

### **286.3-199 Closing of banks -- Emergency.**

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Commissioner" means the commissioner of financial institutions and any other person lawfully exercising the powers of the commissioner.
  - (b) "Officers" means the person or persons designated by the board of directors of a bank to act for the bank in carrying out the provisions of this section.
  - (c) "Emergency" means any condition which interferes with the conduct of normal business operations at one (1) or more or all offices of a bank or banks, or which poses an imminent or existing threat to the safety and security of persons or property, or both. Without limiting the generality of the foregoing an emergency may arise as a result of any one (1) or more of the following: fire, flood, wind, rain or snowstorms, labor disputes, power failures, transportation failures, war and riots, civil commotions, and other acts of lawlessness or violence.
  - (d) "Office" means any place at which a bank transacts business or conducts operations related to the transaction of business.
  - (e) "Person" includes natural persons, corporations, partnerships and associations.
- (2) Whenever the commissioner is of the opinion that an emergency exists in this state or in any part or parts of this state, the commissioner shall, by proclamation, authorize those banks which, in the opinion of their officers, are directly or indirectly affected by such emergency to close one (1) or more or all their offices.
- (3) Whenever the officers of a bank are of the opinion that an emergency exists which affects one (1) or more or all the bank's offices, they shall have authority to close one (1) or more or all such offices even though the commissioner has not issued a proclamation of emergency, and they may provide that the business normally transacted at a closed office will be transacted at another office designated by the bank until further notice. The office or offices so closed shall remain closed until the commissioner proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that one (1) or more offices, theretofore closed because of the emergency, should reopen, or, if the commissioner has issued no proclamation of emergency, until the officers of the bank determine that such office or offices should reopen. The discretion of the officers in acting pursuant to this section, when exercised in good faith, shall not be questioned in any court or place.
- (4) A bank closing an office or offices pursuant to this section shall give prompt notice to the commissioner as conditions will permit.
- (5) No bank and no director, officer or employee of a bank shall be liable to any person for any direct or indirect loss suffered by reason of the bank's failure or inability to make access to the bank's premises and facilities available to such person or by reason of the bank's failure or delay in performing any contractual, statutory or other duty assumed by or imposed upon the bank in any capacity when such failure, inability or delay is caused by an emergency as defined by this section. The immunity from liability provided for herein shall endure during

the period of such emergency and for such time thereafter as may reasonably be necessary to afford such access or perform such duty.

- (6) The provisions of this section shall be construed and applied as being in addition to any other law of this state or United States excusing delays by banks in the performance of duties or obligations, or authorizing the closing of banks because of emergencies or conditions beyond the bank's control, or otherwise.
- (7) The commissioner may make such orders and regulations, not inconsistent with this section, as he or she shall deem necessary during an emergency to provide for the uninterrupted continuance of business by banks to the extent consistent with the safety and security of persons and property.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 631, effective July 15, 2010. -- Amended 1984 Ky. Acts ch. 324, sec. 20, effective July 13, 1984. -- Created 1972 Ky. Acts ch. 111, sec. 1.

**Formerly codified as** KRS 287.199.

**Legislative Research Commission Note (7/12/2006).** In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286.