

286.13-130 Adverse action against regulated person, applicant, or licensee -- Notice of intent -- Conditions imposed on license or approval -- Administrative complaint -- Ineligibility if license or approval denied or revoked. (Effective April 30, 2027)

- (1) As used in this section:
 - (a) "Adverse action" means to take any of the following actions:
 1. Deny or condition a license;
 2. Deny, in whole or in part, an application to engage in virtual currency kiosk business at one (1) or more locations, or through one (1) or more agents, in this state;
 3. Condition an approval:
 - a. To engage in virtual currency kiosk business at a location in this state; or
 - b. Of an agent to engage in virtual currency kiosk business in this state on behalf of an applicant or licensee; or
 4. Suspend, revoke, or refuse to renew:
 - a. A license;
 - b. An approval to engage in virtual currency kiosk business at a location in this state; or
 - c. An approval of an agent to engage in virtual currency kiosk business in this state on behalf of a licensee;
 - (b) "Regulated person" means any applicant, licensee, or agent; and
 - (c)
 1. "Unsafe or unsound act or practice" means an act or practice that:
 - a. Creates a likelihood of material loss, insolvency, or dissipation of a regulated person's assets; or
 - b. Materially prejudices the:
 - i. Financial condition of a regulated person; or
 - ii. Interests of a regulated person's customers.
 2. In determining whether a regulated person has engaged, or is engaging, in an unsafe or unsound act or practice, the commissioner may consider:
 - a. The size and condition of the person's business;
 - b. The magnitude of the loss;
 - c. The gravity of the violation of this subtitle;
 - d. Any action taken by another state or federal government against the person; and
 - e. The previous conduct of the person.
- (2) Subject to KRS 286.13-125 and 335B.020, the commissioner may take an adverse action against a regulated person if the commissioner finds one (1) or more of the following:
 - (a) The regulated person has:
 1. Violated any:

- a. Provision of this subtitle;
 - b. Other state or federal law related to money transmission or virtual currency kiosk business; or
 - c. Consent order or compliance agreement entered into with the commissioner;
2. Engaged in:
 - a. An unsafe or unsound act or practice;
 - b. An unfair, deceptive, or dishonest act or practice;
 - c. Fraud, an intentional misrepresentation, or gross negligence; or
 - d. A misappropriation of legal tender, virtual currency, or other assets;
 3. Misrepresented material facts or made a false promise likely to influence, persuade, or induce a virtual currency kiosk user to engage in a virtual currency kiosk transaction;
 4. Misrepresented or concealed a material fact, term, or condition of a virtual currency kiosk transaction;
 5. Knowingly engaged in a transaction, practice, or course of business that perpetrates a fraud upon any person in connection with a virtual currency kiosk transaction;
 6. Failed to exchange, transfer, or store, without just cause, any funds in accordance with any agreement connected with a virtual currency kiosk business;
 7. Failed to timely remit, account for, or deliver to any person any legal tender, virtual currency, precious metals, electronic certificates, or other assets legally due to the person;
 8. Failed to implement reasonable risk-mitigation measures to prevent fraudulent activity by third parties in connection with a virtual currency kiosk transaction;
 9. Been found to have violated any of the recordkeeping and reporting requirements of the United States government, including 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. pt. 103;
 10. Been convicted of, pled guilty to, or pled nolo contendere, or knowingly employed or contracted with a responsible individual that has been convicted of, pled guilty to, or pled nolo contendere, to a:
 - a. Felony; or
 - b. Misdemeanor:
 - i. Related to money transmission or virtual currency kiosk business; or
 - ii. Involving theft, fraud, or breach of trust; or
 11. Has had any license, registration, claim of exemption, or other authorization to do business relating to the financial services industry denied, revoked, suspended, conditioned, restricted, probated, or

terminated by any state, federal, or foreign jurisdiction;

- (b) The regulated person:
 - 1. Is insolvent;
 - 2. Has suspended payment of its obligations or made a general assignment for the benefit of its creditors;
 - 3. Has:
 - a. Become the debtor, alleged debtor, respondent, or person in a similar capacity in a case or other proceeding under any bankruptcy, reorganization, arrangement, readjustment, insolvency, receivership, dissolution, liquidation, or similar law; and
 - b. Not obtained from a court, within a reasonable time, confirmation of a plan or dismissal of the case or proceeding; or
 - 4. Has applied for, or has permitted the appointment of, a receiver, trustee, or other agent of a court for itself or for a substantial part of its assets;
- (c) The regulated person has knowingly made or provided, or caused to be made or provided, to the commissioner one (1) or more of the following:
 - 1. A material misrepresentation; or
 - 2. A false or fraudulent:
 - a. Material fact; or
 - b. Financial statement;
- (d) The applicant or licensee suppressed or withheld from the commissioner any information which, if submitted by the applicant or licensee, warrants or would have warranted the commissioner denying a license;
- (e) The applicant or licensee failed to terminate or suspend the authority of its responsible individual or agent to act on its behalf when the applicant or licensee knew, or was given reasonable notice, that its responsible individual or agent:
 - 1. Violated, or was about to violate, a material provision of this subtitle, including any administrative regulation or order promulgated or issued by the commissioner; or
 - 2. Engaged in, or was about to engage in, an act or practice that would warrant an adverse action under this section;
- (f) Any of the following are listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or the United States Department of State under Presidential Executive Order No. 13224 as a potential threat to commit terrorist acts or to finance terrorist acts:
 - 1. The regulated person;
 - 2. An executive officer of the regulated person;
 - 3. A director of the regulated person;
 - 4. A key shareholder of the regulated person;

5. A person in control of the regulated person; or
 6. A responsible individual of the applicant or licensee;
- (g) The competence, experience, character, or general fitness of an agent, or a person in control of the agent, indicates that it is not in the public interest to permit the agent to be engaged in virtual currency kiosk business in this state;
 - (h) The applicant or licensee no longer meets the requirements of this subtitle to:
 1. Hold a license; or
 2. Engage in virtual currency kiosk business at one (1) or more locations in this state; or
 - (i) Any fact or condition exists that, if it existed at the time the applicant or licensee applied for a license, or approval to engage in virtual currency kiosk business at one (1) or more locations, or through one (1) or more agents, in this state, would have been grounds for denying the application.
- (3) Subsection (2)(a)1. of this section includes all of the following:
 - (a) Violating any administrative regulation promulgated, or order of general application issued, under this subtitle;
 - (b) Failing to pay any fee, civil penalty, or remedy that is owed under this subtitle;
 - (c) Violating the written conditions under which a license or approval was issued, renewed, or maintained under this subtitle;
 - (d) Refusing to permit, or failing to cooperate substantially with, an investigation or examination under this subtitle;
 - (e) Failing, within a reasonable time, to furnish any information or file any notice or report required or otherwise requested by the commissioner under this subtitle; and
 - (f) Failing to comply with a lawful order or subpoena issued by the commissioner.
 - (4) Subject to KRS 286.13-125:
 - (a) The commissioner may, at any time, issue a notice of intent to impose conditions on a license, or approval to engage in virtual currency kiosk business at one (1) or more locations, or through one (1) or more agents, in this state if the commissioner finds that the conditions, including any additional bond amount specified by the commissioner under KRS 286.13-050, are necessary for a licensee to continue to satisfy the requirements of this subtitle for licensure;
 - (b) A notice of intent issued under paragraph (a) of this subsection shall specify the additional conditions that are required for the licensee and any agent;
 - (c) The commissioner may impose conditions on a license, or approval to engage in virtual currency kiosk business at one (1) or more locations, or through one (1) or more agents, in this state if the licensee, agent, or both, as applicable, files a written acceptance of the conditions specified in the notice issued under paragraph (a) of this subsection to the licensee, agent, or both within thirty (30) days after service of the notice; and

- (d) If the department does not receive a written acceptance of the conditions specified in a notice issued under paragraph (a) of this subsection to a licensee, agent, or both within thirty (30) days after service of the notice, the commissioner shall serve an administrative complaint on the licensee, agent, or both, as applicable, seeking to take an appropriate adverse action under subsection (1)(a)4. of this section relating to the license or approval.
- (5) Any person or person in control whose license, or agent or person in control of an agent whose approval as an agent, has been:
 - (a) Denied shall not be eligible to apply for a license, to serve as an agent, or to serve as a person in control of a licensee or agent for one (1) year after the date of denial; or
 - (b) Revoked shall not be eligible to apply for a license, to serve as an agent, or to serve as a person in control of a licensee or agent:
 - 1. For the first revocation, until three (3) years after the date of revocation; and
 - 2. For any subsequent revocation, permanently.
- (6) The surrender or expiration of a license, or an agent designation, shall not affect a proceeding to suspend or revoke the license or approval of the agent.

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