

286.9-090 Authority to promulgate administrative regulations -- Compliance examination and fee -- Examination, inspection, and confidentiality of records -- Powers of commissioner.

- (1) The commissioner may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this subtitle.
- (2) To assure compliance with the provisions of this subtitle, the commissioner may examine the business, books, and records of any licensee, and each licensee shall pay an examination fee sufficient to cover the cost of the examination based upon fair compensation for time and actual expense as established by order or administrative regulations.
- (3) The affairs of every check cashing and deferred deposit service business licensee and the records required to be maintained by KRS 286.9-074 are subject at any time, or from time to time, to such periodic, special, or other examinations by the commissioner or an examiner of the commissioner within or without this state and with or without notice to the licensee, as the commissioner deems necessary or appropriate in the public interest. All books, papers, and records of assets of the licensee shall be subject to the commissioner's inspection.
- (4) Reports of examination, related working papers, or other confidential information in the possession or control of the commissioner that is provided according to this subtitle shall be confidential by law and privileged, and shall not be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. These reports of examination, related working papers, or other confidential information shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action, unless after notice to the commissioner and a hearing, a court of competent jurisdiction determines that the commissioner would not be prejudiced. However, the commissioner may use such reports, working papers, and other confidential information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.
- (5) Neither the commissioner nor any person who received documents, materials, reports, or other information while acting under the authority of the commissioner shall be required to testify in any civil action concerning any reports of examination, related working papers, or other confidential information subject to subsection (4) of this section.
- (6) In order to assist in the performance of the commissioner duties, the commissioner may:
 - (a) Share documents, materials, annual reports, reports of examination or other information, including the confidential and privileged documents, materials, reports, or information subject to subsections (4) and (5) of this section, with other state, federal, and international regulatory agencies, and with local, state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, reports, or other information;
 - (b) Receive documents, materials, reports, or other information, including

otherwise confidential and privileged documents, materials, reports, or information from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential and privileged any documents, materials, reports, or information received with notice or the understanding that they are confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, reports, or information;

- (c) Enter into agreements governing the sharing and use of information, including the furtherance of any regulatory or legal action brought as part of the recipient's official duties;
 - (d) Disclose to the public a list of persons licensed under this subtitle or the aggregate financial data concerning those licensees; and
 - (e) Disclose to the public any order issued under this subtitle that is the result of an administrative or legal action against a licensee, agent of a licensee, responsible individual, key shareholder, executive officer, or director.
- (7) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, reports, or information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subsection (6) of this section.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 809, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 98, sec. 19, effective January 1, 2010. -- Amended 1998 Ky. Acts ch. 601, sec. 8, effective April 14, 1998. -- Created 1992 Ky. Acts ch. 213, sec. 9, effective July 14, 1992; and ch. 341, sec. 9, effective July 14, 1992.

Formerly codified as KRS 368.090.

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, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.