286.9-100 Procedures to be followed by licensees.

(1) Any fee charged by a licensee for cashing a check or entering into a deferred deposit transaction shall be disclosed in writing to the bearer of the check prior to cashing the check or entering into a deferred deposit transaction, and the fee shall be deemed a service fee and not interest. A licensee shall not charge a service fee in excess of fifteen dollars ($15) per one hundred dollars ($100) on the face amount of the deferred deposit check. A licensee shall prorate any fee, based upon the maximum fee of fifteen dollars ($15) per one hundred dollars ($100). This service fee shall be for a period of at least fourteen (14) days.

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

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

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

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

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

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

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

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

(10) (a)   Prior to the establishment of the common database of deferred deposit

transactions established by KRS 286.9-140, each licensee shall inquire of any customer seeking to present a deferred deposit transaction, whether the customer has any outstanding deferred deposit transactions from any licensee.

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

(c)   If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to licensees or if the total proceeds received by the customer from the deferred deposit transactions equal or exceed five hundred dollars ($500), a licensee shall not enter into another deferred deposit transaction with that customer until the customer represents to the licensee in writing that the customer qualifies to enter into a new deferred deposit transaction under the requirements set forth in this subtitle.

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

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

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

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

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

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

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

(17)   Each licensee shall conspicuously display in each of its deferred deposit business locations a sign supplied by the commissioner that gives the following notice: "No person who enters into a post-dated or deferred deposit transaction with this business establishment will be prosecuted for or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040."

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

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

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

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