

1 AN ACT relating to financial institutions.

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

3 ➔Section 1. KRS 286.9-080 is amended to read as follows:

4 (1) Each license may be renewed for the ensuing twelve (12) month~~[months]~~ period
5 upon the timely submission of a completed renewal application and payment to the
6 commissioner annually on or before December 31~~[June 20]~~ of each year ***of the***
7 ***following fees***~~[a license fee of]:~~

8 (a) Five hundred dollars (\$500) for the first location; and

9 (b) Five hundred dollars (\$500) for each additional location.

10 (2) The commissioner may reinstate a license that has expired within thirty-one (31)
11 days of the expiration of the license if the licensee pays:

12 1. A late fee~~[in the amount]~~ of one hundred dollars (\$100); and

13 2. A reinstatement fee of five hundred dollars (\$500).

14 (3) A license shall not be reinstated when~~[where]~~ the renewal application, fees, or any
15 required information is received ~~[on or]~~after January 31~~[August 1]~~ of the
16 ***following*** year that the application was due.

17 **(4) The commissioner may, by promulgation of an administrative regulation**
18 **pursuant to KRS Chapter 13A, modify the dates for submissions under this**
19 **section when necessary to:**

20 (a) **Implement uniform national licensing procedures; or**

21 (a) **Facilitate common practices and procedures among the states.**

22 ➔Section 2. KRS 286.9-010 is amended to read as follows:

23 As used in this subtitle, unless the context requires otherwise:

24 (1) "Affiliate" means a person who directly or indirectly through one (1) or more
25 intermediaries controls or is controlled by, or is under common control with, a
26 licensee;

27 (2) "Applicant" means a person filing an application or renewal application for a

- 1 license in accordance with this subtitle;
- 2 (3) "Archive" means to copy data to a long-term storage mechanism apart from the
3 database;
- 4 (4) "Cashing" means providing currency for a payment instrument;
- 5 (5) "Check" means any check, draft, money order, personal money order, travelers'
6 check, or other demand instrument for the transmission or payment of money;
- 7 (6) "Check cashing license" means a license issued pursuant to this subtitle by the
8 commissioner to conduct the business of cashing checks in this Commonwealth;
- 9 (7) "Closed" or "close" means that one (1) of the following has occurred in connection
10 with a deferred deposit service transaction concerning the customer's payment
11 instrument:
- 12 (a) The payment instrument is redeemed by the customer by payment to the
13 licensee of the face amount of the payment instrument in cash;
- 14 (b) The payment instrument is exchanged by the licensee for a cashier's check or
15 cash from the customer's financial institution;
- 16 (c) The payment instrument is deposited, or submitted as an electronic check
17 pursuant to federal law and with specific customer authorization to do so,
18 by the licensee, and the licensee has evidence that the person has satisfied the
19 obligation;
- 20 (d) The payment instrument is collected by the licensee or its agent through any
21 civil remedy available under the laws of this state; or
- 22 (e) Any other reason that the commissioner may deem to be proper under this
23 subtitle;
- 24 (8) "Consideration" means any premium or fee charged of any kind for the sale of
25 goods or services in excess of the cash price of the goods or services;
- 26 (9) "Control" means:
- 27 (a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent

- 1 (25%) or more of a class of voting securities or voting interests of a licensee
2 or applicant, or the person in control of a licensee or applicant;
- 3 (b) The power to elect a majority of executive officers, managers, directors,
4 trustees, or other persons exercising managerial authority over a licensee or
5 applicant, or the person in control of a licensee or applicant; or
- 6 (c) The power to exercise, directly or indirectly, a controlling influence over the
7 management or policies of a licensee or applicant, or the person in control of a
8 licensee or applicant;
- 9 (10) "Customer" means a person who inquires into the availability of or applies for a
10 deferred presentment service transaction or a person who enters into a deferred
11 presentment service transaction;
- 12 (11) "Customer transaction data" means all data reported to the database pertinent to a
13 particular customer transaction, including the date of the transaction, identification
14 of the licensee and location, the sum of money involved, the time payment is
15 deferred, fees charged, any alleged violations of this subtitle, and any identifying
16 customer information;
- 17 (12) "Database" means the database described in KRS 286.9-140;
- 18 (13) "Database provider" means one (1) of the following:
- 19 (a) A third-party provider selected by the commissioner in accordance with KRS
20 286.9-140 to operate the statewide database described in that section; or
- 21 (b) The commissioner, if the commissioner has not selected a third-party provider
22 in accordance with KRS 286.9-140;
- 23 (14) "Deferred deposit service business" means a person who engages in deferred
24 deposit transactions;
- 25 (15) "Deferred deposit service business license" means a license issued in accordance
26 with this subtitle by the commissioner to conduct check cashing and deferred
27 deposit service business in this Commonwealth;

- 1 (16) "Deferred deposit transaction" or "deferred presentment service transaction" means,
2 for consideration, accepting a payment instrument, and holding the payment
3 instrument for a period of time prior to deposit or presentment in accordance with
4 an agreement with or any representation made to the customer whether express or
5 implied;
- 6 (17) "Delete" means to erase data by overwriting the data;
- 7 (18) "Identifying customer information" means the name of the customer, his or her
8 Social Security number, driver license number, or other state-issued identification
9 number, address, any account numbers or information specific to a payment
10 instrument provided by a customer to a licensee, a bank, savings bank, savings and
11 loan association, or credit union, and any other nonpublic, personal financial
12 information of a customer entered into the database or that comes into the
13 possession of the database provider through customer or licensee inquiry or report;
- 14 (19) "Licensee" means a person who has been issued either a check cashing license or a
15 deferred deposit service business license by the commissioner in accordance with
16 this subtitle to conduct check cashing or deferred deposit service business in the
17 Commonwealth;
- 18 (20) "Maturity date" means the date on which a payment instrument is authorized to be
19 redeemed or presented for payment; and
- 20 (21) "Payment instrument" means a check, draft, money order, or traveler's check, for
21 the transmission or payment of money sold or issued to one (1) or more persons,
22 whether or not such instrument is negotiable.
- 23 ➔Section 3. KRS 286.9-100 is amended to read as follows:
- 24 (1) Any fee charged by a licensee for cashing a check or entering into a deferred
25 deposit transaction shall be disclosed in writing to the bearer of the check prior to
26 cashing the check or entering into a deferred deposit transaction, and the fee shall
27 be deemed a service fee and not interest. A licensee shall not charge a service fee in

1 excess of fifteen dollars (\$15) per one hundred dollars (\$100) on the face amount of
2 the deferred deposit check. A licensee shall prorate any fee, based upon the
3 maximum fee of fifteen dollars (\$15) per one hundred dollars (\$100). This service
4 fee shall be for a period of at least fourteen (14) days.

5 (2) Before a licensee shall deposit with any bank or other depository institution a check
6 cashed by the licensee, the check shall be endorsed with the actual name under
7 which the licensee is doing business.

8 (3) No licensee shall cash a check payable to a payee other than a natural person unless
9 the licensee has previously obtained appropriate documentation from the board of
10 directors or similar governing body of the payee clearly indicating the authority of
11 the natural person or persons cashing the check, draft, or money order on behalf of
12 the payee.

13 (4) No licensee shall indicate through advertising, signs, billhead, or otherwise that
14 checks may be cashed without identification of the bearer of the check; and any
15 person seeking to cash a check shall be required to submit reasonable identification
16 as prescribed by the commissioner. The provisions of this subsection shall not
17 prohibit a licensee from cashing a check simultaneously with the verification and
18 establishment of the identity of the presenter by means other than the presentation
19 of identification.

20 (5) Within two (2) business days after being advised by a financial institution that a
21 payment instrument has been altered, forged, stolen, obtained through fraudulent or
22 illegal means, negotiated without proper legal authority, or otherwise represents the
23 proceeds of illegal activity, the licensee shall notify the commissioner and the
24 prosecutor or law enforcement authority in the county in which the check was
25 received. If a payment instrument is returned to the licensee by a financial
26 institution for any of these reasons, the licensee shall not release the payment
27 instrument without the written consent of the prosecutor or law enforcement

1 authority, or a court order.

2 (6) No licensee shall alter or delete the date on any payment instrument accepted by the
3 licensee.

4 (7) No licensee shall engage in unfair or deceptive acts, practices, or advertising in the
5 conduct of the licensed business.

6 (8) No licensee shall require a customer to provide security for the transaction or
7 require the customer to provide a guaranty from another person.

8 (9) A licensee shall not have more than two (2) deferred deposit transactions from any
9 one (1) customer at any one time. The total proceeds received by the customer from
10 all of the deferred deposit transactions shall not exceed five hundred dollars (\$500).

11 (10) (a) Prior to the establishment of the common database of deferred deposit
12 transactions established by KRS 286.9-140, each licensee shall inquire of any
13 customer seeking to present a deferred deposit transaction, whether the
14 customer has any outstanding deferred deposit transactions from any licensee.

15 (b) If the customer represents in writing that the customer has no more than one
16 (1) deferred deposit transaction outstanding to any licensee and that the total
17 proceeds received by the customer from the outstanding deferred deposit
18 transaction issued by the customer does not equal or exceed five hundred
19 dollars (\$500), a licensee may accept a deferred deposit transaction in an
20 amount that, when combined with the customer's other outstanding deferred
21 deposit transaction, does not exceed five hundred dollars (\$500) of total
22 proceeds received by the customer.

23 (c) If the customer represents in writing that the customer has more than one (1)
24 deferred deposit transaction outstanding to licensees or if the total proceeds
25 received by the customer from the deferred deposit transactions equal or
26 exceed five hundred dollars (\$500), a licensee shall not enter into another
27 deferred deposit transaction with that customer until the customer represents

1 to the licensee in writing that the customer qualifies to enter into a new
2 deferred deposit transaction under the requirements set forth in this subtitle.

3 (d) If the database described in KRS 286.9-140 is unavailable due to technical
4 difficulties with the database, as determined by the commissioner, the licensee
5 shall utilize the process established in this subsection to verify deferred
6 deposit transactions.

7 (11) A licensee shall not use any device or agreement, including agreements with an
8 affiliate of a licensee, with the intent to obtain greater charges than are authorized in
9 this subtitle.

10 (12) No licensee shall agree to hold a deferred deposit transaction for more than sixty
11 (60) days.

12 (13) (a) Each deferred deposit transaction shall be made according to a written
13 agreement that shall be dated and signed by the customer and the licensee or
14 an authorized agent of the licensee at the licensed location, and made
15 available to the commissioner upon request. The customer shall receive a
16 copy of this agreement.

17 (b) A licensee shall not require a customer to provide authorization for the
18 licensee to submit an original payment instrument electronically before
19 entering into a deferred deposit transaction.

20 (14) A licensee or its affiliate shall not for a fee renew, roll over, or otherwise
21 consolidate a deferred deposit transaction for a customer.

22 (15) No individual who enters into a deferred deposit transaction with a licensee shall be
23 convicted under the provisions of KRS 514.040.

24 (16) No licensee who enters into a deferred deposit transaction with an individual shall
25 prosecute or threaten to prosecute an individual under the provisions of KRS
26 514.040.

27 (17) Each licensee shall conspicuously display in each of its deferred deposit business

1 locations a sign supplied by the commissioner that gives the following notice: "No
2 person who enters into a post-dated or deferred deposit transaction with this
3 business establishment will be prosecuted for or convicted of writing cold checks or
4 of theft by deception under the provisions of KRS 514.040."

5 (18) A licensee may not enter into a deferred deposit transaction with a customer who
6 has two (2) open deferred deposit transactions.

7 (19) A licensee shall verify a customer's eligibility to enter into a deferred presentment
8 service transaction by doing one (1) of the following, as applicable:

9 (a) If the commissioner has not implemented a database under KRS 286.9-140 or
10 the database described in KRS 286.9-140 is not fully operational, as
11 determined by the commissioner, the licensee shall verify that the customer
12 meets the eligibility requirements for a deferred presentment service
13 transaction under this subtitle. The licensee shall maintain a database of all of
14 the licensee's transactions at all of its locations and search that database to
15 meet its obligation under this subtitle.

16 (b) If the commissioner has implemented a database under KRS 286.9-140 and
17 the database described in that section is fully operational, as determined by
18 the commissioner, the licensee shall promptly and accurately access the
19 database through an Internet real-time connection, and verify that the
20 customer meets the eligibility requirements for a deferred presentment service
21 transaction under this subtitle.