

286.8-090 Denial, suspension, or revocation of license -- Jurisdiction of Franklin Circuit Court.

- (1) The commissioner may suspend; revoke; place on probation; condition; refuse to issue or renew a license, registration, or exemption; or accept surrender of a license, registration, or exemption in lieu of revocation or suspension; or issue a cease and desist order if the commissioner finds that the person, applicant, licensee, or registrant:
 - (a) Does not meet, no longer meets, or has failed to comply with the requirements of this subtitle;
 - (b) Is unfit through lack of financial responsibility or experience to conduct the business of a mortgage loan company or mortgage loan broker, as the case may be;
 - (c) Does not conduct his business in accordance with the law or the method of business includes or would include activities which are illegal where performed;
 - (d) Collects interest at a usurious rate;
 - (e) Is in such financial condition that he cannot continue in business with safety to his customers;
 - (f) Is guilty of fraud in connection with any transaction governed by this subtitle, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act;
 - (g) Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the mortgage lending process, or has engaged in a course of business that has worked or tended to work a fraud upon any person or would so operate;
 - (h) Has made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information that the person possesses and which, if submitted to the commissioner, would have rendered the person ineligible to be licensed, registered, or exempted from licensing or registration under this subtitle;
 - (i) Has failed to account to persons interest for all funds received for the escrow account required under KRS 286.8-130;
 - (j) Has refused to permit an examination or investigation by the commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the commissioner under the provisions of this subtitle;
 - (k) Has been convicted of any misdemeanor of which an essential element is fraud, breach of trust, or dishonesty, or any felony, or has pending against him any felony charge;
 - (l) Has had any license, registration, or claim of exemption related to the financial services industry denied, suspended, or revoked under the laws of this state or any other state of the United States, or has surrendered or terminated any license, registration, or claim of exemption issued by this

- state or any other jurisdiction under threat of administrative action;
- (m) Has employed or contracted with a person who has failed to register or has had a license or registration denied, revoked, or suspended in this Commonwealth or another state;
 - (n) Has demonstrated incompetence or untrustworthiness to act as a licensee or registrant or to continue a claim of exemption granted by application under this subtitle;
 - (o) Has failed to pay any required fee under this subtitle;
 - (p) Has abandoned an application by failing to provide the commissioner any information required under this subtitle, or requested by the commissioner, to complete an application;
 - (q) Has influenced, or attempted to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan;
 - (r) Has failed to comply with an administrative or court order imposing child support obligations;
 - (s) Has failed to pay state income taxes or to comply with any administrative or court order directing the payment of state income tax;
 - (t) Has improperly used notes or other resources to complete an examination for a license or registration;
 - (u) Has violated any provision of KRS 360.100; or
 - (v) Has violated any provision of this subtitle, administrative regulation promulgated hereunder, or order issued by the commissioner.
- (2) Any person whose license, registration, or claim of exemption has been denied, suspended, revoked, or surrendered in lieu of revocation or suspension under this section is prohibited from participating in any business activity of a registrant or licensee under this subtitle and from engaging in any business activity on the premises where a licensee or registrant under this subtitle is conducting its business.
- (3) The commissioner shall execute a written order whenever a license, registration, or claim of exemption issued pursuant to this subtitle is suspended or revoked. The commissioner shall serve the written order upon the licensee, registrant, or person claiming the exemption. The written order shall be sent by certified mail, return receipt requested, postage prepaid, to the last known principal business address of such licensee, registrant, or person claiming the exemption, as set forth in the records of the commissioner. The written order shall be deemed to have been received by the licensee, registrant, or person claiming the exemption three (3) business days following the mailing thereof.
- (4) Any person who continues to participate in any business activity covered by this subtitle after such person's license, registration, or claim of exemption has been revoked, suspended, or denied shall be subject to the penalties in this section, KRS 286.8-046, and KRS 286.8-990 and shall be in violation of KRS 367.170.
- (5) Any person who has had a license, registration, or claim of exemption denied by the commissioner shall not be eligible to apply for a license, registration, or

claim of exemption under this subtitle until after expiration of one (1) year from the date of denial.

- (6) Any person who has had a license, registration, or claim of exemption revoked by the commissioner shall not be eligible to apply for a license, registration, or claim of exemption under this subtitle until after expiration of three (3) years from the date of revocation. A person whose license, registration, or claim of exemption has been revoked twice shall be deemed permanently revoked and shall not again be eligible for a license, registration, or claim of exemption under this subtitle.
- (7) The provisions of this section shall be in addition to any other penalties or remedies available, including the penalties of KRS 286.8-046.
- (8) The commissioner may notify the Department of Revenue which may institute an action in the name of the Commonwealth of Kentucky in the Franklin Circuit Court, or any court of competent jurisdiction, for the recovery of any civil penalty, fine, cost, or fee assessed or levied under this subtitle.
- (9) The commissioner may file a complaint in the Franklin Circuit Court, or any court of competent jurisdiction, for a temporary restraining order or injunction, against any person, where the commissioner has reason to believe from evidence satisfactory to the commissioner that such person has violated, or is about to violate, a provision in this subtitle, for the purpose of restraining and enjoining such person from continuing or engaging in the violation or doing any act in furtherance thereof. The court shall have jurisdiction over the proceeding and shall have the power to enter an order or judgment awarding preliminary or final injunctive relief that is proper. Any person who violates a temporary restraining order or injunction issued by the court entered as a result of a violation of this subtitle shall be held in contempt of court.
- (10) The surrender or expiration of a license, registration, or exemption shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender or expiration. No revocation, suspension, refusal to renew, surrender, or expiration of any license, registration, or exemption shall impair or affect the obligation of any preexisting lawful contract between the licensee and the borrower. The surrender or expiration of a license, registration, or exemption shall not affect a proceeding to suspend or revoke a license or registration.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 775, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 175, sec. 9, effective April 24, 2008. -- Amended 2006 Ky. Acts ch. 218, sec. 5, effective July 12, 2006, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 197, sec. 9, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 461, sec. 11, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 365, sec. 10, effective July 15, 1980.

Formerly codified as KRS 294.090.

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, 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. In addition, KRS references have been adjusted to

conform with the renumbering.