

**286.3-690 Cease and desist orders -- Orders of suspension or removal from office --  
Appeal -- Enforcement of orders.**

- (1) (a) If the commissioner has knowledge or reasonable cause to believe that any bank or trust company, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the bank or trust company has engaged in violations of law, or charter, or administrative regulation promulgated by the department, or in unsafe or unsound business practices, the commissioner may issue and serve upon the bank, trust company, director, officer, employee, agent, or other person a notice of charges containing a statement of facts with respect to the alleged violations or practices.
  - (b) The notice of charges issued under paragraph (a) of this subsection shall contain the time and place at which an administrative hearing conducted in accordance with KRS Chapter 13B will be held to determine whether an order to cease and desist should issue against the bank, trust company, director, officer, employee, agent, or other person.
- (2) Any party or parties served with a notice of charges issued pursuant to subsection (1) of this section that fails to appear at the scheduled hearing personally or by a duly-authorized representative shall be deemed to have consented to the issuance of the cease and desist order.
- (3) If the parties consent, or if upon the record made at the hearing the commissioner finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the commissioner may issue and serve upon the bank, trust company, director, officer, employee, agent, or other person an order to cease and desist from any violation or practice and, further, to take affirmative action to correct the conditions resulting from any violation or practice.
- (4) If the commissioner determines that the violation or practice, as specified in the notice of charges issued pursuant to subsection (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company, or is likely to otherwise seriously prejudice the interests of the bank's or trust company's depositors or investors, the commissioner may issue an emergency order pursuant to KRS 13B.125 requiring the bank, trust company, director, officer, employee, agent, or other person to cease and desist from any violation or practice.
- (5) (a) A cease and desist order or an emergency cease and desist order shall become effective upon service upon the bank or trust company.
  - (b) Unless set aside, limited, or suspended, as provided in subsection (6) of this section, a cease and desist order shall remain effective and enforceable pending completion of an administrative hearing conducted in accordance with KRS Chapter 13B.
- (6) Within ten (10) days after service of an emergency cease and desist order, the party or parties served may apply to the Circuit Court for the county in which the bank or trust company is located, or the Franklin Circuit Court, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending completion of the administrative hearing.

- (7) In the case of violation or threatened violation of, or failure to obey, an emergency cease and desist order or a cease and desist order issued pursuant to this section, the commissioner may apply to the Circuit Court for the county in which the bank or trust company is located, or the Franklin Circuit Court, for an injunction to enforce the order, and it shall be the duty of the court to issue the injunction.
- (8) (a) The commissioner may serve upon any officer, director, or employee of a bank or trust company a written notice of intention to remove him or her from office if the commissioner determines that:
1. Subject to paragraph (b) of this subsection, the officer, director, or employee has:
    - a. Committed any violation of law, an administrative regulation, or a cease and desist order which has become final;
    - b. Engaged in or participated in any unsafe or unsound practice in connection with the bank or trust company; or
    - c. Committed or engaged in any act, omission, or practice which constitutes a breach of his or her fiduciary duty as officer or director; and
  2. Any of the following are satisfied:
    - a. The bank or trust company has suffered or will probably suffer substantial financial loss or other damages;
    - b. The interests of the bank's or trust company's depositors or investors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty; or
    - c. The director, officer, or employee has received financial gain by reason of the violation, practice, or breach of fiduciary duty.
- (b) The violation, practice, or breach described in paragraph (a)1. of this subsection shall be one (1):
1. Involving personal dishonesty on the part of the director, officer, or employee; or
  2. Which demonstrates a willful or continuing disregard for the safety or soundness of the bank or trust company.
- (c) The written notice issued under paragraph (a) of this subsection shall serve to suspend the officer, director, or employee from office.
- (d) The suspension referenced in paragraph (c) of this subsection shall:
1. Become effective upon service of the notice; and
  2. Unless stayed by a court in proceedings authorized by subsection (10) of this section, remain in effect pending the completion of the administrative hearing under subsection (9) of this section.
- (e) The resignation of an officer, director, or employee from a bank or trust company shall not prohibit the commissioner from pursuing an action for removal of the officer, director, or employee.
- (9) A notice of intention to remove an officer, director, or employee from office shall contain a:

- (a) Statement of the facts constituting grounds therefor; and
  - (b) Time and place at which an administrative hearing will be held in accordance with KRS Chapter 13B.
- (10) Within ten (10) days after an officer, director, or employee has been suspended from office, the officer, director, or employee may apply to the Circuit Court for the county in which the bank or trust company is located for a stay of the suspension pending the completion of the administrative hearing pursuant to the notice served upon the officer, director, or employee.
- (11) Any person aggrieved by a final order of the commissioner issued under this section may obtain a review of the order by filing in the Circuit Court for the county in which the bank or trust company is located a petition of appeal in accordance with KRS Chapter 13B.
- (12) The commissioner may apply to the Circuit Court for the county in which the bank or trust company is located for an injunction to enforce any final order issued under this section, and it shall be the duty of the court to issue the injunction.

**Effective:** July 15, 2024

**History:** Amended 2024 Ky. Acts ch. 152, sec. 29, effective July 15, 2024. -- Amended 2010 Ky. Acts ch. 24, sec. 646, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 318, sec. 214, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 77, sec. 7. - - Amended 1984 Ky. Acts ch. 324, sec. 38, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 251, sec. 16, effective April 1, 1982. -- Created 1970 Ky. Acts ch. 209, sec. 9, effective June 18, 1970.

**Formerly codified as** KRS 287.690.

**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.