

## CHAPTER 77

## ( HB 309 )

AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 286.3-280 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, no bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless the person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but the indebtedness or obligation of any person shall not exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company. When computing the total capital stock and surplus, the negative balance of a bank's undivided profits account shall be deducted.
- (2) A bank organized as a limited liability company shall not be covered by subsection (1) of this section, but shall comply with the legal lending limits applicable to national banks set forth in 12 U.S.C. sec. 84 and 12 C.F.R. sec. 32.4, as may be amended.
- (3) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated.
- (4) *In computing the indebtedness of any person:*
  - (a) *The liability of any partnership in which the person acts as a general partner, and any obligation entered into for the benefit of a person, partnership, or association shall be included in the total liabilities of the person, partnership, or association; and*
  - (b) *Any credit exposure arising from a derivative transaction, repurchase agreement, reverse purchase agreement, securities lending transaction, or securities borrowing transaction shall be included. For the purposes of this paragraph, the term "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.* ~~In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.~~
- (5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.
- (6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating the paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating the paper to a bank.

**Signed by Governor April 11, 2012.**