

CHAPTER 87

(HB 324)

AN ACT relating to depository institutions.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 1 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) *"Commissioner" means the commissioner of the Department of Financial Institutions;*
- (2) *"Department" means the Department of Financial Institutions; and*
- (3) *"Person" means a natural person, or any type or form of corporation, company, partnership, proprietorship, association, or other legal entity.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Covered service" means:*

1. *Data processing;*
2. *Any activity that supports financial services, including but not limited to lending, funds transfer, fiduciary activity, trading activity, and deposit taking; and*
3. *Internet-related services, including but not limited to Web services and electronic bill payments, mobile applications, system and software development and maintenance, and security monitoring;*

(b) *"Depository institution" means any:*

1. *State bank as defined in KRS 286.3-010;*
2. *Branch of an out-of-state bank as defined in KRS 286.3-010 that is doing business under the laws of this state;*
3. *Trust company as defined in KRS 286.3-010; or*
4. *Credit union as defined in KRS 286.6-005; and*

(c) *"Service provider" means any person that provides a covered service listed in paragraph (a) of this subsection to a depository institution, except any:*

1. *Bank service company that is examined and regulated by the appropriate federal banking agency. For the purposes of this subparagraph, "bank service company" and "appropriate federal banking agency" have the meanings set forth in the Bank Service Company Act, 12 U.S.C. sec. 1861, as amended, or any successor statute;*
2. *Depository institution, holding company of a depository institution, or subsidiary of that holding company; and*
3. *Federally chartered depository institution, holding company of a federally chartered depository institution, or subsidiary of that holding company. For the purposes of this subparagraph, "federally chartered depository institution" means a bank, savings association, or credit union organized pursuant to the laws of the United States.*

- (2) *The commissioner may examine a service provider for any covered service it provides to a depository institution if the examination is conducted in conjunction with an examination conducted by a properly authorized federal regulatory agency.*

- (3) *The commissioner may accept an examination made by other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider in lieu of any examination authorized or required under the laws of this state.*
- (4) *A report of examination and related correspondence shall be considered confidential information. No person shall release any information contained in the examination unless required by court order. Notwithstanding this subsection, the department may furnish:*
- (a) *A copy of a report of examination performed by the commissioner of the condition and affairs of any service provider to the depository institutions serviced by the service provider; and*
- (b) *To and exchange information and reports of examinations with officials and examiners of other properly authorized state or federal regulatory agencies.*
- (5) *Every official report concerning a service provider, and every report of examination, shall be prima facie evidence of the facts contained in the report for any purpose in any action in which the department or service provider is a party.*
- (6) *The commissioner shall fix a scale of examination fees to be paid by service providers. The fees shall be:*
- (a) *Sufficient to cover the cost of the examination based upon a fair compensation for time and actual expense;*
- (b) *Assessed and paid by service providers promptly after completion of the examination; and*
- (c) *Set by administrative regulation.*
- (7) *The commissioner may enter into cooperative agreements with other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider to facilitate the examination process, including joint examination, scheduling, resources, fee collection and sharing, report of examination processing, and enforcement actions.*

➔Section 3. KRS 286.6-100 is amended to read as follows:

- (1) Credit unions shall:
- (a) Be under the supervision of the commissioner;~~and shall~~
- (b) ~~File~~~~make~~ financial reports ~~with~~~~to~~ the commissioner as *specified by administrative regulation, but no less frequently than annually*; ~~and when he or she may require, but at least annually.~~
- (c) ~~Each credit union shall~~ Be subject to examination by~~, and for this purpose shall make its books and records accessible to,~~ any person designated by the commissioner; ~~and~~~~The commissioner shall fix a scale of examination fees to be paid by credit unions, giving due consideration to the time and expense incident to such examinations and to the ability of credit unions to pay such fees, which fees shall be assessed and paid by each credit union promptly after completion of such examination.~~
- (d) *Pay the following fees to the commissioner:*
1. *For each credit union subject to supervision and examination by the commissioner, there shall be an annual fee based on the assets of the credit union, as reported to the department by the credit union as of December 31 of the previous year. The fee schedule shall be:*
 - a. *At the rates necessary to carry out the duties of the department;*
 - b. *Reasonably related to the costs incurred by the department in regulating credit unions; and*
 - c. *Set by the commissioner by promulgating an administrative regulation; and*
 2. *Any fees for extraordinary services performed by the department for a particular credit union. Fees assessed pursuant to this subparagraph shall be determined upon the basis of fair compensation for time and actual expense.*
- (2) In lieu of the examination provided for in this section, the commissioner may accept any examination made by the National Credit Union Administration. One (1) copy of the examination report shall be promptly submitted to the commissioner for processing and analysis by the ~~department~~~~Department of Financial Institutions~~.
- (3) When, in the judgment of the commissioner, the condition of any credit union organized under the provisions of this subtitle renders it necessary or expedient to make an examination or to devote any extraordinary

attention to its affairs, the commissioner shall cause ~~that~~^{such} work to be done. A full and complete copy of the report of all examinations shall be furnished to the credit union so examined. ~~The~~^{Such} report of examination shall be presented by the president *of the credit union* to the board of directors at its next regular or special meeting.

Signed by Governor March 21, 2017.