

### **286.9-040 Qualifications for license -- Liability of surety.**

To qualify for a license, an applicant shall satisfy the following requirements:

- (1) The applicant shall deposit with the commissioner one (1) of the following instruments:
  - (a) An irrevocable letter of credit in the following amounts:
    1. If an applicant has only one (1) business location, the amount shall be fifty thousand dollars (\$50,000);
    2. If an applicant has two (2) to five (5) business locations, the amount shall be one hundred thousand dollars (\$100,000);
    3. If an applicant has six (6) to ten (10) business locations, the amount shall be one hundred fifty thousand dollars (\$150,000);
    4. If an applicant has eleven (11) to twenty (20) business locations, the amount shall be two hundred thousand dollars (\$200,000);
    5. If an applicant has twenty-one (21) to thirty (30) business locations, the amount shall be three hundred thousand dollars (\$300,000);
    6. If an applicant has thirty-one (31) to forty (40) business locations, the amount shall be four hundred thousand dollars (\$400,000); and
    7. If an applicant has more than forty (40) business locations, the amount shall be five hundred thousand dollars (\$500,000);
  - (b) A corporate surety bond made payable to the commissioner in the same amount that is required in paragraph (1)(a) of this section;
  - (c) Evidence that the applicant has established an account payable to the commissioner in a federally insured financial institution in this state and has deposited money of the United States in an amount equal to the amount of the required letter of credit; or
  - (d) A savings certificate of a federally insured financial institution in this state for an amount payable that is equal to the amount of the required letter of credit and that is not available for withdrawal except by direct order of the commissioner. Interest earned on the certificate accrues to the applicant.
- (2) Every instrument required in this section shall provide for suit thereon by any person who has a cause of action under this subtitle. The total liability of the surety, to all persons, cumulative or otherwise, shall not exceed the amount specified in the bond.
- (3) Every instrument required in this section shall be made payable to the commissioner.
- (4) Every instrument required in this section shall be available for the recovery of expenses, fines, and fees levied by the commissioner under this subtitle, and for losses or damages that are determined by the commissioner to have been incurred by any customer as a result of the applicant's or licensee's failure to comply with the requirements of this subtitle.
- (5) Every instrument required in this section shall provide that no suit shall be maintained to enforce any liability on the bond unless brought within three (3) years after the act upon which it is based.
- (6) The financial responsibility, financial condition, business experience, character,

and general fitness of the applicant shall reasonably warrant the belief that the applicant's business will be conducted honestly, carefully, and efficiently. In determining whether this qualification has been met, the commissioner may review and approve:

- (a) The business record and the capital adequacy of the applicant;
- (b) The competence, experience, integrity, and financial ability of any person who:
  - 1. Is a director, officer, supervisory employee, or five percent (5%) or more shareholder of the applicant; or
  - 2. Owns or controls the applicant; and
- (c) Any record, on the part of the applicant or any person referred to in subparagraph (b)1. and 2. of:
  - 1. Any criminal activity;
  - 2. Any fraud or other act of personal dishonesty;
  - 3. Any act, omission, or practice which constitutes a breach of a fiduciary duty; or
  - 4. Any suspension, revocation, or removal, by any agency or department of the United States or any state, from participation in the conduct of any business.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 800, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 98, sec. 6, effective January 1, 2010. -- Amended 1998 Ky. Acts ch. 601, sec. 4, effective April 14, 1998. -- Created 1992 Ky. Acts ch. 213, sec. 4, effective July 14, 1992; and ch. 341, sec. 4, effective July 14, 1992.

**Formerly codified as** KRS 368.040.

**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.