

151B.315 Manufacturer's duty when nonconformity is not repaired after reasonable attempt -- Lease value -- Allowance for use.

- (1) If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer shall carry out, at the option of the consumer, the requirements under paragraph (a) or (b) of this subsection.
 - (a) To provide for refunds, at the request of the consumer, the manufacturer shall do one (1) of the following:
 1. Accept return of the assistive device and refund to the consumer and to any holder of a perfected security interest in the consumer's assistive device, as the interest may appear, the full purchase price including any finance charge paid by the consumer at the point of sale, plus collateral costs, less a reasonable allowance for use, except that in the case of hearing aids, the manufacturer's invoice price shall be refunded; or
 2. Accept return of the assistive device, refund to the assistive device lessor and to any holder of a perfected security interest in the assistive device, as the interest may appear, the current value of the written lease and refund to the consumer the amount that the consumer paid under the written lease plus collateral costs, less a reasonable allowance for use.
 - (b) To receive a comparable new assistive device to that having the nonconformity or a refund, the consumer shall offer to transfer possession of the nonconforming assistive device to its manufacturer. No later than thirty (30) days after that offer, the manufacturer shall provide the consumer with the comparable assistive device or a refund. When the manufacturer provides the comparable new assistive device or the refund, the consumer shall return the assistive device having the nonconformity to the manufacturer, along with any endorsements necessary to transfer legal possession to the manufacturer.
- (2) If, after a reasonable attempt to repair, the nonconformity is not repaired, an assistive device lessor shall receive a refund from the manufacturer. To receive a refund, the assistive device lessor shall offer to transfer possession of a nonconforming assistive device to its manufacturer. No later than thirty (30) days after that offer, the manufacturer shall provide the refund to the assistive device lessor. When the manufacturer provides the refund, the assistive device lessor shall provide to the manufacturer any endorsements necessary to transfer legal possession to the manufacturer.
- (3) Under this section, the current value of the written lease equals the total amount for which that lease obligates the consumer during the period of the lease remaining after its early termination, plus the assistive device dealer's early termination costs and the value of the assistive device at the lease expiration date, if the lease sets forth that value, less the assistive device lessor's early termination savings.
- (4) Under this section, a reasonable allowance for use may not exceed the amount obtained by multiplying the total amount paid by the consumer under a purchase or for which the consumer is obligated under a written lease by a fraction, the denominator of which is one thousand eight hundred twenty-five

(1,825), which is the number of days in a five (5) year period, and the numerator of which is the number of days that the consumer used the assistive device before first reporting the nonconformity to the manufacturer, assistive device lessor, or assistive device dealer.

- (5) No person may enforce the lease against the consumer after the consumer receives a refund.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 221, sec. 4, effective July 15, 1998.