

65.7635 Duty of commercial mobile radio service providers to act as collection agents for fund -- Procedure for collection of service and prepaid service charges.

- (1) Each CMRS provider shall act as a collection agent for the CMRS fund. From its customers, the provider shall, as part of the provider's billing process, collect the CMRS service charges levied upon CMRS connections under KRS 65.7629(3) from each CMRS connection to whom the billing provider provides CMRS. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge. If a CMRS provider receives a partial payment for a monthly bill from a CMRS customer, the provider shall first apply the payment against the amount the CMRS customer owes the CMRS provider. For CMRS customers who purchase CMRS services on a prepaid basis, the CMRS service charge shall be determined according to one (1) of the following methodologies as elected by the CMRS provider:
 - (a) The CMRS provider shall collect, on a monthly basis, the CMRS service charge specified in KRS 65.7629(3) from each active customer whose account balance is equal to or greater than the amount of service charge; or
 - (b) The CMRS provider shall divide its total earned prepaid wireless telephone revenue received with respect to its prepaid customers in the Commonwealth within the monthly 911 emergency telephone service reporting period by fifty dollars (\$50), multiply the quotient by the service charge amount, and pay the resulting amount to the board; or
 - (c) In the case of CMRS providers that do not have the ability to access or debit end-user accounts, and do not have retail contact with the end user or purchaser of prepaid wireless airtime, the CMRS service charge and collection methodology may be determined by administrative regulations promulgated by the board to collect the service charge from such end users.
- (2) A CMRS provider has no obligation to take any legal action to enforce the collection of the CMRS service charges for which any CMRS customer is billed. Collection actions to enforce the collection of the CMRS service charge against any CMRS customer may, however, be initiated by the state, on behalf of the board, in the Circuit Court of the county where the bill for CMRS service is regularly delivered, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.
- (3) State and local taxes shall not apply to CMRS service charges.
- (4) To reimburse itself for the cost of collecting and remitting the CMRS service charge, each CMRS provider may deduct and retain from the CMRS service charges it collects during each calendar month an amount not to exceed one and one-half percent (1.5%) of the gross aggregate amount of CMRS service charges it collected that month.
- (5) All CMRS service charges imposed under KRS 65.7621 to 65.7643 collected by each CMRS provider, less the administrative fee described in subsection (4) of this

section, are due and payable to the board monthly and shall be remitted on or before sixty (60) days after the end of the calendar month. Collection actions may be initiated by the state, on behalf of the board, in the Franklin Circuit Court or any other court of competent jurisdiction, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 219, sec. 7, effective July 12, 2006. -- Created 1998 Ky. Acts ch. 535, sec. 8, effective July 15, 1998.

Legislative Research Commission Note (7/12/2006). Although 2006 Ky. Acts ch. 219, sec. 7, subsec. (5), contains a reference to "subsection (3) of this section," that reference has been codified as "subsection (4) of this section" because subsection (2), which was struck in the introduced version of the bill, was restored in the House Committee Substitute, but the necessary adjustment to this internal reference was not made. This manifest typographical or clerical error has been corrected in codification under KRS 7.136(1)(h).