

## CHAPTER 34

## ( SB 145 )

AN ACT relating to check cashing and deferred deposit service businesses.

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

➔Section 1. KRS 286.9-010 is amended to read as follows:

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

- (1) "Affiliate" means a person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, a licensee;
- (2) "Applicant" means a person filing an application or renewal application for a license *in accordance with*~~under~~ this subtitle;
- (3) "Archive" means to copy data to a long-term storage mechanism apart from the database;
- (4) "Cashing" means providing currency for a payment instrument;
- (5) "Check" means any check, draft, money order, personal money order, travelers' check, or other demand instrument for the transmission or payment of money;
- (6) ***"Check cashing license" means a license issued pursuant to this subtitle by the commissioner to conduct the business of cashing checks in this Commonwealth;***
- (7) "Closed" or "close" means that one (1) of the following has occurred in connection with a deferred deposit service transaction concerning the customer's payment instrument:
  - (a) The payment instrument is redeemed by the customer by payment to the licensee of the face amount of the payment instrument in cash;
  - (b) The payment instrument is exchanged by the licensee for a cashier's check or cash from the customer's financial institution;
  - (c) The payment instrument is deposited by the licensee, and the licensee has evidence that the person has satisfied the obligation;
  - (d) The payment instrument is collected by the licensee or its agent through any civil remedy available under the laws of this state; or
  - (e) Any other reason that the commissioner may deem to be proper under this subtitle;
- ~~(8)(7)~~ "Consideration" means any premium or fee charged of any kind for the sale of goods or services in excess of the cash price of the goods or services;
- ~~(9)(8)~~ "Control" means:
  - (a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent (25%) or more of a class of voting securities or voting interests of a licensee or applicant, or the person in control of a licensee or applicant;
  - (b) The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority over a licensee or applicant, or the person in control of a licensee or applicant; or
  - (c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or the person in control of a licensee or applicant;
- ~~(10)(9)~~ "Customer" means a person who inquires into the availability of or applies for a deferred presentment service transaction or a person who enters into a deferred presentment service transaction;
- ~~(11)(10)~~ "Customer transaction data" means all data reported to the database pertinent to a particular customer transaction, including the date of the transaction, identification of the licensee and location, the sum of money involved, the time payment is deferred, fees charged, any alleged violations of this subtitle, and any identifying customer information;

- (12)~~(11)~~ "Database" means the database described in KRS 286.9-140;
- (13)~~(12)~~ "Database provider" means one (1) of the following:
- (a) A third-party provider selected by the commissioner *in accordance with* ~~under~~ KRS 286.9-140 to operate the statewide database described in that section; or
  - (b) The commissioner, if the commissioner has not selected a third-party provider *in accordance with* ~~under~~ KRS 286.9-140;
- (14)~~(13)~~ "***Deferred deposit service business license***" means a license issued in accordance with this subtitle by the commissioner to conduct check cashing and deferred deposit service business in this Commonwealth;
- (15) "Deferred deposit service business" means a person who engages in deferred deposit transactions;
- (16)~~(14)~~ "Deferred deposit transaction" or "deferred presentment service transaction" means, for consideration, accepting a payment instrument, and holding the payment instrument for a period of time prior to deposit or presentment in accordance with an agreement with or any representation made to the customer whether express or implied;
- (17)~~(15)~~ "Delete" means to erase data by overwriting the data;
- ~~(16) "Commissioner" means the commissioner of the Department of Financial Institutions.;~~
- (18)~~(17)~~ "Identifying customer information" means the name of the customer, his or her Social Security number, driver license number, or other state-issued identification number, address, any account numbers or information specific to a payment instrument provided by a customer to a licensee, a bank, savings bank, savings and loan association, or credit union, and any other nonpublic, personal financial information of a customer entered into the database or that comes into the possession of the database provider through customer or licensee inquiry or report;
- (19)~~(18)~~ "Licensee" means a person *who has been issued either a check cashing license or a deferred deposit service business license* ~~duly licensed~~ by the commissioner *in accordance with* ~~under~~ this subtitle to conduct check cashing or deferred deposit service business in the Commonwealth;
- (20)~~(19)~~ "Maturity date" means the date on which a payment instrument is authorized to be redeemed or presented for payment; *and*
- ~~(20) "Department" means the Department of Financial Institutions.;~~
- (21)~~(21)~~ "Payment instrument" means a check, draft, money order, or traveler's check, for the transmission or payment of money sold or issued to one (1) or more persons, whether or not such instrument is negotiable~~;~~  
~~and~~
- ~~(22) "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity however organized.;~~

➔ Section 2. KRS 286.9-071 is amended to read as follows:

The commissioner shall not issue additional deferred deposit service business licenses ~~for a period of ten (10) years after July 1, 2009~~.

➔ SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "registry" means the State Regulatory Registry, LLC, or its successor organization.*
- (2) *When an application, report, or approval request is required under this subtitle to be filed with the commissioner, the commissioner may require, by administrative regulation or order, that the filing, including any applicable fees and any supporting documentation, be submitted to:*
  - (a) *The State Regulatory Registry, LLC, or its successor organization;*
  - (b) *The registry's parent, affiliate, or operating subsidiary; or*
  - (c) *Other agencies or authorities as part of a nationwide licensing system, which may act as an agent for receiving, requesting, and distributing information to and from any source directed by the commissioner.*

- (3) *The commissioner may report violations of this subtitle, enforcement actions, and other relevant information to the registry, notwithstanding any provision of this subtitle to the contrary.*
- (4) *The commissioner may use the registry as an agent for requesting information from and distributing information to the United States Department of Justice or other governmental agencies.*

**Signed by Governor March 19, 2019.**