

**286.4-490 Reasons for adverse action or cease-and-desist order -- Locations at which adverse action applies -- Eligibility if license revoked -- Effect of adverse action -- Complaint -- Relief -- Civil penalty.**

- (1) For the purposes of this section, "adverse action" means the suspension of, revocation of, conditioning or restricting of, or refusal to issue or renew a license or acceptance of the surrender of a license in lieu of a revocation or suspension.
- (2) The commissioner may take adverse action against a licensee, applicant, or person in control of a licensee or applicant, or issue a cease-and-desist order to one of those persons, if the commissioner finds, after a thorough investigation, that the person:
  - (a) Has failed to open an office within one hundred twenty (120) days from the date a license is granted unless good cause is shown;
  - (b) Has committed fraud or made a misrepresentation of material fact;
  - (c) Does not meet, has failed to comply with, or has violated any provisions of this subtitle, or any administrative regulation or order of the commissioner issued under the subtitle;
  - (d) Has made a false statement of material fact in the application for a license or failed to give a truthful reply to a question in the application;
  - (e) Has demonstrated incompetence or untrustworthiness to act as a licensee;
  - (f) Is unfit, through lack of financial responsibility or experience, to conduct the business of a licensee;
  - (g) Does not conduct business in accordance with the law or conducts business by a method that includes activities that are illegal where performed;
  - (h) Is insolvent;
  - (i) Is the subject of an active administrative cease-and-desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state law applicable to the financial services industry;
  - (j) Has made or caused to be made to the commissioner a false representation of material fact or has suppressed or withheld from the commissioner information that the applicant or licensee possesses and which, if submitted, would have rendered the applicant or licensee ineligible to be licensed under this subtitle;
  - (k) Has refused to permit a lawful examination or investigation by the commissioner, or has refused or failed, within a reasonable time, to furnish to the commissioner any information or records, or make any report, that may be required under this subtitle;
  - (l) Has been convicted of a felony;
  - (m) Has been convicted of any misdemeanor of which an essential element is fraud, breach of trust, or dishonesty;
  - (n) Has had any license, registration, or claim of exemption related to the financial services industry denied, revoked, suspended, conditioned, restricted, or probated under the laws of this state, or has surrendered, withdrawn, or

terminated any license, registration, or claim of exemption issued or registration granted by this state under threat of administrative action;

- (o) Has knowingly employed or contracted with a person who has failed to obtain any necessary license or registration related to the financial services industry or has had a license, registration, or claim of exemption related to the financial services industry denied, revoked, suspended, conditioned, restricted, or probated in this state or another jurisdiction;
  - (p) Has failed to pay any fee required under this subtitle;
  - (q) Has failed to comply with an administrative or court order imposing child support obligations;
  - (r) Has failed to pay state income taxes or comply with any administrative or court order directing the payment of state income tax;
  - (s) Has filed for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the United States Bankruptcy Code, 11 U.S.C. secs. 101 to 110, within the last ten (10) years;
  - (t) Has suspended payment of its obligations or has made an assignment for the benefit of its creditors;
  - (u) Has violated any of the recordkeeping and reporting requirements of the United States government, including 31 U.S.C. secs. 5311 to 5332; or
  - (v) No longer meets the requirements of this subtitle to hold a license.
- (3) If the reason for adverse action taken by the commissioner at any one location is generally applicable to all locations operated by a licensee, the commissioner may apply the adverse action to all licenses issued to a licensee.
- (4) Any person, or person in control of a licensee, who has had a license revoked by the commissioner shall not be eligible to apply for a license under this subtitle or to serve as a person in control of a licensee until after expiration of two (2) years from the date a final order of revocation is entered by the commissioner. A person whose license has been revoked twice shall be deemed permanently revoked and shall not be eligible for a license, or to serve as a person in control of a licensee, under this subtitle.
- (5) A person, or person in control of a licensee, against whose license adverse action has been taken under this section shall not:
- (a) Participate in any business for which a license is required under this subtitle; or
  - (b) Engage in any business activity on the premises where a licensee is conducting its business without prior written approval of the commissioner.
- (6) (a) Adverse action taken against a license, or the expiration of a license, shall not abrogate or modify:
- 1. The civil or criminal liability of a licensee for acts committed prior to the surrender or expiration; or
  - 2. The obligation of any preexisting contract between a licensee and a customer.

- (b) The surrender or expiration of a license shall not affect a proceeding to suspend or revoke a license.
- (7) (a) If the commissioner has reason to believe from evidence satisfactory to the commissioner that a person has violated, or is about to violate, a provision in this subtitle, the commissioner may file a complaint in the Franklin Circuit Court, or any court of competent jurisdiction, for temporary or permanent relief against any person.
- (b) The court shall have jurisdiction over the proceeding and shall have the power to enter an order or judgment awarding preliminary or final injunctive relief and any other relief that the court deems proper.
- (c) Any person who violates a temporary restraining order or injunction issued by the court, in addition to being held in contempt of court, may be assessed a civil penalty under KRS 286.4-990 by the court.

**Effective:** June 27, 2019

**History:** Repealed and reenacted 2019 Ky. Acts ch. 120, sec. 8, effective June 27, 2019. -- Amended 2010 Ky. Acts ch. 24, sec. 663, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 318, sec. 218, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 204, sec. 9, effective June 16, 1960.

**Formerly codified as** KRS 288.490.

**Legislative Research Commission Note** (7/12/2006). In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.