

AN ACT relating to debt collection.

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) As used in this section:

(a) "Commercial creditor" means a person who in the ordinary course of business engages in consumer transactions;

(b) "Consumer" means a natural person who purchases or acquires property, services, or credit for personal, family, or household purposes;

(c) "Consumer transaction" means a transaction between a consumer and a person who sells, leases, or provides property, services, or credit to consumers;

(d) "Credit" means the right granted by a creditor to a consumer to defer payment of a debt, to incur a debt and defer its payment, or to purchase or acquire property or services and defer payment therefor;

(e) "Debt" means any obligation or alleged obligation arising out of a consumer transaction;

(f) "Debt collector" means any person who by any direct or indirect action, conduct, or practice, enforces or attempts to enforce an obligation that is owed or due to any commercial creditor, or alleged to be owed or due to any commercial creditor, by a consumer as a result of a consumer transaction;
and

(g) "Debtor" means a consumer who owes or allegedly owes an obligation arising out of a consumer transaction.

(2) It shall be an unlawful collection practice for a debt collector, while collecting or attempting to collect a debt, to do any of the following:

(a) Use or threaten the use of force or violence to cause physical harm to a

- debtor or to the debtor's family or property;
- (b) Threaten arrest or criminal prosecution;
- (c) Threaten the seizure, attachment, or sale of a debtor's property when that action can only be taken pursuant to court order without disclosing that prior court proceedings are required;
- (d) Use profane, obscene, or abusive language in communicating with a debtor or the debtor's family;
- (e) Communicate with the debtor or any member of the debtor's family repeatedly, continuously, or at times known to be inconvenient to that person, with intent to harass or annoy the debtor or any member of the debtor's family;
- (f) Communicate or threaten to communicate with a debtor's employer concerning the nature or existence of the debt;
- (g) Communicate or threaten to communicate without the debtor's permission at the debtor's place of employment if the place is other than the debtor's residence, except that the debt collector may:
1. Write to the debtor at the debtor's place of employment if no home address is reasonably available and if the envelope does not reveal that the communication is from a debt collector other than a provider of the goods, services, or credit from which the debt arose; and
 2. Telephone a debtor's place of employment without informing any other person of the nature of the call or identifying the caller as a debt collector, but only if the debt collector in good faith has made an unsuccessful attempt to telephone the debtor at the debtor's residence during the day or during the evening between the hours of 6 p.m. and 9 p.m. The debt collector may not contact the debtor at the debtor's place of employment more frequently than once each business week,

and may not telephone the debtor at the debtor's place of employment if the debtor notifies the debt collector not to telephone at the debtor's place of employment or if the debt collector knows or has reason to know that the debtor's employer prohibits the debtor from receiving the communication. For the purposes of this subparagraph, any language in any instrument creating the debt which purports to authorize telephone calls at the debtor's place of employment shall not be considered as giving permission to the debt collector to call the debtor at the debtor's place of employment;

- (h) Communicate with the debtor in writing without clearly identifying on all initial communications the name of the debt collector, the name of the person, if any, for whom the debt collector is attempting to collect the debt, and the debt collector's business address. In subsequent communications involving multiple accounts, the debt collector may eliminate the name of the person, if any, for whom the debt collector is attempting to collect the debt, and the term "various" may be substituted in its place;
- (i) Communicate with the debtor orally without disclosing to the debtor within thirty (30) seconds the name of the individual making the contact and the true purpose of the communication;
- (j) Cause any expense to the debtor in the form of long-distance telephone calls or any other charges incurred by any medium of communication by concealing the true purpose of the debt collector's communication;
- (k) Attempt or threaten to enforce a right or remedy with knowledge or reason to know that the right or remedy does not exist, or threaten to take any action which the debt collector in the regular course of business does not take;
- (l) Use any form of communication which simulates the legal or judicial

process or which gives the appearance of being authorized, issued, or approved by a governmental agency, governmental official, or an attorney at law when it is not in fact so approved or authorized;

(m) Represent that an existing debt may be increased by the addition of attorney fees, investigation fees, or any other fees or charges when such fees or charges may not legally be added to the existing debt;

(n) Collect or attempt to collect any interest or any other charges or fees in excess of the actual debt unless they are expressly authorized by the agreement creating the debt or expressly allowed by law;

(o) Threaten to assign or sell the debtor's account with an attending misrepresentation or implication that the debtor would lose any defense to the debt or would be subjected to harsh, vindictive, or abusive collection tactics; or

(p) Use the seal or letterhead of a public official or agency.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person injured as a result of willful use or employment by another person of an unlawful collection practice prohibited by Section 1 of this Act may bring an action in any court with jurisdiction to enjoin the practice or to recover actual damages or two hundred dollars (\$200), whichever is greater. The court or the jury may award punitive damages, and the court may provide equitable relief as it deems necessary or proper.

(2) In any action brought by a person under this section, the court may award reasonable attorney fees to the prevailing party.

(3) Actions brought under this section shall be commenced within one (1) year from the date of the injury.