

286.2-685 Prohibition against use of certain banking-related words and characters or financial institution trademarks by unauthorized person -- Exceptions -- Enforcement and penalties.

- (1) No person may use the term "bank," "banker," "banking," "trust," or a similar term or a character, ideogram, phonogram, phrase, or foreign language word in its name, stationery, or advertising in a manner that would imply to the public that the person is engaged in the banking or trust business.
- (2) Subsection (1) of this section does not apply to a depository institution or other entity organized under the laws of this state, another state, or the United States to the extent that the depository institution or other entity is:
 - (a) Authorized under its charter or the laws of this state or the United States to use a term, word, character, ideogram, phonogram, or phrase prohibited by subsection (1) of this section; and
 - (b) Authorized by the laws of this state or the United States to conduct the activities in which it is engaged in this state.
- (3) For purposes of this section, unless the context requires otherwise, "financial institution" means any person or entity operating in the Commonwealth of Kentucky, as permitted under the laws of this state, any other state, or the United States, as a bank, bank holding company, credit union, savings and loan association, or any wholly owned subsidiary thereof.
- (4) Except as provided in subsection (5) of this section, no person that is not a financial institution may use the trade name, trademark, service mark, logo, or symbol, or any combination thereof, of any financial institution, or any trade name, trademark, service mark, logo, or symbol, or any combination thereof, that is similar to the trade name, trademark, service mark, logo, or symbol of such a financial institution, in any marketing material, solicitation, or advertising provided or directed to another person in a manner such that a reasonable person may be confused, mistaken, or deceived that the marketing material, solicitation, or advertising originated from, is endorsed by, or has been consented to by the financial institution.
- (5) Subsection (4) of this section shall not apply to a person who uses the trade name, trademark, service mark, logo, or symbol of a financial institution with the written consent of the financial institution.
- (6) The financial institution whose trade name, trademark, service mark, logo, or symbol has been used in violation of this section may institute an action in the Franklin Circuit Court or any court of competent jurisdiction against any person or entity in violation of subsection (4) of this section to enjoin a continuance of any activity in violation of subsection (4) of this section and, if injured thereby, for the recovery of damages at three (3) times the amount of any actual damages sustained and for civil penalties in the amount of one thousand dollars (\$1,000). It shall not be necessary that actual damages be alleged or proved in order to recover injunctive relief or civil penalties. The penalties prescribed by this subsection shall be cumulative.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 28, sec. 1, effective July 15, 2010. -- Created 2006 Ky. Acts ch. 183, sec. 1, effective July 12, 2006.

Legislative Research Commission Note (7/12/2006). This section was created in 2006 Ky. Acts ch. 183 as a new section of KRS Chapter 287. In that same session, 2006 Ky. Acts ch. 247, sec. 38 required that all sections of KRS Chapters 287, 288, 290, 291, 294, 366, 366A, and 368 be renumbered as sections of a single KRS chapter entitled the "Kentucky Financial Services Code." Therefore, the Statute Reviser, acting under KRS 7.136(1), has codified this section as a new section of KRS Chapter 286.