

367.815 Liability for false, misleading, or deceptive representations -- Bond or deposit to insure veracity of statements -- Maintenance of records.

- (1) Any person who offers a business opportunity and makes representations that are false, misleading, or deceptive shall be liable to the consumer/investor of such business opportunity in an amount equal to the sum of his actual damages or fifteen hundred dollars (\$1,500), whichever is greater, as well as the cost of the action together with reasonable attorney's fees, as determined by the court.
- (2)
 - (a) All persons registering pursuant to KRS 367.805 shall either furnish a bond by a surety company authorized to do business in the Commonwealth or establish a full cash certificate of deposit with a licensed and insured bank or savings institution located in the Commonwealth to insure the veracity of all statements contained in the registration. The amount of the bond or certificate of deposit shall be in an amount equal to the total amount of the initial payments under all business opportunity agreements the offeror has entered into in the Commonwealth during the previous year but in no case shall the amount be less than seventy-five thousand dollars (\$75,000). The bond or certificate of deposit shall be in the favor of the Attorney General of Kentucky.
 - (b) Any person who is damaged by any violation of KRS 367.801 to 367.819, or by the offeror's breach of contract for the business opportunity sale, or of any obligation arising therefrom may bring an action against the bond or certificate of deposit to recover damages suffered, provided that the aggregate liability of the surety or trustee shall be only for the actual damages and shall not exceed the amount of the bond or trust account.
- (3) A person who has furnished a bond described in subsection (2) of this section may petition the division for release of the bond by submitting a verified statement that such person has not offered business opportunities in the state for the last five (5) years.
- (4) Any offeror of a business opportunity who has offered or sold in this state shall maintain a complete set of books, records, and accounts of its business opportunity sales. The sale documents shall be maintained on each transaction for a period of four (4) years after the date of agreement. The offeror shall make the books and records available to the division upon demand at a location within the state.

Effective: July 15, 1994.

History: Amended 1994 Ky. Acts ch. 165, sec. 29, effective July 15, 1994; and ch. 329, sec. 5, effective July 15, 1994. -- Created 1978 Ky. Acts ch. 315, sec. 8, effective June 17, 1978.

Legislative Research Commission Note (7/15/94). This section was amended by 1994 Ky. Acts chs. 165 and 329 which are in conflict. Under KRS 446.250, Acts ch. 329, which was last enacted by the General Assembly, prevails.