

## **286.9-010 Definitions for subtitle.**

As used in this subtitle, unless the context requires otherwise:

- (1) "Affiliate" means a person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, a licensee;
- (2) "Applicant" means a person filing an application or renewal application for a license under this subtitle;
- (3) "Archive" means to copy data to a long-term storage mechanism apart from the database;
- (4) "Cashing" means providing currency for a payment instrument;
- (5) "Check" means any check, draft, money order, personal money order, travelers' check, or other demand instrument for the transmission or payment of money;
- (6) "Closed" or "close" means that one (1) of the following has occurred in connection with a deferred deposit service transaction concerning the customer's payment instrument:
  - (a) The payment instrument is redeemed by the customer by payment to the licensee of the face amount of the payment instrument in cash;
  - (b) The payment instrument is exchanged by the licensee for a cashier's check or cash from the customer's financial institution;
  - (c) The payment instrument is deposited by the licensee, and the licensee has evidence that the person has satisfied the obligation;
  - (d) The payment instrument is collected by the licensee or its agent through any civil remedy available under the laws of this state; or
  - (e) Any other reason that the commissioner may deem to be proper under this subtitle;
- (7) "Consideration" means any premium or fee charged of any kind for the sale of goods or services in excess of the cash price of the goods or services;
- (8) "Control" means:
  - (a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent (25%) or more of a class of voting securities or voting interests of a licensee or applicant, or the person in control of a licensee or applicant;
  - (b) The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority over a licensee or applicant, or the person in control of a licensee or applicant; or
  - (c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or the person in control of a licensee or applicant;
- (9) "Customer" means a person who inquires into the availability of or applies for a deferred presentment service transaction or a person who enters into a deferred presentment service transaction;

- (10) "Customer transaction data" means all data reported to the database pertinent to a particular customer transaction, including the date of the transaction, identification of the licensee and location, the sum of money involved, the time payment is deferred, fees charged, any alleged violations of this subtitle, and any identifying customer information;
- (11) "Database" means the database described in KRS 286.9-140;
- (12) "Database provider" means one (1) of the following:
  - (a) A third-party provider selected by the commissioner under KRS 286.9-140 to operate the statewide database described in that section; or
  - (b) The commissioner, if the commissioner has not selected a third-party provider under KRS 286.9-140;
- (13) "Deferred deposit service business" means a person who engages in deferred deposit transactions;
- (14) "Deferred deposit transaction" or "deferred presentment service transaction" means, for consideration, accepting a payment instrument, and holding the payment instrument for a period of time prior to deposit or presentment in accordance with an agreement with or any representation made to the customer whether express or implied;
- (15) "Delete" means to erase data by overwriting the data;
- (16) "Commissioner" means the commissioner of the Department of Financial Institutions;
- (17) "Identifying customer information" means the name of the customer, his or her Social Security number, driver license number, or other state-issued identification number, address, any account numbers or information specific to a payment instrument provided by a customer to a licensee, a bank, savings bank, savings and loan association, or credit union, and any other nonpublic, personal financial information of a customer entered into the database or that comes into the possession of the database provider through customer or licensee inquiry or report;
- (18) "Licensee" means a person duly licensed by the commissioner under this subtitle to conduct check cashing or deferred deposit service business in the Commonwealth;
- (19) "Maturity date" means the date on which a payment instrument is authorized to be redeemed or presented for payment;
- (20) "Department" means the Department of Financial Institutions;
- (21) "Payment instrument" means a check, draft, money order, or traveler's check, for the transmission or payment of money sold or issued to one (1) or more persons, whether or not such instrument is negotiable; and
- (22) "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity however organized.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 797, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 98, sec. 1, effective January 1, 2010 -- Amended 1998 Ky. Acts ch. 601, sec. 1, effective April 14, 1998. -- Created 1992 Ky. Acts ch. 213, sec. 1, effective July 14, 1992; and ch. 341, sec. 1, effective July 14, 1992.

**Formerly codified as KRS 368.010.**

**Legislative Research Commission Note** (January 1, 2010). The Reviser of Statutes has altered the numbering of this statute from the way it appears in 2009 Ky. Acts ch. 98, sec. 1, under the authority of KRS 7.136(1)(c).

**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.