PUBLIC PROTECTION CABINET
Department of Financial Institutions
Division of Non-Depository Institutions
(Amendment)

808 KAR 9:010. Deferred deposit database compliance.

RELATES TO: KRS 286.9-010(7), 286.9-075, 286.9-100(1), (7), (9), (10), (18), (19), 286.9-140

STATUTORY AUTHORITY: KRS 286.9-090(1), 286.9-100, 286.9-140(1)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-100(9) prohibits licensees from having more than two (2) deferred deposit transactions from any one (1) customer at any one (1) time~~[and limits the total proceeds received by a customer from all deferred deposit transactions to $500]~~. KRS 286.9-140(1) requires the commissioner to implement a common database with real-time access through an internet connection accessible to the department and licensees to verify whether any deferred deposit transactions are outstanding for a particular person and authorizes the commissioner to adopt rules to~~[promulgate administrative regulations]~~ to administer and enforce KRS 286.9-140. This administrative regulation establishes requirements for licensee use of the database established pursuant to KRS 286.9-140.

Section 1. Closed Deferred Deposit Service Transactions. The Commissioner deems the following occurrences as closed deferred deposit service transactions pursuant to KRS 286.9-010(7)(e):

(1) The customer's payment instrument was unpaid and the licensee has sold the underlying debt to a non-affiliated third party without recourse;

(2) The underlying debt represented by the customer's payment instrument has been discharged in bankruptcy;

(3) The database provider has designated the deferred deposit transaction concerning the customer's payment instrument as closed pursuant to KRS 286.9-140(7); or

(4) The licensee has reported to the database provider that the deferred deposit transaction concerning the customer's payment instrument is closed following being held open pursuant to KRS 286.9-140(7).

Section 2. Deferred Deposit Database Requirements.

(1) A licensee shall institute procedures and maintain an accounting system designed to:

(a) Prevent the licensee from entering into transactions with a customer in violation of KRS 286.9-100(9), including procedures for:

1. Maintaining a record of all current transactions with the licensee; and

2. Checking the record of current transactions with the database prior to issuance of a new transaction; and

(b) Generate reports that will readily permit examination and verification of compliance with KRS 286.9-100(9), KRS 286.9-140, and this section by department examiners.

(2) For each deferred deposit transaction, a licensee shall submit:

(a) The customer's date of birth;

(b) The check number of the payment instrument, if applicable;

(c) The database verification fee in accordance with KRS 286.9-140(2)~~[of $2.25, which may be paid directly by the licensee or charged to the customer]~~;

(d) The service fee charged to the customer; and

(e) The date the payment instrument was deposited or otherwise presented for payment.

(3) A licensee shall indicate in the database whether the customer entered into the deferred deposit transaction in person, electronically, or via~~[by]~~ telephone.

(4) A licensee shall not cause a closed deferred deposit transaction to be reopened in the database unless:

(a) The deferred deposit transaction was closed by reason of clerical error by the licensee;

(b) The licensee caused the deferred deposit transaction to be reopened on or before the close of business on the business day after the transaction was closed; and

(c) Reopening the transaction would not cause the customer to exceed the transaction limits set forth in KRS 286.9-100(9).

(5) A licensee shall not accept, collect, or seek payment on a deferred deposit transaction that is designated as closed in the database, except as permitted in KRS 286.9-140(7)(c).

(6) A licensee that has reported to the database provider that a deferred deposit transaction is open beyond the maturity date pursuant to KRS 286.9-140(7) shall immediately notify the database provider when the transaction becomes closed.

(7) A new licensee or an existing licensee applying for an additional location shall establish an account with the database provider for each location prior to the time of application.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

MARNI ROCK GIBSON, Commissioner
DJ WASSON, Secretary

APPROVED BY AGENCY: August 13, 2026

FILED WITH LRC: August 13, 2026 at 2:10 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 29, 2026, at 9:00 a.m., at 500 Mero Street, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made.

CONTACT PERSON: Eric Richardson, Title: Staff Attorney, Address: 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, Phone: 502-782-9064, Fax: 502-573-8787, Email: Eric.Richardson@ky.gov; and Marni Gibson, Title: Commissioner, Dept. of Financial Institutions, Address: 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, Phone: 502-782-9053Fax: 502-573-8787, Email: Marni.Gibson@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Eric Richardson, Phone: 502-782-9064, Email: Eric.Richardson@ky.gov

Subject Headings:Banks and Financial Institutions, Consumer Affairs, Loans and Credit

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation sets forth the definitions and requirements for licensee operation of the deferred deposit database established in KRS 286.9-140.

(b) The necessity of this administrative regulation:
KRS 286.9-140 requires the commissioner to implement a common database with real-time access to verify outstanding deferred deposit transactions. KRS 286.9-140(1)(c) specifically allows the commissioner to promulgate administrative regulations to ensure that the database is used by deferred deposit service business licensees in accordance with this KRS 286.9.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
This regulation establishes and sets forth the requirements for the licensee operation of the deferred deposit database.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This regulation establishes the database and licensee requirements for compliance with statute.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This amendment conforms the deferred deposit transaction fee amount to the current statutory requirement. Additionally, KRS 286.9-140(7) was amended to allow deferred deposit companies to collect payment on deferred deposit transactions that are unpaid due to returned or dishonored payment instruments. This amendment conforms to the collection actions as stated in KRS 286.9-140(7)(c).

(b) The necessity of the amendment to this administrative regulation:
This regulation establishes and sets forth the requirements for the licensee utilization of the database. This amendment conforms the regulation to statutory requirements.

(c) How the amendment conforms to the content of the authorizing statutes:
The authorizing statute requires the commissioner to charge a specific three dollar ($3.00) fee for each transaction rather than requiring the commissioner to set a fee bound by a given statutory maximum. The authorizing statute also created an exception to the limitations of a licensee’s ability to pursue payment on a closed transaction.

(d) How the amendment will assist in the effective administration of the statutes:
This amendment will conform to the authorizing statute’s requirements for a set database transaction fee. This amendment will conform to the authorizing statute which allows licensees to collect on certain closed transactions.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?Yes, 2026 Kentucky Acts Chapter 98.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The amendment would affect licensed deferred deposit entities and consumers that enter into deferred deposit agreements. From January 2025 through December 2025, there have been 1,043,566 deferred deposit transactions in Kentucky. There are 214 licensed deferred deposit entities.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

The regulated entities will be required to amend their customer documents to reflect the new fee and ensure it is properly disclosed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

The cost of editing the template documents will be minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

The entities will not accrue benefits as they do not retain the fee.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

$0

(b) On a continuing basis:

$0

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

The fee change addressed in this administrative regulation amendment will be implemented through the existing operation of the statewide deferred deposit database, which is administered by the Department’s database contractor. This will occur at no additional cost to the Department. Enforcement of the amended provisions will be handled through the Department’s existing supervisory and examination functions and imposes no additional burden on the Department. Accordingly, no additional source of funding is required.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding is necessary for the Department to implement this amendment. The statewide deferred deposit database is already operational, and the per-transaction fee is already collected through that existing system. This amendment conforms the regulatory fee amount to the amount fixed by KRS 286.9-140(2) as amended by SB 219. It does not require any new expenditure, system, or funding source for the Department to implement or enforce.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

Yes. This administrative regulation is written to align with the statutory fee of three dollars ($3.00), an increase from the prior fee of two dollars and twenty five cents ($2.25). This increase is fixed by KRS 286.9-140(2), as amended by 2026 Ky. Acts Chapter 98, SB 219, 2026 Regular Session, which sets the fee at a fixed amount of three dollars ($3.00) per transaction and removes the commissioner's prior discretion to set the fee within a range. This administrative regulation conforms the fee established in 808 KAR 9:010 to the amount mandated by statute.

(10) TIERING: Is tiering applied?

No. The transaction fee, set by statute, applies to every deferred deposit transaction, regardless of the total amount of the transaction.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:
KRS 286.9-140

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:
Yes. 2026 Kentucky Acts Chapter 98.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:
The Department of Financial Institutions, Non-Depository Institutions Division

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):
N/A

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
There are 214 deferred deposit companies regulated by the Department of Financial Institutions.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. **Expenditures:**

   For the first year:Nominal

   For subsequent years:N/A

2. **Revenues:**

   For the first year:N/A

   For subsequent years:N/A

3. **Cost Savings:**

   For the first year:N/A

   For subsequent years:N/A

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

This amendment raises the per-transaction deferred deposit database fee from two dollars and twenty-five cents ($2.25) to three dollars ($3.00), an increase of seventy-five cents ($0.75) per transaction. This increase is fixed by KRS 286.9-140(2), as amended by 2026 Ky. Acts Chapter 98, SB 219, 2026 Regular Session, and is not the product of agency discretion. The fee is remitted through the existing statewide deferred deposit database; the amendment imposes no new system, process, or administrative obligation on regulated entities beyond the change in the fee amount.

(b) Methodology and resources used to reach this conclusion:

The Department determined the fiscal impact by comparing the fee currently established in 808 KAR 9:010 ($2.25 per transaction) with the fee fixed by KRS 286.9-140(2) as amended by SB 219 ($3.00 per transaction), yielding a per-transaction increase of seventy-five cents ($0.75). The three dollar ($3.00) figure is not an independent agency determination; it is taken directly from the amended statute, which no longer affords the commissioner discretion to set the fee within a range. Accordingly, the fiscal impact reflected above is attributable to the General Assembly's enactment of SB 219, effective July 15, 2026, and not to an exercise of agency discretion in this administrative regulation.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

This administrative regulation will not have a major economic impact. Under KRS 13A.010(14), a major economic impact means the combined implementation and compliance costs of an administrative regulation are at least five hundred thousand dollars ($500,000) over any two-year period. The only compliance activity this amendment imposes on regulated entities is a one-time update of customer forms, agreements, and fee disclosures to reflect the revised per-transaction fee amount. While there are 214 licensed deferred deposit locations in the Commonwealth, the vast majority of these are concentrated among a smaller number of operators. In these cases, updates are made centrally rather than separately at each location. As such, the combined cost across all affected licensees would fall well below the five hundred thousand dollar ($500,000) threshold over any two-year period. The amendment imposes no other reporting or compliance obligations on licensees.

(b) The methodology and resources used to reach this conclusion:

The Department estimated the combined implementation and compliance costs by identifying the single compliance obligation imposed by this amendment as a one-time revision of forms, customer agreements, and fee disclosures to state the revised fee. This Department then assessed the cost of this compliance obligation by considering the structure of the regulated industry. Because most licensed deferred deposit locations are owned and operated by a small number of parent companies, most of the required revisions will be prepared once per operator and applied across that operator's locations, rather than incurred separately at each licensed site. The resulting combined cost is a limited, nonrecurring administrative expense that does not approach the five hundred-thousand-dollar ($500,000) threshold established by KRS 13A.010(14) over any two-year period. No recurring compliance costs are anticipated in subsequent years. The resources used to reach this conclusion were the Department's licensing records reflecting the ownership concentration of deferred deposit licensees, the text of KRS 13A.010(14), and the nature of the disclosure changes required to conform to the revised fee.