

### **286.11-003 Definitions for subtitle.**

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

- (1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with, another person;
- (2) "Agent" means a person authorized by written agreement and designated by the licensee to act on behalf of a licensee under the provisions of this subtitle;
- (3) "Applicant" means a person filing an application or renewal application for a license under this subtitle;
- (4) "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 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 of a licensee or applicant, or 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 person in control of a licensee or applicant;
- (5) "Controlling person" means any person in control of a licensee;
- (6) "Director" means a member of a licensee's or applicant's board of directors if the applicant or licensee is a corporation, or manager if the applicant or licensee is a limited liability company, or a partner if the applicant or licensee is a partnership;
- (7) "Electronic instrument" means a card or other tangible object for the transmission or payment of money, including a stored value card or device, which contains a microprocessor chip, magnetic stripe, or other means for storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in the issuer's goods and services;
- (8) "Commissioner" means the commissioner of the Department of Financial Institutions;
- (9) "Executive officer" means the president, chairperson of the executive committee, responsible individual, chief financial officer, and any other person who performs similar functions;
- (10) "Financial institution" means any person doing business under the laws of any state or commonwealth or the United States relating to banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions;
- (11) "Insolvent" means that appearing upon examination of any licensee or its agent that its liabilities exceeds its assets or it cannot meet its obligations in the usual and ordinary course of business for any reason;
- (12) "Key shareholder" means any person, or group of persons acting in concert, who is the owner of twenty percent (20%) or more of any voting class of an applicant's or

licensee's stock;

- (13) "Licensee" means a person licensed under this subtitle;
- (14) "Material litigation" means litigation that according to generally accepted accounting principles is significant to an applicant's or a licensee's financial health, and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records, including any adjudication against an applicant or licensee by a federal or state administrative or regulatory agency relating to a violation of the Bank Secrecy Act, 31 U.S.C. secs. 5311-5332 and 31 C.F.R. pt. 103, regardless of whether the applicant or licensee has admitted liability or fault;
- (15) "Monetary value" means a medium of exchange whether or not redeemable in money;
- (16) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government or other recognized medium of exchange, including a monetary unit of account established by an intergovernmental organization or by agreement between two (2) governments;
- (17) "Money transmission" means engaging in the business of receiving money or monetary value to transmit, deliver, or instruct to be transmitted or delivered, money or monetary value to another location inside or outside the United States by any and all means, including but not limited to wire, facsimile, electronic transfer, or issuing stored value;
- (18) "Money transmitter" means a person that is engaged in money transmission;
- (19) "Net worth" means the excess of assets over liabilities as determined by generally accepted accounting principles;
- (20) "Department" means the Kentucky Department of Financial Institutions;
- (21) "Outstanding payment instrument" means any payment instrument issued by the licensee which has been sold or issued in the United States directly by the licensee or any payment instrument issued by the licensee which has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold, and which has not yet been paid by or for the issuer;
- (22) (a) "Payment instrument" means:
  1. A check, draft, money order, traveler's check, or other written or electronic instrument or order for the transmission or payment of money, sold or issued to one (1) or more persons, whether or not such instrument is negotiable; or
  2. The purchase or the deposit of funds for the purchase of a check, draft, money order, traveler's check, or other written or electronic instrument;(b) "Payment instrument" does not include any credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services;
- (23) "Person" means any individual, corporation, business trust, estate, trust, partnership, limited liability company, association, organization, joint venture, government and any subdivision, agency or instrumentality thereof, or any other legal or commercial

entity;

- (24) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium, and is retrievable in perceivable form;
- (25) "Remit" means either to make direct payment of the funds to the licensee or its representatives authorized to receive those funds, or to deposit the funds in a bank, credit union, or savings and loan association, or other similar financial institution in an account specified by the licensee;
- (26) "Responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money transmission by the licensee in this state;
- (27) "State" means a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession that is subject to the jurisdiction of the United States;
- (28) "Stored value" means monetary value that is evidenced by an electronic record; and
- (29) "Unsafe or unsound practice" means a practice or conduct by a person licensed to provide money transmission, or an agent of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 834, effective July 15, 2010. -- Created 2006 Ky. Acts ch. 247, sec. 2, effective April 24, 2006.

**Legislative Research Commission Note (7/12/2006).** This section was created in 2006 Ky. Acts ch. 247 as a new section of KRS Chapter 366A. Sec. 38 of that same bill also required that all sections of KRS Chapters 287, 288, 290, 291, 294, 366, 366A, and 368 be renumbered as sections of a single KRS chapter entitled the "Kentucky Financial Services Code." Therefore, the Statute Reviser, acting under KRS 7.136(1), has codified this section as a new section of KRS Chapter 286.