

1 AN ACT relating to depository institutions.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 1 OF KRS CHAPTER 286 IS  
4 CREATED TO READ AS FOLLOWS:

5 *As used in this chapter, unless the context requires otherwise:*

6 *(1) "Commissioner" means the commissioner of the Department of Financial*  
7 *Institutions;*

8 *(2) "Department" means the Department of Financial Institutions; and*

9 *(3) "Person" means a natural person, or any type or form of corporation, company,*  
10 *partnership, proprietorship, association, or other legal entity.*

11 ➔SECTION 2. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 286 IS  
12 CREATED TO READ AS FOLLOWS:

13 *(1) As used in this section:*

14 *(a) "Covered service" means:*

15 *1. Data processing;*

16 *2. Any activity that supports financial services, including but not limited*  
17 *to lending, funds transfer, fiduciary activity, trading activity, and*  
18 *deposit taking; and*

19 *3. Internet-related services, including but not limited to Web services and*  
20 *electronic bill payments, mobile applications, system and software*  
21 *development and maintenance, and security monitoring;*

22 *(b) "Depository institution" means any:*

23 *1. State bank as defined in KRS 286.3-010;*

24 *2. Branch of an out-of-state bank as defined in KRS 286.3-010 that is*  
25 *doing business under the laws of this state;*

26 *3. Trust company as defined in KRS 286.3-010; or*

27 *4. Credit union as defined in KRS 286.6-005; and*

- 1        (c) "Service provider" means any person that provides a covered service listed  
2        in paragraph (a) of this subsection to a depository institution, except any:
- 3        1. Bank service company that is examined and regulated by the  
4        appropriate federal banking agency. For the purposes of this  
5        subparagraph, "bank service company" and "appropriate federal  
6        banking agency" have the meanings set forth in the Bank Service  
7        Company Act, 12 U.S.C. sec. 1861, as amended, or any successor  
8        statute;
- 9        2. Depository institution, holding company of a depository institution, or  
10       subsidiary of that holding company; and
- 11       3. Federally chartered depository institution, holding company of a  
12       federally chartered depository institution, or subsidiary of that holding  
13       company. For the purposes of this subparagraph, "federally chartered  
14       depository institution" means a bank, savings association, or credit  
15       union organized pursuant to the laws of the United States.
- 16       (2) The commissioner may examine a service provider for any covered service it  
17       provides to a depository institution if the examination is conducted in conjunction  
18       with an examination conducted by a properly authorized federal regulatory  
19       agency.
- 20       (3) The commissioner may accept an examination made by other properly authorized  
21       state or federal regulatory agencies that have concurrent jurisdiction over a  
22       service provider in lieu of any examination authorized or required under the laws  
23       of this state.
- 24       (4) A report of examination and related correspondence shall be considered  
25       confidential information. No person shall release any information contained in  
26       the examination unless required by court order. Notwithstanding this subsection,  
27       the department may furnish:

1 (a) A copy of a report of examination performed by the commissioner of the  
 2 condition and affairs of any service provider to the depository institutions  
 3 serviced by the service provider; and

4 (b) To and exchange information and reports of examinations with officials  
 5 and examiners of other properly authorized state or federal regulatory  
 6 agencies.

7 (5) Every official report concerning a service provider, and every report of  
 8 examination, shall be prima facie evidence of the facts contained in the report for  
 9 any purpose in any action in which the department or service provider is a party.

10 (6) The commissioner shall fix a scale of examination fees to be paid by service  
 11 providers. The fees shall be:

12 (a) Sufficient to cover the cost of the examination based upon a fair  
 13 compensation for time and actual expense;

14 (b) Assessed and paid by service providers promptly after completion of the  
 15 examination; and

16 (c) Set by administrative regulation.

17 (7) The commissioner may enter into cooperative agreements with other properly  
 18 authorized state or federal regulatory agencies that have concurrent jurisdiction  
 19 over a service provider to facilitate the examination process, including joint  
 20 examination, scheduling, resources, fee collection and sharing, report of  
 21 examination processing, and enforcement actions.

22 ➔Section 3. KRS 286.6-100 is amended to read as follows:

23 (1) Credit unions shall:

24 (a) Be under the supervision of the commissioner;~~and shall~~

25 (b) ~~File~~~~make~~ financial reports ~~with~~~~to~~ the commissioner as specified by  
 26 administrative regulation, but no less frequently than annually;~~and when~~  
 27 ~~he or she may require, but at least annually.]~~

1        **(c)** ~~[Each credit union shall ]~~Be subject to examination by~~[, and for this purpose~~  
 2        ~~shall make its books and records accessible to,]~~ any person designated by the  
 3        commissioner; **and**~~[- The commissioner shall fix a scale of examination fees~~  
 4        ~~to be paid by credit unions, giving due consideration to the time and expense~~  
 5        ~~incident to such examinations and to the ability of credit unions to pay such~~  
 6        ~~fees, which fees shall be assessed and paid by each credit union promptly after~~  
 7        ~~completion of such examination.]~~

8        **(d) Pay the following fees to the commissioner:**

9                **1. For each credit union subject to supervision and examination by the**  
 10                **commissioner, there shall be an annual fee based on the assets of the**  
 11                **credit union, as reported to the department by the credit union as of**  
 12                **December 31 of the previous year. The fee schedule shall be:**

13                **a. At the rates necessary to carry out the duties of the department;**

14                **b. Reasonably related to the costs incurred by the department in**  
 15                **regulating credit unions; and**

16                **c. Set by the commissioner by promulgating an administrative**  
 17                **regulation; and**

18                **2. Any fees for extraordinary services performed by the department for a**  
 19                **particular credit union. Fees assessed pursuant to this subparagraph**  
 20                **shall be determined upon the basis of fair compensation for time and**  
 21                **actual expense.**

22        (2) In lieu of the examination provided for in this section, the commissioner may accept  
 23        any examination made by the National Credit Union Administration. One (1) copy  
 24        of the examination report shall be promptly submitted to the commissioner for  
 25        processing and analysis by the **department**~~[Department of Financial Institutions].~~

26        (3) When, in the judgment of the commissioner, the condition of any credit union  
 27        organized under the provisions of this subtitle renders it necessary or expedient to

1           make an examination or to devote any extraordinary attention to its affairs, the  
2           commissioner shall cause ~~that~~<sup>[such]</sup> work to be done. A full and complete copy of  
3           the report of all examinations shall be furnished to the credit union so examined.  
4           ~~The~~<sup>[Such]</sup> report of examination shall be presented by the president *of the credit*  
5           *union* to the board of directors at its next regular or special meeting.