

367.983 Civil remedies for consumers injured by violations of KRS 367.976 to 367.985.

- (1) A lessor who fails to comply with a requirement imposed in KRS 367.977, 367.978, 367.979, or 367.980 with respect to a consumer shall be liable to the consumer in an amount equal to the greater of:
 - (a) The actual damages sustained by the consumer as a result of the violation, plus the costs of the action and reasonable attorneys' fees;
 - (b) In the case of an individual action, twenty-five percent (25%) of the total of payments necessary to acquire ownership but not less than one hundred dollars (\$100) nor greater than one thousand dollars (\$1,000), plus the costs of the action and reasonable attorneys' fees; or
 - (c) In the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member, plus the costs of the action and reasonable attorneys' fees. The total recovery in any class action or series of class actions arising out of the same violation shall not be more than the lesser of five hundred thousand dollars (\$500,000), plus the costs of the action and reasonable attorneys' fees or one percent (1%) of the net worth of the lessor, plus the costs of the action and reasonable attorneys' fees. In determining the amount of any award in a class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional.
- (2) In the case of an advertisement, any lessor who fails to comply with the requirements of KRS 367.982 with regard to any person shall be liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorneys' fees.
- (3) If there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. If no disclosures have been given, liability shall be imposed on all lessors.
- (4) If there are multiple consumers in a rental-purchase agreement, there shall be only one (1) recovery of damages under subsection (1) of this section for a violation of KRS 367.976 to 367.985.
- (5) Multiple violations in connection with a rental-purchase agreement shall entitle the consumer to a single recovery under this section.
- (6) A consumer shall not take any action to offset any amount for which a lessor is potentially liable under subsection (1) of this section against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection shall not bar a consumer then in default on the obligation from asserting a violation of KRS 367.976 to 367.985 as an original action, or as a defense or counterclaim to an action brought by lessor to collect amounts owed by the consumer.

- (7) In connection with any transaction covered under KRS 367.976 to 367.985, the lessor shall preserve evidence of compliance with the provisions of KRS 367.976 to 367.985 for not less than two (2) years from the date of consummation of the agreement.

Effective: July 13, 1990

History: Created 1990 Ky. Acts ch. 196, sec. 8, effective July 13, 1990; and ch. 304, sec. 8, effective July 13, 1990.

Legislative Research Commission Note (7/13/90). This section was created by two separate 1990 Acts which are identical and have therefore been compiled together.