the United States Federal Trade Commission;
  - (16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;
  - (17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;
  - (18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or
  - (19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

**Effective:** June 27, 2019

**History:** Amended 2019 Ky. Acts ch. 105, sec. 1, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 145, sec. 1, effective July 14, 2018. -- Amended 2007 Ky. Acts ch. 115, sec. 2, effective June 26, 2007. -- Amended 2002 Ky. Acts ch. 21, sec. 2, effective July 15, 2002. -- Created 1998 Ky. Acts ch. 581, sec. 3, effective July 15, 1998.

**Legislative Research Commission Note (07/15/2002).** Under the authority of KRS 7.136, the Reviser of Statutes has corrected a clearly erroneous statutory reference in subsection (5) of this section as enacted in 2002 Ky. Acts ch. 21, sec. 2, by changing "KRS 367.46953" to "KRS 367.46963."