

286.3-990 Penalties.

- (1) Any person who violates KRS 286.3-030(2) may be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each day he or she is engaged in the private banking business.
- (2) Any institution that fails to make the report required by KRS 286.3-420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 286.3-420, may be assessed and, if assessed, shall pay a penalty of two hundred dollars (\$200).
- (3) If any person violates KRS 286.3-440(3) his or her office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of KRS 286.3-440(3) shall immediately report such fact to the commissioner, who may remove the person so offending.
- (4) Any receiver of an insolvent institution who fails to comply with the provisions of this subtitle shall be subject to the same penalties provided for solvent institutions and officers so offending.
- (5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employee of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the Attorney General, shall institute proceedings to revoke the corporate powers of the bank.
- (6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this subtitle, shall forfeit his or her office and shall be fined not less than one hundred (\$100) nor more than two thousand dollars (\$2,000) for each offense.
- (7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this subtitle, or who violates any of the provisions of this subtitle, shall forfeit his or her office and shall be fined not less than five hundred (\$500) nor more than five thousand dollars (\$5,000) for each offense.
- (8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars (\$100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars (\$1,000).
- (9) Each person, bank, or trust company that willfully makes or transmits a false report

or refuses to submit its books, papers, and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).

- (10) Whenever any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9), (15), (16), (17), or (18) of this section is not paid, the Attorney General shall institute an action, in the name of the state, in the Franklin Circuit Court or the Circuit Court of the county in which the offense was committed, for the recovery of the fine.
- (11) Any person violating any of the provisions of KRS 286.3-225 shall be guilty of a misdemeanor and fined not less than fifty dollars (\$50) nor more than two thousand dollars (\$2,000).
- (12) Any person who willfully makes charges in excess of those permitted by KRS 286.3-720 to 286.3-770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment for not more than six (6) months, or both.
- (13) Any bank which violates any provision of KRS 286.3-720 to 286.3-770, except as a result of an accidental or bona fide error, shall be barred from the recovery of any finance charges permitted by KRS 286.3-740 and 286.3-750, and the debtor, or the debtor's legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 286.3-760.
- (14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 286.3-710 to 286.3-770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 286.3-710 to 286.3-770.
- (15) Any bank or trust company which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 286.3-690 which has become final shall forfeit and pay a fine of not more than one thousand dollars (\$1,000) per day for each day such violation continues. The fine shall be assessed by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding, or abetting a violation. In determining the amount of the fine the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.
- (16) Any bank which violates the provisions of KRS 286.3-065 may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). The fines may be assessed by the commissioner by written notice.
- (17) Any bank which violates any provisions of KRS 286.3-100(10) may be fined not

less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for the first violation, and may be fined not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000) for any subsequent violations.

- (18) Any officer or director who violates the provisions of KRS 286.3-280(1) or (2) may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation, and any officer or director who violates the provisions of KRS 286.3-280(3) may be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) for each violation. The fine may be assessed by the commissioner by written notice.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 655, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 183, sec. 14, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 196, sec. 29, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 338, sec. 21, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 77, sec. 23, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 444, sec. 16, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 130, sec. 4, effective July 13, 1984; and ch. 324, sec. 59, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 251, sec. 17, effective April 1, 1982. -- Amended 1974 Ky. Acts ch. 406, sec. 312, effective January 1, 1975. -- Amended 1972 Ky. Acts ch. 207, sec. 8. -- Amended 1966 Ky. Acts ch. 255, sec. 283. -- Amended 1944 Ky. Acts ch. 11, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 165a-7, 165a-12, 165a-13, 165a-14, 583a-2, 597, 598, 602a-2.

Formerly codified as KRS 287.990.

Legislative Research Commission Note (7/12/2006). This section was amended in 2006 Ky. Acts ch. 183. In that same session, 2006 Ky. Acts ch. 247, sec. 38 required that all sections of KRS Chapters 287, 288, 290, 291, 294, 366, 366A, and 368 be renumbered as sections of a single KRS chapter entitled the "Kentucky Financial Services Code." Therefore, the Statute Reviser, acting under KRS 7.136(1), has changed the number of this section and codified it as a section of KRS Chapter 286. In addition, KRS references have been adjusted to conform with the renumbering.