

286.11-039 Suspension or revocation of license -- Procedure for hearing and appeal upon suspension or revocation -- Limitations upon reissue of license -- Factors to be considered by commissioner.

- (1) The commissioner may issue a written order to suspend or revoke a license issued under this subtitle if the commissioner finds that:
 - (a) The licensee no longer meets the requirements to hold a license under this subtitle;
 - (b) Any fact or condition exists that, if it had existed at the time the licensee applied for its license, would have been grounds for denying the application;
 - (c) The licensee's net worth, as determined in accordance with generally accepted accounting principles, falls below the required net worth as prescribed in KRS 286.11-011, and the licensee, after ten (10) days written notice from the commissioner, fails to take such action as the commissioner deems necessary to remedy such deficiency;
 - (d) The licensee violates any provision of this subtitle, any administrative regulation promulgated thereunder, or order of the commissioner issued under authority of this subtitle, or any other state law or regulation related to the business of money transmission;
 - (e) The licensee is conducting its business in an unsafe or unsound manner;
 - (f) The licensee engages in an unfair and deceptive act or practice;
 - (g) The licensee engages in fraud, intentional misrepresentation, or gross negligence;
 - (h) The licensee is insolvent;
 - (i) The licensee has suspended payment of its obligations or has made an assignment for the benefit of its creditors;
 - (j) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the United States Bankruptcy Code, 11 U.S.C. secs. 101-110;
 - (k) The licensee fails to cooperate in an examination, investigation, or subpoena issued by the commissioner;
 - (l) The licensee fails to make any report required by this subtitle;
 - (m) The licensee has been found to have violated any of the recordkeeping and reporting requirements of the United States government including 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. pt. 103;
 - (n) The competence, experience, character, financial condition, or responsibility of the licensee indicates that it is not in the public interest to permit the licensee to continue to provide money transmission services;
 - (o) The licensee has been convicted of a felony;
 - (p) The licensee has been convicted of a misdemeanor related to the business of money transmission;
 - (q) The licensee has been convicted of a misdemeanor involving theft, fraud, or breach of trust;
 - (r) The licensee has failed to terminate or suspend its agent's authority to act

on its behalf when the licensee knew, or has been given reasonable notice that its agent violated, or is about to violate, a material provision of this subtitle, an administrative regulation promulgated thereunder, or an order of the commissioner, or any grounds that are found in KRS 286.11-041; or

- (s) The licensee, its responsible individual, or any agent, key shareholder, executive officer, director, or other person in control of the licensee are listed or become listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or United States Department of State under Presidential Executive Order No. 13224 as a potential threat to commit terrorist acts or to finance terrorist acts.
- (2) A licensee who has had his or her license revoked or suspended by the commissioner may file a written application for an administrative hearing in accordance with KRS Chapter 13B.
- (3) A person is deemed to have received a copy of the written order of revocation or suspension with three (3) days of its mailing.
- (4) A written application for an appeal shall be made with the commissioner within twenty (20) days of the date of the order of suspension or revocation and shall be made in good faith and shall briefly state the reason or reasons the person is aggrieved, together with the grounds to be relied upon.
- (5) The commissioner shall not issue a license again under this subtitle to any person whose license has been revoked until three (3) years after the date of the revocation, and thereafter, not until the person again qualifies under the applicable provisions of this subtitle. A person whose license has been revoked twice shall be deemed permanently revoked and shall not again be eligible for a license under this subtitle.
- (6) In determining whether a licensee is engaging in an unsafe or unsound practice under subsection (1)(e) of this section, the commissioner may consider the size and condition of the licensee's provision of money transmissions, the magnitude of the loss, the gravity of the violation of this subtitle, the administrative regulation adopted, or order issued under this subtitle, any action taken by another state or federal government against the licensee, or the previous conduct of the licensee.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 848, effective July 15, 2010. -- Created 2006 Ky. Acts ch. 247, sec. 20, effective April 24, 2006.

Legislative Research Commission Note (7/12/2006). This section was created in 2006 Ky. Acts ch. 247 as a new section of KRS Chapter 366A. Sec. 38 of that same bill also 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 codified this section as a new section of KRS Chapter 286.