

286.12-120 Emergency orders.

- (1) The commissioner may enter:
 - (a) An emergency order suspending, conditioning, limiting, or restricting a license issued under this subtitle without notice or hearing if, after an investigation and written findings, it appears upon grounds satisfactory to the commissioner that the licensee has engaged, or is about to engage, in unsafe, unsound, or illegal practices that pose an imminent threat or harm to the public interest; and
 - (b) An emergency cease-and-desist order against an unlicensed person if, after an investigation and written findings, it appears upon grounds satisfactory to the commissioner that the unlicensed person has engaged, or is about to engage, in unsafe or unsound practices, or actions contrary to this subtitle, that pose an imminent threat or harm to the public interest.
- (2) There shall be sufficient grounds for an emergency order under subsection (1)(a) of this section if it appears on grounds satisfactory to the commissioner that:
 - (a) The licensee has willfully failed to comply with one (1) or more of the requirements of this subtitle;
 - (b) The licensee is in such financial condition that it cannot continue its current business operations with safety to its customers;
 - (c) The licensee or a person in control of the licensee:
 1. Has been found guilty of any act involving fraud, deception, theft, or breach of trust; or
 2. Is the subject of:
 - a. An active administrative cease-and-desist order or similar order;
 - b. A civil judgment of a financial nature involving fraud, deception, or misrepresentation; or
 - c. A permanent or temporary injunction currently in effect entered by any court or agency of competent jurisdiction;
 - (d) The licensee has made a willful misrepresentation of material fact to, or concealed an essential or material fact from, a person in the course of doing business or has engaged in a course of business that has worked or tended to work a fraud or deceit upon any person or would so operate;
 - (e) The licensee has refused to permit a lawful examination or investigation, or has refused or failed, within a reasonable time, to furnish any information or make any report that may have been requested or required by the commissioner in connection with a lawful investigation or examination; or
 - (f) The licensee has had any license, registration, or claim of exemption related to the financial services industry denied, suspended, or revoked under the laws of this state or has surrendered or terminated any license, registration, or claim of exemption issued by this state under threat of administrative action.
- (3) An emergency order issued under this section shall:

- (a)
 - 1. Be served by personal service or certified mail to the last known address of record.
 - 2. For purposes of this paragraph, service by certified mail shall be complete upon the earlier of:
 - a. The date on which the person receives the mail;
 - b. The date on which the agency receives the return receipt; or
 - c. The date on which the agency receives notice that the mail has been returned undelivered;
 - (b) Pursuant to KRS 13B.125, become effective when served by the commissioner; and
 - (c) Remain in effect until it is:
 - 1. Stayed, withdrawn, or suspended by an order of the commissioner; or
 - 2. Terminated by a court order.
- (4) (a) A person aggrieved by an emergency order issued by the commissioner under this section may request an emergency hearing, in writing, within twenty (20) days of service of the emergency order.
- (b) Upon receipt of a timely written request for an emergency hearing, an emergency hearing shall be conducted in accordance with KRS 13B.125.

Effective: July 14, 2022

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