

1 AN ACT relating to retail installment contracts.

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

3 ➔Section 1. KRS 190.100 is amended to read as follows:

- 4 (1) (a) Every retail installment contract shall:
- 5 1. Be in writing in at least eight (8) point type;
 - 6 2. Contain all the agreements of the parties;
 - 7 3. Be signed by the retail buyer; and
 - 8 4. Require a copy thereof to be furnished to the retail buyer at the time of
9 the execution of the contract.
- 10 (b) A retail installment contract need not appear on a single page and a contract
11 that includes a provision incorporating agreements that appear after the
12 buyer's signature, including without limitation, terms, and conditions on the
13 back or on subsequent pages, shall be deemed in compliance with KRS
14 446.060(1).
- 15 (c) No provisions for confession of judgment, power of attorney therefor, or wage
16 assignment contained in any retail installment contract shall be valid or
17 enforceable.
- 18 (d) 1. The holder of a retail installment contract may collect a delinquency and
19 collection charge~~[on each installment in arrears for a period not less~~
20 ~~than ten (10) days]~~ in an amount not in excess of five percent (5%) of
21 each installment or fifteen dollars (\$15), whichever is greater, ***for each***
22 ***installment in arrears for a period not less than:***
- 23 ***a. Three (3) days for installment periods that are less than twenty-***
24 ***eight (28) days; or***
 - 25 ***b. Ten (10) days for installment periods that are twenty-eight (28)***
26 ***days or longer.***
- 27 2. In addition to such delinquency and collection charge, the retail

1 installment contract may provide for the payment of reasonable
2 attorneys' fees where such contract is referred to an attorney not a
3 salaried employee of the holder of the contract for collection, plus the
4 court costs.

5 (e) Unless notice has been given to the retail buyer of actual or intended
6 assignment of a retail installment contract, payment thereunder or tender
7 thereof made by the retail buyer to the last known holder of such contract
8 shall be binding upon all subsequent holders or assignees.

9 (f) Upon written request from the retail buyer, the holder of the retail installment
10 contract shall give or forward to the retail buyer a written statement of the
11 total amount unpaid under such contract. A retail buyer shall be given a
12 written receipt for any payment when made in cash.

13 (2) The retail installment contract shall contain the following:

14 (a) The cash sale price of the motor vehicle which is the subject matter of the
15 retail installment sale;

16 (b) The amount of the retail buyer's down payment, whether made in money or
17 goods, or partly in money or partly in goods;

18 (c) The difference between paragraphs (a) and (b) of this subsection;

19 (d) 1. Amount, if any, included for insurance and other benefits; and

20 2. Types of coverage and benefits;

21 (e) Official fees as defined in KRS 190.090;

22 (f) Any amounts eligible for inclusion in the cash sale price as defined in KRS
23 190.090 that the seller elects to separately itemize; and

24 (g) Principal balance, which is the sum of paragraphs (c), (d), and (e) of this
25 subsection.

26 (3) A retail installment contract is deemed in compliance with subsection (2) of this
27 section if it satisfies the requirements of the Truth in Lending Act that would apply

1 to a retail installment contract within the Truth in Lending Act's scope, regardless
2 of whether the Truth in Lending Act would apply to the retail installment sale at
3 issue.

4 (4) The amount, if any, included for insurance, shall not exceed the premiums
5 chargeable in accordance with applicable rate filings made with the commissioner
6 of insurance. Every retail seller or sales finance company, if insurance on the motor
7 vehicle is included in a retail installment contract shall within thirty (30) days after
8 execution of the retail installment contract send or cause to be sent to the retail
9 buyer a policy or policies or certificate of insurance, which insurance shall be
10 written by a company authorized to do business in this state, clearly setting forth the
11 amount of the premium, the kind or kinds of insurance and the scope of the
12 coverage and all the terms, exceptions, limitations, restrictions and conditions of the
13 contract or contracts of the insurance. The buyer of a motor vehicle under a retail
14 installment contract shall have the privilege of purchasing such insurance from an
15 agent or broker of his own selection and of selecting an insurance company
16 acceptable to the seller; provided, however, that the inclusion of the insurance
17 premium in the retail installment contract when the buyer selects the agent, broker
18 or company, shall be optional with the seller. If any such policy is canceled, the
19 unearned insurance premium refund received by the holder of the contract shall be
20 credited to the final maturing installments of the retail installment contract. For
21 purposes of this subsection, single interest insurance insuring the retail seller or
22 sales finance company shall not be considered insurance on the motor vehicle.
23 Neither a copy of the policy nor a certificate of insurance of this type of insurance
24 shall be sent to the retail buyer.

25 (5) Any sales finance company hereunder may purchase or acquire from any retail
26 seller any retail installment contract on such terms and conditions as may be agreed
27 upon between them. No filing of the assignment, no notice to the retail buyer of the

1 assignment, and no requirement that the retail seller shall be deprived of dominion
2 over the payments thereunder or the goods covered thereby if repossessed by the
3 retail seller shall be necessary to the validity of a written assignment of a retail
4 installment contract as against creditors, subsequent purchasers, pledgees,
5 mortgagees, and lien claimants of the retail seller.

6 (6) An acknowledgment in the body of the retail installment contract by the retail buyer
7 of the delivery of a copy thereof shall be conclusive proof of delivery in any action
8 or proceeding by or against any assignee of a retail installment contract.

9 (7) (a) A "debt cancellation agreement" is a written provision in a retail installment
10 contract, or separate addendum thereto, which provides for cancellation of all
11 or part of an obligation of the buyer or obligor upon the occurrence of a
12 specified event.

13 (b) In accordance with subsection (2)(d) of this section, a debt cancellation
14 agreement shall be itemized by type on the retail installment contract and
15 considered an "other benefit" for which the seller, sales finance company, or
16 other holder may charge the buyer or obligor.

17 (c) A debt cancellation agreement shall not be considered a contract of, or for,
18 insurance.

19 ➔Section 2. KRS 371.270 is amended to read as follows:

20 (1) The holder of any retail installment contract, if it so provides, may collect a
21 delinquency and collection charge on each installment in default for a period of
22 more than ten (10) days in the amount not to exceed five (5%) percent of each
23 installment or ***fifteen dollars (\$15)***~~ten dollars (\$10)~~, whichever is greater~~;~~
24 ~~provided that a minimum charge of one dollar (\$1) may be made, or, in lieu thereof,~~
25 ~~interest after maturity on each such installment not to exceed the highest lawful~~
26 ~~contract rate~~.

27 (2) The holder of a retail installment contract upon request by the buyer, may agree to

1 an amendment thereto to extend or defer the scheduled due date of all or any part of
2 any installment or installments or to renew, restate or reschedule the unpaid balance
3 of the contract, and may collect for same a refinance charge not to exceed an
4 amount ascertained as provided under either of the following optional methods of
5 computation:

6 Option I. The refinance charge may be computed on the amount of the
7 scheduled installment or installments extended or deferred for the period of
8 extension or deferment at the rate of one and one-half percent (1.5%) per
9 month; provided that a minimum deferment charge of one dollar (\$1) shall be
10 permitted. Such amendment may also include payment by the buyer of the
11 additional cost to the holder of premiums for continuing in force any
12 insurance coverages provided for in the contract until the end of such deferral
13 period, and of any additional necessary official fees.

14 Option II. The refinance charge may be computed as follows: The sum of the
15 unpaid balance as of the refinancing date and the cost for any insurance and
16 other benefits incidental to the refinancing, and for any additional necessary
17 official fees and any accrued delinquency and collection charges, after
18 deducting a refund credit as for prepayment pursuant to subsection (2) of KRS
19 371.260, shall constitute a principal balance for such refinancing on which the
20 refinance charge may be computed for the term of the refinanced contract at
21 the applicable rate for finance charges. Acquisition costs under the refund
22 schedule in subsection (2) of KRS 371.260 shall not apply in calculating
23 refinance charges.

- 24 (3) The amendment to the contract must be confirmed in a writing signed by the holder.
25 The writing shall set forth the terms of the amendment and the new due dates and
26 amounts of the installments, and shall either be delivered to the buyer or mailed to
27 him at his address as shown on the contract. Said writing together with the original

1 contract and any previous amendments thereto shall constitute the retail installment
2 contract.