

286.6-092 Failure to make reports or pay charges -- Notice of charges -- Injunctions.

- (1) If any credit union fails to make the report prescribed by KRS 286.6-090 within fifteen (15) days after it is due, or fails to pay the charges required by this subtitle, including the charges for delay in filing reports, the commissioner shall give notice to the credit union of his intention to revoke the certificate of approval of the corporation. If failure continues for fifteen (15) days after the notice, the commissioner may, in his discretion, revoke the certificate of approval and take possession of the property and business of the credit union until such time as the commissioner permits it to resume business, or until its affairs are liquidated.
- (2) If the commissioner has knowledge or reasonable cause to believe that any credit union, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the credit union has engaged in violations of law, or charter, bylaw, or administrative regulation of the department, or in unsafe or unsound business practices, or a breach of any written agreement with the department, the commissioner may issue and serve upon the credit union, director, officer, employee, agent, or other person a notice of charges containing a statement of facts with respect to alleged violations or practices and shall fix the time and place at which an administrative hearing shall be held to determine whether an order to cease and desist should issue against the credit union, director, officer, employee, agent, or other person. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (3) Unless the party or parties so served shall appear at the hearing personally or by a duly-authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order.
- (4) If there is consent, or if upon the record made at any hearing the commissioner shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the commissioner may issue and serve upon the credit union, director, officer, employee, agent, or other person a final order to cease and desist from any violation or practice and, further, to take affirmative action to correct the conditions resulting from any violation or practice.
- (5) If the commissioner shall determine that the violation or practice, as specified in the notice of charges pursuant to subsection (2) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to otherwise seriously prejudice the interests of its members, the commissioner may issue an emergency order pursuant to KRS 13B.125 requiring the credit union, director, officer, employee, agent, or other person to immediately upon service cease and desist from any violation or practice.
- (6) Unless set aside, limited, or suspended, as provided by subsection (7) of this section, an emergency cease and desist order shall remain effective and enforceable pending completion of the administrative hearing.
- (7) Within ten (10) days after service of an emergency cease and desist order, the party or parties served may apply to the Circuit Court of the residence of the

individual or of the principal office of the credit union for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending completion of an administrative hearing, and the court shall have jurisdiction to issue an injunction.

- (8) In the case of violation or threatened violation of, or failure to obey, an emergency cease and desist order or a cease and desist order issued pursuant to this section, the commissioner may apply to the Circuit Court of the residence of the individual or of the principal office of the credit union for an injunction to enforce the order, and it shall be the duty of the court to issue the injunction.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 724, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 318, sec. 220, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 195, sec. 1, effective July 15, 1988. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 883g-6.

Formerly codified as KRS 290.280 and 290.092.

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, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.