

### **286.8-220 Prohibited acts.**

- (1) It shall be unlawful for any person to make or cause to be made, in any document filed with the commissioner, a governmental agency, the Nationwide Mortgage Licensing System and Registry, or in any proceeding under this subtitle, any statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect, including an omission of a material fact.
- (2) It shall be unlawful for any person, in connection with a transaction involving the mortgage lending process, or in connection with the operation of a mortgage loan business or the management or servicing of mortgage loans, directly or indirectly:
  - (a) To employ a device, scheme, or artifice to defraud;
  - (b) To engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;
  - (c) To fail to disburse funds in accordance with a loan commitment;
  - (d) To delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
  - (e) Upon receipt of a customer's written request, to delay beyond five (5) business days the issuance of a written loan payoff amount or to delay beyond ten (10) business days the issuance of a payment history;
  - (f) To charge a fee for the issuance of an initial written loan payoff amount or payment history for each calendar quarter as set out in paragraph (e) of this subsection;
  - (g) To obtain property by fraud or misrepresentation;
  - (h) To fail to make disclosures as required by this subtitle or any other applicable state or federal law, including regulations thereunder; or
  - (i) To fail to comply with state or federal laws, including the rules and regulations thereunder, that are applicable to transacting business in Kentucky.
- (3) Unless exempted by KRS 286.8-020(1), it shall be unlawful for any person to transact business in Kentucky unless it complies with the provisions of this subtitle.
- (4) It shall be unlawful for any person to use prescreened trigger lead information derived from a consumer report to solicit a consumer who has applied for a mortgage loan with another mortgage loan company or mortgage loan broker, when the person:
  - (a) Fails to state in the initial solicitation that the person is not affiliated with the mortgage loan company or mortgage loan broker with which the consumer initially applied;
  - (b) Fails in the initial solicitation to conform to state and federal law relating to prescreened solicitations using consumer reports, including the requirement to make a firm offer of credit to the consumer;
  - (c) Uses information regarding consumers who have opted out of the prescreened offers of credit or who have placed their contact information on the state or federal do-not-call registry; or

- (d) Solicits a consumer with an offer of certain rates, terms, and costs with the knowledge that the rates, terms, or costs will be subsequently changed to the detriment of the consumer.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 787, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 104, sec. 14, effective June 25, 2009. -- Amended 2008 Ky. Acts ch. 175, sec. 15, effective April 24, 2008. -- Amended 2006 Ky. Acts ch. 218, sec. 6, effective July 12, 2006. -- Amended 2001 Ky. Acts ch. 98, sec. 3, effective June 21, 2001. -- Amended 1998 Ky. Acts ch. 197, sec. 15, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 377, sec. 3, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 461, sec. 19, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 365, sec. 23, effective July 15, 1980.

**Formerly codified as** KRS 294.220.

**Legislative Research Commission Note** (7/12/2006). This section was amended in 2006 Ky. Acts ch. 218. In that same session, 2006 Ky. Acts ch. 247, sec. 38, required that all sections of KRS Chapters 287, 288, 290, 291, 294, 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 changed the number of this section and codified it as a section of KRS Chapter 286. In addition, KRS references have been adjusted to conform with the renumbering.

**Legislative Research Commission Note.** As of January 1, 1989, KRS ch. 271A. becomes KRS ch. 271B. Therefore, the reference in subdivision (3)(a) of this section to KRS ch. 271A has been changed to KRS ch. 271B.