

286.11-033 Confidentiality of data submitted to commissioner.

- (1) Documents, materials, reports, or other information in the possession or control of the commissioner that is provided according to this subtitle shall be confidential by law and privileged, and shall not be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. These documents, materials, reports, or other information shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action, unless, after notice to the commissioner and a hearing, a court of competent jurisdiction determines that the commissioner would not be prejudiced. However, the commissioner may use the documents, materials, reports, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.
- (2) Neither the commissioner nor any person who received documents, materials, reports, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any civil action concerning any confidential documents, materials, reports, or information subject to subsection (1) of this section.
- (3) In order to assist in the performance of the commissioner's duties, the commissioner:
 - (a) May share documents, materials, reports, or other information, including the confidential and privileged documents, materials, reports, or information subject to subsections (1) and (2) of this section, with other state, federal, and international regulatory agencies, with the Money Transmitter Regulators Association, its affiliates or subsidiaries, and with local, state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, reports, or other information;
 - (b) May receive documents, materials, reports, or other information, including otherwise confidential and privileged documents, materials, reports, or information from the Money Transmitter Regulators Association, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential and privileged any documents, materials, reports, or information received with notice or the understanding that they are confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, reports, or information;
 - (c) May enter into agreements governing the sharing and use of information, including the furtherance of any regulatory or legal action brought as part of the recipient's official duties;
 - (d) May disclose to the public a list of persons licensed under this subtitle or the aggregate financial data concerning those licensees; and,
 - (e) May disclose to the public any order issued under this subtitle that is the result of an administrative or legal action against a licensee, agent of a licensee, responsible individual, key shareholder, executive officer, or director.

- (4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, reports, or information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subsection (3) of this section.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 845, effective July 15, 2010. -- Created 2006 Ky. Acts ch. 247, sec. 17, effective April 24, 2006.

Legislative Research Commission Note (7/12/2006). This section was created in 2006 Ky. Acts ch. 247 as a new section of KRS Chapter 366A. Sec. 38 of that same bill also 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.