

### **286.3-280 Maximum debt of persons to bank or trust company.**

- (1) Except as provided in subsection (2) of this section, no bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless the person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but the indebtedness or obligation of any person shall not exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company. When computing the total capital stock and surplus, the negative balance of a bank's undivided profits account shall be deducted.
- (2) A bank organized as a limited liability company shall not be covered by subsection (1) of this section, but shall comply with the legal lending limits applicable to national banks set forth in 12 U.S.C. sec. 84 and 12 C.F.R. sec. 32.4, as may be amended.
- (3) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated.
- (4) In computing the indebtedness of any person:
  - (a) The liability of any partnership in which the person acts as a general partner, and any obligation entered into for the benefit of a person, partnership, or association, shall be included in the total liabilities of the person, partnership, or association; and
  - (b) Any credit exposure arising from a derivative transaction, repurchase agreement, reverse purchase agreement, securities lending transaction, or securities borrowing transaction shall be included. For the purposes of this paragraph, the term "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one (1) or more commodities, securities, currencies, interest or other rates, indices, or other assets.
- (5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.
- (6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating the paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating the paper to a bank.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 77, sec. 1, effective July 12, 2012. -- Amended 2010 Ky. Acts ch 28, sec. 15, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 183, sec. 9, effective July 12, 2006. -- Amended 1992 Ky. Acts ch. 77, sec. 3, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 444, sec. 9, effective July 15, 1986; and ch. 472, sec. 1, effective July 15, 1986. --

Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 581, 583, 609, 610.

**Formerly codified as** KRS 287.280.

**Legislative Research Commission Note** (7/12/2006). This section was amended in 2006 Ky. Acts ch. 183. 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 changed the number of this section and codified it as a section of KRS Chapter 286.

**Legislative Research Commission Note.** This section was amended by two 1986 Acts which do not appear to be in conflict and have been compiled together. However, in combining the amendments it was necessary to retain the words "in an amount" in subsection (2) of this section which had been deleted by Acts 1986, ch. 472, § 1.