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MEMORANDUM

TO: Marni R. Gibson, Commissioner, Department of Financial Institutions

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 808 KAR 009:010

DATE: August 20, 2024

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **DECEMBER 2024** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on December 15, 2024**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures

1 PUBLIC PROTECTION CABINET

2 Department of Financial Institutions

3 Division of Non-Depository Institutions

4 (Amendment)

5 808 KAR 9:010. Deferred deposit database compliance.

6 RELATES TO: KRS 286.9-010(76), 286.9-075, 286.9-100(1), (7), (9), (10), (18), (19), 286.9-140.

7 STATUTORY AUTHORITY: KRS 286.9-090(1), 286.9-100, 286.9-140(1).

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-100(9) prohibits licensees from

9 having more than two (2) deferred deposit transactions from any one (1) customer at any one (1)

10 time and limits the total proceeds received by a customer from all deferred deposit transactions to

11 \$500. KRS 286.9-140(1) requires the commissioner to implement a common database with real-

12 time access through an internet connection accessible to the department and licensees to verify

13 whether any deferred deposit transactions are outstanding for a particular person and authorizes

14 the commissioner to adopt rules to administer and enforce KRS 286.9-140. This administrative

15 regulation establishes requirements for licensee use of the database established pursuant to KRS

16 286.9-140.

17 Section 1. Closed Deferred Deposit Service Transactions. The Commissioner deems the following

18 occurrences as closed deferred deposit service transactions pursuant to Definitions. The following

19 shall be additional definitions of "closed" or "close" under KRS 286.9-010(76)(e):

- 1 (1) The customer's payment instrument was unpaid and the licensee has sold the underlying
2 debt to a non-affiliated third party without recourse;
- 3 (2) The underlying debt represented by the customer's payment instrument has been
4 discharged in bankruptcy;
- 5 (3) The database provider has designated the deferred deposit transaction concerning the
6 customer's payment instrument as closed pursuant to KRS 286.9-140(7); or
- 7 (4) The licensee has reported to the database provider that the deferred deposit transaction
8 concerning the customer's payment instrument is closed following being held open
9 pursuant to KRS 286.9-140(7).

10 **Section 2. Deferred Deposit Database Requirements.**

- 11 (1) A licensee shall institute procedures and maintain an accounting system designed to:
- 12 (a) Prevent the licensee from entering into transactions with a customer in violation
13 of KRS 286.9-100(9), including procedures for:
- 14 1. Maintaining a record of all current transactions with the licensee; and
15 2. Checking the record of current transactions with the database prior to
16 issuance of a new transaction; and
- 17 (b) Generate reports that will readily permit examination and verification of
18 compliance with KRS 286.9-100(9), KRS 286.9-140, and this section by
19 department examiners.
- 20 (2) For each deferred deposit transaction, a licensee shall submit:
- 21 (a) The customer's date of birth;
- 22 (b) The check number of the payment instrument, if applicable;

1 (c) The database verification fee of \$2.25, which may be charged to the customer;
2 ~~if any~~;

3 (d) The service fee charged to the customer; and

4 (e) The date the payment instrument was deposited or otherwise presented for
5 payment.

6 (3) A licensee shall indicate in the database whether the customer entered into the deferred
7 deposit transaction in person, electronically, or via telephone.

8 ~~(4)~~[(3)] A licensee shall not cause a closed deferred deposit transaction to be reopened in
9 the database unless:

10 (a) The deferred deposit transaction was closed by reason of clerical error by the
11 licensee;

12 (b) The licensee caused the deferred deposit transaction to be reopened on or before
13 the close of business on the business day after the transaction was closed; and

14 (c) Reopening the transaction would not cause the customer to exceed the
15 transaction limits set forth in KRS 286.9-100(9).

16 ~~(5)~~[(4)] A licensee shall not accept, collect, or seek payment on a deferred deposit
17 transaction that is designated as closed in the database.

18 ~~(6)~~[(5)] A licensee that has reported to the database provider that a deferred deposit
19 transaction is open beyond the maturity date pursuant to KRS 286.9-140(7) shall
20 immediately notify the database provider when the transaction becomes closed.

21 ~~(7)~~[(6)] A new licensee or an existing licensee applying for an additional location shall
22 establish an account with the database provider for each location prior to the time of
23 application.

808 KAR 9:010

READ AND APPROVED BY

Marni R. Gibson

Marni R. Gibson, Commissioner

Department of Financial Institutions

8/16/24

DATE

Ray A. Perry

Ray Perry, Secretary

Public Protection Cabinet

8/20/2024

DATE