

### **190.090 Definitions for KRS 190.090 to 190.140.**

As used in KRS 190.090 to 190.140, unless the context or subject matter otherwise requires:

- (1) "Person" means an individual, partnership, corporation, association, and any other group however organized;
- (2) "Retail installment sale" means any sale for other than agricultural, business, or commercial use evidenced by a retail installment contract wherein retail buyer agrees to buy and retail seller agrees to sell a motor vehicle at a time sale price payable in two (2) or more installments. The cash sale price of the motor vehicle, the amount, if any, included for insurance and other benefits, official fees and the finance charge, shall together constitute the time sale price;
- (3) "Retail installment contract" means any agreement, entered into in this state, evidencing a retail installment sale of a motor vehicle, other than for the purpose of resale, pursuant to which title to, or a lien upon the motor vehicle is retained by the retail seller as security for the retail buyer's obligation. This term includes a mortgage, conditional sale contract or any contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to the time sale price of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming for no additional consideration or for nominal additional consideration, the owner of such motor vehicle;
- (4) "Motor vehicle" means any device in, upon, or by which any person or property is, or may be transported or drawn upon a highway. The term does not include self-propelled wheelchairs and invalid tricycles, tractors, power shovels, road machinery, implements of husbandry and other agricultural machinery, or other machinery not designed primarily for highway transportation but which may incidentally transport persons or property on a highway, or devices which move upon or are guided by a track or travel through the air. A moped as defined in KRS 190.010 and a recreational vehicle shall be subject to the same requirements as a motor vehicle under this section;
- (5) "Retail seller" or "seller" means a person who sells or agrees to sell a motor vehicle under a retail installment contract to a retail buyer;
- (6) "Retail buyer" or "buyer" means a person who buys or agrees to buy a motor vehicle from a retail seller not for the purpose of resale and who executes a retail installment contract in connection therewith;
- (7) "Sales finance company" means a person engaged in the business of creating and holding or purchasing or acquiring retail installment contracts from a retail seller. The term includes a bank, trust company, private banker, industrial bank, investment company or national bank, if so engaged;
- (8) "Cash sale price" means, for purposes of KRS 190.090 to 190.140 only, and not for purposes of KRS 138.455 to 138.470, the price at which the seller would in good faith sell to the buyer, and the buyer would in good faith buy from the seller, the motor vehicle which is the subject matter of the retail installment contract, if such

sale were a sale for cash, instead of a retail installment sale. The cash sale price may include:

- (a) Any taxes, registration fees, certificate of title fees, and, if any, license fees;
  - (b) Charges for delivery, servicing, repairing, or improving the motor vehicle, including accessories and their installation;
  - (c) Charges for a service contract, mechanical breakdown insurance, a maintenance agreement, a vehicle protection product, and any other goods or services related to the sale that the buyer agrees to purchase from the seller; and
  - (d) Any processing fee;
- (9) "Official fees" means the fees prescribed by law for filing, recording, or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract;
  - (10) "Finance charge" means that part of the time sale price by which it exceeds the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees included in the retail installment sale;
  - (11) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance and parts related to such maintenance. A maintenance agreement shall not be considered a contract of, or for, insurance;
  - (12) "Service contract" has the same meaning as in KRS 304.5-070(1)(p);
  - (13) "Truth in Lending Act" means Title I of Pub. L. No. 90-321, codified at 15 U.S.C. secs. 1601 to 1667f, as may be amended from time to time;
  - (14) "United States Rule" means that in partial payments on a debt, each payment is applied first to the finance charge and any remainder reduces the principal. Under this rule, accrued but unpaid finance charges cannot be added to the principal and interest cannot be compounded;
  - (15) "Vehicle protection product" means a vehicle protection device, system, or service that is installed on or applied to a vehicle that is designed to deter the theft of the vehicle, and includes a written warranty that provides that if the product fails to deter the theft of the vehicle, the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the device, system, or service to perform pursuant to the terms of the warranty. Vehicle protection products include but are not limited to window etch products and body part marking products. A vehicle protection product shall not be considered a contract of, or for, insurance; and
  - (16) Words in the singular include the plural and vice versa.

**Effective:** July 15, 2016

**History:** Amended 2016 Ky. Acts ch. 57, sec. 2, effective July 15, 2016. -- Amended 2014 Ky. Acts ch. 27, sec. 21, effective January 1, 2015. -- Amended 2012 Ky. Acts ch. 96, sec. 1, effective July 12, 2012. -- Amended 1984 Ky. Acts ch. 391, sec. 1, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 349, sec. 11, effective June 17, 1978. -- Created 1956 Ky. Acts ch. 105, sec. 1, effective July 1, 1956.