

### **292.380 General provisions regarding registration of securities.**

- (1) Except as otherwise expressly provided in this chapter, a registration statement under this chapter becomes effective when the commissioner so orders. The commissioner may require as a condition of registration under this chapter that a prospectus containing any designated part of the appropriate information specified in this chapter be sent or given to each person to whom an offer is made before or concurrently with:
  - (a) The first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution;
  - (b) The confirmation of any sale made by or for the account of any such person;
  - (c) Payment pursuant to any such sale; or
  - (d) Delivery of the security pursuant to any such sale, whichever first occurs; but the commissioner shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933, 15 U.S.C. secs. 77a et seq., or regulations thereunder.
- (2) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. Any document filed under this chapter or a predecessor law within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The commissioner may by rule or otherwise permit the omission of any item of information or document from any registration statement.
- (3) The commissioner may require as a condition of registration by qualification or coordination that (a) the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount or (b) any security issued within the past three (3) years, or to be issued, to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be delivered in escrow. The commissioner may by rule or order determine the conditions of any escrow or impounding required hereunder. The commissioner shall not reject a depository solely because of location in another state. All securities delivered in escrow to the commissioner or some other depository satisfactory to him which have not previously been released shall be released from escrow no later than ten (10) years after the date of delivery into escrow.
- (4) The commissioner may also require as a condition of registration by qualification that the issuer undertake to keep the securities registered under this chapter for a period of up to five (5) years or until the securities become exempt securities under KRS 292.400 or become covered securities, and that the issuer forward to its security holders audited annual financial statements during the period for which the

shares are registered. The commissioner may by rule or order impose other undertakings.

- (5) For the registration of securities by notification, coordination, or qualification, there shall be paid to the commissioner an examination fee of one hundred twenty-five dollars (\$125) and a registration fee of three-fiftieths of one percent (0.06%) of the aggregate offering price of the securities which are to be offered in this state, but the registration fee shall in no case be less than sixty dollars (\$60) nor more than one thousand two hundred dollars (\$1,200). The examination fee and the registration fee shall be payable in separate checks. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under KRS 292.390, the commissioner shall retain the examination fee. For a registration by notification for market-making purposes only the examination fee need be paid.
- (6) When securities are registered by notification or by coordination or by qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer. Every registration statement is effective for one (1) year from its effective date except during the time a stop order is in effect under KRS 292.390. A registration statement shall require annual renewal, with payment of the same fees prescribed by subsection (5) of this section, for any year or partial year exceeding the original one (1) year period of effectiveness. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction so long as the registration statement is effective.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 866, effective July 15, 2010; and ch. 82, sec. 10, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 20, sec. 9, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 165, sec. 9, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 266, sec. 8, effective July 15, 1982; and ch. 346, sec. 5, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 403, sec. 1, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 265, sec. 8. -- Created 1960 Ky. Acts ch. 110, sec. 7, effective January 1, 1961.

**Legislative Research Commission Note (7/15/2010).** This section was amended by 2010 Ky. Acts chs. 24 and 82. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 82, which was last enacted by the General Assembly, prevails under KRS 446.250.