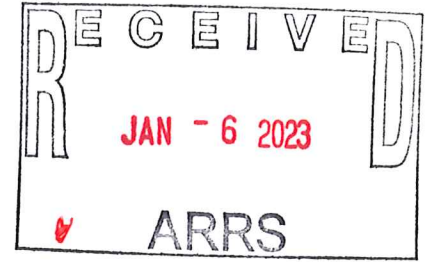




COMMONWEALTH OF KENTUCKY
OFFICE OF THE SECRETARY OF STATE
MICHAEL G. ADAMS



January 6, 2023

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: **30 KAR 9:010** Lieutenant Governor Designation Form

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 30 KAR 9:010, the Office of the Secretary of State proposes the attached amendment to 30 KAR 9:010.

Sincerely,

Jennifer S. Scutchfield
Assistant Secretary of State

Final: 1/6/23

SUGGESTED SUBSTITUTE

SECRETARY OF STATE

30 KAR 9:010. Lieutenant Governor Designation Form~~[Forms]~~.

RELATES TO: KRS 14.025, 118.126

STATUTORY AUTHORITY: KRS 118.126(1)

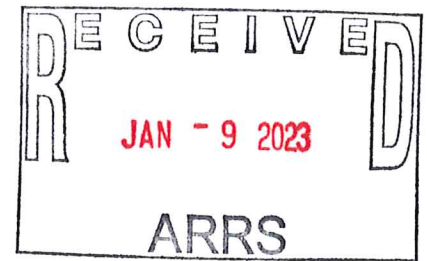
NECESSITY, FUNCTION, AND CONFORMITY: KRS 14.025(4) requires the Department of State, Office of Elections to be responsible for candidate filings and assisting the Secretary of State in his or her duties as the chief election official of Kentucky. KRS 118.126(1) requires Secretary of State to accept the designation of Lieutenant Governor from each candidate for Governor. This administrative regulation establishes the form for the designation~~[such filing]~~.

Section 1. ~~[The following reporting forms shall be filed in accordance with the referenced statutes:]~~
To designate a candidate for Lieutenant Governor as required by~~[Pursuant to]~~ KRS 118.126(1), a candidate for Governor shall timely~~[will]~~ file the "Designation of Candidate for Lieutenant Governor" with the Secretary of State ~~[no later than 4 p.m. on the second Tuesday in August preceding the regular election for the office of Governor]~~.

Section 2. Incorporation by Reference.

(1) ~~[The following material is incorporated by reference:]~~ "Designation of Candidate for Lieutenant Governor", ~~["]~~ SOS 01, October 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Secretary of State's Office, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or may be obtained at <http://www.sos.ky.gov>.



MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

January 9, 2023

Ms. Emily Caudill
Regulations Compiler
Legislative Research Commission
Room 083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601
Via email at: RegsCompiler@lrc.ky.gov

Re: 45 KAR 1:050 Audits of fiscal courts

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 45 KAR 1:050, the Auditor of Public Accounts proposes the attached amendment to 45 KAR 1:050.

Sincerely,

A handwritten signature in cursive script, appearing to read "G Gray".

Graham Gray, General Counsel
Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601

Cc: Farrah Petter, Assistant State Auditor
Jon Grate, Chief of Staff

SUGGESTED SUBSTITUTE

**CABINET FOR GENERAL GOVERNMENT
AUDITOR OF PUBLIC ACCOUNTS**

45 KAR 1:050. Audits of fiscal courts.

RELATES TO: KRS 43.070, 43.075, 64.810, 68.210, 31 U.S.C. 7501-~~7506~~**[7507]**

STATUTORY AUTHORITY: KRS 43.075

NECESSITY, FUNCTION, AND CONFORMITY: KRS 43.075**(1)** requires the Auditor of Public Accounts to promulgate administrative regulations developing uniform standards and procedures for conducting, and uniform formats for reporting, audits of the funds contained in county budgets (fiscal courts). This administrative regulation establishes the auditing standards, procedures, and formats for fiscal court audits.

Section 1. Definition. "Generally accepted government auditing standards" means the "Government Auditing Standards" issued by the Comptroller General of the United States.

Section 2. Auditing Standards, Procedures, and Formats. The financial and compliance audit of the funds contained in each county's budget shall be conducted in accordance with:

- (1) Auditing standards generally accepted in the United States of America, referenced in 201 KAR 1:290~~[201 KAR 1:300, Section 3]~~;
- (2) Generally accepted government auditing standards, referenced in 201 KAR 1:290~~[201 KAR 1:300, Section 3]~~; and
- (3) Fiscal Court Audit Guide, issued by the Auditor of Public Accounts, October 14, 2022~~[August 14, 2020]~~.

Section 3. Auditor's Independent Judgement. The requirements of this administrative regulation shall not be interpreted in a manner that restricts the independent judgment of a certified public accountant or the Auditor of Public Accounts.

Section 4. Audit Objective.

- (1) The primary objective of an audit of a fiscal court shall be an audit report that provides an opinion on whether the financial statements of a fiscal court are presented fairly, in all material respects, in accordance with a basis of accounting prescribed or permitted by the Department for Local Government, which is the regulatory basis of accounting or Generally Accepted Accounting Principles (GAAP).
- (2) Any audit report of a fiscal court that is required to comply with the requirements of the Single Audit Act Amendments of 1996, 31 U.S.C. 7501-7506, and Title 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), shall include a statement concerning whether:
 - (a) The Schedule of Expenditure of Federal Awards is fairly stated, in all material respects, in relation to the financial statements taken as a whole; and
 - (b) The fiscal court has complied, in all material respects, with the requirements applicable to each of its major federal programs.
- (3) An auditor shall make tests sufficient to determine whether:
 - (a) The fiscal court has complied with the requirements of the uniform system of accounts adopted under KRS 68.210;
 - (b) Receipts have been accurately recorded by source;
 - (c) Expenditures have been accurately recorded by payee; and

(d) The county has complied with all other legal requirements relating to the management of public funds.

Section 5. Allowance of Audit Fees; Acceptance of Report.

(1) Fees for county fiscal court audits shall be allowable as reasonable and necessary expenses of a county if the independent accountant's examination has been performed and reported in compliance with the standards, procedures, and formats promulgated by this administrative regulation.

(2) A county shall obtain written approval of an audit report from the Auditor of Public Accounts prior to the:

- (a) Release of an audit report; and
- (b) Payment of fees for a fiscal court audit.

(3) Failure by an independent certified public accountant to comply with the Fiscal Court Audit Guide and this administrative regulation shall disqualify him from conducting fiscal court audits.

Section 6. Incorporation by Reference.

(1) The "Fiscal Court Audit Guide," Auditor of Public Accounts, October 14, 2022,~~[August 14, 2020]~~ is incorporated by reference.

(2) This document may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Auditor of Public Accounts, 209 Saint Clair Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5:00 p.m., **or may be obtained at <https://www.auditor.ky.gov/cpatools/Pages/adminregs.aspx>**.



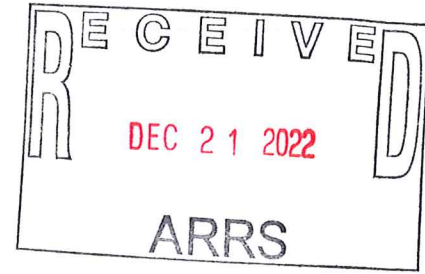
TEACHERS' RETIREMENT SYSTEM

of the State of Kentucky

GARY L. HARBIN, CPA
Executive Secretary

ROBERT B. BARNES, JD
Deputy Executive Secretary
Operations and General Counsel

J. ERIC WAMPLER, JD
Deputy Executive Secretary
Finance and Administration



21 December 2022

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
702 Capital Avenue
29 Capital Annex
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 102 KAR 1:361, Teachers' Retirement System of the State of Kentucky proposes the attached suggested amendments to 102 KAR 1:361.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert B. Barnes'.

Robert B. Barnes
Deputy Executive Secretary Operations
& General Counsel

Staff-suggested Amendment

**Final Version 12/20/2022
FINANCE AND ADMINISTRATION CABINET
TEACHERS' RETIREMENT SYSTEM**

102 KAR 1:361. Disability retirement for TRS 4 members with less than five (5) years of service.

Page 2

Section 4

Line 16

After "Section 1 of this", insert "administrative".

Page 3

Section 5(2)

Line 2

After "copied", insert "z".



Teachers' Retirement System of the State of Kentucky

479 Versailles Road, Frankfort, KY 40601

800-618-1687

Applicant's Disability Statement

To be completed by TRS member

Member's name	TRS ID or Social Security number
---------------	----------------------------------

1. Describe the nature of your disabling condition. (Attach separate paper if additional description needed.)

2. What is your job title and provide a description of your job duties?

3. Are you on any leave from working? Yes No
If yes, enter the last day you worked. Date (month/day/year): _____
Also if yes, was the leave due to a condition that renders you incapable of carrying out your duties? Yes No **If yes, explain why the condition renders you incapable.**

4. On what date did your condition begin (estimate if needed)? Date (month/day/year):

5. Estimate the number of days you have been absent from your duties during the current and prior fiscal year because of the condition? Number: _____

6. What date did you last consult a physician about your condition? Date (month/day/year):



Member's name	TRS ID or Social Security number
---------------	----------------------------------

7. Estimate how many times you have seen a physician about your condition in the current and prior fiscal year? Number: _____

8. Have you been hospitalized in the current or prior fiscal year related to your condition?
 Yes No If yes, for what date(s)?

9. Provide the information for all physicians you have seen in the current or prior fiscal year.

Name	Address/City/State/ZIP	Phone

Member's signature	Date
Address	City/State/ZIP
Email	Phone



Teachers' Retirement System of the State of Kentucky

479 Versailles Road, Frankfort, KY 40601
800-618-1687

Applicant's Disability Statement

To be completed by TRS member

Member's name	TRS ID or Social Security number
---------------	----------------------------------

1. Describe the nature of your disabling condition. (Attach separate paper if additional description needed.)

2. What is your job title and provide a description of your job duties?

3. Are you on any leave from working? Yes No
 If yes, enter the last day you worked. Date (month/day/year): _____
 Also if yes, was the leave due to a condition that renders you incapable of carrying out your duties? Yes No If yes, explain why the condition renders you incapable.

4. On what date did your condition begin (estimate if needed)? Date (month/day/year):

5. Estimate the number of days you have [you] been absent from your duties during the current and prior fiscal year because of the condition? Number: _____

6. What date did you last consult a physician about your condition? Date (month/day/year):



Member's name	TRS ID or Social Security number
---------------	----------------------------------

7. Estimate how many times you have [you] seen a physician about your condition in the current and prior fiscal year? Number: _____

8. Have you been hospitalized in the current or prior fiscal year related to your condition?
 Yes No If yes, for what date(s)?

9. Provide the information for all physicians you have seen in the current or prior fiscal year.

Name	Address/City/State/ZIP	Phone

Member's signature	Date
Address	City/State/ZIP
Email	Phone



KENTUCKY PUBLIC PENSIONS AUTHORITY

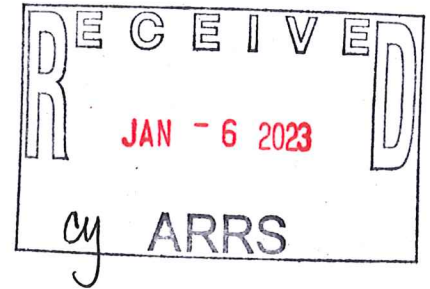
David L. Eager, Executive Director

1260 Louisville Road · Frankfort, Kentucky 40601
kyret.ky.gov · Phone: 502-696-8800 · Fax: 502-696-8822



Kentucky Public
Pensions Authority

January 6, 2023



Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 105 KAR 1:451 Quasi-governmental employer reports on independent contractors and leased employees.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 105 KAR 1:451, the Kentucky Public Pensions Authority proposes the attached amendment to 105 KAR 1:451.

Sincerely,

Jessica Beaubien

Jessica Beaubien, Policy Specialist
Kentucky Public Pensions Authority
1270 Louisville Road
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

**FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(Amended After Comments)**

105 KAR 1:451. Quasi-governmental employer reports on independent contractors and leased employees.

RELATES TO: KRS 61.5991, 61.510, 61.543, 61.552, 61.645, 61.675, 61.685

STATUTORY AUTHORITY: KRS 61.5991(1)(c), 61.645(9)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of the Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 ~~and 16.505 to 16.652~~, and to conform to federal statutes and regulations. KRS 61.5991 requires certain employers that participate in the Kentucky Employees Retirement System to report information to the Kentucky Public Pensions Authority on some persons providing services for the participating employer as an independent contractor, a leased employee, or via any other similar employment arrangement. **This administrative regulation establishes quasi-governmental employer reports on independent contractors and leased employees.**

Section 1. Definitions.

(1) ~~[Unless otherwise defined in this section, the definitions contained in KRS 61.510 and the definition of "non-core services independent contractor" in KRS 61.5991 shall apply to this administrative regulation.~~

~~(2)]~~ "Complete" means all required sections of a form are filled out, the form has been fully executed by an agency head, appointing authority, or authorized designee (such as the reporting official), and all supporting documentation required by the form is included with the form.

~~(2)](3)]~~ "Core services independent contractor" means a person, either personally or through a company or other legal entity, who provides services for a quasi-governmental employer as an independent contractor, other than as a non-core services independent contractor.

~~(3)](4)]~~ "Core services leased employee" means a person who provides services for a quasi-governmental employer as a leased employee through a staffing company, other than as a non-core services independent contractor.

~~(4)](5)]~~ "Direct employment" means employees reported by the quasi-governmental employer in accordance with KRS 61.675 and 105 KAR 1:140.

~~(5)~~ **"Employee" is defined by KRS 61.510(5).**

(6) "File" means a form has been received at the retirement office by mail, fax, secure email, or in-person delivery or via Employer Self Service on the Web site maintained by the agency (if available).

~~(7)~~ **"Fiscal year" is defined by KRS 61.510(19).**

~~(8)~~ "KPPA" means the administrative staff of the Kentucky Public Pensions Authority.

~~(9)~~ **"Non-core services independent contractor" is defined by KRS 61.5991(9).**

~~(10)](8)]~~ "Other employment arrangement":

~~(a)~~ Means any written agreement between a quasi-governmental employer and a third party (including~~], but not limited to,~~ a person, company, or other legal entity) for one (1) or more persons to provide services for the quasi-governmental employer in exchange for the third party receiving monetary compensation, remuneration, or profit; **and**

~~(b)]~~. **"Other employment arrangement"** Does not **mean[include]** direct employment, any written agreement for one (1) or more persons to provide services for a quasi-governmental employer as a non-core services independent contractor, or any written agreement for one (1) or more persons to provide services to a quasi-governmental employer if the persons would not be in a regular full-time

position [~~as defined in KRS 61.510(21)] if the persons were directly employed by the quasi-governmental employer.~~

(11)[(9)] "Prior fiscal year" means the fiscal year beginning July 1 that is immediately prior to the fiscal year in which the KPPA provides the report to the state budget director's office and the Legislative Research Commission required by KRS 61.5991(3).

(12)[(10)] "Quasi-governmental employer":

(a) Means an employer participating in the Kentucky Employees Retirement System that is a local or district health department governed by KRS Chapter 212, state-supported university or community college, mental health/mental retardation board, domestic violence shelter, rape crisis center, child advocacy center, or any other employer that is eligible to voluntarily cease participation in the Kentucky Employees Retirement System as provided by KRS 61.522; **and**

(b) [~~For the purpose of this administrative regulation, "quasi-governmental employer"~~] Does not include county attorneys, the Council on State Governments (CSG), the Kentucky Educational Television (KET) Foundation, Association of Commonwealth's Attorneys, the Kentucky High School Athletic Association (KHSAA), the Municipal Power Association of Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home Ombudsman, the Kentucky Association of Regional Programs (KARP), and the Kentucky Association of Sexual Assault Programs.

(13) "Regular full-time position is defined by KRS 61.510(21).

(14)[(11)] "Noncompliant" means the quasi-governmental employer falsifies, fails to provide, or withholds all, or a portion of, the required documentation or information within the time periods prescribed by this administrative regulation.

Section 2. Required Form for Annual Reporting.

(1)

(a) For the fiscal year beginning July 1, 2021, quasi-governmental employers shall report all persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement by completing the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, and filing the Form 6756 at the retirement office on or before May 2, 2022.

(b) Effective with the fiscal year beginning July 1, 2022, and for each fiscal year thereafter, quasi-governmental employers shall report all persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement by completing the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, and filing the Form 6756 at the retirement office. For each fiscal year beginning on or after July 1, 2022, the Form 6756 shall be filed at the retirement office on or before April 15 of the fiscal year in which the Form 6756 is required.

(c) If a quasi-governmental employer contracts for any additional persons to provide services as core services independent contractors, core services leased employees, or through any other employment arrangement after the submission of a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, in accordance with paragraph (a) or paragraph (b) of this subsection, but prior to the end of the fiscal year, the quasi-governmental employer shall file at the retirement office a completed supplemental Form 6756 reflecting only those persons not previously reported on the initial Form 6756. The supplemental Form 6756 shall be filed at the retirement office on or before June 30 of the fiscal year in which the Form 6756 is required.

(2)

(a) Persons exempted under Sections 5 and 6 of this administrative regulation shall not be required to be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.

(b) Persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement who would not qualify as an employee in a regular full-time position [~~pursuant to KRS 61.510(21)] if directly employed by the quasi-governmental employer shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.~~

(c) Persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement who would be in a position reported to another state-administered retirement system if directly employed by the quasi-governmental employer shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.

(d)

1. Quasi-governmental employers may choose to report persons providing services as a non-core services independent contractor on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers.

2. All persons providing services to a quasi-governmental employer as a non-core services independent contractor who are included on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, shall be treated in the same manner as all other persons listed on the Form 6756, including determinations by the KPPA under Section 3 of this administrative regulation.

(3)

(a) For the fiscal year beginning July 1, 2021, quasi-governmental employers that do not file at the retirement office a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, on or before May 2, 2022 shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).

(b) For each fiscal year beginning on or after July 1, 2022, quasi-governmental employers that do not file at the retirement office a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, as required by **subsection [Section 2](1)(b)** of this **section [administrative regulation]** shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).

(4) If a quasi-governmental employer files at the retirement office an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, without the documentation required by the Form 6756, the Form 6756 shall not be complete and the quasi-governmental employer shall be noncompliant in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d) unless a completed Form 6756 is later filed at the retirement office by the appropriate deadline **established [set forth]** in subsections (1), (2), and (5) of this section.

(5)

(a) After receiving an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, the KPPA may notify the quasi-governmental employer that additional information is required.

(b) If additional information is required by the KPPA, the KPPA shall notify the quasi-governmental employer in writing to the attention of the agency head, appointing authority, or authorized designee, such as the reporting official, and shall include the following in its notification:

1. A detailed description of the additional information required **;** and

2. A deadline by which the additional information required must be filed at the retirement office, which shall not be less than fourteen (14) calendar days, but may be longer than fourteen (14) calendar days.

(c) An initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, shall not be considered complete until all additional information requested by the KPPA is on file at the retirement office.

(d) If a quasi-governmental employer fails to provide the additional information to the KPPA by the deadline listed in the notification described in paragraph (b) of this subsection or by the deadline agreed upon by the KPPA and the quasi-governmental employer, then the quasi-governmental employer shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).

(6) During an audit of the quasi-governmental employer conducted in accordance with KRS **61.5991(2)(a)2.,** 61.675, **and** 61.685~~], and 61.5991(2)(a)2.;~~

(a) ~~If~~**if** the KPPA discovers that a quasi-governmental employer has failed to list all persons on a Form 6756, Annual Employer Certification of Non-Contributing Service Providers, as required by this administrative regulation, then the quasi-governmental employer shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).

(b) If the KPPA discovers persons performing services as an independent contractor or leased employee for quasi-governmental employer in multiple part-time positions that, if/when combined, constitute a "regular full-time position" [as defined in KRS 61.510(21)], then KPPA shall make a determination of employee or independent contractor status in accordance with Section 3 of this administrative regulation.

Section 3. Determination of Employee or Independent Contractor.

(1) The KPPA shall have the authority to determine which persons listed on initial and supplemental **Forms 6756**~~[Form 6756s]~~, Annual Employer Certification of Non-Contributing Service Providers, should be reported as employees in regular full-time positions~~[in accordance with KRS 61.510(5) and 61.510(21)]~~ and which persons listed on the initial and supplemental **Forms 6756**~~[Form 6756s]~~, Annual Employer Certification of Non-Contributing Service Providers, are independent contractors.

(2) The KPPA shall apply common law factors used by the Internal Revenue Service (IRS), in accordance with IRS Publication 1779, to determine whether a person listed on the initial and supplemental **Forms 6756**~~[Form 6756s]~~, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer ~~[pursuant to KRS 61.510(5)]~~ or an independent contractor of the quasi-governmental employer.

(3)

(a) If the KPPA determines that a person listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position~~[pursuant to KRS 61.510(5) and 61.510(21)]~~, then the quasi-governmental employer shall remit all reports, records, contributions, and reimbursements for that person as an employee in a regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140 effective the calendar month after the KPPA has notified the quasi-governmental employer of its determination in accordance with Section 4 of this administrative regulation.

(b)

1. If the KPPA determines that a person listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position~~[pursuant to KRS 61.510(5) and 61.510(21)]~~, then the quasi-governmental employer shall~~[be required to]~~ complete and file at the retirement office a Form 4225, Verification of Past Employment, for that person for all periods during which the person was providing services to the quasi-governmental employer.

2. If the KPPA determines that a person listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position~~[pursuant to KRS 61.510(5) and 61.510(21)]~~, then the quasi-governmental employer also shall~~[be required to]~~ submit all relevant contracts and other documentation demonstrating the relationship between the quasi-governmental employer and the person for all periods during which the person was providing services to the quasi-governmental employer.

(c)

1. After reviewing the information from the quasi-governmental employer required by paragraph (b) of this subsection, if the KPPA determines that the person was an employee in a regular full-time position~~[pursuant to KRS 61.510(5) and 61.510(21)]~~ for previous periods that were not reported by the quasi-governmental employer in accordance with KRS ~~61.543, KRS~~ 61.675~~[, KRS 61.543]~~, and 105 KAR 1:140, then the person shall be eligible to purchase omitted service in accordance with KRS 61.552(2) for the periods of their previous employment by the quasi-governmental employer in a regular full-time position.

2. After reviewing the information from the quasi-governmental employer required by paragraph (b) of this subsection, if the KPPA determines that the person was an employee in a regular full-time position ~~[pursuant to KRS 61.510(5) and 61.510(21)]~~ for previous periods that were not reported by the quasi-governmental employer in accordance with KRS 61.543, KRS 61.675, [KRS 61.543,] and 105 KAR 1:140, then the quasi-governmental employer shall be responsible for payment of delinquent omitted employer contributions in accordance with KRS 61.552(2) and 61.675(3)(b) for all periods of the person's previous employment by the quasi-governmental employer in a regular full-time position.

Section 4. Notification to Employers of Determination of Employment Relationship.

(1) ~~For [Effective with]~~ the fiscal year beginning July 1, 2021, and for each fiscal year thereafter, quasi-governmental employers shall be notified by the KPPA of the determination of which persons should be reported as employees in regular full-time positions ~~[in accordance with KRS 61.510(5) and 61.510(21)]~~ no later than September 30 of the subsequent fiscal year ~~[the submission of the report to the state budget director's office and the Legislative Research Commission required by KRS 61.5991(3)]~~.

(2)

(a) The KPPA shall notify the quasi-governmental employer of the determination of which persons listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should be reported as employees in regular full-time positions ~~[in accordance with KRS 61.510(5) and 61.510(21)]~~ in one (1) notification letter.

(b) The notification shall be sent to the agency head, appointing authority, or authorized designee, such as the reporting official.

(c) The notification shall include:

1. The name of each person who should be reported as an employee in regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140;
2. A description of the contract or other documents pursuant to which each person who should be reported as an employee in a regular full-time position are providing or have provided services to the quasi-governmental employer; and
3. A statement that all other persons listed on the initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should not be reported as employees in regular full-time positions.

Section 5. Contracts for Professional Services That Have Not Historically Been Provided by Employees.

(1) A quasi-governmental employer shall not be required to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if:

(a) The person is providing professional services as a core services independent contractor, core services leased employee, or through any other employment arrangement that have not been performed by direct employees of the quasi-governmental employer since January 1, 2000; and

(b) The professional services have been performed or are being performed for the quasi-governmental employer under a contract filed at the retirement office and determined by the KPPA or the Kentucky Retirement Systems to represent services provided by an independent contractor.

(2) Quasi-governmental employers may choose to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, even if the person is providing professional services under a contract that have not historically been provided by employees.

Section 6. Original Contracts Entered Prior to January 1, 2021.

(1) A quasi-governmental employer shall not be required to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021, unless one of the exceptions in subsections (2), (3), or (4) of this section applies.

(2) A quasi-governmental employer shall ~~be required to~~ report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021 if the term of the original contract has expired and the contract has been renewed or continued.

(3) A quasi-governmental employer shall ~~be required to~~ report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021 if the contract has been modified to encompass different services.

(4) A quasi-governmental employer shall ~~be required to~~ report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with a company entered into prior to January 1, 2021 if the person was not included in the original contract.

(5) Quasi-governmental employers may choose to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, even if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021.

Section 7. Report to the State Budget Director's Office and the Legislative Research Commission.

(1)

(a) To determine the number of employees of the quasi-governmental employer reported for the prior fiscal year in accordance with KRS 61.5991(3)(a), the KPPA shall add together all employees in regular full-time positions reported by the quasi-governmental employer pursuant to KRS 61.675 and 105 KAR 1:140 in the prior fiscal year.

(b) Persons listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, for the prior fiscal year who are ultimately determined by the KPPA to be employees of the quasi-governmental employer in regular full-time positions shall not be included in the number of employees of the quasi-governmental employer for the prior fiscal year. ~~These~~ **Such** persons may be included in the number of employees of the quasi-governmental employer for a subsequent fiscal year if the person is reported by the quasi-governmental employer in the subsequent fiscal year as an employee in a regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140.

(2) To determine the number of persons providing services to the quasi-governmental employer who were not reported for the prior fiscal year in accordance with KRS 61.5991(3)(b), the KPPA shall use the total number of persons listed on initial and supplemental ~~Forms 6756~~ **Form 6756s**, Annual Employer Certification of Non-Contributing Service Providers, for the prior fiscal year.

(3) The KPPA shall report the following information for each quasi-governmental employer determined to have falsified data or been noncompliant in accordance with KRS 61.5991(3)(d):

(a) The name of the quasi-governmental employer;

(b) A description of the type of data falsified and the support the KPPA has for believing the data to be falsified, if applicable; and

(c) A description of the nature of the noncompliance, if applicable.

Section 8. Incorporation by Reference.

(1) The following ~~material is~~ **materials are** incorporated by reference:

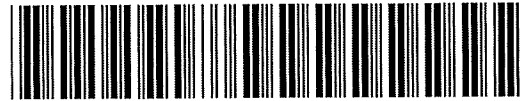
(a) Form 6756, "Annual Employer Certification of Non-Contributing Service Providers", September 2021; ~~f~~

(b) Internal Revenue Service Publication 1779, "Independent Contractor or Employee", March 2012;
and

(c) Form 4225, "Verification of Past Employment", April 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Kentucky Public Pensions Authority's Web site at kyret.ky.gov.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8570, fax (502) 696-8801, email Legal.Non-Advocacy@kyret.ky.gov.

**KENTUCKY PUBLIC PENSIONS AUTHORITY**1260 Louisville Road • Frankfort, KY 40601
Phone: (502) 696-8800 • Fax: (502) 696-8822 • kyret.ky.gov**Form 4225**
Revised 04/2021**Verification of Past Employment****Member Information**

Member Name:		Member ID:	
Address:	City:	State:	Zip Code:
Phone (select type) <input type="checkbox"/> Mobile <input type="checkbox"/> Home <input type="checkbox"/> Work		Email:	
Please indicate below the dates of your employment for which you are missing service credit. Upon review, it may be determined you are eligible to purchase retirement service from your past employment. Please have the employing agency of the time of service credit in question complete the form in its entirety and return to KPPA. Please Note: Only forms completed by an Authorized Agency contact of the employing agency will be considered.			
Name of Employer Verifying Employment:			
Dates of Past Employment:			

Employer Instructions: Please accurately complete all items on the remainder of this form.

The above member has contacted KPPA regarding employment with your agency. An agency contact from the KPPA approved list will need to complete the proceeding fields in their entirety.

If a member purchases service based on this information and it is found at a later date that the information was incorrect, the retirement office will correct any errors and reduce the member's service and benefits if necessary.

Your prompt reply is requested as the member's cost may increase each month.

Please note the following:

- All applicable fields should be completed. If you are unable to provide information for all of the requested fields, please provide an explanation. Failure to verify all requested information may require a representative of KPPA to follow up or could even cause the form to be considered "invalid."
- Each line item should be verified based upon fiscal year, NOT calendar year (i.e. July 1, 1995 to June 30, 1996).
- Please provide the exact start and end dates of the period(s) of service in question (i.e. If an employer is verifying three months of seasonal, full-time service which began in May and ended in July, May to June would be verified on one line and July to July would be verified on a separate line).
- If the member was employed for more years than were provided, please copy page 2 and attach the additional sheets.
- Classified employees of school boards must average eighty (80) or more hours of work per month over a calendar or fiscal year. All other service eligible to purchase must average one hundred (100) or more hours of work per month over a calendar or fiscal year.
- If the member was on an approved leave of absence, please specify the leaves dates as well as the type of leave (i.e. maternity, military leave, sick leave without pay, etc.).

Retirement Coverage

Please answer the following questions about the member's past employment, then verify this service on the next page.

1. Did the member participate in an agency sponsored pension plan? Yes No
2. If the answer to question 1 is yes, was it a: Defined Benefit Plan Defined Contribution Plan
3. Did member take a refund from the plan upon termination? Yes No

When all sections have been completed, please return this form to:
Kentucky Public Pensions Authority
 1260 Louisville Road
 Frankfort, KY 40601-6124

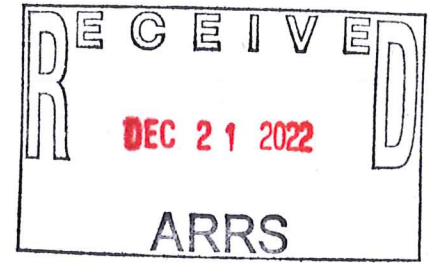
Past Employment Service

Member Name:		Member ID:		Employer:	
Fiscal Year (Mo/Day/Yr) Show breaks in service Begin Date End Date		School Board Use Only No. of Actual Days Worked		Hours Worked Per Day	
No. of Months Worked		Contract Days		Hourly Wage	
Actual Wages Earned for Year		Notes		Position Status: (E.g. Regular full-time, part-time, seasonal full-time, Temporary full-time, etc.)	
Position Title: (E.g. Bus Driver, Secretary, etc.)					
Fiscal Year (Mo/Day/Yr) Show breaks in service Begin Date End Date		School Board Use Only No. of Actual Days Worked		Hours Worked Per Day	
No. of Months Worked		Contract Days		Hourly Wage	
Actual Wages Earned for Year		Notes		Position Status: (E.g. Regular full-time, part-time, seasonal full-time, Temporary full-time, etc.)	
Position Title: (E.g. Bus Driver, Secretary, etc.)					
Fiscal Year (Mo/Day/Yr) Show breaks in service Begin Date End Date		School Board Use Only No. of Actual Days Worked		Hours Worked Per Day	
No. of Months Worked		Contract Days		Hourly Wage	
Actual Wages Earned for Year		Notes		Position Status: (E.g. Regular full-time, part-time, seasonal full-time, Temporary full-time, etc.)	
Position Title: (E.g. Bus Driver, Secretary, etc.)					
Fiscal Year (Mo/Day/Yr) Show breaks in service Begin Date End Date		School Board Use Only No. of Actual Days Worked		Hours Worked Per Day	
No. of Months Worked		Contract Days		Hourly Wage	
Actual Wages Earned for Year		Notes		Position Status: (E.g. Regular full-time, part-time, seasonal full-time, Temporary full-time, etc.)	
Position Title: (E.g. Bus Driver, Secretary, etc.)					
Fiscal Year (Mo/Day/Yr) Show breaks in service Begin Date End Date		School Board Use Only No. of Actual Days Worked		Hours Worked Per Day	
No. of Months Worked		Contract Days		Hourly Wage	
Actual Wages Earned for Year		Notes		Position Status: (E.g. Regular full-time, part-time, seasonal full-time, Temporary full-time, etc.)	
Position Title: (E.g. Bus Driver, Secretary, etc.)					

Certification

I state that I have full knowledge of the penalty in KRS 523.100 related to falsification of records and the information provided is true and accurate.

Signature: _____ Date: _____
 Title: _____ Daytime Phone: _____



Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

PUBLIC PROTECTION CABINET

Kentucky Real Estate Commission
Mayo-Underwood Building
500 Mero Street, 2NE09
Frankfort, Kentucky 40601
Phone: (502) 564-7760
<https://krec.ky.gov>

Ray A. Perry
Secretary

Natalie Brawner
Executive Director

December 21, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **201 KAR 11:121**. Standards of professional conduct.

Dear Co-Chairs West and Hale:

After further consideration of the issues raised by raised by 201 KAR 11:121, the Kentucky Real Estate Commission proposes the attached agency amendment to 201 KAR 11:121, including material to be incorporated by reference.

Sincerely,

August Lincoln Pozgay
General Counsel
Kentucky Real Estate Authority
august.pozgay@ky.gov
502-782-0714 (office)

December 21, 2022

AGENCY AMENDMENT

BOARDS AND COMMISSIONS

Real Estate Commission

201 KAR 11:121. Standards of professional conduct.

Page 18

Section 11(1)(b)

Lines 3-4

After "Form 402,", insert "12/2022".

Delete "08/2022".

Page 18

Section 11(1)(d)

Line 6

After "Form 400,", insert "12/2022".

Delete "08/2022".

Page 18

Section 11(1)(e)

Line 7

After "Form 401B,", insert "12/2022".

Delete "08/2022".

Page 18

Section 11(1)(f)

Line 8

After "Form 401S,", insert "12/2022".

Delete "08/2022".

READ AND APPROVED:

Lois Ann Disponett

Lois Ann Disponett
Chair, Kentucky Real Estate Commission

12/27/2022

Date

Natalie W. Brawner

Natalie W. Brawner
Executive Director, Kentucky Real Estate Authority

12/28/2022

Date



KENTUCKY REAL ESTATE COMMISSION

Public Protection Cabinet
Mayo-Underwood Building
500 Mero Street 2NE09
Frankfort, Kentucky 40601
(502) 564-7760



The Kentucky Real Estate Commission's A GUIDE TO AGENCY RELATIONSHIPS

THIS IS NOT A CONTRACT. This is The Kentucky Real Estate Commission's A Guide To Agency Relationships ("Guide"). This brokerage company is required by law to ask you to sign this [-]Guide as a way to acknowledge that you have received it. Your signature below will not obligate you to work with this brokerage company [~~if you do not want to~~].

Whether you are selling, buying, or leasing real estate in the Commonwealth of Kentucky, this Guide will help you understand the various agency relationships available to you. This brokerage company is providing you this Guide as an introduction to their professional real estate [~~brokerage services~~] agency relationship options. Depending on your specific needs, this brokerage company will offer you valuable assistance to achieve your goals.

~~[This is not a contract or agreement for services. Your signature on this Guide is simply to acknowledge receipt and by law the real estate licensee presenting you this Guide must ask for your signature. Prior to the exchange of confidential information that could be interpreted as an agency relationship, you will be asked to consent in writing to a specific Agency Relationship for a contemplated transaction.]~~

This is a brief overview of real estate brokerage in the Commonwealth of Kentucky. To practice real estate brokerage for compensation, a person must be appropriately licensed, which requires extensive education and testing. There are two types of licenses, broker and sales associate. A principal broker is the person responsible for the operation of the real estate brokerage company. Licensed brokers and sales associates affiliate with a principal broker to engage in real estate brokerage.

(INSERT NAME OF PRINCIPAL BROKER) is the principal broker of _____
(INSERT NAME OF BROKERAGE COMPANY), and can be reached at _____ **(INSERT BROKERAGE COMPANY PHONE NUMBER)**.

To provide real estate brokerage services, a principal broker enters into an agency relationship with a client to act as an agent to represent the client's interests and provide necessary guidance to complete real estate transactions. A licensee affiliated with the principal broker may be your direct contact during a transaction and, depending on the type of agency, may also be your exclusive agent. These agency relationships are explained in more detail below. Each relationship imposes fiduciary duties owed by the agent to a client. A principal broker may also provide services to a party who is not a client and owe limited, or no, fiduciary obligations to that party, or, by written agreement, provide other than the minimum services proscribed by law. To learn more, reference Kentucky Revised Statutes, Chapter 324 and Kentucky Administrative Regulations, Title 201, Chapter 11.

This is not a contract or agreement for services. Your signature on this Guide is simply to acknowledge receipt and by law the real estate licensee presenting you this Guide must ask for your signature. Prior to the exchange of confidential information that could be interpreted as an agency relationship, you will be asked to consent in writing to a specific **[A]agency [R]relationship** for a contemplated transaction.

Carefully read about the available agency relationships below and ask the licensee providing you this Guide, _____ **(INSERT NAME OF LICENSEE)**, any questions you may have to better understand agency. The duties and responsibilities of the Principal Broker, affiliated licensees, and the real estate brokerage company in a real estate transaction do not relieve the seller, buyer, lessor, or lessee from the duty and responsibility to protect their own interests. You are advised to carefully read all agreements to assure that they adequately express your understanding of the transaction. The principal broker and affiliated licensees are qualified to advise on real estate brokerage and transaction matters only. IF YOU NEED LEGAL OR TAX ADVICE, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.

Single Agency: In a Single Agency relationship, the principal broker of a brokerage company, and all affiliated licensees, act as an agent for a client who is a seller or buyer, or a lessor or lessee, on one side of a transaction. If a party on the other side of the transaction is represented by an agent, that agent will be affiliated with another principal broker at another brokerage.

Dual Agency: In a Dual Agency relationship, the principal broker of a brokerage company, and all affiliated licensees, simultaneously act, in a limited fiduciary capacity, as agents for different clients who are either seller and buyer, or lessor and lessee, in the same transaction. Dual Agency relationships frequently occur when a listing agent simultaneously represents both seller and buyer clients in the same transaction and must take care to adequately represent the interests of both clients.

Designated Agent: ~~[As an alternative to Single Agency,]~~ ~~[[i]]~~ In a Designated Agent relationship, one or more affiliated licensees are designated by their principal broker to act as an agent for a client who is a buyer or seller, or a lessor or lessee, to the exclusion of all other licensees affiliated with that principal broker. The principal broker shall not designate himself or herself as a designated agent. None of the other licensees affiliated with the principal broker represent the client in the transaction. Reference KRS 324.121(1).

Designated Agency: ~~[As an alternative to Dual Agency,]~~ ~~[[i]]~~ In a Designated Agency relationship, two or more Designated Agents within one brokerage act as agents for their respective clients on different sides of a transaction, while their principal broker and any designated manager simultaneously act in a limited fiduciary capacity as a dual agent for all clients on both sides of the transaction. This type of agency relationship allows Designated Agents affiliated with same principal broker to offer each client exclusive representation with full fiduciary obligations, not limited as they would be in a Dual Agency relationship, while still safeguarding clients' confidential information. Reference KRS 324.121(2).

Transactional Brokerage: In a Transactional Brokerage relationship, the principal broker of a brokerage company, and an affiliated licensee(s), if so designated by the principal broker, provide real estate brokerage services to either, or both, party(ies) to a transaction. They owe the party(ies) only the duties of good faith and fair dealing, and do not relay confidential information between the parties, unless so directed by the sending party. A party to Transactional Brokerage is not a client or prospective client.

Unrepresented Party: From time to time in a real estate transaction, a party will not be represented by an agent, but will otherwise interact with a licensee. This party is known as an Unrepresented Party and a licensee owes an Unrepresented Party the duties of good faith and fair dealing. An Unrepresented Party is not a client or prospective client. If you elect to be an Unrepresented Party to a transaction, take the steps necessary to protect your best interests. If the other party is represented by an agent, you may be at a disadvantage in the transaction due to the skill and experience of that agent.

Real Estate Teams: In the course of your real estate transaction, you may engage with a real estate team. Teams are defined as a group of more than one licensee working together who are affiliated with the same principal broker, led by a team leader, and representing themselves to the public utilizing the same authorized alternate or assumed name to brand, advertise, and broker real estate. Teams form for a variety of reasons, including sharing branding and expenses, to broker real estate under the supervision of the principal broker. A team does not operate independently of the principal broker or agency law and must not represent themselves as a separate brokerage company providing real estate brokerage services. Make sure you understand who specifically is representing you as an agent if you choose to work with a team.

Confidential Information: If you are a client or prospective client as defined by law, you are owed the fiduciary obligation of confidentiality, which means that the licensee must protect information provided by you that would materially compromise your negotiating position in a transaction if disclosed to the other party, unless disclosure is required by law. You may also designate in writing other information you wish to maintain confidential. If you have any questions or concerns about confidentiality, seek a satisfactory answer prior to providing the information you wish to maintain confidential. During the course of a transaction, including when sending offers, information delivered to the other party will not be confidential unless a previous agreement is in place to maintain confidentiality.

Cooperation: This brokerage company may, during the course of a transaction, share fees or compensation with another brokerage company. This typically occurs when a listing brokerage company shares compensation with another brokerage company representing a buyer for a specific listed property. The fact that brokerage companies may share compensation during the course of a transaction does not mean that you are in an [A]agency [R]relationship with any brokerage company. If you are concerned about compensation and how it may be shared, seek a satisfactory answer prior engaging in a transaction.

Fair Housing Statement: It is illegal, pursuant to the Kentucky Fair Housing Law and Federal Fair Housing Law, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, or refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, disability, national origin, sexual orientation (in some counties) or gender identity (in some counties) or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the providing of real estate brokerage services. It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.

We hope you find this information helpful as you begin your real estate transaction. When you are ready to enter into a transaction, you will be asked to sign an Agency Consent Agreement that specifically identifies the [A]agency [R]relationship between you, the [P]principal [B]broker of this brokerage company, and any affiliated licensees. Please ask questions if there is anything you do not understand.

Your signature below will not obligate you to work with this brokerage company if you do not choose to do so. A copy of this signed Guide [to Agency Relationships] will be provided to you and a record of it maintained by the brokerage company. Please add this Guide to your records for reference even if you refuse to sign.

<u>[Prospective Client]</u> Signature	Date/Time
<input checked="" type="checkbox"/>	
<u>[Prospective Client]</u> Signature	Date/Time

[X]	
-----	--



KENTUCKY REAL ESTATE COMMISSION

Public Protection Cabinet
Mayo-Underwood Building
500 Mero Street 2NE09
Frankfort, Kentucky 40601
(502) 564-7760



The Kentucky Real Estate Commission's A GUIDE TO AGENCY RELATIONSHIPS

THIS IS NOT A CONTRACT. This is The Kentucky Real Estate Commission's A Guide To Agency Relationships ("Guide"). This brokerage company is required by law to ask you to sign this Guide as a way to acknowledge that you have received it. Your signature below will not obligate you to work with this brokerage company.

Whether you are selling, buying, or leasing real estate in the Commonwealth of Kentucky, this Guide will help you understand the various agency relationships available to you. This brokerage company is providing you this Guide as an introduction to their professional real estate agency relationship options. Depending on your specific needs, this brokerage company will offer you valuable assistance to achieve your goals.

This is a brief overview of real estate brokerage in the Commonwealth of Kentucky. To practice real estate brokerage for compensation, a person must be appropriately licensed, which requires extensive education and testing. There are two types of licenses, broker and sales associate. A principal broker is the person responsible for the operation of the real estate brokerage company. Licensed brokers and sales associates affiliate with a principal broker to engage in real estate brokerage. _____ (INSERT NAME OF PRINCIPAL BROKER) is the principal broker of _____ (INSERT NAME OF BROKERAGE COMPANY), and can be reached at _____ (INSERT BROKERAGE COMPANY PHONE NUMBER).

To provide real estate brokerage services, a principal broker enters into an agency relationship with a client to act as an agent to represent the client's interests and provide necessary guidance to complete real estate transactions. A licensee affiliated with the principal broker may be your direct contact during a transaction and, depending on the type of agency, may also be your exclusive agent. These agency relationships are explained in more detail below. Each relationship imposes fiduciary duties owed by the agent to a client. A principal broker may also provide services to a party who is not a client and owe limited, or no, fiduciary obligations to that party, or, by written agreement, provide other than the minimum services proscribed by law. To learn more, reference Kentucky Revised Statutes, Chapter 324 and Kentucky Administrative Regulations, Title 201, Chapter 11.

This is not a contract or agreement for services. Your signature on this Guide is simply to acknowledge receipt and by law the real estate licensee presenting you this Guide must ask for your signature. Prior to the exchange of confidential information that could be interpreted as an agency relationship, you will be asked to consent in writing to a specific agency relationship for a contemplated transaction.

Carefully read about the available agency relationships below and ask the licensee providing you this Guide, _____ (INSERT NAME OF LICENSEE), any questions you may have to better understand agency. The duties and responsibilities of the principal broker, affiliated licensees, and the real estate brokerage company in a real estate transaction do not relieve the seller, buyer, lessor, or lessee from the duty and responsibility to protect their own interests. You are advised to carefully read all agreements to assure that they adequately express your understanding of the transaction. The principal broker and affiliated licensees are qualified to advise on real estate brokerage and transaction matters only. IF YOU NEED LEGAL OR TAX ADVICE, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.

Single Agency: In a Single Agency relationship, the principal broker of a brokerage company, and all affiliated licensees, act as an agent for a client who is a seller or buyer, or a lessor or lessee, on one side of a transaction. If a party on the other side of the transaction is represented by an agent, that agent will be affiliated with another principal broker at another brokerage.

Dual Agency: In a Dual Agency relationship, the principal broker of a brokerage company, and all affiliated licensees, simultaneously act, in a limited fiduciary capacity, as agents for different clients who are either seller and buyer, or lessor and lessee, in the same transaction. Dual Agency relationships frequently occur when a listing agent simultaneously represents both seller and buyer clients in the same transaction and must take care to adequately represent the interests of both clients.

Designated Agent: In a Designated Agent relationship, one or more affiliated licensees are designated by their principal broker to act as an agent for a client who is a buyer or seller, or a lessor or lessee, to the exclusion of all other licensees affiliated with that principal broker. The principal broker shall not designate himself or herself as a designated agent. None of the other licensees affiliated with the principal broker represent the client in the transaction. Reference KRS 324.121(1).

Designated Agency: In a Designated Agency relationship, two or more Designated Agents within one brokerage act as agents for their respective clients on different sides of a transaction, while their principal broker and any designated manager simultaneously act in a limited fiduciary capacity as a dual agent for all clients on both sides of the transaction. This type of agency relationship allows Designated Agents affiliated with same principal broker to offer each client exclusive representation with full fiduciary obligations, not limited as they would be in a Dual Agency relationship, while still safeguarding clients' confidential information. Reference KRS 324.121(2).

Transactional Brokerage: In a Transactional Brokerage relationship, the principal broker of a brokerage company, and an affiliated licensee(s), if so designated by the principal broker, provide real estate brokerage services to either, or both, party(ies) to a transaction. They owe the party(ies) only the duties of good faith and fair dealing, and do not relay confidential information between the parties, unless so directed by the sending party. A party to Transactional Brokerage is not a client or prospective client.

Unrepresented Party: From time to time in a real estate transaction, a party will not be represented by an agent, but will otherwise interact with a licensee. This party is known as an Unrepresented Party and a licensee owes an Unrepresented Party the duties of good faith and fair dealing. An Unrepresented Party is not a client or prospective client. If you elect to be an Unrepresented Party to a transaction, take the steps necessary to protect your best interests. If the other party is represented by an agent, you may be at a disadvantage in the transaction due to the skill and experience of that agent.

Real Estate Teams: In the course of your real estate transaction, you may engage with a real estate team. Teams are defined as a group of more than one licensee working together who are affiliated with the same principal broker, led by a team leader, and representing themselves to the public utilizing the same authorized alternate or assumed name to brand, advertise, and broker real estate. Teams form for a variety of reasons, including sharing branding and expenses, to broker real estate under the supervision of the principal broker. A team does not operate independently of the principal broker or agency law and must not represent themselves as a separate brokerage company providing real estate brokerage services. Make sure you understand who specifically is representing you as an agent if you choose to work with a team.

Confidential Information: If you are a client or prospective client as defined by law, you are owed the fiduciary obligation of confidentiality, which means that the licensee must protect information provided by you that would materially compromise your negotiating position in a transaction if disclosed to the other party, unless disclosure is required by law. You may also designate in writing other information you wish to maintain confidential. If you have any questions or concerns about confidentiality, seek a satisfactory answer prior to providing the information you wish to maintain confidential. During the course of a transaction, including when sending offers, information delivered to the other party will not be confidential unless a previous agreement is in place to maintain confidentiality.

Cooperation: This brokerage company may, during the course of a transaction, share fees or compensation with another brokerage company. This typically occurs when a listing brokerage company shares compensation with another brokerage company representing a buyer for a specific listed property. The fact that brokerage companies may share compensation during the course of a transaction does not mean that you are in an agency relationship with any brokerage company. If you are concerned about compensation and how it may be shared, seek a satisfactory answer prior engaging in a transaction.

Fair Housing Statement: It is illegal, pursuant to the Kentucky Fair Housing Law and Federal Fair Housing Law, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, or refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, disability, national origin, sexual orientation (in some counties) or gender identity (in some counties) or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the providing of real estate brokerage services. It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.

We hope you find this information helpful as you begin your real estate transaction. When you are ready to enter into a transaction, you will be asked to sign an Agency Consent Agreement that specifically identifies the agency relationship between you, the principal broker of this brokerage company, and any affiliated licensees. Please ask questions if there is anything you do not understand.

Your signature below will not obligate you to work with this brokerage company if you do not choose to do so. A copy of this signed Guide will be provided to you and a record of it maintained by the brokerage company. Please add this Guide to your records for reference even if you refuse to sign.

Signature	Date/Time
Signature	Date/Time



[KENTUCKY REAL ESTATE COMMISSION]

[Public Protection Cabinet]
[Mayo-Underwood Building]
[500 Mero Street 2NE09]
[Frankfort, Kentucky, 40601]
[(502) 564-7760]
[http://krec.ky.gov]



AGENCY CONSENT AGREEMENT – BUYER / LESSEE

The real estate agent who is providing you with this form is required to do so by Kentucky law. The purpose of this form is to confirm that you have been advised of the role of the agent(s) in the transaction proposed below. (For purposes of this form, the term “buyer” includes a lessee [tenant].)

[Buyer(s)/Lessee(s):] _____

[Property Address:] _____

[PART A]

(To be completed prior to entering into a written agreement to provide real estate brokerage services, including, but not limited to, a buyer representation agreement, or completing, or directing the completion of, a contract, offer, or lease for a real estate transaction)

[Buyer(s)/Lessee(s):] _____

The **Principal Broker** [licensee] being retained is _____ (name of **Principal Broker** [licensee]) and **Affiliate Agent** _____ (name of **Affiliate Agent**) of the _____ (name of **brokerage firm** [company]) brokerage firm.

At this time Licensee is retained as the following type of agent: (check one)

- Buyer’s agent
- Dual agent
- Designated agent
- Licensee(s) shall provide transactional brokerage services to buyer(s) / lessee[lessor](s). For the purposes of this form, a party to transactional brokerage services is not a client or prospective client.

I (we) consent to the above relationships as we enter into this real estate contract. If there is a dual agency or designated agency in this transaction, I (we) acknowledge reading the information contained in the **Kentucky Real Estate Commission's A Guide to Agency Relationships.**

BUYER/LESSEE Signature *Printed Name* *DATE/TIME*

BUYER/LESSEE Signature *Printed Name* *DATE/TIME*

PART B[-]

(To be completed at the time the licensee prepares and/or submits an offer, contract, or lease for the clients. If and when PART B is completed, PART B supersedes PART A.)

Property Address: _____]

I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The Buyer/Lessee is represented by _____ of
_____ AFFILIATE AGENT

NAME OF BROKERAGE FIRM AND PRINCIPAL BROKER'S NAME

II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE FIRM

(Mark the appropriate box)

If two agents in the same real estate brokerage represent both the Buyer/Lessee and the Seller/Lessor, check the following relationship that will apply:

Designated Agency:

Affiliate Agent(s) _____ of _____
represents the Buyer/Lessee and another Agent(s) in the same firm represents the Seller/Lessor.
The [p]Principal [b]Broker and managers will be "dual agents," which is explained in the
Kentucky Real Estate Commission's A Guide to Agency Relationships. As dual agents, they will
remain loyal to both parties in the transaction, and they will protect all parties' confidential
information;

OR

Dual Agency:

Every agent in the brokerage represents every "client" of the brokerage. Therefore, Agent(s)
_____ and _____ will
be working for both the Buyer/Lessee and Seller/Lessor as "dual agents". Dual agency is explained in
the Kentucky Real Estate Commission's A Guide to Agency Relationships. As a dual agent, they
will remain loyal to both parties in the transaction, and they will protect all parties' confidential
information. [To the best of the Agent's knowledge, neither the agent(s) nor the principal broker
acting as a dual agent in this transaction has a **PERSONAL, FAMILY, or BUSINESS** relationship
with either the Buyer or Seller. *If such a relationship does exist, please explain: _____*]

III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

(Mark the appropriate box.)

Affiliate Agent _____ and the brokerage firm _____ will:

be a "dual agent" representing both parties in this transaction. Dual agency is explained in the
Kentucky Real Estate Commission A Guide to Agency Relationships. As a dual agent they will
remain loyal to both parties, and they will protect all parties' confidential information. [To the best of
the agent's knowledge, neither the agent(s) nor the brokerage acting as a dual agent in this transaction
has a **PERSONAL, FAMILY, or BUSINESS** relationship with either the Buyer or Seller. *If such a
relationship does exist, please explain: _____*]

OR

represent only the (check one) Buyer/Lessee or Seller/Lessor [~~or neither in this transaction as a client~~]. The other party(ies) is not represented and agrees to represent his/her own best interest. Any information provided to the agent may be disclosed to the agent's client.

IV. TRANSACTION INVOLVING NON-CLIENT PARTIES

(Mark the appropriate box.)

Transactional Brokerage: The Principal Broker of the Brokerage Firm [Company] assigns (Identify all Licensees acting as a Transactional Agent): _____ to provide real estate brokerage services to either, or both, Party(ies) to the transaction, owe the Party(ies) only the duties of good faith and fair dealing, and to not relay confidential information between the Parties, unless so directed by the sending Party. For the purposes of this Agreement, a party to a Transactional Brokerage is not a Client or Prospective Client.

~~[Unrepresented Party: The Principal Broker of the Company, and all affiliated licensees, do not act as an agent for a Party.]~~

The Buyer; Seller; Lessor; Lessee is an Unrepresented Party. A licensee owes an Unrepresented Party the duties of good faith and fair dealing. For the purposes of this Agreement, an Unrepresented Party is not a Client or Prospective Client.

LICENSEE'S RELATIONSHIP TO OTHER PARTIES IN THE TRANSACTION

To the best of their knowledge, licensee(s) does not have a PERSONAL, FAMILY, or BUSINESS relationship with another party to this transaction. If such a relationship does exist, please explain:

DISCLAIMER

Responsibilities of the Parties: The duties of the agent and brokerage in a real estate transaction do not relieve the Seller/Lessor and Buyer/Lessee from the responsibility to protect their own interests. The Seller/Lessor and Buyer/Lessee are advised to carefully read all agreements to assure that they adequately express their understanding of the transaction. The agent and brokerage are qualified to advise on real estate matters. IF LEGAL OR TAX ADVICE IS DESIRED, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.

PARTY CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency, or designated agency in this transaction, I (we) acknowledge reading the information contained in the Commission's Guide to Agency Relationships.

BUYER/LESSEE Signature

Printed Name

DATE/TIME

BUYER/LESSEE Signature

Printed Name

DATE/TIME

KENTUCKY REAL ESTATE COMMISSION



Public Protection Cabinet
Mayo-Underwood Building
500 Mero Street 2NE09
Frankfort, Kentucky 40601
(502) 564-7760
<http://krec.ky.gov>



AGENCY CONSENT AGREEMENT – BUYER / LESSEE

The real estate agent who is providing you with this form is required to do so by Kentucky law. The purpose of this form is to confirm that you have been advised of the role of the agent(s) in the transaction proposed below.

Buyer(s)/Lessee(s): _____

Property Address: _____

PART A

(To be completed prior to entering into a written agreement to provide real estate brokerage services, including, but not limited to, a buyer representation agreement, or completing, or directing the completion of, a contract, offer, or lease for a real estate transaction)

The Principal Broker being retained is _____ (name of Principal Broker)
and Affiliate Agent _____ (name of Affiliate Agent)
of the _____ (name of brokerage firm) brokerage firm.

At this time Licensee is retained as the following type of agent: (check one)

- Buyer's agent
- Dual agent
- Designated agent
- Licensee(s) shall provide transactional brokerage services to buyer(s) / lessee(s). For the purposes of this form, a party to transactional brokerage services is not a client or prospective client.

I (we) consent to the above relationships as we enter into this real estate contract. If there is a dual agency or designated agency in this transaction, I (we) acknowledge reading the information contained in the **Kentucky Real Estate Commission's A Guide to Agency Relationships.**

BUYER/LESSEE Signature

Printed Name

DATE/TIME

BUYER/LESSEE Signature

Printed Name

DATE/TIME

PART B

(To be completed at the time the licensee prepares and/or submits an offer, contract, or lease for the clients. If and when PART B is completed, PART B supersedes PART A.)

I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The Buyer/Lessee is represented by _____ of
AFFILIATE AGENT

NAME OF BROKERAGE FIRM AND PRINCIPAL BROKER'S NAME

II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE

(Mark the appropriate box)

If two agents in the same real estate brokerage represent both the Buyer/Lessee and the Seller/Lessor, check the following relationship that will apply:

Designated Agency:

- Affiliate Agent(s) _____ of _____
represents the Buyer/Lessee and another Agent(s) in the same firm represents the Seller/Lessor. The Principal Broker and managers will be "dual agents," which is explained in the Kentucky Real Estate Commission's A Guide to Agency Relationships. As dual agents, they will remain loyal to both parties in the transaction, and they will protect all parties' confidential information;

OR

Dual Agency:

- Every agent in the brokerage represents every "client" of the brokerage. Therefore, Agent(s) _____ and _____ will be working for both the Buyer/Lessee and Seller/Lessor as "dual agents". Dual agency is explained in *the Kentucky Real Estate Commission's A Guide to Agency Relationships*. As a dual agent, they will remain loyal to both parties in the transaction, and they will protect all parties' confidential information.

III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

(Mark the appropriate box.)

Affiliate Agent _____ and the brokerage firm _____ will:

- be a "dual agent" representing both parties in this transaction. Dual agency is explained in the **Kentucky Real Estate Commission A Guide to Agency Relationships**. As a dual agent they will remain loyal to both parties, and they will protect all parties' confidential information

OR

- represent only the (check one) Buyer/Lessee or Seller/Lessor. The other party(ies) is not represented and agrees to represent his/her own best interest. Any information provided to the agent may be disclosed to the agent's client.

IV. TRANSACTION INVOLVING NON-CLIENT PARTIES

(Mark the appropriate box.)

Transactional Brokerage: The Principal Broker of the Brokerage Firm assigns (Identify all Licensees acting as a Transactional Agent): _____ to provide real estate brokerage services to either, or both, Party(ies) to the transaction, owe the Party(ies) only the duties of good faith and fair dealing, and to not relay confidential information between the Parties, unless so directed by the sending Party. For the purposes of this Agreement, a party to a Transactional Brokerage is not a Client or Prospective Client.

The Buyer; Seller; Lessor; Lessee is an Unrepresented Party. A licensee owes an Unrepresented Party the duties of good faith and fair dealing. For the purposes of this Agreement, an Unrepresented Party is not a Client or Prospective Client.

LICENSEE'S RELATIONSHIP TO OTHER PARTIES IN THE TRANSACTION

To the best of their knowledge, licensee(s) does not have a PERSONAL, FAMILY, or BUSINESS relationship with another party to this transaction. If such a relationship does exist, please explain:

DISCLAIMER

Responsibilities of the Parties: The duties of the agent and brokerage in a real estate transaction do not relieve the Seller/Lessor and Buyer/Lessee from the responsibility to protect their own interests. The Seller/Lessor and Buyer/Lessee are advised to carefully read all agreements to assure that they adequately express their understanding of the transaction. The agent and brokerage are qualified to advise on real estate matters. IF LEGAL OR TAX ADVICE IS DESIRED, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.

PARTY CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency or designated agency in this transaction, I (we) acknowledge reading the information contained in the Commission's Guide to Agency Relationships.

BUYER/LESSEE Signature

Printed Name

DATE/TIME

BUYER/LESSEE Signature

Printed Name

DATE/TIME

PART B

(To be completed at the time the licensee presents an offer to purchase, contract, or lease to the client. If and when PART B is completed, PART B supersedes PART A.)

I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The Seller/Lessor is represented by _____ of
AFFILIATE AGENT

NAME OF BROKERAGE COMPANY AND PRINCIPAL BROKER'S NAME

II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE

(Mark the appropriate box)

If two agents in the same real estate brokerage represent both the Buyer/Lessee and the Seller/Lessor, check the following relationship that will apply:

Designated Agency:

- Affiliate Agent(s) _____ of _____ represents the Seller/Lessor and another Affiliate Agent(s) in the same [firm] Brokerage Company represents the Buyer/Lessee. The [p]Principal [b]Broker and managers will be "dual agents," which is explained in the Kentucky Real Estate Commission's A Guide to Agency Relationships. As dual agents, they will remain loyal to both parties in the transaction, and they will protect all parties' confidential information;

OR

Dual Agency:

- Every agent in the [b]Brokerage Company represents every "client" of the [b]Brokerage Company. Therefore, Affiliate Agent(s) _____ and _____ will be working for both the Buyer/Lessee and Seller/Lessor as "dual agents." Dual agency is explained in the Kentucky Real Estate Commission's A Guide to Agency Relationships. [As a dual agent, they will remain loyal to both parties in the transaction, and they will protect all parties' confidential information. To the best of the Agent's knowledge, neither the agent(s) nor the principal broker acting as a dual agent in this transaction has a **PERSONAL, FAMILY, or BUSINESS** relationship with either the Buyer or Seller. *If such a relationship does exist, please explain:* _____

III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

(Mark the appropriate box.)

Affiliate Agent _____ and the [b]Brokerage Company _____ will:

- be a "dual agent" representing both parties in this transaction. Dual agency is explained in the Kentucky Real Estate Commission's A Guide to Agency Relationships. As a dual agent they will remain loyal to both parties, and they will protect all parties' confidential information. [To the best of the agent's knowledge, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a **PERSONAL, FAMILY, or BUSINESS** relationship with either the Buyer or Seller. *If such a relationship does exist, please explain:* _____

OR/OR

represent only the (check one) Seller/Lessor or Buyer/Lessee [~~neither in this transaction as a client~~]. The other party(ies) is not represented and agrees to represent his/her own best interest. Any information provided to the agent may be disclosed to the agent's client.

IV. TRANSACTION INVOLVING NON-CLIENT PARTIES

(Mark the appropriate box.)

Transactional Brokerage: The Principal Broker of the Brokerage Company assigns (Identify all Licensees acting as a Transactional Agent): _____ to provide real estate brokerage services to either, or both, Party(ies) to the transaction, owe the Party(ies) only the duties of good faith and fair dealing, and to not relay confidential information between the Parties, unless so directed by the sending Party. For the purposes of this Agreement, a party to a Transactional Brokerage is not a Client or Prospective Client.

Unrepresented Party: The Principal Broker of the Company, and all affiliated licensees, do not act as an agent for a Party.

The Buyer; Seller; Lessor; Lessee is an Unrepresented Party. A licensee owes an Unrepresented Party the duties of good faith and fair dealing. For the purposes of this Agreement, an Unrepresented Party is not a Client or Prospective Client.

LICENSEE'S RELATIONSHIP TO OTHER PARTIES IN THE TRANSACTION

To the best of their knowledge, licensee(s) does not have a PERSONAL, FAMILY, or BUSINESS relationship with another party to this transaction. If such a relationship does exist, please explain:

DISCLAIMER

Responsibilities of the Parties: The duties of the Affiliate [a]Agent and [b]Brokerage Company in a real estate transaction do not relieve the Seller/Lessor and Buyer/Lessee from the responsibility to protect their own interests. The Seller/Lessor and Buyer/Lessee are advised to carefully read all agreements to assure that they adequately express their understanding of the transaction. The Affiliate [a]Agent and [b]Brokerage Company are qualified to advise on real estate matters. IF LEGAL OR TAX ADVICE IS DESIRED, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.

PARTY CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency or designated agency in this transaction, I (we) acknowledge reading the information contained in the Kentucky Real Estate Commission's A Guide to Agency Relationships.

SELLER/LESSOR Signature

Printed Name

DATE/TIME

SELLER/LESSOR Signature

Printed Name

DATE/TIME

[SELLER/LESSOR Signature

Printed Name

DATE/TIME]

KENTUCKY REAL ESTATE COMMISSION



Public Protection Cabinet
Mayo-Underwood Building
500 Mero Street 2NE09
Frankfort, Kentucky 40601
(502) 564-7760
<http://krec.ky.gov>



AGENCY CONSENT AGREEMENT – SELLER / LESSOR

The real estate agent who is providing you with this Agency Consent Agreement (“Agreement”) is required to do so by Kentucky law. The purpose of this form is to confirm that you have been advised of the role of the agent(s) in the transaction proposed below. (For purposes of this form, the term “seller” includes “lessor”.)

Seller(s)/Lessor(s): _____

Property Address: _____

PART A

(To be completed prior to entering into a written agreement to provide real estate brokerage services, including, but not limited to, a listing, advertising, or similar agreement.)

The Principal Broker being retained is _____ (name of Principal Broker)
and Affiliate Agent _____ (name of Affiliate Agent)
of the _____ (name of Brokerage Company) Brokerage Company.

At this time Licensee is retained as the following type of agent: (check one)

- Seller’s agent
- Dual agent
- Designated agent
- Licensee(s) shall provide transactional brokerage services to seller(s) / lessor(s). For the purposes of this form, a party to transactional brokerage services is not a client or prospective client.

I (we) consent to the above relationships as we enter into this real estate contract. If there is a dual agency or designated agency in this transaction, I (we) acknowledge reading the information contained in the ***Kentucky Real Estate Commission's A Guide to Agency Relationships***.

SELLER/LESSOR Signature

Printed Name

DATE/TIME

SELLER/LESSOR Signature

Printed Name

DATE/TIME

PART B

(To be completed at the time the licensee presents an offer to purchase, contract, or lease to the client. If and when PART B is completed, PART B supersedes PART A.)

I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The Seller/Lessor is represented by _____ of
AFFILIATE AGENT

NAME OF BROKERAGE COMPANY AND PRINCIPAL BROKER'S NAME

II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE

(Mark the appropriate box)

If two agents in the same real estate brokerage represent both the Buyer/Lessee and the Seller/Lessor, check the following relationship that will apply:

Designated Agency:

- Affiliate Agent(s) _____ of _____ represents the Seller/Lessor and another Affiliate Agent(s) in the same Brokerage Company represents the Buyer/Lessee. The Principal Broker and managers will be "dual agents," which is explained in the **Kentucky Real Estate Commission's A Guide to Agency Relationships**. As dual agents, they will remain loyal to both parties in the transaction, and they will protect all parties' confidential information;

OR

Dual Agency:

- Every agent in the Brokerage Company represents every "client" of the brokerage Company. Therefore, Affiliate Agent(s) _____ and _____ will be working for both the Buyer/Lessee and Seller/Lessor as "dual agents." Dual agency is explained in the **Kentucky Real Estate Commission's A Guide to Agency Relationships**.

III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

(Mark the appropriate box.)

Affiliate Agent _____ and the Brokerage Company _____ will:

- be a "dual agent" representing both parties in this transaction. Dual agency is explained in the **Kentucky Real Estate Commission's A Guide to Agency Relationships**. As a dual agent they will remain loyal to both parties, and they will protect all parties' confidential information.

OR

- represent only the (check one) Seller/Lessor or Buyer/Lessee. The other party(ies) is not represented and agrees to represent his/her own best interest. Any information provided to the agent may be disclosed to the agent's client.

IV. TRANSACTION INVOLVING NON-CLIENT PARTIES

(Mark the appropriate box.)

Transactional Brokerage: The Principal Broker of the Brokerage Company assigns (Identify all Licensees acting as a Transactional Agent): _____ to provide real estate brokerage services to either, or both, Party(ies) to the transaction, owe the Party(ies) only the duties of good faith and fair dealing, and to not relay confidential information between the Parties, unless so directed by the sending Party. For the purposes of this Agreement, a party to a Transactional Brokerage is not a Client or Prospective Client.

Unrepresented Party: The Principal Broker of the Company, and all affiliated licensees, do not act as an agent for a Party.

The Buyer; Seller; Lessor; Lessee is an Unrepresented Party. A licensee owes an Unrepresented Party the duties of good faith and fair dealing. For the purposes of this Agreement, an Unrepresented Party is not a Client or Prospective Client.

LICENSEE’S RELATIONSHIP TO OTHER PARTIES IN THE TRANSACTION

To the best of their knowledge, licensee(s) does not have a PERSONAL, FAMILY, or BUSINESS relationship with another party to this transaction. If such a relationship does exist, please explain:

DISCLAIMER

Responsibilities of the Parties: The duties of the Affiliate Agent and Brokerage Company in a real estate transaction do not relieve the Seller/Lessor and Buyer/Lessee from the responsibility to protect their own interests. The Seller/Lessor and Buyer/Lessee are advised to carefully read all agreements to assure that they adequately express their understanding of the transaction. The Affiliate Agent and Brokerage Company are qualified to advise on real estate matters. IF LEGAL OR TAX ADVICE IS DESIRED, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.

PARTY CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency or designated agency in this transaction, I (we) acknowledge reading the information contained in the **Kentucky Real Estate Commission’s A Guide to Agency Relationships**.

SELLER/LESSOR Signature

Printed Name

DATE/TIME

SELLER/LESSOR Signature

Printed Name

DATE/TIME



KENTUCKY REAL ESTATE COMMISSION

Public Protection Cabinet
Mayo-Underwood Building
500 Mero Street 2NE09
Frankfort, Kentucky 40601
(502) 564-7760
<http://krec.ky.gov>



SELLER'S DISCLOSURE OF PROPERTY CONDITION

This form applies to residential real estate sales and purchases. This form is not required for:

1. Residential purchases of new construction homes if a warranty is provided; or
2. Sales of real estate at auction; or
3. A court supervised foreclosure.

As a Seller, you are asked to disclose what you know about the property you are selling. **Your answers to the questions in this form must be based on the best of your knowledge of the property you are selling, however and whenever you gained that knowledge.** Please take your time to answer these questions accurately and completely.

Property Address

City

State

Zip

PURPOSE OF DISCLOSURE FORM: Completion of this form shall satisfy the requirements of KRS 324.360 that mandates the "seller's disclosure of conditions" relevant to the listed property. This disclosure is based on the Seller's knowledge of the property's condition and the improvements thereon, however that knowledge was gained. This disclosure form shall not be a warranty by the Seller or real estate agent and shall not be used as a substitute for an inspection or warranty that the purchaser may wish to obtain. This form is a statement of the conditions and other information about the property known by the Seller. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering, or any other specific areas related to the construction or condition of the property or the improvements on it. Unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. The Buyer is encouraged to obtain his or her own professional inspections of this property.

INSTRUCTIONS TO THE SELLER(S): (1) Answer every question truthfully. (2) Report all known conditions affecting the property, regardless of how you know about them or when you learned. (3) Attach additional pages, if necessary, with your signature and the date and time of signing. (4) Complete this form yourself or sign the authorization at the end of this form to authorize the real estate agent to complete this form on your behalf in accordance with KRS 324.360(9). (5) If an item does not apply to your property, mark "not applicable." (6) If you truthfully do not know the answer to a question, mark "unknown." (7) If you learn any fact prior to closing that changes one or more of your answers to this form after you have completed and submitted it, immediately notify your agent or any potential buyer of the change in writing.

SELLER'S DISCLOSURE: As Seller(s), I / we disclose the following information regarding the property. This information is true and accurate to the best of my / our knowledge as of the date signed. Seller(s) authorize(s) the real estate agent to provide a copy of this statement to any person or entity in connection with actual or anticipated sale of the property or as otherwise provided by law. The following information is not the representation of the real estate agent.

Answer all questions to the BEST OF YOUR KNOWLEDGE. Attach additional sheets as necessary.

1. PRELIMINARY DISCLOSURES	N/A	YES	NO	UN-KNOWN
a. Have you ever lived in the house? <u>If yes, please indicate the length of time:</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. List the date (month / year) you purchased the house.				
c. Do you own the property as (an) individual(s) or as representative(s) of a company?				
<u>Explain:</u>				
d. [To the best of your knowledge, h]H Has the house been used as a rental? <u>If yes, length of time rented:</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. [To the best of your knowledge, h]H Has this house ever been vacant (not lived-in) for more than three (3) consecutive months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. [To the best of your knowledge, h]H Has this house ever been used for anything other than a residence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Explain:</u>				

Seller Initials

Date/Time

Buyer Initials

Date/Time

Seller Initials

Date/Time

Buyer Initials

Date/Time

PROPERTY ADDRESS:

2. HOUSE SYSTEMS		N/A	YES	NO	UN-KNOWN
Whether or not they have been corrected, state whether there have been problems affecting:					
a.	Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Electrical system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Appliances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Ceiling and attic fans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Security system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Sump pump	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	Chimneys, fireplaces, inserts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	Pool, hot tub, sauna	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i.	Sprinkler system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j.	Heating system	age of system:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k.	Cooling/air conditioning system	age of system:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l.	Water heater	age of system:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain any deficiencies noted in this Section and/or corrections or repairs to resolve these problems:					

3. BUILDING STRUCTURE		N/A	YES	NO	UN-KNOWN
a. Whether or not they have been corrected, state whether there have been problems affecting:					
1)	The foundation or slab	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2)	The structure or exterior veneer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3)	The floors and walls	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4)	The doors and windows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. 1)	[To the best of your knowledge, h]H Has the basement ever leaked?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2)	If so, when did the basement last leak? [When was the last time the basement leaked?]				
3)	Have you ever had any repairs done to the basement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4)	If you have had basement leaks repaired, when was the repair done?				
5)	If the basement presently leaks, how often does it leak? (e.g., every time it rains, only after an extremely heavy rain, etc.)				
Explain:					
h ic :	Have you experienced, or are you aware of, any water or drainage problems in the crawl space?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h d	Are you aware of any damage to wood due to moisture or rot?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h e	Are you aware of any present or past wood infestation (e.g., termites, borers, carpenter ants, fungi, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h if	Are you aware of any damage due to wood infestation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1)	Has the house or any other improvement been treated for wood infestation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2)	If yes, by whom?				
3)	Is there a warranty?				
Please explain any deficiencies noted in this Section and/or corrections or repairs to resolve those problems:					

4. ROOF		N/A	YES	NO	UN-KNOWN
a.	How old is the roof covering? [write the a]Age of the roof if known: []	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b.	Has the roof leaked at any time since you have owned or lived at the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	[To the best of your knowledge, h]H Has the roof leaked at any time before you owned or lived at the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Seller Initials _____ Date/Time _____

Buyer Initials _____ Date/Time _____

Seller Initials _____ Date/Time _____

Buyer Initials _____ Date/Time _____

PROPERTY ADDRESS:

d. When was the last time the roof leaked?				
e. Have you ever had any repairs done to the roof?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Have you ever had the roof replaced?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If so, when?</i>				
g. If the roof presently leaks, how often does it leak? (e.g., every time it rains, only after an extremely heavy rain, etc.)				
<i>Explain:</i>				
h. Have you ever had roof repairs that involved placing shingles on the roof instead of replacing the entire roof covering? If so, when?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain any deficiencies noted in this Section <u>and/or</u> corrections or repairs to resolve those problems:				

5. LAND / DRAINAGE	N/A	YES	NO	UN-KNOWN
a. Whether or not they have been corrected, state whether there have been problems affecting:				
1) Soil stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Drainage, flooding, or grading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Erosion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) Outbuildings or unattached structures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the house located within a Special Flood Hazard Area (SFHA) mandating the purchase of flood insurance for federally backed mortgages?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If so, what is the flood zone?				
c. Is there a retention / detention basin, pond, lake, creek, spring, or water shed on or adjoining this property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain any deficiencies noted in this Section <u>and/or</u> corrections or repairs to resolve those problems:				

6. BOUNDARIES	N/A	YES	NO	UN-KNOWN
a. Have you ever had a staked or pinned survey of the property performed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are you in possession of a copy of any survey of the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are the boundaries marked in any way?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Explain:</i>				
d. Do you know the boundaries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Explain:</i>				
e. Are there any encroachments or unrecorded easements relating to the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Explain:</i>				

7. WATER	N/A	YES	NO	UN-KNOWN
a. Source of water supply:				
b. Are you aware of below normal water supply or water pressure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Has your water ever been tested? If so, attach the results or explain.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Explain:</i>				

8. SEWER SYSTEM	N/A	YES	NO	UN-KNOWN
a. Property is serviced by:				
1. Category I: Public Municipal Treatment Facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Category II: Private Treatment Facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Category III: Subdivision Package Plant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Category IV: Single Home Aerobic Treatment System (HOME PACKAGE PLANT)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Category V: Septic Tank with drain field, lagoon, wetland, or other onsite dispersal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Category VI: Septic Tank with dispersal to an offsite, multi-property cluster treatment system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Category VII: No Treatment/Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Name of Servicer:				
b. For properties with Category IV, V, or VI systems				
Date of last inspection (sewer):				

Seller Initials

Date/Time

Buyer Initials

Date/Time

Seller Initials

Date/Time

Buyer Initials

Date/Time

PROPERTY ADDRESS:

Date of last inspection (septic):	Date last cleaned (septic):
c. Are you aware of any problems with the sewer system?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Please explain any deficiencies noted in this Section:	

9. CONSTRUCTION / REMODELING N/A YES NO UN-KNOWN

a. Have there been any additions, structural modifications, or other alterations made?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. If so, were all necessary permits and government approvals obtained?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Explain:

10. HOMEOWNER[S] ASSOCIATION (HOA) N/A YES NO UN-KNOWN

a. 1) Is the property subject to <u>any restrictions</u> , rules, or regulations of a Homeowners Association (HC	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
2) If yes, what is the <u>[yearly]annual or monthly</u> assessment?	
3) HOA Name:	

HOA Primary Contact Name:

HOA Primary Contact Phone No. and email address:

b. Is the property a condominium?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
If yes, you must also complete KREC Form 404, the Condominium Seller's Certificate	

c. Are you aware of any condition <u>or legal action</u> that may result in an increase in <u>dues</u> , taxes or assessments?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

d. Are any features of the property shared in common with adjoining landowners, such as walls, fences, driveways, etc.?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
---	---

e. Are there any pet or rental restrictions?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

Explain:

11. HAZARDOUS CONDITIONS N/A YES NO UN-KNOWN

a. Are you aware of any underground storage tanks, old septic tanks, field lines, cisterns, or abandoned wells on the property?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
---	---

b. Are you aware of any other environmental hazards? (e.g., carbon monoxide, hazardous waste, water contamination, asbestos, the use of urea formaldehyde, etc.)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

LEAD BASED PAINT DISCLOSURE REQUIREMENT

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint, which may cause certain health risks.

c. Was this house built before 1978?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--------------------------------------	---

d. Are you aware of the existence of lead-based paint in or on this house?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

RADON DISCLOSURE REQUIREMENT

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks, including lung cancer. The Kentucky Department for Public Health recommends radon testing. For more information, visit chfs.ky.gov and search "radon."

e. 1) Are you aware of any testing for radon gas?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
---	---

2) If yes, what were the results?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
-----------------------------------	---

f. 1) Is there a radon mitigation system installed?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
---	---

2) If yes, is it functioning properly?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

METHAMPHETAMINE CONTAMINATION DISCLOSURE REQUIREMENT

A property owner who chooses NOT to decontaminate a property used in the production of methamphetamine MUST make written disclosure of methamphetamine contamination pursuant to KRS 224.1-410(10) and 902 KAR 47:200. Failure to properly disclose methamphetamine contamination is a Class D Felony under KRS 224.99-010.

g. 1) Is the property currently contaminated by the production of methamphetamine?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

2) If no, has the property been professionally decontaminated from methamphetamine contamination?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
---	---

Explain:

12. MISCELLANEOUS N/A YES NO UN-KNOWN

a. Are you aware of any existing or threatened legal action affecting this property?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
--	---

PROPERTY ADDRESS:

b. Are there any assessments other than property assessments that apply to this property (e.g. sewer assessments)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are you aware of any violations of local, state, or federal laws, codes, or ordinances relating to this property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Are there any transferable warranties [to be passed on]?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explain:

e. Has this house ever been damaged by fire or other disaster?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Are you aware of the existence of mold or other fungi on the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Has this house ever had pets living in it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:				
h. Is this house in a historic district or listed on any registry of historic places?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

13. ADDITIONAL INFORMATION

Do you know anything else about the property that that should be disclosed to the Buyer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, please provide details in the space provided, below. Attach additional sheets, as necessary.				

14. SELLER(S) CERTIFICATION (CHOOSE ONE)

As Seller(s) I / we hereby certify that the information disclosed above is complete and accurate to the best of my / our knowledge and belief. I / we agree to immediately notify Buyer in writing of any changes that become known to me / us prior to closing.

Seller Signature	Date	Seller Signature	Date
[X]		[X]	

As Seller(s) I / we hereby certify that my / our Real Estate Agent, _____ (print name) has completed this form with information provided by me / us at my / our direction and request. I / we further agree to hold the above-named agent harmless for any representations that appear on this form, in accordance with KRS 324.360(9).

Seller Signature	Date	Seller Signature	Date
[X]		[X]	

As Seller(s) I / we refuse to complete this form and acknowledge that the Real Estate Agent will so inform the Buyer.

Seller Signature	Date	Seller Signature	Date
[X]		[X]	

The Seller(s) refuse(s) to complete this form or to acknowledge such refusal.

Principal Broker / Real Estate Agent Print Name	Principal Broker / Real Estate Agent Signature	Date
	[X]	

PROPERTY ADDRESS:

The Buyer(s) hereby certifies they have received a copy of this Seller's Disclosure of Property form.

Buyer Signature

[X]

Date

Buyer Signature

[X]

Date

Seller Initials

Date/Time

Page 6 of 6

Buyer Initials

Date/Time

Seller Initials

Date/Time

KREC Form 402[04/2022]

Buyer Initials

Date/Time

[12/2019]12/2022

KENTUCKY REAL ESTATE COMMISSION



Public Protection Cabinet
 Mayo-Underwood Building
 500 Mero Street 2NE09
 Frankfort, Kentucky 40601
 (502) 564-7760
<http://krec.ky.gov>



SELLER'S DISCLOSURE OF PROPERTY CONDITION

This form applies to **residential real estate sales and purchases**. This form is **not required** for:

1. Residential purchases of new construction homes if a warranty is provided; or
2. Sales of real estate at auction; or
3. A court supervised foreclosure

As a Seller, you are asked to disclose what you know about the property you are selling. **Your answers to the questions in this form must be based on the best of your knowledge of the property you are selling, however and whenever you gained that knowledge.** Please take your time to answer these questions accurately and completely.

Property Address

City

State

Zip

PURPOSE OF DISCLOSURE FORM: Completion of this form shall satisfy the requirements of KRS 324.360 that mandates the "seller's disclosure of conditions" relevant to the listed property. This disclosure is based on the Seller's knowledge of the property's condition and the improvements thereon, however that knowledge was gained. This disclosure form shall not be a warranty by the Seller or real estate agent and shall not be used as a substitute for an inspection or warranty that the purchaser may wish to obtain. This form is a statement of the conditions and other information about the property known by the Seller. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering, or any other specific areas related to the construction or condition of the property or the improvements on it. Unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. The Buyer is encouraged to obtain his or her own professional inspections of this property.

INSTRUCTIONS TO THE SELLER(S): (1) Answer every question truthfully. (2) Report all known conditions affecting the property, regardless of how you know about them or when you learned. (3) Attach additional pages, if necessary, with your signature and the date and time of signing. (4) Complete this form yourself or sign the authorization at the end of this form to authorize the real estate agent to complete this form on your behalf in accordance with KRS 324.360(9). (5) If an item does not apply to your property, mark "not applicable." (6) If you truthfully do not know the answer to a question, mark "unknown." (7) If you learn any fact prior to closing that changes one or more of your answers to this form after you have completed and submitted it, immediately notify your agent or any potential buyer of the change in writing.

SELLER'S DISCLOSURE: As Seller(s), I / we disclose the following information regarding the property. This information is true and accurate to the best of my / our knowledge as of the date signed. Seller(s) authorize(s) the real estate agent to provide a copy of this statement to any person or entity in connection with actual or anticipated sale of the property or as otherwise provided by law. The following information is not the representation of the real estate agent.

Answer all questions to the BEST OF YOUR KNOWLEDGE. Attach additional sheets as necessary.

1. PRELIMINARY DISCLOSURES	N/A	YES	NO	UN-KNOWN
a. Have you ever lived in the house? If yes, please indicate the length of time:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. List the date (month / year) you purchased the house.				
c. Do you own the property as (an) individual(s) or as representative(s) of a company?				
Explain:				
d. Has the house been used as a rental? If yes, length of time rented?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Has this house ever been vacant (not lived-in) for more than three (3) consecutive months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Has this house ever been used for anything other than a residence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:				

Seller Initials

Date/Time

Buyer Initials

Date/Time

Seller Initials

Date/Time

Buyer Initials

Date/Time

PROPERTY ADDRESS:

2. HOUSE SYSTEMS		N/A	YES	NO	UN-KNOWN
Whether or not they have been corrected, state whether there have been problems affecting:					
a.	Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Electrical system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Appliances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Ceiling and attic fans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Security system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Sump pump	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	Chimneys, fireplaces, inserts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	Pool, hot tub, sauna	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i.	Sprinkler system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j.	Heating system	age of system:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k.	Cooling/air conditioning system	age of system:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l.	Water heater	age of system:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain any deficiencies noted in this Section and/or corrections or repairs to resolve these problems:					

3. BUILDING STRUCTURE		N/A	YES	NO	UN-KNOWN
a. Whether or not they have been corrected, state whether there have been problems affecting:					
1)	The foundation or slab	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2)	The structure or exterior veneer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3)	The floors and walls	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4)	The doors and windows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	1) Has the basement ever leaked?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2) If so, when did the basement last leak?				
	3) Have you ever had any repairs done to the basement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4) If you have had basement leaks repaired, when was the repair done?				
	5) If the basement presently leaks, how often does it leak? (e.g., every time it rains, only after an extremely heavy rain, etc.)				
Explain:					
c.	Have you experienced, or are you aware of, any water or drainage problems in the crawl space?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Are you aware of any damage to wood due to moisture or rot?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Are you aware of any present or past wood infestation (e.g., termites, borers, carpenter ants, fungi, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Are you aware of any damage due to wood infestation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	1) Has the house or any other improvement been treated for wood infestation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2) If yes, by whom?				
	3) Is there a warranty?				
Please explain any deficiencies noted in this Section and/or corrections or repairs to resolve those problems:					

4. ROOF		N/A	YES	NO	UN-KNOWN
a.	How old is the roof covering? Age of the roof if known:				
b.	Has the roof leaked at any time since you have owned or lived at the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Has the roof leaked at any time before you owned or lived at the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	When was the last time the roof leaked?				
e.	Have you ever had any repairs done to the roof?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Seller Initials

Date/Time

Buyer Initials

Date/Time

Seller Initials

Date/Time

Buyer Initials

Date/Time

PROPERTY ADDRESS:

f. Have you ever had the roof replaced? If so, when?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. If the roof presently leaks, how often does it leak? (e.g., every time it rains, only after an extremely heavy rain, etc.) Explain:				
h. Have you ever had roof repairs that involved placing shingles on the roof instead of replacing the entire roof covering? If so, when?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain any deficiencies noted in this Section and/or corrections or repairs to resolve those problems:				
<hr/>				
5. LAND / DRAINAGE	N/A	YES	NO	UN- KNOWN
a. Whether or not they have been corrected, state whether there have been problems affecting:				
1) Soil stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Drainage, flooding, or grading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Erosion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) Outbuildings or unattached structures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the house located within a Special Flood Hazard Area (SFHA) mandating the purchase of flood insurance for federally backed mortgages? If so, what is the flood zone?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Is there a retention / detention basin, pond, lake, creek, spring, or water shed on or adjoining this property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain any deficiencies noted in this Section and/or corrections or repairs to resolve those problems:				
<hr/>				
6. BOUNDARIES	N/A	YES	NO	UN- KNOWN
a. Have you ever had a staked or pinned survey of the property performed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are you in possession of a copy of any survey of the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are the boundaries marked in any way? Explain:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Do you know the boundaries? Explain:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Are there any encroachments or unrecorded easements relating to the property? Explain:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. WATER	N/A	YES	NO	UN- KNOWN
a. Source of water supply:				
b. Are you aware of below normal water supply or water pressure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Has your water ever been tested? If so, attach the results or explain. Explain:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. SEWER SYSTEM	N/A	YES	NO	UN- KNOWN
a. Property is serviced by:				
1. Category I: Public Municipal Treatment Facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Category II: Private Treatment Facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Category III: Subdivision Package Plant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Category IV: Single Home Aerobic Treatment System (HOME PACKAGE PLANT)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Category V: Septic Tank with drain field, lagoon, wetland, or other onsite dispersal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Category VI: Septic Tank with dispersal to an offsite, multi-property cluster treatment system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Category VII: No Treatment/Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Name of Servicer:				
b. For properties with Category IV, V, or VI systems				
Date of last inspection (sewer):				
Date of last inspection (septic):		Date last cleaned (septic):		
c. Are you aware of any problems with the sewer system?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Seller Initials

Date/Time

Buyer Initials

Date/Time

Seller Initials

Date/Time

Buyer Initials

Date/Time

PROPERTY ADDRESS:

Please explain any deficiencies noted in this Section:

9. CONSTRUCTION / REMODELING		N/A	YES	NO	UN-KNOWN
a.	Have there been any additions, structural modifications, or other alterations made?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	If so, were all necessary permits and government approvals obtained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:					
10. HOMEOWNERS ASSOCIATION (HOA)		N/A	YES	NO	UN-KNOWN
a.	1) Is the property subject to any restrictions, rules, or regulations of a Homeowners Association?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2) If yes, what is the annual or monthly assessment?				
	3) HOA Name:				
	HOA Primary Contact Name:				
	HOA Primary Contact Phone No. and email address:				
b.	Is the property a condominium?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If yes, you must also complete KREC Form 404, the Condominium Seller's Certificate				
c.	Are you aware of any condition or legal action that may result in an increase in dues, taxes or assessments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Are any features of the property shared in common with adjoining landowners, such as walls, fences, driveways, etc.?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Are there any pet or rental restrictions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:					
11. HAZARDOUS CONDITIONS		N/A	YES	NO	UN-KNOWN
a.	Are you aware of any underground storage tanks, old septic tanks, field lines, cisterns, or abandoned wells on the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Are you aware of any other environmental hazards? (e.g., carbon monoxide, hazardous waste, water contamination, asbestos, the use of urea formaldehyde, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LEAD BASED PAINT DISCLOSURE REQUIREMENT					
Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint, which may cause certain health risks.					
c.	Was this house built before 1978?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Are you aware of the existence of lead-based paint in or on this house?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RADON DISCLOSURE REQUIREMENT					
Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks, including lung cancer. The Kentucky Department for Public Health recommends radon testing. For more information, visit chfs.ky.gov and search "radon."					
e.	1) Are you aware of any testing for radon gas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2) If yes, what were the results?				
f.	1) Is there a radon mitigation system installed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2) If yes, is it functioning properly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
METHAMPHETAMINE CONTAMINATION DISCLOSURE REQUIREMENT					
A property owner who chooses NOT to decontaminate a property used in the production of methamphetamine MUST make written disclosure of methamphetamine contamination pursuant to KRS 224.1-410(10) and 902 KAR 47:200. Failure to properly disclose methamphetamine contamination is a Class D Felony under KRS 224.99-010.					
g.	1) Is the property currently contaminated by the production of methamphetamine?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2) If no, has the property been professionally decontaminated from methamphetamine contamination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:					
12. MISCELLANEOUS		N/A	YES	NO	UN-KNOWN
a.	Are you aware of any existing or threatened legal action affecting this property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Are there any assessments other than property assessments that apply to this property (e.g. sewer assessments)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Seller Initials

Date/Time

Buyer Initials

Date/Time

Seller Initials

Date/Time

Buyer Initials

Date/Time

PROPERTY ADDRESS:

c. Are you aware of any violations of local, state, or federal laws, codes, or ordinances relating to this property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Are there any transferable warranties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:				
e. Has this house ever been damaged by fire or other disaster?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:				
f. Are you aware of the existence of mold or other fungi on the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Has this house ever had pets living in it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explain:				
h. Is this house in a historic district or listed on any registry of historic places?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

13. ADDITIONAL INFORMATION N/A YES NO UN-KNOWN

Do you know anything else about the property that should be disclosed to the Buyer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	--------------------------

If yes, please provide details in the space provided, below. Attach additional sheets, as necessary.

14. SELLER(S) CERTIFICATION (CHOOSE ONE)

As Seller(s) I / we hereby certify that the information disclosed above is complete and accurate to the best of my / our knowledge and belief. I / we agree to immediately notify Buyer in writing of any changes that become known to me / us prior to closing.

Seller Signature	Date	Seller Signature	Date
------------------	------	------------------	------

As Seller(s) I / we hereby certify that my / our Real Estate Agent, _____ (print name) has completed this form with information provided by me / us at my / our direction and request. I / we further agree to hold the above-named agent harmless for any representations that appear on this form, in accordance with KRS 324.360(9).

Seller Signature	Date	Seller Signature	Date
------------------	------	------------------	------

As Seller(s) I / we refuse to complete this form and acknowledge that the Real Estate Agent will so inform the Buyer.

Seller Signature	Date	Seller Signature	Date
------------------	------	------------------	------

The Seller(s) refuse(s) to complete this form or to acknowledge such refusal.

Principal Broker / Real Estate Agent Print Name	Principal Broker / Real Estate Agent Signature	Date
---	--	------

The Buyer(s) hereby certifies they have received a copy of this Seller's Disclosure of Property form.

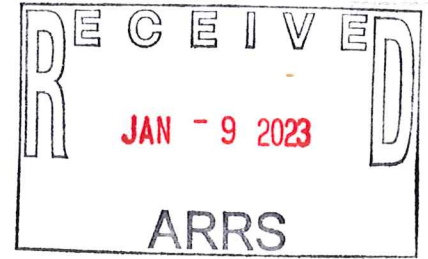
Buyer Signature	Date	Buyer Signature	Date
-----------------	------	-----------------	------



KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

Andy Beshear
Governor

P. O. Box 1360
Frankfort, Kentucky 40602
Phone (502) 782-8808
Fax (502) 696-5230
<http://bpg.gov.ky>



January 9, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort
KY 40601

Re: **201 KAR 31:040**. Applications and examinations

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 31:040, the Kentucky Board of Registration for Professional Geologists proposes the attached amendment to 201 KAR 31:040.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeremy Sylvester".

Jeremy Sylvester
Counsel for the Board

Final, 12-27-2022

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET
Department of Professional Licensing
Board of Registration for Professional Geologists

201 KAR 31:040. Applications and examinations.

RELATES TO: KRS 322A.030(3), (4), 322A.040(1)(c), 322A.045

STATUTORY AUTHORITY: KRS 322A.030(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322A.040(1)(c) requires administrative regulations governing the examination of applicants for registration. KRS 322A.045 requires the board to promulgate an administrative regulation governing the examination for an applicant for certification as a geologist-in-training. **KRS 322A.030(5) authorizes the board to promulgate administrative regulations required to perform its duties.** This administrative regulation establishes requirements concerning examinations.

Section 1. General Requirements.

(1) The board shall furnish to applicants pertinent instructions [~~and establish the examination schedule~~]
]which shall include:

(a) Arranging to take the required examination or examinations; and[examination(s)]

(b)[,] The place, the time, and the final date by which the board shall have received the applicant's materials.

(2) An applicant for examination shall submit a complete **and notarized** Application **for Registration as a Professional Geologist** and pay the application [~~and examination-~~]fees required by 201 KAR 31:010[~~to the board when filing the application~~]. Once the application has been approved by the board, the applicant shall **arrange[be scheduled-]**to take the examination at the next regularly scheduled date.

(3) **An applicant for registration shall submit with the notarized Application for Registration as a Professional Geologist:**

(a) The fee as established in 201 KAR 31:010;

(b) A copy of passing examination results from the National Association of State Boards of Geology (ASBOG®) exam composed of the Fundamentals of Geology (FG) and the Practice of Geology (PG), if applicable;

(c) A copy of an official transcript;

(d) A copy of a job description for each position listed under employment history with a letter from the supervisor verifying the time, dates, and nature of the experience;

(e) A copy of each state certification, license, or registration ever held to practice geology, if applicable;

(f) Any supplemental sheets with details as to the state, agency, or organization's certificate, license, or registration number, date, and reason for action, if:

1. Ever refused certification, licensure, or registration or renewal; or

2. Ever had a certification, licensure, or registration to practice geology or any other profession revoked, suspended, or otherwise acted against in a disciplinary proceeding; and

(g) Any required documentation relating to:

1. A conviction of a crime in any jurisdiction that directly relates to the practice of geology or the ability to practice geology;

2. Indictment for, or the conviction of, a felony in any jurisdiction;

3. Being a subject of an investigation, injunction, fine or penalty concerning any alleged consumer, investor, or securities fraud in any jurisdiction; or

4. Being a defendant in any jurisdiction in a civil action arising out of the practice of geology.

~~(4) If an applicant fails to appear for the scheduled examination and presents a valid reason in writing no later than thirty (30) days after the missed examination date for missing the examination, such as~~

illness or death in the immediate family, the examination may be deferred until the next scheduled date upon payment of a twenty-five (25) dollar fee.]

~~[(4)] [If an applicant fails to appear for or to complete the examination without a valid reason, the applicant shall forfeit all examination fees paid.]~~

~~[(5)] [If an applicant fails to appear for a second scheduled examination, without presenting a valid reason in writing such as illness or death in the immediate family, the application shall be terminated on the date of the examination, and the applicant shall be denied registration on the basis of failure of the examination by default. The applicant shall not engage in the public practice of geology or otherwise violate KRS 322A.090(2).]~~

~~[(6)] An applicant who fails to complete the application and examination process within one (1) year of the date of filing of the application shall file a new application and pay the fees required by 201 KAR 31:010 in order to be eligible for registration or certification[unless the applicant has obtained a deferral under subsection (3) of this section].~~

Section 2. Examination for Registration.

(1) An applicant for registration shall submit to an examination composed of the Fundamentals of Geology (FG) and the Practice of Geology (PG) developed and owned by the National Association of State Boards of Geology (ASBOG®). The applicant shall obtain a scaled score equal to passage of seventy (70) percent on both the Fundamentals of Geology (FG) and the Practice of Geology (PG) examinations.

~~(2) [An applicant shall provide a current, government-issued, photographic identification when taking the examination.]~~

~~[(3)] If an applicant for registration fails one (1) or both of the examinations, the applicant may, with payment of the required fee, be rescheduled to take the examination at the next regularly scheduled examination date. An applicant who fails one (1) of the examinations shall be required to retake only the examination on which the applicant failed to achieve a passing scaled score.~~

~~[(4)] [If the applicant is practicing under a temporary permit, the applicant may continue to practice under the supervision of a registered geologist until achieving a passing score on the examination or until sixty (60) days after the second examination offered after the applicant has been approved for registration.]~~

Section 3. Examination for Certification as a Geologist-in-Training. An applicant for certification as a Geologist-in-Training shall:

(1) Submit to an examination composed of the Fundamentals of Geology (FG) developed and owned by the National Association of State Boards of Geology (ASBOG®);

(2) Obtain a scaled score equal to passage of seventy (70) percent; and

(3) Not take this examination prior to the applicant's final semester or quarter from an accredited college or university.

Section 4. Release of information. A registered geologist or certified geologist-in-training shall complete and submit the Authorization for Release of Records form to the board to release a copy of his or her licensing or examination records to a third party.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Registration as a Professional Geologist", 10-10-2022; and ~~[7-10-2013, is incorporated by reference.]~~

(b) "Authorization for Release of Records", 10-10-2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright ~~law~~**[laws]**, at the Kentucky Board of Registration for Professional Geologists, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601~~[944 Leawood Drive, Frankfort, Kentucky 40604]~~, (502) 892-4261~~[564-3296]~~, Monday through Friday, 8 a.m. to 5:00 p.m. **This material is also available on the board's Web site at <https://bpg.ky.gov/>.**

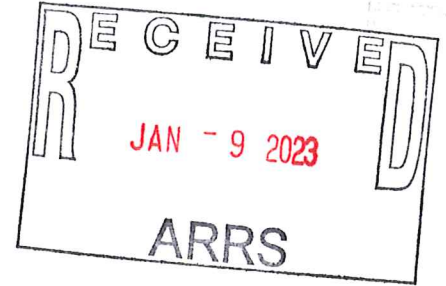
CONTACT PERSON: Zachary M. Zimmerer, Assistant Attorney General, Kentucky Office of the Attorney General, Office of Civil and Environmental Law, 700 Capital Avenue, Suite 118, 502-696-5300, 502-564-2894, email Zachary.Zimmerer@ky.gov.



KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

Andy Beshear
Governor

P. O. Box 1360
Frankfort, Kentucky 40602
Phone (502) 782-8808
Fax (502) 696-5230
<http://bpg.gov.ky>



January 9, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort
KY 40601

Re: **201 KAR 31:050**. Renewals

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 31:050, the Kentucky Board of Registration for Professional Geologists proposes the attached amendment to 201 KAR 31:050.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeremy Sylvester".

Jeremy Sylvester
Counsel for the Board

Final, 12-27-2022

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET
Department of Professional Licensing
Board of Registration for Professional Geologists

201 KAR 31:050. Renewals.

RELATES TO: KRS 322A.060, 322A.070

STATUTORY AUTHORITY: KRS 322A.030(5), 322A.060, 322A.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322A.060 establishes conditions for the renewal, suspension, and revocation of certificates of registration. KRS 322A.070 authorizes the board to determine the initial and expiration dates for certificates of certification. KRS 322A.030(5) authorizes the board to promulgate administrative regulations required to perform its duties. This administrative regulation establishes procedures for the renewal of certificates of registration and certification.

Section 1. Registration and Certification Renewals.

(1) A registered professional geologist or certified geologist-in-training shall before October 1 of each odd numbered year:

(a) Complete and file the Registration and Certification Renewal and Reinstatement form ***along with the following required documentation, if applicable:***

1. Any required documentation for a felony conviction since the last application renewal; and

2. Any supplemental sheets with details relating to:

a. Denial of registration, certification, or licensure in another state; or

b. Disciplinary action in another state; [File a completed renewal application using the:]

[1.] [Application for Renewal as a Professional Geologist; or]

[2.] [Application for Renewal as a Geologist-in-Training;] and

(b) Pay to the board the renewal fee established by 201 KAR 31:010, Section 3[~~(4)~~].

(2)

(a) A certificate of registration that is not renewed before October 1 of each odd numbered year shall expire as provided by KRS 322A.060(1).

(b) A certificate for a geologist-in-training that is not renewed before October 1 of each odd numbered year shall expire as provided by KRS 322A.070.

Section 2. Late Renewals. A ninety (90) day grace period shall be allowed beginning October 1 of each odd numbered year, during which a registered professional geologist or certified geologist-in-training may:

(1) Continue to practice; and

(2) Renew his or her certificate of registration or certification by filing a completed Registration and Certification Renewal and Reinstatement form[renewal application] and by paying the renewal fee as provided by 201 KAR 31:010, Section 3[~~(4)~~].

Section 3. Suspension for non-renewal.

(1) A certificate of registration or certification that is not renewed on or before December 29 of each odd numbered year shall be suspended for non-renewal.

(2) Upon suspension, the registered professional geologist or certified geologist-in-training shall:

(a) Not practice geology in Kentucky;

(b) Be notified by the board at the last known address available to the board of the suspension; and

(c) Be instructed to cease and desist the public practice of geology in Kentucky.

Section 4. Reinstatement. After the ninety (90) day grace period and before the end of two (2) years, a professional geologist or geologist-in-training suspended for failure to renew may have his or her certificate of registration or certification reinstated upon:

- (1) Payment of the reinstatement fee as provided by 201 KAR 31:010, Section 3~~[(3)]~~;
- (2) Completion of the Registration and Certification Renewal and Reinstatement form [-:]
 - [(a)] ~~Application for Reinstatement as a Professional Geologist; or~~
 - [(b)] ~~Application for Reinstatement as a Geologist in Training~~; and
- (3) Documentation of employment and description of job duties from the time of suspension until the date of the renewal application.

Section 5. Inactive renewals and reactivation.

- (1) A person who renews his or her registration or certification as inactive shall complete and submit Registration and Certification Renewal and Reinstatement form and remit the fee in 201 KAR 31:010, Section 3.
- (2) A person may maintain an inactive registration or certification indefinitely if he or she pays the required biennial inactive renewal fees when due.
- (3) A person with a registration or certification that is inactive shall not engage in the practice of geology and shall at all times be bound by the board's code of *professional* conduct in 201 KAR 31:060, the provisions of KRS Chapter 322A, and any other administrative regulation promulgated by the board.
- (4) To reactivate a registration or certification, an inactive registrant or certificate holder shall complete and submit the Registration and Certification Renewal and Reinstatement form and remit the fee in 201 KAR 31:010, Section 3.

Section 6. Incorporation by Reference.

- (1) The "Registration and Certification Renewal and Reinstatement form", 10-10-2022, is incorporated by reference. [The following material is incorporated by reference:]
 - [(a)] ~~["Application for Renewal as a Professional Geologist", July 10, 2013;]~~
 - [(b)] ~~["Application for Renewal as a Geologist in Training", July 10, 2013;]~~
 - [(c)] ~~["Application for Reinstatement as a Professional Geologist", July 10, 2013; and]~~
 - [(d)] ~~["Application for Reinstatement as a Geologist in Training", July 10, 2013.]~~
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Registration for Professional Geologists, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601~~[911 Leewood Drive, Frankfort, Kentucky 40604]~~, (502) 892-4261~~[564-3296]~~, Monday through Friday, 8 a.m. to 5:00 p.m. ***This material is also available on the board's Web site at <https://bpg.ky.gov/>***

CONTACT PERSON: Zachary M. Zimmerer, Assistant Attorney General, Kentucky Office of the Attorney General, Office of Civil and Environmental Law, 700 Capital Avenue, Suite 118, 502-696-5300, 502-564-2894, email Zachary.Zimmerer@ky.gov.

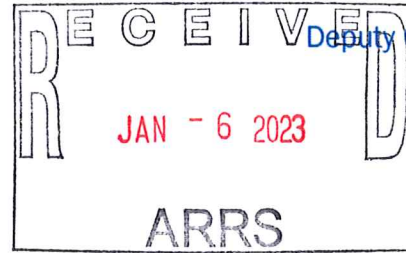


KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506

Brian Clark
Deputy Commissioner



January 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Rm 029, Capitol Annex
Frankfort KY 40601

Re: **301 KAR 2:075**. Wildlife Rehabilitation Permit., 301 KAR 2:081. Transportation and holding of live native wildlife., 301 KAR 2:082. Transportation and holding of live exotic wildlife.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:075, 301 KAR 2:081, 301 KAR 2:082, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:075, 301 KAR 2:081, 301 KAR 2:082.

Sincerely,

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

SUGGESTED SUBSTITUTE
Final Version: 12/8/2022 12:21 PM

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources

301 KAR 2:075. Wildlife rehabilitation permit.

RELATES TO: KRS 150.010, 150.015, 150.021, 150.170, 150.183, 150.195, 150.330, 150.990, 321.185, 50 C.F.R 17, 21, 22, 16 U.S.C. 668, 703 – 712

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.280 requires the department to promulgate administrative regulations regarding the holding of protected wildlife. This administrative regulation establishes the permitting and operating requirements for wildlife rehabilitators.

Section 1. Definitions.

(1) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof~~[a member of the family Cervidae].~~

(2) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.

(3) "CWD Surveillance Zone" means an area, designated **and listed on the department's Web site at fw.ky.gov**, as being ~~under~~**[subject to]** special cervid **requirements, as established in 301 KAR 2:172, [regulations]** due to a CWD positive cervid detection.

(4)~~(2)~~ "Enhanced Rabies Surveillance Zone~~[area]~~" means Bell, Boyd, Bracken, Carter, Clay, Elliot, Fleming, Floyd, Greenup, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Lewis, Martin, Mason, McCreary, Pike, Perry, Robertson, and Whitley counties.

(5) "**Federally protected**~~[Federally-protected]~~ wildlife" means any wildlife species listed by the U.S. Fish and Wildlife Service as threatened or endangered, and any birds protected under the Migratory Bird Treaty Act, 16 U.S.C. 703 – 712, or the Bald and Golden Eagle Protection Act, 16 U.S.C. 668.

(6)~~(3)~~ "Permit holder" means a wildlife rehabilitation permit holder.

(7)~~(4)~~ "Rabies vector species" means a:

- (a) Coyote (*Canis latrans*);
- (b) Gray fox (*Urocyon cinereoargenteus*);
- (c) Raccoon (*Procyon lotor*);
- (d) Red fox (*Vulpes vulpes*);
- (e) Spotted skunk (*Spilogale putorius*);~~[or]~~
- (f) Striped skunk (*Mephitis mephitis*); **or**
- (g) Any hybrid of **paragraphs (a) through (f) this subsection.**

(8)~~(5)~~ "Wildlife rehabilitation" means the process of obtaining, rescuing, raising, providing supportive care, regularly transporting, and arranging for veterinary medical care of orphaned, sick, displaced, or injured wildlife with the goal of releasing the wildlife back into its natural habitat.

Section 2. Permitting Requirements~~[Wildlife Rehabilitation Permits]~~.

(1) A permit **shall authorize**~~[authorizes]~~ a person to rehabilitate wildlife **as defined as "wildlife rehabilitation" by**~~[according to]~~ Section 1(8) of this administrative regulation.

(2) An applicant for a wildlife rehabilitation permit shall:

(a) Be at least eighteen (18) years of age;

(b) Submit a completed Wildlife Rehabilitation Permit~~[Complete an]~~ Application;

(c) Provide the department with a valid email address;~~[Submit the application to the Director of Wildlife at #1 Sportsman's Lane, Frankfort, Kentucky 40601;]~~

(d) Submit;

1. Certificate of completion of~~[proof of successful completion of]~~ the course entitled "Basic Wildlife Rehabilitation" offered by the International Wildlife Rehabilitation Council; or~~[and]~~

2. Proof of a doctorate of veterinary medicine degree from an American Veterinary Medical Association (AVMA) accredited school; and~~;~~

(e) Submit the annual permit fee as established in 301 KAR 3:022.

~~[(2)] [An applicant:]~~

~~[(a)] [May obtain a course-pending status for up to one (1) year upon the issuance of the initial permit; and]~~

~~[(b)] [Shall submit proof of course completion to the department before the permit shall be renewed;]~~

~~[(3)] [An applicant's or permit holder's facility shall be inspected by a conservation officer to document compliance with Section 4 of this administrative regulation before a permit is obtained or renewed.]~~

~~[(4)] [A permit shall be revoked and wildlife confiscated if:]~~

~~[(a)] [An applicant falsifies information on the application;]~~

~~[(b)] [The permit holder fails to comply with the provisions of this administrative regulation; or]~~

~~[(c)] [The permit holder is convicted of a violation of KRS Chapter 150.]~~

~~[(5)] [An individual whose request for a permit has been denied or whose status has been revoked or suspended may request an administrative hearing pursuant to KRS Chapter 13B.]~~

Section 3. Reporting Requirements.

(1) A permit holder shall:

(a) Keep records of all wildlife received or rehabilitated on the Wildlife Rehabilitation Annual Report;~~;~~

(b) Submit a Wildlife Rehabilitation Annual Report to the department within thirty (30) days after expiration of a permit and before a permit is renewed; and~~;~~

(c) Submit a Wildlife Rehabilitation Non-Releasable Wildlife Report, if applicable, to the department within thirty (30) days after expiration of a permit and before a permit is renewed.

(2) The annual activity report shall contain the information regarding the activity for the period from December 1 of the previous year to November 30 of the current year.

(3) The department shall not renew the permit of a wildlife rehabilitator who does not **submit:**

(a) **A completed Wildlife Rehabilitation**~~[Submit the]~~ Annual~~[activity]~~ Report;

~~(b) [as required by this section;~~

~~(b) Provide the information required by the annual activity report form; or]~~~~;~~

~~(c) Submit]~~ The **Wildlife Rehabilitation** Non-releasable Wildlife Report, if applicable; **and**

~~(c) [(d) Provide]~~ Report documents and all records of wildlife rehabilitation activity, including veterinary medical records, from the current and previous years' activity upon request to department staff.

~~[(4)] [A permit holder shall:]~~

~~[(a)] [Only keep wildlife in a rehabilitation facility for a maximum of 180 days unless specifically exempted by the U.S. Fish and Wildlife Service; and]~~

~~[(b)] [Submit to the department a completed Kentucky Department of Fish and Wildlife Resources Wildlife Rehabilitation Annual Report Form.]~~

~~[(2)] [If an animal is not releasable, as established in subsection (4) of this section, and is held for educational purposes, then the annual report shall document each educational program's:]~~

~~[(a)] [Date;]~~

~~[(b)] [Time; and]~~

~~[(c)] [Location.]~~

~~[(3)] [A permit holder shall not simultaneously hold captive wildlife under the auspices of a captive wildlife permit as established in 301 KAR 2:081 or 301 KAR 2:083.]~~

~~[(4)] [A permit holder may retain wildlife for educational purposes if the animal:]~~

~~[(a)] [Is a mammal with an amputated leg;]~~

~~[(b)] [Lacks adequate vision to function in the wild;]~~

~~[(c)] [Lacks locomotive skills necessary for survival in the wild; or]~~

~~[(d)] [Has another permanent injury that is reasonably expected to inhibit survival in the wild.]~~

~~[(5)] [An animal retained for educational purposes pursuant to subsection (4) of this section shall be exhibited in an educational program a minimum of six (6) times per year.]~~

~~[(6)] [Except as established in 50 C.F.R. 17 and 21, a permit holder shall not propagate threatened and endangered wildlife.]~~

~~[(7)] [A permit holder shall immediately notify the department, in writing, of any federally threatened or endangered wildlife species delivered, recovered, or retained for rehabilitation.]~~

~~[(8)] [A permit holder shall not rehabilitate or attempt to rehabilitate any species of terrestrial wildlife not native to Kentucky.]~~

~~[(9)] [A permit holder shall not rehabilitate or attempt to rehabilitate a:]~~

~~[(a)] [Cougar (Felis concolor);]~~

~~[(b)] [Wolf (Canis lupus or Canis rufus);]~~

~~[(c)] [Elk (Cervus elaphus); or]~~

~~[(d)] [Bear (Ursus americanus).]~~

~~[(10)] [A permit holder shall not transport wildlife across state lines for rehabilitation, release, or for any other purpose, unless authorized by the commissioner.]~~

~~[(11)] [A permit holder shall release rehabilitated wildlife into the appropriate habitat for that species.]~~

~~[(12)] [A permit holder shall obtain landowner permission before releasing rehabilitated wildlife.]~~

~~[(13)] [A permit holder shall not keep a cervid in a rehabilitation facility for more than 180 days.]~~

~~[(14)] [A wild-born cervid held in captivity for rehabilitation purposes shall not be housed in:]~~

~~[(a)] [The same pen as another captive cervid or housed in direct physical contact with a cervid that originated in captivity; or]~~

~~[(b)] [A pen that has previously housed cervids that originated in captivity.]~~

~~[(15)] [A permit holder shall not simultaneously hold a captive cervid permit.]~~

~~[(16)] [A licensed wildlife rehabilitator shall not:]~~

~~[(a)] [Accept, obtain, or possess a rabies vector species originating from the enhanced rabies surveillance area; or]~~

~~[(b)] [Transport a rehabilitated rabies vector species into or out of the enhanced rabies surveillance area.]~~

Section 4. Receiving and Rehabilitating Wildlife.

(1) A permit holder shall not rehabilitate or attempt to rehabilitate:

(a) Cougar (Felis concolor);

(b) Wolf (Canis lupus or Canis rufus);

(c) Elk (Cervus elaphus);

- (d) Bear (*Ursus americanus*);
- (e) Any species of terrestrial wildlife not native to Kentucky; or
- (f) Prohibited species listed in 301 KAR 2:082 Section 4.

(2) A permit holder shall not:

- (a) Propagate non-releasable wildlife or wildlife undergoing rehabilitation;[~~;~~]
- (b) ***Except as established in Section 10(1) of this administrative regulation***, allow **a** non-permitted **person[persons]** to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with wildlife undergoing rehabilitation;[~~;~~ ***except for Section 10(1).***]
- (c) Allow **a** non-permitted **person[persons]** to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with rabies vector species;[~~;~~]
- (d) Remove wildlife undergoing rehabilitation from the permitted facility except for release, veterinary care, or transfer to another permitted wildlife rehabilitation facility;[~~;~~]
- (e) Habituate wildlife to humans;[~~;~~]
- (f) Exhibit or display wildlife undergoing rehabilitation;[~~;~~]
- (g) Transport wildlife across state lines for rehabilitation, release, or for any purpose, unless authorized by the commissioner ***because[upon the department's determination that]*** rehabilitation services are not feasibly available within Kentucky and ***the[such]*** activities pose minimal disease risk. Authorization shall not be granted for rabies vector species;[~~;~~]
- (h) Simultaneously hold captive wildlife under a captive wildlife permit, as established in 301 KAR 2:081, while holding wildlife under a wildlife rehabilitation permit; ***or[;]***
- (i) Simultaneously hold captive cervids under a captive cervid permit as established in 301 KAR 2:083, while holding wildlife under a wildlife rehabilitation permit.

(3) A permit holder shall only provide necessary supportive care to wildlife undergoing rehabilitation, which ***shall[does]*** not permanently diminish their ability to survive and reproduce naturally in the wild.

(4) Cervids.

- (a) Except as ***established in paragraphs (c) and (d) of this subsection[allowed in subsection (4)(e) and (d) of this section]***, a permit holder shall not rehabilitate or attempt to rehabilitate any cervid:
 - 1. Within a CWD Surveillance Zone;
 - 2. Originating from a CWD Surveillance Zone; or
 - 3. From a distance greater than 100 miles from the rehabilitation facility.
- (b) A permit holder shall not transport a cervid into or out of a CWD Surveillance Zone.
- (c) A permit holder shall not keep **a cervid[cervids]** as non-releasable wildlife within a CWD Surveillance Zone, except that **a** non-releasable **cervid[cervids]** legally obtained before the establishment of a CWD Surveillance Zone may be kept for the life of the animal.
- (d) A permit holder in possession of a cervid prior to the establishment of a CWD Surveillance Zone shall only keep the cervid up to 180 days or upon recovery from injury or illness and of suitable age to survive in the wild, whichever comes first, and shall release the cervid within the county of rehabilitation, unless the animal is euthanized or meets the criteria to be kept as non-releasable wildlife.
- (e) A wild-born cervid held in captivity for rehabilitation purposes shall not be housed in:
 - 1. The same pen as another captive cervid or housed in direct physical contact with a cervid that originated in captivity; or
 - 2. A pen that has previously housed cervids that originated in captivity.

(5) Rabies vector species.

- (a) A permit holder shall not possess, rehabilitate, or attempt to rehabilitate **a rabies vector species**:
 - 1. ***[A rabies vector species]*** Originating from the Enhanced Rabies Surveillance Zone;

2. ~~[A rabies vector species]~~ Inside the Enhanced Rabies Surveillance Zone that originated from outside the Enhanced Rabies Surveillance Zone; or

3. ~~[A rabies vector species]~~ If collected at a distance greater than 100 miles from the rehabilitation facility.

(b) A permit holder shall not transport a rabies vector species into or out of the Enhanced Rabies Surveillance Zone.

(c) A permit holder shall not possess a rabies vector species as non-releasable wildlife, except for those animals legally held outside the Enhanced Rabies Surveillance Zone prior to April 4, 2023.

(d) Except **as established in**~~for~~ Section **5(5) of this administrative regulation**~~5(1)(e)~~, rabies vector species shall be maintained within an enclosure sufficient to prevent:

1. Escape; and
2. Direct contact with **a** non-permitted **person**~~persons~~.

~~[Section 4.] [Facilities and Operating Standards.]~~

~~[(1)] [A facility shall comply with Minimum Standards for Wildlife Rehabilitation as adopted by the National Wildlife Rehabilitators Association and the International Wildlife Rehabilitation Council.]~~

~~[(2)] [A permit holder shall allow a conservation officer to inspect the facilities at any reasonable time.]~~

~~[(3)] [The conservation officer shall immediately notify the permit holder and the commissioner if the inspection reveals that the facility is not in compliance with this administrative regulation.]~~

~~[(4)] [The conservation officer shall make a second inspection after ten (10) days, and the permit shall be revoked and all captive wildlife confiscated immediately if the unsatisfactory conditions have not been corrected.]~~

Section 5. Wildlife Release. A permit holder shall:

(1) Release wildlife immediately upon recovery from injury or illness and when of a suitable age to reasonably survive in the wild;

(2) Only keep wildlife in a rehabilitation facility for a maximum of 180 days, unless written documentation from the U.S. Fish and Wildlife Service is provided;

(3) Only release wildlife into appropriate habitat for that species;

(4) Obtain landowner permission before releasing wildlife;

(5) Release rabies vector species back into the original county of capture;

(6) Release reptiles and amphibians at the original point of capture or within the vicinity if point of capture is not suitable habitat; and

(7) Release cervids in the county in which they were rehabilitated.

~~[Section 5.] [Incorporation by Reference.]~~

~~[(1)] [The following material is incorporated by reference:]~~

~~[(a)] [The National Wildlife Rehabilitator's Association and the International Wildlife Rehabilitation Council publication "Minimum Standards for Wildlife Rehabilitation", third edition, 2000;]~~

~~[(b)] ["Kentucky Department of Fish and Wildlife Resources Wildlife Rehabilitation Annual Report Form", 2002 edition; and]~~

~~[(c)] ["Application for Wildlife Rehabilitation Permit", 2006 edition.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 4:30 p.m.]~~

Section 6. Non-releasable Wildlife.

(1) **Except as prohibited by Section 4 of this administrative regulation**, wildlife may be considered non-releasable and may be retained by a permit holder if a licensed Kentucky veterinarian certifies in writing that it: ~~[meets one (1) of the following criteria, except as prohibited under Section 4.]~~

(a) Is a mammal with an amputated leg;

(b) Lacks adequate vision to function in the wild;

(c) Lacks locomotive skills necessary for survival in the wild; or

(d) Has another permanent injury that is reasonably expected to inhibit survival in the wild, not including habituation to humans.

(2) Rabies vector species that meet the criteria for non-releasable wildlife and legally held prior to April 4, 2023 may be allowed to remain in possession of a valid permit holder through the life of the animal by submitting a ~~[“]Wildlife Rehabilitation Non-Releasable Wildlife Report[“]~~ form by April 4, 2023.

(3) Rabies vector species legally held as non-releasable, shall not leave the wildlife rehabilitation facility except for veterinary care or transfer to another permitted rehabilitation facility and shall be included on the Wildlife Rehabilitation Annual Report.

(4) A person who legally possesses non-releasable rabies vector species shall not replace that wildlife after its death.

(5) **Except as established in Section 5(5) of this administrative regulation**~~[for Section 5(1)(e)]~~, non-releasable rabies vector species shall be maintained within an enclosure sufficient to prevent:

(a) Escape; and

(b) Direct contact with non-permitted persons.

(6) Only non-releasable wildlife may be displayed, except that non-releasable rabies vector species shall not be displayed. ~~[Such]~~ Displays shall only be for conservation education purposes.

(7) Non-releasable migratory birds may be transferred with prior approval from the issuing federal Migratory Bird Permit Office ~~[by providing the department with a completed Migratory Bird and Eagle Acquisition and Transfer Request Form]~~.

(8) All non-releasable wildlife shall be housed and maintained at a permitted wildlife rehabilitation facility.

Section 7. Facilities and Operating Standards.

(1) All wildlife rehabilitation facilities shall pass a facility inspection.

(2) An applicant's or permit holder's facility and property **on which the facility is located that is under the department's jurisdiction and used for the purpose of wildlife rehabilitation**, shall be inspected by a conservation officer using a Wildlife Rehabilitation Facility Inspection Checklist to document compliance with this administrative regulation before a permit is obtained or renewed.

(3) A permit holder shall allow any conservation officer, and all department staff accompanying a conservation officer, to access the wildlife rehabilitation facility and the property on which the wildlife rehabilitation facility is located **that is under the department's jurisdiction and used for the purpose of wildlife rehabilitation**, at any reasonable time and frequency to carry out the purposes of this administrative regulation.

(4) A facility, and all methods of confinement, shall comply with the Minimum Standards for Wildlife Rehabilitation ~~[, as adopted by the National Wildlife Rehabilitation Association and the International Wildlife Rehabilitation Council]~~.

(5) A permit holder shall:

(a) Only rehabilitate wildlife at a facility that has passed an annual facility inspection; and

(b) ~~[shall]~~ List the addresses of all facilities on the Wildlife Rehabilitation Permit Application.

(6) A permit holder shall allow a conservation officer to inspect the holding facilities and property **on which the facilities are located that is under the department's jurisdiction and used for the purpose of wildlife rehabilitation**, at any reasonable time and frequency.

(7) The conservation officer shall immediately notify the applicant or permit holder and the Wildlife Division director if the inspection reveals that the facility is not in compliance with this administrative regulation and shall provide a completed **Wildlife Rehabilitation Facility Inspection Checklist** to the appropriate Wildlife Division personnel within three (3) business days.

(8) If an inspection determines that a facility is not in compliance with a **KRS Chapter 150 and Title 301 KAR[statute or administrative regulation]**, the conservation officer shall make a second inspection after ten (10) calendar days, and the permit application shall be denied[;] or **the permit shall be** revoked and all wildlife confiscated immediately if the unsatisfactory conditions have not been corrected.

(9) If an applicant or permit holder refuses to allow a conservation officer to fully conduct an inspection, **the permit application shall be denied[;] or the permit shall be** revoked and all wildlife confiscated immediately. [Failure to allow a conservation officer to conduct an initial inspection shall be deemed a violation subjecting the permit to denial or revocation proceedings.]

Section 8. Rabies Exposure.

(1) If a mammal bites a person, or a mammal shows symptoms of a rabies infection, the animal shall be dispatched in a manner so as to preserve the brain intact and the animal's head shall be submitted for testing immediately to a laboratory approved by the Secretary for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070, Section 5 and KRS 258.085(1)(c)[**Section 1(e)**].

(2) Department staff shall confiscate and dispatch any wild mammal that bites a person or shows symptoms of a rabies infection.

Section 9. Veterinarians.

(1) A veterinarian is not required to obtain a wildlife rehabilitation permit to temporarily possess, stabilize, or euthanize sick and injured wildlife, only for the purpose of providing immediate critical care.

(2) A veterinarian **who[that]** does not possess a valid wildlife rehabilitation permit shall transfer wildlife to a permitted wildlife rehabilitator according to the requirements of this regulation, within **twenty-four (24)[24]** hours after the animal's condition is stabilized and no longer requires critical care, unless wildlife is euthanized.

(3) A veterinarian **who[that]** rehabilitates wildlife shall possess a valid wildlife rehabilitation permit.

(4) A permit holder shall follow veterinarian's medical instructions per KRS 321.185.

(5) A veterinarian shall keep medical records of all wildlife treated, in accordance with KRS Chapter 321 and 201 KAR Chapter 16 and provide records to department staff upon request.

(6) Only a licensed veterinarian or licensed veterinarian technician shall perform euthanasia using AVMA approved non-inhaled chemical methods under KRS Chapter 321.

Section 10. Wildlife Possession.

(1) Any person who finds sick, injured, displaced, or orphaned wildlife may, without a permit, **take possession of the animal in order to immediately transport it to a permitted wildlife rehabilitator, except a person who:**

(a) Regularly transports wildlife for rehabilitation purposes shall possess a valid wildlife rehabilitation permit; and

(b) Finds sick, injured, displaced, or orphaned federally protected migratory birds within a nest shall not, without a state and federal permit, take possession of the animal as established in 50

~~C.F.R. 21.12(d)(10)[except for federally protected migratory birds within a nest per 50 C.F.R. 21.12 (d) (10), take possession of the animal in order to immediately transport it to a permitted wildlife rehabilitator except that persons who regularly transport wildlife for rehabilitation purposes shall possess a valid wildlife rehabilitation permit].~~

(2) A wildlife rehabilitation permit **shall[does]** not confer ownership of any wildlife species held under a wildlife rehabilitation permit, including non-releasable wildlife.

(3) All wildlife held under **a permit shall[this permit]** remain under the stewardship of the Department of Fish and Wildlife Resources, except that federally-protected wildlife remain under the stewardship of both the Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

(4) Wildlife shall be surrendered to the department, for processing and disposition pursuant to **Title 301 KAR[regulation]**, upon being presented with a written order by the commissioner **for failure to comply with KRS Chapter 150 or Title 301 KAR.**

Section 11. Federally-Protected Species. A person rehabilitating federally protected species shall possess valid **Kentucky[state]** and federal wildlife rehabilitation permits, except that a person may be authorized as a sub-permittee on a federal migratory bird rehabilitation permit, under a federal permit holder, per 50 C.F.R. 21.31.

(1) Sub-permitted persons conducting wildlife rehabilitation activities shall possess a valid state wildlife rehabilitation permit.

(2) A permit holder shall immediately notify the department in writing or by email to fwpermits@ky.gov, of any federally threatened or endangered wildlife species, delivered, received, recovered, or retained for rehabilitation.

(3) A general or master class falconry permit holder may condition raptors for subsequent release into the wild for a permitted wildlife rehabilitator, as established in 301 KAR 2:195, only for the species the falconry permit holder is allowed to possess.

(4) Falconers that rehabilitate wildlife, except for conditioning raptors per this section, shall possess a valid wildlife rehabilitation permit.

Section 12. Revocation and Denial of Permits and Appeal Procedure.

(1) Denial and revocation.

(a) The department shall revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife of a person who is convicted of a violation of any provisions of:

1. KRS Chapter 150;
2. 301 KAR Chapters 1 through 5; or
3. Any federal statute or regulation related to hunting, fishing, or wildlife.

(b) The department shall revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife from a person who:

1. Provides false information on a Wildlife Rehabilitation Permit Application, federal permit, **Wildlife Rehabilitation** Annual Report, **Wildlife Rehabilitation** Non-Releasable Wildlife Report, **Wildlife Rehabilitation** Facility Inspection **Checklist**, or records;[;]
2. Acquires wildlife prior to receiving an approved wildlife rehabilitation permit;[;]
3. Fails a facility inspection, as established in Section 7 **of this administrative regulation;**[or]
4. Fails to comply with any provision of this **administrative** regulation, 301 KAR 3:120, 301 KAR 2:081, 301 KAR 2:082, 301 KAR 2:083, 301 KAR 2:195, or 301 KAR 2:251;[;]
5. Allows **a** non-permitted **person[persons]** to rehabilitate, assist in wildlife rehabilitation, access, or have direct contact with wildlife undergoing rehabilitation or non-releasable rabies vector species;[;]

6. Fails to contain wildlife in enclosures that meet Minimum Standards for Wildlife Rehabilitation except during treatment, release, or transfer **as established in**[per] Section 6 of this administrative regulation;

7. Keeps wildlife over 180 days;

8. Accepts rabies vector species within the enhanced Rabies Surveillance Zone;[;]

9. Accepts rabies vector species that originated from the Enhanced Rabies Surveillance Zone;[;]

10. Transports rabies vector species into or out of the Enhanced Rabies Surveillance Zone;

11. Fails to possess a valid federal permit or be listed as a sub-permittee on a federal permit to rehabilitate federally protected wildlife;[;]

12. Accepts cervids within a CWD Surveillance Zone;[;]

13. Accepts cervids that originated within a CWD Surveillance Zone; **or**[;]

14. Transports cervids into or out of a CWD Surveillance Zone.

(c) A fee shall not be refunded for a permit that is revoked.

(2) Confiscated wildlife.

(a) All wildlife shall be confiscated if a wildlife rehabilitation permit is revoked or denied, a person possesses native wildlife for the purpose of wildlife rehabilitation without a valid wildlife rehabilitation permit, or a facility fails a facility inspection per Section 7 of this administrative regulation.

(b) Confiscated wildlife shall be released;[;] transferred with the approval of the Wildlife Division Director **based on the animals health, survivability, probability of placement, rabies vector species designation, and federal protection status;[;]** or dispatched, except that rabies vector species shall be dispatched immediately.

(c) Wildlife shall not be returned to the permit holder or facility from which they were confiscated.

(3) Denial period.

(a) An applicant whose permit has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications **shall be** denied for the period established **in subparagraphs 1. through 3. of this paragraph.[below:]**

1. The initial denial period shall be one (1) year.[;]

2. A second denial period shall be three (3) years.[;]

3. A third or subsequent denial period shall be five (5) years.[;]

(b) During the denial period, a person whose wildlife rehabilitation permit has been denied or revoked shall not rehabilitate wildlife or assist in the rehabilitation of wildlife.

(4) Administrative hearings.

(a) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(b) A request for a hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or the revocation.

(c) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.

(d) The hearing officer's recommended order shall be considered by the commissioner, and the commissioner shall issue a final order, pursuant to KRS Chapter 13B.

Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) ~~[The National Wildlife Rehabilitator's Association and the International Wildlife Rehabilitation Council publication]~~"Minimum Standards for Wildlife Rehabilitation[²²], **Fourth Edition**" 2012/~~Third Edition~~", 2000];

(b) ~~[Kentucky Department of Fish and Wildlife Resources]~~ "Wildlife Rehabilitation Annual Report", 2022; ~~[edition, <https://fw.ky.gov/Wildlife/Documents/rehabannreport.pdf>; and]~~

(c) "Wildlife Rehabilitation Permit Application", 2022; ~~[edition, <https://fw.ky.gov/Wildlife/Documents/rehabapp.pdf>]~~

(d) "Wildlife Rehabilitation Non-Releasable Wildlife Report", 2022; ~~and [https://fw.ky.gov/Documents/NON-RELEASABLE_WILDLIFE_REPORT.pdf]~~

(e) "Wildlife Rehabilitation Facility Inspection Checklist", 2022. ~~[<https://fw.ky.gov/Wildlife/Documents/RehabLEInspectionChecklist.pdf>]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 4:30 p.m.

(3) This material may also be found on the department's Web site at fw.ky.gov

CONTACT PERSON: CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

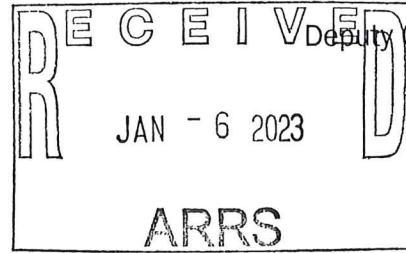
***General Reviewer's Note:** In conjunction with filing this suggested substitute, please file one (1) revised Wildlife Rehabilitation Facility Inspection Checklist with "2022" as the edition date on the form. Also file one (1) Minimum Standards for Wildlife Rehabilitation, Fourth Edition with "2012" as the edition date.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506



Brian Clark
Deputy Commissioner

January 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Rm 029, Capitol Annex
Frankfort KY 40601

Re: 301 KAR 2:075. Wildlife Rehabilitation Permit., 301 KAR 2:081. Transportation and holding of live native wildlife., 301 KAR 2:082. Transportation and holding of live exotic wildlife.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:075, 301 KAR 2:081, 301 KAR 2:082, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:075, 301 KAR 2:081, 301 KAR 2:082.

Sincerely,

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 1/3/2023 3:37 PM

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

301 KAR 2:081. Transportation and holding of live native wildlife.

RELATES TO: KRS 150.010, 150.015, [~~150.290, 150.305,~~] 150.320, 150.330, 150.360, 150.370, 150.990, 150.183, 150.190, 150.195, 150.235, 258.065, 258.085

STATUTORY AUTHORITY: KRS 65.877, 150.025(1)~~[(e)]~~, 150.105, 150.180, 150.280, 50 C.F.R. 21.29

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.877 authorizes local governments to regulate or prohibit inherently dangerous wildlife as identified by the Department of Fish and Wildlife Resources and requires the department to establish procedures for denying or issuing a transportation permit. KRS 150.025(1)~~[(e)]~~ authorizes the department to promulgate administrative regulations for the buying, selling, or transporting of wildlife. KRS 150.105 authorizes the department to dispatch or bring under control any wildlife causing damage to persons, property, or other animals spreading disease and ~~that~~**[which]** should be eliminated to prevent further damage. KRS 150.180 authorizes the department to regulate the buying, selling, or transporting of protected wildlife. KRS 150.280 requires the department to promulgate administrative regulations to establish the procedures for the propagation and holding of protected wildlife. 50 C.F.R. 21.29 establishes the federal standards for holding raptors for falconry purposes. This administrative regulation establishes requirements for the buying, selling, holding, and transportation of live native wildlife.

Section 1. Definitions. (1) "Enhanced Rabies Surveillance Zone~~[area]~~" means Bell, Boyd, Bracken, Carter, Clay, Elliot, Fleming, Floyd, Greenup, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Lewis, Martin, Mason, McCreary, Pike, Perry, Robertson, and Whitley counties.

(2) "Native wildlife" means wildlife species that have:

- (a)** Historically existed or currently exist in the wild in Kentucky without introduction by humans; or
- (b)** ~~[have]~~ Naturally expanded their range into Kentucky without introduction by humans.~~[man, except for introduced species which have become naturalized.]~~

(3) "Rabies vector species" means a:

- (a) Coyote (*Canis latrans*);
- (b) Gray fox (*Urocyon cinereoargenteus*);
- (c) Raccoon (*Procyon lotor*);
- (d) Red fox (*Vulpes vulpes*);
- (e) Spotted skunk (*Spilogale putorius*);~~[-or]~~
- (f) Striped skunk (*Mephitis mephitis*); or
- (g) Any hybrid of **paragraphs** (a) through (f) **of this subsection**.

Section 2. Taking and Possessing Native Wildlife. (1) A person shall not possess native wildlife that was not legally acquired.

(2) ~~For native wildlife obtained from the wild, a person shall not~~**[participate in any of the activities established in paragraphs (a) through (e) of this subsection]**~~[-with native][wildlife obtained from the wild]:~~

- (a) Buy;
- (b) Sell;
- (c) Offer to buy;

- (d) Offer to sell; or
 - (e) Trade or barter.
- (3) Except as established in Sections 5(9)(5) and [Section] 7(1) of this administrative regulation and subsections (4), ~~and (5), (6), and (9)~~ of this section, a person holding native wildlife in captivity shall apply for and obtain the appropriate permit prior to acquiring wildlife.
- (4) Northern bobwhite.
- (a) A person may possess 100 or fewer northern bobwhite without a captive wildlife permit, if the:
 - 1. Birds are not propagated or sold; and
 - 2. **Person[He]** retains and possesses a receipt or proof of purchase.
 - (b) A person possessing northern bobwhite for dog training areas, shooting areas, or a shoot-to-train season shall comply with all applicable requirements of 301 KAR 2:041.
 - (c) Any confining facility shall comply with Sections 8 ~~through, 9, 10, and~~ 11 of this administrative regulation.
- (5) Amphibians and reptiles.
- (a) Five (5) or fewer individuals of each species of native reptile or amphibian may be taken year round or possessed for personal use without a permit, except there shall be:
 - 1. No limit on common snapping or softshell turtles, as established in 301 KAR 1:058;
 - 2. A limit of fifteen (15) bullfrogs per night, during the bullfrog season, as established in 301 KAR 1:082; and
 - 3. A limit of twenty-five (25) dusky salamanders ~~[or spring lizards]~~ of the genus Desmognathus, as established in 301 KAR 1:130.
 - (b) There shall be no limit on the number of individuals of each species possessed by a commercial or noncommercial captive wildlife permit holder, if the permit holder does not possess more than five (5) wild-caught individuals of each species of amphibian or reptile.
 - (c) A captive wildlife permit shall not be required to hold reptiles with a color morphology that is distinctly different from the wild type of the same species of reptile.
- (6) A person with a valid falconry permit, as established in 301 KAR 2:195, shall not be required to possess a noncommercial captive wildlife permit or transportation permit for those raptors held under the falconry permit.
- (7) A rabies vector species that is trapped in accordance with 301 KAR 2:251 [within the enhanced rabies surveillance area] shall be dispatched [euthanized] before being moved, unless immediately released at capture site, except that foxes and coyotes trapped during the trapping season, as established in [pursuant to] 301 KAR 2:251, may be:
- (a) Held for up to forty-eight (48) hours with a valid captive wildlife permit only for the purpose of being transferred to a permitted commercial foxhound training enclosure; and
 - (b) Transferred to a permitted commercial foxhound training enclosure if the enclosure is located within the county of capture.
- ~~[(7) [A fox or coyote trapped within the enhanced rabies surveillance area during the trapping season may be held for up to forty-eight (48) hours with a valid captive wildlife] [permit before being transferred to a permitted commercial foxhound training] [enclosure.]~~
- (8) A person shall not transport a living rabies vector species into or out of the Enhanced Rabies Surveillance Zone~~[area]~~.
- (9) Except for foxes and coyotes, a captive wildlife permit shall[is] not be required for captive-bred native wildlife legally imported or held in a temporary facility for ten (10) days or less.
- (10) A permit holder shall report all bites and exposure events, as established in KRS 258.065, to the local county health department within twelve (12) hours.

(11) If a native mammal in a permit holder's possession bites a person~~[i]~~ or a mammal shows symptoms of a rabies infection, the animal shall be dispatched immediately, as established in KRS 258.085(1)(c)~~[Section 1(c)]~~, and the permit holder shall submit its head for testing immediately to a laboratory approved by the Secretary for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070, Section 5.

(12) Department staff shall confiscate and dispatch any wild mammal that bites a person or shows symptoms of a rabies infection **if the animal~~(that)~~** is not otherwise immediately dispatched pursuant to subsection (11) of this section.

Section 3. Captive Wildlife Permits and Record Keeping. (1) Commercial captive wildlife permit.

(a) A commercial captive wildlife permit shall be required for a person to:

1. Sell;
2. Offer to sell;
3. Trade;~~[-or]~~
4. Barter;or[native wildlife.]
5. Profit in any way from captive native wildlife, except as authorized by Section 2(9) of this administrative regulation.

(b) A commercial captive wildlife permit shall be renewable annually from the date of issue.

(c) A commercial captive wildlife permit shall be valid for one (1) specific captive wildlife facility.

(2) Noncommercial captive wildlife permit.

(a) A noncommercial captive wildlife permit shall be required for a person possessing native wildlife, but not selling, offering to sell, trading, ~~[-or]~~bartering, or profiting in any way from captive native wildlife[animals].

(b) A noncommercial captive wildlife permit shall be renewable three (3) years from the date of issue.

(c) A noncommercial captive wildlife permit shall be valid for one (1) specific captive wildlife facility.

(3) A captive wildlife permit holder shall maintain accurate records for all captive-bred and wild-captured wildlife and include the information established in paragraphs (a) and (b) of this subsection.

(a) For each captive-bred animal, a person shall:

1. Record the common and scientific name;
2. Keep evidence of legal acquisition, which shall be a:
 - a. Bill of sale;
 - b. Receipted invoice; or
 - c. Certificate of origin;
3. Record and maintain each animal's date of birth;
4. Record and maintain each transaction date related to:
 - a. Sale;
 - b. Purchase;
 - c. Trade;
 - d. Barter; or
 - e. Gifting; and
5. Record and maintain information of the person either receiving or transferring captive wildlife, which shall include the person's:
 - a. Name;
 - b. Address;
 - c. Phone number; and
 - d. Captive wildlife permit number.

- (b) For each wild-captured animal, a person shall record and maintain the:
1. Common and scientific name;
 2. Date of capture or date when received;
 3. Location of capture;
 4. Trapping license or hunting license number, if applicable, of the individual obtaining the wildlife; and
 5. Information of the person to whom the animal was given or received, which shall include the person's:
 - a. Name;
 - b. Address;
 - c. Phone number; and
 - d. Captive wildlife permit number.
- (4) A captive wildlife permit holder shall:
- (a) Maintain all records for **at least** five (5) years; and
 - (b) Allow records to be inspected by a department representative upon request.

Section 4. Transportation Permits and Certificates of Veterinary Inspection. (1) A person shall apply for and obtain a valid transportation permit or permit authorization number from the department for all shipments of native wildlife, [~~native or exotic,~~] unless otherwise exempted by this or another administrative regulation, prior to:

- (a) Receiving a shipment of native wildlife from outside of Kentucky;
 - (b) Importing native wildlife into Kentucky; or
 - (c) Transporting native wildlife into and through the state to a destination outside Kentucky.
- (2) A copy of a valid transportation permit or permit authorization number shall accompany all shipments of native wildlife into and through Kentucky.
- (3) An individual transportation permit shall be valid for one (1) shipment of native wildlife.
- (4) An annual transportation permit shall be valid for multiple wildlife shipments for one (1) year from the date of issue.
- (5) All shipments of wildlife, except for amphibians and reptiles, shall be accompanied by a:
- (a) [~~A-~~]Certificate of veterinary inspection stating that the wildlife is free from symptoms of disease; or
 - (b) [~~A-~~]Federal quarantine certificate.

Section 5. Applying for Permits. (1) A permit **shall authorize**[~~authorizes~~] a person to hold native wildlife according to this administrative regulation.

- (2) An applicant for a captive wildlife or transportation permit shall:
- (a) Submit a completed **Captive Wildlife Permit Application and Checklist;**
 - (b) Provide the department with a valid email address;
 - (c) Submit the annual permit fee as established in 301 KAR 3:022, except for government agencies that meet the requirements in subsection (12) of this section; and
 - (d) Be at least eighteen (18) years of age.
- (3) For a commercial or noncommercial captive wildlife permit, an applicant shall submit a completed [~~"]~~Captive Wildlife Permit Application **and Checklist;**
- (4) For an individual transportation permit, an applicant shall submit a completed [~~"]~~Individual Transportation Permit Application[~~"]; or~~
- (5) For an annual transportation permit, an applicant shall submit a completed [~~"]~~Annual Transportation Permit Application.[~~"]~~[A person shall complete an application for a captive wildlife permit or a transportation permit on a form supplied by the Department.]

~~(6)~~~~(2)~~ An applicant for a captive wildlife permit shall only obtain wildlife from ~~one (1) of the legal sources established in paragraphs (a) through (d) of this subsection.~~

(a) A legal purchase or transfer of captive-bred animals from a commercial captive wildlife permit holder;

(b) A gift from a commercial or noncommercial captive wildlife permit holder;

(c) Wildlife trapped by the applicant during a legal season for the species with a valid trapping license, if applicable; or

(d) A legal out-of-state source if the applicant provides a valid transportation permit.

~~(7)~~~~(3)~~ Following permit issuance, the permit holder shall retain records as established in Section 3(3) and (4) of this administrative regulation.

~~(8)~~~~(4)~~ An applicant shall construct holding facilities that meet or exceed the enclosure specifications established in Sections 8 and 9 of this administrative regulation for each listed species to be acquired before submitting the Captive Wildlife **Permit** Application **and Checklist**.

~~(9)~~ A person in legal possession of native wildlife ~~who~~~~that~~ moves to Kentucky shall have thirty (30) days to pass a facility inspection and apply for a captive wildlife permit, ~~if the person~~~~provided they~~ possessed a valid transportation permit to import the wildlife.

~~(10)~~ A captive wildlife permit holder shall not simultaneously hold a wildlife rehabilitation permit.

~~(11)~~ An applicant shall submit a completed **Captive Wildlife Permit** Application **and Checklist** and the correct fee, as established in 301 KAR 3:022 or 301 KAR 3:061, except if the permit holder is a government agency engaged in ~~legitimate~~ conservation activities~~approved by the department~~, the fee shall be waived.

~~(12)~~ An applicant importing into Kentucky, transporting through Kentucky, or possessing within Kentucky, ~~federally protected~~~~federally-protected~~ migratory bird species shall possess, and provide to the department, a valid United States Fish and Wildlife Service permit, except for persons or entities that possess a valid falconry permit or meet the conditions listed in 50 C.F.R. 21.12 (a) and (b), 50 C.F.R. 21.13, and 50 C.F.R. 21.14.

~~(13)~~ Federally endangered native species shall not be imported into Kentucky, transported through Kentucky, or possessed in Kentucky, except by:

~~(a)~~ A facility accredited by the Association of Zoos and Aquariums, as established in Section 7 of this administrative regulation;

~~(b)~~ An individual who possesses~~individuals possessing~~ a United States Fish and Wildlife Service permit pursuant to KRS 150.183 and 301 KAR 3:061;~~or~~

~~(c)~~ A facility listed as a cooperator in an Association of Zoos and Aquariums species survival plan.

~~(5)~~ [The department shall deny a captive wildlife or transportation permit to an applicant that:]

~~(a)~~ [Is less than eighteen (18) years of age;]

~~(b)~~ [Has been convicted within the last year of a violation of;]

~~[1.]~~ [This administrative regulation; or]

~~[2.]~~ [301 KAR 2:082;]

~~(c)~~ [Does not submit a completed application; or]

~~(d)~~ [Does not remit the correct fee pursuant to 301 KAR 3:022;]

~~(6)~~ [The department shall deny a captive wildlife permit to an applicant that:]

~~(a)~~ [Has acquired wildlife prior to receiving an approved captive wildlife permit, except as allowed in Sections 2(4) and (5) of this administrative regulation; or]

~~(b)~~ [Holds a wildlife rehabilitation permit as established in 301 KAR 2:075].

~~(14)~~~~(7)~~ An annual transportation permit holder shall submit a revised Annual Transportation Permit Application to the department via mail to the address listed on the annual transportation permit

application or via email at FWpermits@ky.gov for any amendments to the original application and shall not ship wildlife ~~until~~**~~unless the amendments are approved and~~** a revised permit is issued by the department. ~~[notify the department of any amendments to the original application at least forty-eight (48) hours prior to any wildlife shipment by calling the department at 800-858-1549, Monday through Friday, between 8 a.m. and 4:30 p.m. Eastern time.]~~

~~(15)~~**(8)** A person importing ~~or~~**and** possessing native wildlife shall be responsible for following all applicable federal laws, state laws, and~~[complying with any] local ordinances~~**[ordinance]** regarding ~~[captive-]wildlife.~~

Section 6. Prohibited Species.~~[(4)]~~ Except as established~~[specified]~~ in Sections 2(7) and~~[Section]~~ 7 of this administrative regulation, 301 KAR 2:075, and 301 KAR 3:120, a person shall not import, transport into Kentucky, or possess~~[a]~~:

- ~~(1)~~**(a)** Alligator snapping turtle (*Macrochelys temminckii*);
- ~~(2)~~**(b)** Bats of any species that are native to Kentucky, including:
 - (a) Big Brown Bat (*Eptesicus fuscus*);
 - (b) Eastern Red Bat (*Lasiurus borealis*);
 - (c) Eastern Small-footed Myotis (*Myotis leibii*);
 - (d) Evening Bat (*Nycticeius humeralis*);
 - (e) Gray Bat (*Myotis grisescens*);
 - (f) Hoary Bat (*Lasiurus cinereus*);
 - (g) Indiana Bat (*Myotis sodalis*);
 - (h) Little Brown Bat (*Myotis lucifugus*);
 - (i) Northern Long-eared Bat (*Myotis septentrionalis*);
 - (j) Rafinesque's Big-eared Bat (*Corynorhinus rafinesquii*);
 - (k) Seminole Bat (*Lasiurus seminolus*);
 - (l) Silver-haired Bat (*Lasionycteris noctivagans*);
 - (m) Southeastern Myotis (*Myotis austroriparius*);
 - (n) Tricolored Bat (*Perimyotis subflavus*); **and**
 - (o) Virginia Big-eared Bat (*Corynorhinus townsendii virginianus*);
- ~~(3)~~ Black bear (*Ursus americanus*);
- ~~(4)~~ Bobcat (*Lynx rufus*);
- ~~(5)~~**(e)** Copperbelly water snake (*Nerodia erythrogaster neglecta*);
- ~~(6)~~**(d)** Cougar or mountain lion (*Felis concolor*);
- ~~(7)~~ Hellbender (*Cryptobranchus alleganiensis*);
- ~~(8)~~ Kirtland's Snake (*Clonophis kirtlandii*);
- ~~(9)~~ Otter (*Lontra canadensis*);
- ~~(10)~~ Rabies Vector Species:
 - (a)** ~~[f]~~Coyote (*Canis latrans*);~~;~~
 - (b)** Gray fox (*Urocyon cinereoargenteus*);~~;~~
 - (c)** Raccoon (*Procyon lotor*);~~;~~
 - (d)** Red fox (*Vulpes vulpes*);~~;~~
 - (e)** Spotted skunk (*Spilogale putorius*);~~;~~
 - (f)** Striped skunk (*Mephitis mephitis*);~~;~~**or**
 - (g)** Any hybrid of rabies vector species.
- ~~(11)~~ Wild rabbits (All species of the Order Lagomorpha);
- ~~(12)~~**(e)** Wild turkey (*Meleagris gallopavo*); or

(13)~~(f)~~ Wolf (*Canis lupus*).

~~(2)~~ [The species established in paragraphs (a) through (d) of this subsection shall not be imported into or transported through Kentucky, except as specified in Section 7 of this administrative regulation.]

~~(a)~~ [Coyote (*Canis latrans*);]

~~(b)~~ [Fox (*Vulpes spp.*; *Alopex lagopus*; *Urocyon cinereoargenteus*);]

~~(c)~~ [Raccoon (*Procyon lotor*); or]

~~(d)~~ [Skunk (*Mephitis spp.*; *Spilogale putorius*; *Conepatus leuconotus*).]

Section 7. Exemptions. (1) Accredited facilities. A facility that is accredited by the Association of Zoos and Aquariums~~[American Zoo and Aquarium Association]~~ shall:

(a) Not be required to obtain a transportation or captive wildlife permit for native wildlife; ~~[and]~~

(b) Be allowed to import, transport, and possess federally endangered species and the prohibited species established in Section 6~~(1) and (2)~~ of this administrative regulation for official zoo activities; and

(c) Maintain prohibited species in an enclosure sufficient to prevent escape and direct contact with the public.

(2) Commissioner's exemption.

(a) Upon written request, the commissioner~~[department]~~ shall consider~~[grant]~~ an exemption for the importation or possession of the prohibited species listed in Section 6~~(Sections 6(1) and (2))~~ for [legitimate] scientific or educational purposes.~~[by the following entities:]~~

(b) The commissioner shall ~~[exercise his or her discretion and]~~ only grant exemptions that ~~[are determined to]~~ promote and further the purposes of KRS Chapter 150.

(c) Only the following entities shall be eligible for consideration for an exemption by the commissioner:

1.~~(a)~~ A facility that is designated as the official zoo of a municipality;

2.~~(b)~~ A government agency conducting research or education at a permanent wildlife center; or

3.~~(c)~~ A college or university conducting research or education that fulfills a classroom requirement;~~or]~~

~~(d)~~ [A licensed or accredited institution of:]

~~[1.]~~ [Research; or]

~~[2.]~~ [Education].

(3) Legally possessed prohibited species.

(a) A permit holder with a prohibited species legally possessed in Kentucky prior to April 4, 2023 may ~~[be allowed to]~~ remain in possession of **the animal**~~[a valid permit holder]~~ through the life of the animal by microchipping any rabies vector species, bobcats, or otters and reporting the microchip number to the department by submitting a ~~["]~~Native Prohibited Wildlife Report~~["]~~ form~~[, found on the department's Web site at fw.ky.gov,]~~ by June 4, 2023.

(b) Prohibited species shall not be transferred to other persons, except if the permit holder predeceases the animal, **in which case** the animal may be transferred to another valid permit holder.

(c) Prohibited species shall not be allowed to reproduce.

(d) A person who legally possesses prohibited wildlife shall not replace that wildlife after its death.

(e) Prohibited species possessed or imported into Kentucky shall be maintained within an enclosure sufficient to prevent:

1. Escape; and

2. Direct contact with the public.

Section 8. Confining Facilities. (1) Except as established in 301 KAR 2:041, a cage, pen, or other enclosure for confining native wildlife shall be of sufficient structural strength to:

- (a) Prevent the escape of the captive animal;
 - (b) Protect the caged animal from injury and predators; and
 - (c) Prevent the entrance of free individuals of the same species.
- (2) A wing-clipped and pinioned bird may be kept in a suitable unroofed enclosure, even **if[though]** wild birds of the same species may enter the enclosure.
- (3) A person shall not maintain any native wildlife in captivity in an unsanitary or unsafe condition or in a manner that results in the maltreatment or neglect of that wildlife.
- (4) Native wildlife shall not be confined in any cage or enclosure that does not meet the minimum cage specifications in Section 9 of this administrative regulation.
- (5) A cage or enclosure shall be maintained as established in paragraphs (a) through (n) of this subsection.**[;]**
- (a) Clean drinking water shall be provided daily in clean containers.**[;]**
 - (b) Swimming or wading pools shall be cleaned as needed to ensure good water quality.**[;]**
 - (c) Any cage or enclosure shall provide adequate drainage of surface water.**[;]**
 - (d) A captive mammal or bird shall be fed daily.**[;]**
 - (e) Food shall be:
 1. Of a type and quantity that meets the nutritional requirements for the particular species; and
 2. Provided in an unspoiled and uncontaminated condition.**[;]**
 - (f) Any feeding container shall be kept clean, and uneaten food shall be removed within a reasonable time.**[;]**
 - (g) A shelter shall be provided for security and protection from inclement weather.**[;]**
 - (h) Shade or an overhead structure shall be provided in warm seasons.**[;]**
 - (i) Fecal and food waste shall be:
 1. Removed from cage daily; and
 2. Stored or disposed of in a manner that prevents noxious odors and insect pests.**[;]**
 - (j) Any cage or enclosure shall be ventilated to prevent noxious odors.**[;]**
 - (k) A hard floor within a cage or enclosure shall be cleaned a minimum of once per week.**[;]**
 - (l) A cage or enclosure with a dirt floor shall be raked a minimum of once every three (3) days with the waste removed.**[;]**
 - (m) Animals that are compatible may be held in the same enclosure. ***Each enclosure with compatible animals held in the same enclosure shall comply with[if] the required floor space established in Section 9 of this administrative regulation.[is provided; and]***
 - (n) A common wall shall be constructed between animals that are not compatible so **that** the animals cannot interact.

Section 9. Minimum Enclosure Sizes and Associated Requirements for Stationary Facilities. (1) Birds.

- (a) A northern bobwhite older than fourteen (14) weeks shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.
 1. An enclosure for a single northern bobwhite shall be a minimum of 100 square feet.
 2. There shall be an increase **of at least[in]** one (1) square foot per additional northern bobwhite.
 3. A northern bobwhite may be held in **a** smaller breeding **pen[pens]** during the breeding season.
- (b) A duck shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.
 1. No more than two (2) pairs or one (1) pair and their offspring prior to first molt shall be confined to an area smaller than 100 square feet; and
 2. There shall be at least two (2) square feet of additional land space for each additional adult duck.

(c) A goose shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. No more than two (2) pair or one (1) pair and their offspring prior to first molt shall be confined to an area smaller than 500 square feet. ~~;~~

2. There shall be a minimum of fifty (50) square feet of water that is two (2) feet or greater in depth. ~~;~~
and]

3. There shall be at least 100 square feet of land and twenty-five (25) square feet of water surface for each additional adult goose.

(d) A ruffed grouse shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. There shall be 200 square feet of floor space **and an enclosure height of at least six (6) feet** for five (5) or fewer birds. ~~[with a height of at least six (6) feet; and]~~

2. There shall be an additional twenty (20) square feet of floor space for each additional bird.

(e) A raptor shall be held in an enclosure meeting the federal falconry standards described in 50 C.F.R. Part 21.29.

(2) Mammals.

(a) A bat shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. A little brown bat, long-eared bat, and pipistrelle shall be held in an enclosure that is at least 6 ft. x 6 ft. x 6 ft.

2. An evening or red bat shall be held in an enclosure that is at least 8 ft. x 12 ft. x 8 ft.

3. A big brown or hoary bat shall be held in an enclosure that is at least 10 ft. x 20 ft. x 8 ft.

(b) Except as established in 301 KAR 2:041, a fox, bobcat, or raccoon shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be **at least** 8 ft. x 8 ft. x 6 ft. ~~;~~ **and]**

2. There shall be **at least** thirty (30) square feet floor space for each additional animal.

(c) A coyote shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be **at least** 8 ft. x 8 ft. x 6 ft. ~~;~~ **and]**

2. There shall be **at least** twenty-five (25) square feet floor space for each additional animal.

(d) A beaver or otter shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 4. of this paragraph.

1. A single animal enclosure shall be **at least** 8 ft. x 12 ft. x 6 ft. with a 4 ft. x 6 ft. pool that is **at least** three (3) feet deep at one (1) end. ~~;~~

2. There shall be an increase in horizontal cage size and pool size by **at least** eight (8) square feet for each additional animal. ~~;~~

3. An otter shall have a slide and a dry place for sleeping and retreat. ~~;~~ **and]**

4. A beaver shall be supplied with gnawing logs and a dry place for sleeping and retreat.

(e) A muskrat or mink shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. A single animal enclosure shall be **at least** 6 ft. x 4 ft. x 3 ft. with a 2 ft. x 4 ft. pool **that[which]** is **at least** two (2) feet deep at one (1) end. ~~;~~

2. There shall be an increase in horizontal cage size by **at least** eight (8) square feet and a pool size of **at least** two (2) square feet. ~~;~~ **and]**

3. A muskrat shall have gnawing material.

(f) A gray squirrel, fox squirrel, or flying squirrel shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be 4 ft. x 4 ft. x 8 ft.; and

2. There shall be an increase in floor space by two (2) square feet for each additional animal.

(g) A skunk, opossum, rabbit, or woodchuck shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. A single animal enclosure shall be **at least** 6 ft. x 8 ft. x 8 ft. ~~;~~

2. There shall be an increase in floor space by **at least** four (4) square feet for each additional animal. ~~;~~
and]

3. A woodchuck shall have several gnawing logs approximately six (6) inches in diameter.

(h) A weasel shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be **at least** 3 ft. x 3 ft. x 3 ft. ~~;~~ **and]**

2. There shall be an increase in floor space by three (3) square feet for each additional animal.

Section 10. Mobile Facility. A mobile facility used in transporting native wildlife shall meet the requirements established in subsections (1) through (5) of this section.

(1) The mobile facility shall be equipped to provide fresh air and adequate protection from the elements, without injurious drafts.

(2) The animal housing area shall be free of engine exhaust fumes.

(3) A cage shall be large enough to ensure that each animal has sufficient room to stand erect and **lie[lay]** naturally.

(4) The structural strength of the enclosure shall be sufficient to contain the live animals and to withstand the normal rigors of transportation.

(5) Native wildlife housed in a mobile facility for more than ten (10) days shall be housed in a cage that meets the minimum cage specifications **established[provided]** in Section 8 of this administrative regulation ~~[Wildlife transported in the same cage area shall be in compatible groups].~~

Section 11. Temporary Facility. Native wildlife housed in a temporary facility or exhibit shall be housed in a cage that meets the minimum cage specifications **established[provided]** in Section 8 of this administrative regulation if present in any geographical location for more than ten (10) days.

Section 12. Inspections ~~and Access[and Permit Revocation]~~. (1) A permit holder shall allow a conservation officer to inspect the holding facilities ~~;~~ and the property on which the holding facilities are located ~~;~~ at any reasonable time.

(2) A conservation officer shall immediately notify the permit holder if the inspection reveals a violation of any provision of this administrative regulation.

(3) A facility shall fail inspection if any deficiencies are found during the inspection ~~;~~ or if the permit holder denies entry to the conservation officer at a reasonable time.

(4) An applicant **who[that]** fails a facility inspection shall correct any deficiencies within ten (10) days of the failed inspection.

(5) A permit holder shall allow any department **employee[approved representative]**, accompanied by a conservation officer, to access the wildlife holding facilities and the property on which the holding facilities are located at any reasonable time to carry out the purposes of this **administrative** regulation.

Section 13. Permit Denial and Revocation. (1) Denial. The department shall deny the issuance of a new permit, ~~or~~ deny a renewal of an existing or lapsed permit, and confiscate wildlife of a person who:

(a) Is convicted of a violation of any provisions of:

1. KRS Chapter 150;
2. Any department regulation; or
3. Any federal statute or regulation related to hunting, fishing, or wildlife;

(b) Provides false information on a captive wildlife permit application, transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports, facility inspection, or records;

(c) Acquires wildlife prior to receiving an approved captive wildlife permit, transportation permit, or commissioner's exemption, except as established in Section 2(4) ~~through (5) and~~ (6);

(d) Fails a facility inspection, as established in Section 12 **of this administrative regulation**; or

(e) Fails to comply with any provision of this regulation, 301 KAR 2:041, 301 KAR 2:082, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, or 301 KAR 2:251.

(2) Revocations.

(a) The department shall revoke the permit~~;~~ and confiscate wildlife, of a person who:

1. Is convicted of a violation of any provisions of:

- a. KRS Chapter 150;
- b. **KAR Title 301** ~~(Any department regulation)~~; or
- c. Any federal statute or regulation related to hunting, fishing, or wildlife;

2. Provides false information on a Captive Wildlife Permit Application, Transportation Permit Application, Certificate of Veterinary Inspection, federal Quarantine Certificate, request for commissioner's exemption, federal permits, reports, facility inspection, or records;

3. Acquires wildlife prior to receiving an approved captive wildlife permit, transportation permit, or commissioner's exemption, except as established in Section 2(4) ~~through (5) and~~ (6);

4. Fails a facility inspection, as established in Section 12 **of this administrative regulation**; or

5. Fails to comply with any provision of this administrative regulation, 301 KAR 2:041, 301 KAR 2:082, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, or 301 KAR 2:251.

(b) If a person's captive wildlife permit is revoked for one (1) facility, permits for all other facilities in their name shall be revoked.

(c) A fee shall not be refunded for a permit that is revoked.

(3) Denial period.

(a) An applicant for a captive wildlife permit, ~~or~~ transportation permit, **or commissioner's exemption** whose permit **or commissioner's exemption** has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications denied for ~~the period established below~~:

1. The initial denial period, ~~for~~ **shall be** one (1) year;
2. A second denial period, ~~for~~ **shall be** three (3) years; **and**
3. A third or subsequent denial period, ~~for~~ **shall be** five (5) years;

(b) The department shall deny all Captive Wildlife Permit Applications for any facility in which a permit was denied or revoked, for the same period of time as the denial period, as established in **paragraph (a) of this subsection** ~~this section~~.

(4) Commissioner's exemption.

(a) A commissioner's exemption shall be revoked~~;~~ and future exemptions may be denied~~;~~ for:

1. Failure to maintain wildlife in an enclosure sufficient to prevent escape and direct contact with the public;
2. Failure to **comply with the requirements established in** ~~abide by the provisions set forth in an exemption letter or~~ **this administrative regulation**; or

3. Any other reason necessary to protect public health, public safety, native ecosystems, or native wildlife.

(b) If an exemption is terminated, all prohibited species shall be immediately placed in an enclosure sufficient to prevent escape and direct contact with the public and removed from the state within forty-eight (48) hours.

(5) Confiscated wildlife.

(a) All captive wildlife shall be confiscated if a captive wildlife permit, transportation permit, or commissioner's exemption is revoked or denied[,] or if a person possesses native wildlife without a valid captive wildlife permit, transportation permit, or commissioner's exemption, except as established in Section 2(4), (5), or (6) or in **subsection (4)(b) of this section**~~[Section 13, subsection 4(3)(b)].~~

(b) Confiscated wildlife shall be released, transferred~~[with the approval of the Wildlife Division]~~, or dispatched, except that rabies vector species shall be dispatched immediately.

(c) Wildlife shall not be returned to the person, entity, or facility from which they were confiscated.

(d) Wildlife shall be surrendered to the department, for processing and disposition pursuant to **this administrative** regulation, upon being presented with a written order by the commissioner. ~~[A captive wildlife permit shall be revoked for a period of one (1) year and all captive wildlife confiscated if a violation is not corrected within ten (10) days of the]~~~~[initial inspection.]~~

~~[(4)] [A fee shall not be refunded for a permit that is revoked].~~

(6) Administrative hearings.

(a)~~[(5)]~~ An individual whose permit has been denied or revoked may request an administrative hearing, **which shall be conducted** pursuant to KRS Chapter 13B.

(b) A request for a hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or the revocation.

(c) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.

(d) The hearing officer's recommended order shall be considered by the commissioner, and the commissioner shall issue a final order, pursuant to KRS Chapter 13B.

Section 14.~~[Section 13.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Captive Wildlife Permit Application **and Checklist**", 2022~~[2012]~~ edition;

(b) "Annual Transportation Permit Application", 2022~~[2012]~~ edition;~~[-and]~~

(c) "Individual Transportation Permit Application", 2022~~[2012]~~ edition;

(d) "Native Prohibited Wildlife Report", 2022 edition; and

(e) "Facility Inspection Checklist", 2022 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at:

(a) <https://fw.ky.gov/Wildlife/Documents/captivewildapp.pdf> for the "Captive Wildlife Permit Application";

(b) <https://fw.ky.gov/Wildlife/Documents/annualtransportapp.pdf> for the (Annual Transportation Permit Application";

(c) <https://fw.ky.gov/Wildlife/Documents/indtransportapp.pdf> for the "Individual Transportation Permit Application";

(d) <https://fw.ky.gov/Wildlife/Documents/nativeprohibitedreport.pdf> for the "Native Prohibited Wildlife Report"; and

(e) <https://fw.ky.gov/Wildlife/Documents/RehabLEInspectionChecklist.pdf> for the "Facility Inspection Checklist".

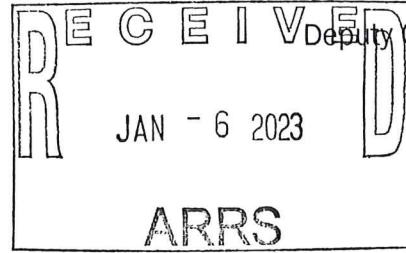
CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506



Brian Clark
Deputy Commissioner

January 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Rm 029, Capitol Annex
Frankfort KY 40601

Re: 301 KAR 2:075. Wildlife Rehabilitation Permit., 301 KAR 2:081. Transportation and holding of live native wildlife., 301 KAR 2:082. Transportation and holding of live exotic wildlife.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:075, 301 KAR 2:081, 301 KAR 2:082, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:075, 301 KAR 2:081, 301 KAR 2:082.

Sincerely,

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 1/1/2023 3:14 PM

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

301 KAR 2:082. Transportation and holding of live exotic wildlife.

RELATES TO: KRS 13B, 150.010, 150.015, 150.186, 150.320, 150.330, 150.990, 150.183, 150.195, 150.235, 258.065, 258.085

STATUTORY AUTHORITY: KRS 65.877, 150.025(1), 150.090, 150.105, 150.180, 150.280, 50 C.F.R. 17, ~~50 C.F.R.]21, 16 U.S.C. 3371 – 3378~~, 18 U.S.C. 42 – 43, ~~16 U.S.C. 3371–3378]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.877 authorizes local governments to regulate or prohibit inherently dangerous wildlife as identified by the Department of Fish and Wildlife Resources and requires the department to establish procedures for denying or issuing a transportation permit. KRS 150.025(1) authorizes the department to regulate the buying, selling, or transporting of wildlife. KRS 150.090 authorizes the department to appoint conservation officers charged with the enforcement of this chapter. KRS 150.105 authorizes the department to destroy or bring under control any wildlife causing damage to persons, property, or other animals spreading disease and that should be eliminated to prevent further damage. KRS 150.180 authorizes the department to regulate the transportation and importation of wildlife into Kentucky. KRS 150.280 requires the department to promulgate administrative regulations establishing procedures for the holding of protected wildlife. 50 C.F.R. 21 ~~requires~~~~[establishes the]~~ federal standards for holding migratory birds, including raptors. 50 C.F.R. 17 ~~requires~~~~[establishes the]~~ federal standards for endangered and threatened wildlife. This administrative regulation establishes the procedures for obtaining a transportation permit for exotic wildlife, prohibits the importation and possession of exotic species with the potential to damage native ecosystems, and places restrictions on importing, transporting, and holding species that are potentially dangerous to human health and safety.

Section 1. Definition. "Exotic wildlife" means wildlife species that have never naturally existed in the wild in Kentucky, including species introduced by man that have become naturalized.

Section 2. Transportation Permits and Certificates of Veterinary Inspection.

- (1) A person shall apply for and obtain a valid transportation permit or permit authorization number from the department for all shipments of exotic wildlife, unless otherwise exempted or prohibited by this or another administrative regulation, prior to:
 - (a) Receiving a shipment of wildlife from outside of Kentucky;
 - (b) Importing exotic wildlife into Kentucky; or
 - (c) Transporting exotic wildlife into Kentucky.
- (2) A copy of a valid transportation permit or permit authorization number shall accompany all shipments of wildlife into Kentucky.
- (3) An individual transportation permit shall be valid for one (1) shipment of wildlife.
- (4) An annual transportation permit shall be valid for multiple wildlife shipments for one (1) year from the date of issue.
- (5) All shipments of wildlife, except for amphibians and reptiles, shall be accompanied by a:
 - (a) Certificate of veterinary inspection stating that the wildlife is free from symptoms of disease; or
 - (b) Federal quarantine certificate.

Section 3. Applying for Permits.

(1) A person shall apply for a transportation permit by completing the online application process [~~when available~~] at fw.ky.gov, or by submitting the necessary forms [~~, as identified below, found on the department's Web site at fw.ky.gov~~]:

(a) For an individual transportation permit, an applicant shall submit a completed [~~"]~~ Individual Transportation Permit Application [~~"]~~ form; or

(b) For an annual transportation permit, an applicant shall submit a completed [~~"]~~ Annual Transportation Permit Application [~~"]~~ form.

(2) [~~An applicant for a transportation permit shall only obtain wildlife from a legal source.~~]

(3) A permit holder shall be at least eighteen (18) years of age.

(4) An applicant shall submit a completed application established in subsection (1)(a) or (b) of this section and remit the correct fee, as established in 301 KAR 3:022 or 301 KAR 3:061.

(5) An annual transportation permit holder shall submit a revised Annual Transportation Permit Application to the department via mail to the address listed on the Annual Transportation Permit Application or via email at FWpermits@ky.gov for any amendments to the original application and shall not ship wildlife until [unless the amendments are approved, and] a revised permit is issued by the department.

(6) A person importing, transporting, or possessing exotic wildlife shall be responsible for following all applicable federal and state laws and local ordinances regarding wildlife.

(7) A person with a valid falconry permit, as established in 301 KAR 2:195, shall not be required to possess a transportation permit for those raptors held under the falconry permit.

(8) An applicant possessing, importing, or transporting into Kentucky from outside the state federally protected migratory bird species, shall possess, and provide to the department, a valid United States Fish and Wildlife Service permit, except for persons or entities that meet the conditions listed in 50 C.F.R. 21.12 (a) and (b), 50 C.F.R. 21.13, and 50 C.F.R. 21.14.

(9) Federally endangered exotic species shall not be imported, transported into Kentucky, or possessed, except the Department of Fish and Wildlife Resources may allow importation, transportation, or possession of any exotic endangered species of wildlife pursuant to KRS 150.183 and 301 KAR 3:061.

Section 4. Prohibited Species.

(1) Except as established [specified] in Section 5 of this administrative regulation, a person shall not import, transport into Kentucky, or possess the following exotic wildlife that are considered potentially injurious to native ecosystems:

(a) Baya weaver (*Ploceus philippinus*);

(b) Blackbirds (Genus *Agelaius*), except native species;

(c) Cape sparrow (*Passer melanurus*);

(d) Cowbirds (Genus *Molothrus*), except native species;

(e) Cuckoo (Family *Cuculidae*), except native species;

(f) Dioch or red-billed quelea (*Quelea quelea*);

(g) European blackbird (*Turdus merula*);

(h) Fieldfare (*Turdus pilaris*);

(i) Flying fox or fruit bat (Genus *Pteropus*);

(j) Fox (Genus *Cerdocyon*, Genus *Lycalopex*, Genus *Otocyon*, Genus *Urocyon*, and Genus *Vulpes*);

(k) Gambian giant pouched rat (*Cricetomys gambianus*);

(l) Giant, marine, or cane toad (*Bufo marinus*);

(m) Hawaiian rice bird or spotted munia (*Lonchura punctulata*);

- (n) Java sparrow (*Padda oryzivora*);
- (o) Madagascar weaver (*Foudia madagascariensis*);
- (p) Mistle thrush (*Turdus viscivorus*);
- (q) Monk or Quaker parakeet (*Myiopsitta monachus*);
- (r) Multimammate rat (Genus *Mastomys*);
- (s) Mute swan (*Cygnus olor*);
- (t) Nutria (*Myocastor coypus*);
- (u) Prairie dog (*Cynomys* spp.);
- (v) Raccoon dog (*Nyctereutes procyonoides*);
- (w) Sky lark (*Alauda arvensis*);
- (x) Song thrush (*Turdus philomelus*);
- (y) Starling (Family *Sturnidae*), including pink starlings or rosy pastors (*Sturnus roseus*), except for Indian Hill mynahs (*Gracula religiosa*);
- (z) Suricate or slender-tailed meerkat (Genus *Suricata*);
- (aa) Tongueless or African clawed frog (*Xenopus laevis*);
- (bb) Weaver finch (Genus *Passer*), except *Passer domesticus*;
- (cc) White eyes (Genus *Zosterops*);
- (dd) Wild rabbits, hares, and pikas (Order *Lagomorpha*);
- (ee) Yellowhammer (*Emberiza citrinella*); or
- (ff) A member of the following families:
 1. Suidae (pigs or hogs), except for domestic swine;
 2. Viverridae (civets, genets, lingsangs, mongooses and fossas); or
 3. Tayassuidae (peccaries and javelinas).

(2) Except as ***established[specified]*** in ***Sections[Section]*** 5 and 6 of this administrative regulation, a person shall not import, transport, or possess the following inherently dangerous exotic wildlife:

- (a) Alligators or caimans (Family *Alligatoridae*);
- (b) African buffalo (*Syncerus caffer*);
- (c) Bears (Family *Ursidae*);
- (d) Cheetah (*Acinonyx jubatus*);
- (e) Clouded leopard (*Neofelis nebulosa*);
- (f) Crocodiles (Family *Crocodylidae*);
- (g) Elephants (Family *Elephantidae*);
- (h) Gavials (Family *Gavialidae*);
- (i) Gila monsters or beaded lizards (Family *Helodermatidae*);
- (j) Hippopotamus (*Hippopotamus amphibius*);
- (k) Honey badger or ratel (*Mellivora capensis*);
- (l) Hyenas (Family *Hyaenidae*), ***including*** all species except aardwolves (*Proteles cristatus*);
- (m) Komodo dragon (*Varanus komodoensis*);
- (n) Lions, jaguars, leopards, or tigers (Genus *Panthera*);
- (o) Lynx (Genus *Lynx*);
- (p) Old world badger (*Meles meles*);
- (q) Primates, nonhuman (Order *Primates*);
- (r) Rhinoceroses (Family *Rhinocerotidae*);
- (s) Snow leopard (*Uncia uncia*);
- (t) Venomous exotic snakes of the families *Viperidae*, *Atractaspididae*, *Elapidae*, *Hydrophidae*, and *Colubridae*, except for hognose snakes (Genus *Heterodon*);

- (u) Wolverine (*Gulo gulo*); or
- (v) Hybrids of **a[all]** species **listed in this subsection[contained in this list]**.

Section 5. Exemptions.

- (1) A facility that is accredited by the Association of Zoos and Aquariums shall:
 - (a) Not be required to obtain a transportation permit for exotic wildlife;
 - (b) Be allowed to import, possess, and transport into Kentucky federally endangered species and the prohibited exotic species listed in Section 4 of this administrative regulation for official zoo activities; and
 - (c) Maintain prohibited exotic species in an enclosure sufficient to prevent escape and direct contact with the public.
- (2) Commissioner's exemption.
 - (a) Upon written request, the commissioner shall consider an exemption for importation, transportation into Kentucky, or possession~~[may grant a written exemption for the possession or transportation into Kentucky]~~ of the prohibited species listed in Section 4 **of this administrative regulation**.
 - (b) The commissioner shall ~~[exercise his or her discretion and]~~only grant exemptions that **[are determined to]**promote and further the purposes of KRS Chapter 150.
 - (c)~~(b)~~ Only the following entities shall be eligible for an exemption by the commissioner:
 - 1. A facility that is designated as the official zoo of a municipality;
 - 2. A college or university conducting research or education that fulfills a classroom requirement;
 - 3. A lawfully operated circus only importing~~[, transporting into Kentucky,]~~ or possessing inherently dangerous exotic wildlife species that are not federally endangered, as listed in the ~~[current]~~Endangered **and Threatened** Species Act list, **40 C.F.R. 17.11**;
 - 4. A facility previously granted an exemption by the commissioner for the purpose of housing confiscated wildlife and serving as an animal holding facility as a service to the department; and
 - 5. A facility previously granted a commissioner's exemption, as a licensed or accredited institute of education or research, that houses prohibited species at a permanent wildlife facility for educational or research purposes.

Section 6. Prohibited Species Requirements.

- (1) Prohibited exotic species imported, transported into Kentucky, or possessed shall be maintained within an enclosure sufficient to prevent:
 - (a) Escape; and
 - (b) Direct contact with the public.
- (2) A person shall obtain a valid~~[apply for a]~~ transportation permit to temporarily transport into **Kentucky[the state]** a prohibited animal listed in Section 4(2) of this administrative regulation and shall not:
 - (a) Remain in **Kentucky[the state]** in excess of forty-eight (48) hours;
 - (b) Stop in Kentucky for exhibition purposes; or
 - (c) Sell, trade, gift, barter, offer for sale, trade, gift, barter, or profit in any way from a prohibited animal while in Kentucky.
- (3) Except for Lynx, a person who legally possessed wildlife listed in Section 4(2) of this administrative regulation prior to July 13, 2005, may continue to possess the animal through the life of the animal and shall maintain:
 - (a) Veterinary records;
 - (b) Acquisition papers for the animal; or

- (c) Any other evidence that establishes that the person possessed the animal in Kentucky prior to July 13, 2005.
- (4) Lynx legally held in Kentucky prior to December 1, 2021, may be allowed to remain in possession of the owner through the life of the animal. The owner shall maintain:
- (a) Veterinary records;
 - (b) Acquisition papers for the animal; or
 - (c) Any other evidence that establishes that the person legally possessed the animal in Kentucky prior to December 1, 2021.
- (5) A person who legally possesses wildlife pursuant to subsection (3) or (4) of this section shall not, without an exemption pursuant to Section 5:
- (a) Replace the wildlife after its death;
 - (b) Allow the wildlife to reproduce; or
 - (c) Transfer wildlife to other persons, except if the owner predeceases the animal, the animal may be transferred to another person with the approval of the department's Wildlife Division Director.
- (6) If exotic wildlife listed in Section 4 of this administrative regulation escapes, the owner shall immediately contact local emergency services and the department at 800-252-5378 to report the escape.
- (7) All bites, as established in KRS 258.065, or contact with applicable exotic animals that results in possible exposure to disease or zoonotic infection, shall be reported to the local county health department within twelve (12) hours.
- (8) If an exotic mammal bites a person~~[7]~~ or a mammal shows symptoms of a rabies infection, the owner of the animal shall arrange for the animal to be killed in a manner as to preserve the brain intact, and the animal's head shall be submitted for testing immediately to a laboratory approved by the Secretary ***of the Cabinet*** for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070, Section 5 and KRS 258.085(1)(c).

Section 7. Permit-exempt Animals. The following exotic animals shall not require permits from the department for importation, transportation into Kentucky, or possession:

- (1) Alpaca (*Vicugna pacos*);
- (2) American bison (*Bison bison*);
- (3) Breeds and varieties of goats derived from the wild goat or bezoar (*Capra hircus*);
- (4) Camel (*Camelus bactrianus* and *Camelus dromedarius*);
- (5) Canary (*Serinius canaria*);
- (6) Chinchilla (*Chinchilla laniger*);
- (7) Cockatoo and cockatiel (family *Cacatuidae*);
- (8) Domesticated races of ducks and geese (family *Anatidae*) morphologically distinguishable from wild ducks or geese;
- (9) Domesticated races of the European rabbit (*Oryctolagus cuniculus*) morphologically distinguishable from wild rabbits;
- (10) Domesticated races of mink (*Mustela vison*), if:
 - (a) Adults are heavier than 1.15 kilograms; or
 - (b) The fur color can be distinguished from wild mink;
- (11) Domesticated races of rats (*Rattus norvegicus* or *Rattus rattus*) or mice (*Mus musculus*);
- (12) Domesticated races of turkeys (*Meleagris gallopavo*) recognized by the American Poultry Association and the U.S. Department of Agriculture, but shall not include captive held or bred wild turkeys;

- (13) Domestic yak (*Bos grunniens*);
- (14) Gerbil (*Meriones unguiculatus*);
- (15) Guinea fowl (*Numida meleagris*);
- (16) Guinea pig (*Cavia porcellus*);
- (17) Hamster (*Mesocricetus* spp.);
- (18) Indian Hill mynah (*Gracula religiosa*);
- (19) Llama (*Lama glama*);
- (20) Parrot, lovebird, budgerigar, macaw, parakeet (except monk parakeet, *M. monachus*) (families Psittacidae, Psittaculidae, **and** Psittichasiidae);
- (21) Peafowl (*Pavo cristatus*);
- (22) Pigeon (*Columba domestica* or *Columba livia*) or domesticated races of pigeons;
- (23) Ratite, as defined by KRS 247.870; and
- (24) Toucan (family Rhamphastidae).

Section 8. Release. With the exception of pheasants and chukars, a person shall not release exotic wildlife into the wild.

Section 9. Inspections and Access.

- (1) A person in possession of exotic wildlife, pursuant to a transportation permit or commissioner's exemption, shall allow a conservation officer to inspect the holding facilities ~~[and the property on which the holding facilities are located]~~ at any reasonable time to carry out the purposes of this administrative regulation.
- (2) A transportation permit or commissioner's exemption holder shall allow any department **employee[approved representative]**, accompanied by a conservation officer, to access the holding facilities ~~[and the prop erty on which the holding facilities are located]~~ at any reasonable time to carry out the purposes of this **administrative** regulation.

Section 10. Permit Denial and Revocation.

- (1) Denial. The department shall deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and may confiscate wildlife from a person who:
 - (a) Is convicted of a violation of any provisions of:
 - 1. KRS Chapter 150;
 - 2. 301 KAR Chapters 1 through 5; or
 - 3. Any federal statute or regulation related to hunting, fishing, or wildlife;
 - (b) Provides false information on a transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports, or records;
 - (c) Acquires wildlife prior to receiving a transportation permit, commissioner's exemption, or certificate of veterinary inspection, except as established in **Sections[Section] 2(5), [Section]3(7), [Section]5(1), and [Section]7;** or
 - (d) Fails to comply with any provision of this administrative regulation, 301 KAR 2:041, 301 KAR 2:081, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, 301 KAR 2:251, 301 KAR 3:061, 302 KAR 20:020, 302 KAR 20:040, 50 C.F.R. 17, 50 C.F.R. 21, 18 U.S.C. 42 - 43, or 16 U.S.C. 3371 - 3378.
- (2) Revocations.
 - (a) The department shall revoke a transportation permit or commissioner's exemption, and may confiscate wildlife, of a person who:
 - 1. Is convicted of a violation of any provisions of:

- a. KRS Chapter 150;
- b. 301 KAR Chapters 1 through 5; or
- c. Any federal statute or regulation related to hunting, fishing, or wildlife;

2. Provides false information on a transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports, or records;

3. Acquires wildlife prior to receiving a transportation permit or commissioner's exemption, except as established in Sections 3(7) and 5(1); or

4. Fails to comply with any provision of this administrative regulation, 301 KAR 2:041, 301 KAR 2:081, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, 301 KAR 2:251, 301 KAR 3:061, 302 KAR 20:020, 302 KAR 20:040, 50 C.F.R. 17, 50 C.F.R. 21, 18 U.S.C. 42-43, or 16 U.S.C. 3371-3378.

(b) A fee shall not be refunded for a permit that is revoked.

(3) Denial period. An applicant for a transportation permit ***or commissioner's exemption*** whose permit ***or commissioner's exemption*** has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications ***and commissioner's exemption requests*** shall be denied for ~~[the period established below]~~:

(a) The initial denial period, ~~for~~***shall be*** one (1) year;

(b) A second denial period, ~~for~~***shall be*** three (3) years; and

(c) A third or subsequent denial period, ~~for~~***shall be*** five (5) years.

(4) Commissioner's exemption.

(a) A commissioner's exemption shall be revoked ~~[and future exemptions may be denied]~~for:

1. Failure to maintain wildlife in an enclosure sufficient to prevent escape and direct contact with the public;

2. Failure to abide by the provisions ~~established~~***set forth*** in an exemption letter or this administrative regulation; or

3. Any other reason necessary to protect public health, public safety, native ecosystems, or native wildlife.

(b) If an exemption is terminated, all prohibited species shall be immediately placed in an enclosure sufficient to prevent escape and direct contact with the public and removed from the state within forty-eight (48) hours.

(5) Confiscated wildlife.

(a) All captive wildlife may be confiscated if a transportation permit or commissioner's exemption is revoked or denied, or a person imports, transports into Kentucky, or possesses exotic wildlife without a valid transportation permit, commissioner's exemption, or certificate of veterinary inspection, except as established in ~~Sections~~***Section*** 2(5), ~~[Section]~~***3***(7), ~~[Section]~~***5***(1), and ~~[Section]~~***7***.

(b) Wildlife that is confiscated, as established in this section, shall not be returned to the person, entity, or facility from which ~~the wildlife was~~***they were*** confiscated.

(c) Confiscated wildlife shall be euthanized if:

1. It is necessary to protect public safety, property, or wild or domesticated animals;

2. It is necessary to protect native ecosystems;

3. The wildlife is suffering from injury or illness; or

4. A facility legally capable and properly equipped to hold the wildlife is not readily available or economically feasible, and shall be transferred or euthanized with the approval of the Wildlife Division Director.

Section 11. Administrative Hearings.

- (1) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.
- (2) A request for a hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or the revocation.
- (3) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.
- (4) The hearing officer's recommended order shall be considered by the commissioner, and the commissioner shall issue a final order, pursuant to KRS Chapter 13B.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Annual Transportation Permit Application", ~~2022~~[2021]~~edition~~;
 - (b) "Individual Transportation Permit Application", ~~2022~~[2021]~~edition~~]; and
 - ~~[(c)] ["Captive Wildlife Prohibited Species report form, 2021 edition.]~~
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at:
- (a) <https://fw.ky.gov/Wildlife/Documents/annualtransportapp.pdf> for the "Annual Transportation Permit Application";
 - (b) <https://fw.ky.gov/Wildlife/Documents/indtransportapp.pdf> for the "Individual Transportation Permit Application"; and
 - ~~[(c)] [<https://fw.ky.gov/Wildlife/Documents/caprohibitedreport.pdf> for the "Captive Wildlife Prohibited Species Report" form.]~~

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, email fwpubliccomments@ky.gov.

***General Reviewer's Note:** In conjunction with filing this suggested substitute, please file one (1) replacement FISCAL NOTE ON STATE AND LOCAL GOVERNMENT that includes the missing items.

***General Reviewer's Note:** In conjunction with filing this suggested substitute, please file one (1) FEDERAL MANDATE ANALYSIS AND COMPARISON.

FEDERAL MANDATE ANALYSIS COMPARISON

301 KAR 2:082

Contact Person: Jenny Gilbert

Phone: 502-564-3400

Email: jenny.gilbert@ky.gov

(1) Federal statute or regulation constituting the federal mandate. 50 C.F.R. 21 establishes federal standards for holding migratory birds, including raptors. 50 C.F.R. 17 establishes federal standards for endangered and threatened wildlife.

(2) State compliance standards. KRS 150.025(1) authorizes the department to regulate the buying, selling, or transporting of wildlife. KRS 150.180 authorizes the department to regulate the transportation and importation of wildlife into Kentucky. KRS 150.280 requires the department to promulgate administrative regulations establishing procedures for the holding of protected wildlife. KRS 150.183 sets prohibitions on importation, transportation, and possession of federally endangered species.

(3) Minimum or uniform standards contained in the federal mandate. The inclusion of federal standards in this regulation allows the Department to align with and be consistent with federal law.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes, a federal USFWS permit is required to import, transport, or possess federally endangered wildlife, which is stricter than federal law and required to meet KY statute.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This stricter standard provides additional protection to federally endangered species.

FISCAL NOTE

301 KAR 2:082

Contact Person: Jenny Gilbert

Phone:502-564-3400

Email: jenny.gilbert@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to regulate the buying, selling, or transporting of wildlife. KRS 150.280 authorizes the department to promulgate administrative regulations to establish the procedures for the propagation and holding of protected wildlife. 50 C.F.R. 21 establishes federal standards for holding migratory birds, including raptors. 50 C.F.R. 17 establishes federal standards for endangered and threatened wildlife.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated for subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no administrative cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no administrative costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There will be no cost savings generated program for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There will be no cost savings generated program for subsequent years.

(c) How much will it cost the regulated entities for the first year? There will be no cost to regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? There will be no cost to regulated entities for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

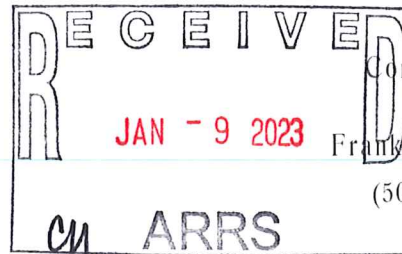
Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)].* There will be no major economic impact.

Ryan F. Quarles
Commissioner



Corporate Drive
Complex
Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

January 6, 2023

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **302 KAR 40:010**. Certification of organic production, processing, or handling operations.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 40:010 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 40:010.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint Quarles".

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



SUGGESTED SUBSTITUTE

Final Version: 12-28-2022 2:34 pm

DEPARTMENT OF AGRICULTURE Office of Agricultural Marketing

302 KAR 40:010. Certification of organic production, processing, or handling operations.

RELATES TO: KRS 260.020, 260.030, 260.038, 7 C.F.R. 205

STATUTORY AUTHORITY: KRS 260.020(3), 260.030(1)(k), 7 C.F.R. 205

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.020(3) authorizes the commissioner of the Kentucky Department of Agriculture to promulgate administrative regulations to carry out any programs established under the Office for Agricultural Marketing ~~[and Product Promotion]~~ and to establish fees for the administration of those programs. KRS 260.030(1)(k) requires the Office ~~of~~ ~~[for]~~ Agricultural Marketing ~~[and Product Promotion]~~ to establish an Organic Agricultural Product Certification Program. This administrative regulation establishes the procedures for certification of organically-produced agricultural products.

Section 1.

- (1) A producer, processor, or handler of organic agricultural products shall comply with:
 - (a) 7 C.F.R. Part 205, the National Organic Program;
 - (b) The ~~[KDA]~~ Organic Certification Program Quality Manual; and
 - (c) The standards ***established in the Organic*** ~~*contained in the*~~ Certification Application required by Section 2(1) of this administrative regulation.
- (2) The department shall administer the Organic Certification Program in accordance with the ~~[KDA]~~ Organic Certification Program Quality Manual.

Section 2. Certification.

- (1) To receive or maintain organic certification, a completed Organic Certification Application ~~[application]~~ form shall be submitted to the department annually.
 - ~~[(a)] [A producer shall submit an Organic Farm Certification Application.]~~
 - ~~[(b)] [A processor or handler shall submit:
 - [1.] [An Organic Processing/Handling Certification Application; and]
 - [2.] [An Organic Product Profile for each product to be certified.]]~~
 - ~~[(c)] [A producer requesting certification of livestock shall also submit an Organic Livestock Certification Application.]~~
 - ~~[(d)]~~ Relevant supporting documentation required by ~~the~~ ~~[an]~~ ***Organic Certification*** Application shall be submitted with the application.
- (2) The production, processing, or handling operation shall be inspected by the department.
 - (a) The inspector shall be trained as required by the ~~[KDA]~~ Organic Certification Program Quality Manual.
 - (b) The applicant shall be present during an unannounced ~~[the]~~ inspection.
 - (c) The inspector shall complete the appropriate field inspection report:
 1. The ~~[KDA Organic]~~ Crop Inspection Report;
 2. The ~~[KDA Organic]~~ Livestock Inspection Report; or
 3. The ~~KDA~~ ***Organic*** Processing/Handler ***[Organic]*** Inspection Report.
 - (d) An exit interview shall be conducted using the Organic Inspection Exit Interview form.

(e) Upon receipt of a field inspection report, the department shall make a determination of certification and notify the applicant in writing of **the department's[its]** decision. If the written application and the field inspection report demonstrate compliance with this administrative regulation and 7 C.F.R. 205, the department shall grant certification.

(3) The department shall conduct an annual inspection of every certified organic entity.

(4) Except as **established[provided]** by subsection (5) of this section~~[and Section 3 of this administrative regulation]~~, a producer, processor, or handler shall pay a certification fee of \$500[\$250] for the initial certification scope and each year thereafter **at renewal[when renewed]**. Subsequent scopes beyond the initial shall be charged at \$250[\$125] and each year thereafter **at renewal[when renewed]**. Except as **established[provided]** by subsection (5) of this section~~[and Section 3 of this administrative regulation]~~, processors and handlers shall pay an additional fee of \$200[\$100] per each \$100,000 increment of gross receipts that exceed \$100,000. Fees~~[, including additional fees,]~~ shall be calculated in accordance with the **Organic Certification Application and the Organic Certification Program Quality Manual**~~(Organic Program Fee Schedule)~~.

(5) A production, processing, or handling operation with gross agricultural income from organic sales of less than \$5,000 annually shall register with the department by **submitting a complete and notarized[using the]** Exempt Organic Operation Registration form. There shall not be a fee to register.

(6) To withdraw **an Organic[a]** Certification Application, a Voluntary Withdrawal Form~~[Withdrawal of USDA National Organic Program Certification Application form]~~ shall be submitted to the department. The withdrawal procedures listed on the form shall be followed.

(7) To voluntarily surrender an organic certification, a Voluntary Surrender Form~~[of USDA National Organic Program Certification form]~~ shall be submitted to the department. The surrendering procedures listed on the form shall be followed.

~~[Section 3.] [Nonprofit, Educational, or Charitable Organization.]~~

~~[(1)] [If a nonprofit, educational, or charitable organization, as defined by the Internal Revenue Code, 26 U.S.C. 501(c)(3), has at least \$5,000 gross sales of organic products, it shall be certified and pay the required fees in accordance with Section 2 of this administrative regulation.]~~

~~[(2)] [If a nonprofit, educational, or charitable organization, as defined by the Internal Revenue Code, 26 U.S.C. 501(c)(3), has less than \$5,000 gross sales of organic products, it shall be registered for production, processing, or handling organic products by using the Exempt Organic Operation Registration form. There shall not be a fee to register.]~~

Section 3.~~[Section 4.]~~ Organic Agriculture Advisory Committee.

(1) The Organic Agriculture Advisory Committee shall consist of seven (7) members. At least three (3) of the members shall be farmers who produce organic products. The other four (4) members **shall[may]** include consumers, advocates, handlers, or processors of organic products.

(2) The committee shall be appointed by the commissioner and serve a term of two (2) years. Members may be reappointed to additional two (2) year terms.

(3) The committee shall develop recommendations to promote and expand the organic agricultural products industry in Kentucky.

(4) Members shall receive reimbursement for mileage only for meetings of the full committee.

Section 4.~~[Section 5.]~~ Exports. If export documentation is requested, the **applicant shall:**

(1) comply with the procedures established in the ~~[KDA]~~Organic Certification Program Quality Manual; **and**

~~(2)[shall be followed. The applicant shall]~~ pay an additional fee of fifty (50) dollars~~[in accordance with the Organic Program Fee Schedule].~~
~~Section 5.[Section 6.] Material Incorporated[Incorporation] by Reference.~~

(1) The following material is incorporated by reference:

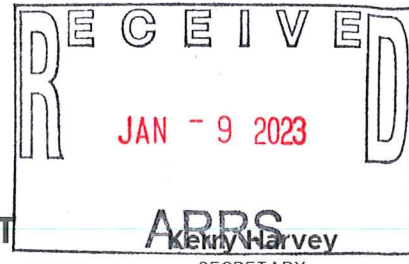
- (a) "Organic Certification Application", September 2021;
- (b) "Processing and Handling Organic System Plan"; August 2022;
- (c) "Livestock & Poultry Organic System Plan", November 2021;
- (d) "2022 Crop Organic System Plan", November 2021;
- (e) "Single Ingredient Product List", October 2022;
- (f) "Multiple Ingredient Product List", October 2022;
- (g) "Voluntary Withdrawal Form", January 2020;
- (h) "Voluntary Surrender Form", January 2020;
- (i) "Organic Certification Program Quality Manual", November 2021;
- (j) "Exempt Organic Operation Registration", **January 2018**~~[October 2022];~~
- (k) "Organic Inspection Exit Interview", November 2019;
- (l) "Crop Inspection Report", October 2022;
- (m) "Livestock Inspection Report", October 2022;
- (n) "KDA **Organic** Processing/Handler ~~[Organic]~~ Inspection Report", 2017.
- ~~[(a)] ["Organic Farm Certification Application", December 2013;]~~
- ~~[(b)] ["Organic Processing/Handling Certification Application", December 2013;]~~
- ~~[(c)] ["Organic Livestock Certification Application", December 2013;]~~
- ~~[(d)] ["Organic Certification Program Fee Schedule", October 2013;]~~
- ~~[(e)] ["Organic Product Profile", December 2013;]~~
- ~~[(f)] ["Withdrawal of USDA National Organic Program Certification Application", October 2013;]~~
- ~~[(g)] ["Voluntary Surrender of USDA National Organic Program Certification", October 2013;]~~
- ~~[(h)] ["KDA Organic Certification Program Quality Manual", December 2013;]~~
- ~~[(i)] ["Exempt Organic Operation Registration", December 2013;]~~
- ~~[(j)] ["Organic Inspection Exit Interview", May 2002;]~~
- ~~[(k)] ["KDA Organic Crop Inspection Report", December 2013;]~~
- ~~[(l)] ["KDA Organic Livestock Inspection Report", December 2013; and]~~
- ~~[(m)] ["Processing/Handler Organic Inspection Report", December 2013.]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing~~[and Product Promotion]~~, 109 Corporate Drive~~[100 Fair Oaks]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the department Web site at www.kyagr.com.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

***Reviewer's Notes:** In conjunction with this suggested substitute, please file one (1) copy of the following with the Compiler:

- Organic Certification Application with "September 2021" only as the edition date and consistently paginated;
- Single Ingredient Product List with "October 2022" as the edition date; and
- Multiple Ingredient Product List with "October 2022" as the edition date.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
Frankfort, Kentucky 40601
Phone: (502) 564-7554
Fax: (502) 564-4840

January 9, 2023

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
702 Capital Avenue
Frankfort KY 40601

RE: **501 KAR 6:050**. Luther Lockett Correctional Complex.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 501 KAR 6:050, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached amendment to 501 KAR 6:050.

Sincerely,

Amy V. Barker
Assistant General Counsel

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amended After Comments)**

501 KAR 6:050. Luther Lockett Correctional Complex.

RELATES TO: KRS 72.020, 72.025(5), Chapters 196, 197, 439
 STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Luther Lockett Correctional Complex.

Section 1. Incorporation by Reference.

(1) "Luther Lockett Correctional Complex policies and procedures", January 10, 2023/December/September/14, 2022[November 10, 2015], are incorporated by reference. Luther Lockett Correctional Complex Policies and Procedures include:

LLCC 02-05-03	Inmate Canteen Committee (Amended <u>9/14/22</u> [5/15/12])
LLCC 02-05-05	Inmate Canteen (Amended <u>9/14/22</u> [5/15/12])
LLCC 02-06-01	Inmate Control of Personal Funds (Amended <u>9/14/22</u> [5/15/12])
LLCC 02-06-02	Storage and Disposition of Monies Received on Weekends, Holidays and between 4 p.m. and 8 a.m. Weekdays (Amended <u>9/14/22</u> [5/15/12])
LLCC 05-02-02	Outside Consultation and Research (Amended <u>1/10/23</u> [9/14/22][5/15/12])
LLCC 06-01-01	Offender Information (Amended <u>9/14/22</u> [10/14/15])
LLCC 06-02-01	Open Records (Amended <u>9/14/22</u> [5/15/12])
LLCC 08-04-01	Fire Safety (Amended <u>9/14/22</u> [7/10/12])
LLCC 09-14-02	<u>Procedures</u> [Guidelines] for Contractors (Amended <u>1/10/23</u> [9/14/22][7/10/12])
LLCC 09-18-01	Search Plan (Amended <u>1/10/23</u> [9/14/22][5/15/12])
LLCC 09-18-03	Contraband Control: Collection, Preservation, Disposition of Contraband, and Identification of Physical Evidence (Amended <u>9/14/22</u> [5/15/12])
LLCC 09-25-01	Procedure for Maintaining Current Inmate Photographs (Amended <u>9/14/22</u> [11/14/14])

LLCC 09-29-01	Inmate Death (Amended <u>9/14/22</u> [7/10/12])
LLCC 01-01	Special Management <u>Housing</u> [Inmates] (Amended <u>12/14/2022</u> [9/14/22] [11/10/15])
LLCC 01-01	Dining Room <u>Rules</u> [Guidelines] (Amended <u>9/14/22</u> [8/7/15])
LLCC 02-01	Food Services: Security (Amended <u>9/14/22</u> [5/15/12])
LLCC 03-01	Food Services: General <u>Requirements</u> [Guidelines] (Amended <u>9/14/22</u> [5/15/12])
LLCC 04-01	Food <u>Services</u> : [Service-] Meals (Amended <u>9/14/22</u> [5/15/12])
LLCC 04-02	Food <u>Services</u> [Service] : Menu, <u>Purchasing, Storage</u> , Nutrition, [and] Special Diets <u>and Farm Products</u> (Amended <u>9/14/22</u> [5/15/12])
LLCC 05-02	Health Requirements of Food Handlers (Amended <u>9/14/22</u> [5/15/12])
LLCC 06-01	Food Services: Inspections and Sanitation (Amended <u>9/14/22</u> [11/10/15])
[LLCC 07-01]	[Food Services: Purchasing, Storage and Farm Products (Amended 5/15/12)]
LLCC 01-01	Sanitation, Living Condition Standards and Clothing Issues (Amended <u>9/14/22</u> [11/14/14])
LLCC 02-01	Laundry Services (Amended <u>9/14/22</u> [7/10/12])
LLCC 03-01	Vermin and Insect Control (Amended <u>9/14/22</u> [5/15/12])
LLCC 04-01	Personal Hygiene Items: Issuance and Replacement Schedule (Amended <u>1/10/23</u> [9/14/22] [5/15/12])
LLCC 02-01	Access to Healthcare (Amended <u>9/14/22</u> [8/7/15])
LLCC 02-02	Specialized Health Services (Amended <u>9/14/22</u> [8/7/15])
LLCC 02-03	Vision Care, Prostheses and Orthodontic Devices (Amended <u>9/14/22</u> [8/7/15])
LLCC 02-05	Medical Services Co-pay (Amended <u>9/14/22</u> [8/7/15])
LLCC 03-01	Mental Health Services (Amended <u>9/14/22</u> [5/15/12])
[LLCC 03-02]	[Use of Psychotropic Medications (Amended 5/15/12)]
LLCC 04-01	Inmate Medical Screenings and Health Evaluations (Amended <u>9/14/22</u> [7/26/13])

LLCC 04-02	13-	Health Education and Special Health Programs (Added <u>9/14/22</u> [7/26/13])
LLCC 04-06	13-	[Psychological and Psychiatric Records (Added 5/15/12)]
LLCC 05-02	13-	Self-Administration of Medication (Inmate) (Amended <u>9/14/22</u> [7/26/13])
LLCC 06-01	13-	Health Records (Amended <u>9/14/22</u> [7/26/13])
LLCC 06-03	13-	Notification of Inmate Family of Serious Illness, Surgery, or Inmate Death (Amended <u>9/14/22</u> [7/26/13])
LLCC 07-01	13-	Serious and Infectious Diseases (Amended <u>9/14/22</u> [7/26/13])
LLCC 07-02	13-	Medical Waste Management (Amended <u>9/14/22</u> [8/7/15])
LLCC 08-01	13-	Restraint Approval (Amended <u>9/14/22</u> [5/15/12])
LLCC 09-01	13-	[Substance Abuse and Chemical Dependency Program (Amended 5/15/12)]
LLCC 03-01	14-	Inmate Legal Services (Amended <u>1/10/23</u> [<u>9/14/22</u>][8/7/15])
<u>LLCC 04-01</u>	14-	<u>Americans with Disabilities Act and Inmate Access (Added 9/14/22)</u>
LLCC 01-02	15-	Inmate Housing Assignment (Amended <u>9/14/22</u> [5/15/12])
LLCC 01-03	15-	Operational Procedures of the Units (Amended <u>1/10/23</u> [<u>9/14/22</u>][5/15/12])
LLCC 01-04	15-	Rules of the Unit (Amended <u>9/14/22</u> [11/14/14])
LLCC 01-08	15-	Searches and Control of Excess Property (Amended <u>9/14/22</u> [7/26/13])
LLCC 01-09	15-	Laundry Unit Services (Amended <u>9/14/22</u> [9/15/14])
LLCC 01-01	16-	Inmate Correspondence (Amended <u>1/10/23</u> [<u>9/14/22</u>][5/15/12])
LLCC 01-02	16-	Inmate Privileged or Legal Mail (Amended <u>9/14/22</u> [5/15/12])
LLCC 01-03	16-	Inmate Packages (Amended <u>9/14/22</u> [5/15/12])
LLCC 02-01	16-	Inmate Visiting (Amended <u>1/10/23</u> [<u>9/14/22</u>][7/26/13])
LLCC 02-02	16-	Extended and Special Visits (Amended <u>9/14/22</u> [5/15/12])

LLCC 02-03	16-	Restricted Visitation Privileges (Amended <u>9/14/22</u> [5/15/12])
LLCC 03-04	16-	Parole Hearings: Media and Visitors (Amended <u>1/10/23</u> [9/14/22] [5/15/12])
LLCC 01-01	17-	Inmate Transportation, Reception, and Discharge Process (Amended <u>9/14/22</u> [5/15/12])
LLCC 03-01	17-	Assessment and Orientation (Amended <u>9/14/22</u> [8/7/15])
LLCC 04-01	17-	Personal Property Control (Amended <u>9/14/22</u> [5/15/12])
LLCC 04-02	17-	Missing or Stolen Inmate Personal Property (Amended <u>9/14/22</u> [5/15/12])
LLCC 05-01	17-	Appliances to Outside Dealers for Repair (Amended <u>9/14/22</u> [7/10/12])
LLCC 01-01	18-	Meritorious Housing (Amended <u>9/14/22</u> [7/26/13])
[LLCC 02-01]	18-	[Minimum Security Unit Operations (Amended 7/26/13)]
[LLCC 02-02]	18-	[Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 10/14/15)]
LLCC 01-02	19-	Job Assignments and Dismissals (Amended <u>1/10/23</u> [9/14/22] [11/14/14])
LLCC 01-01	20-	<u>Education</u> [Educational Programs] (Amended <u>1/10/23</u> [9/14/22] [7/26/13])
LLCC 01-01	21-	Library Services (Amended <u>9/14/22</u> [5/15/12])
LLCC 01-01	22-	Recreation and Inmate Activities (Amended <u>9/14/22</u> [9/12/14])
LLCC 02-01	22-	Inmate Clubs and Organizations (Amended <u>9/14/22</u> [8/7/15])
[LLCC 02-02]	22-	[Inmate Photographs Project (Amended 8/7/15)]
LLCC 05-02	22-	Arts and Crafts Program (Amended <u>9/14/22</u> [8/7/15])
LLCC 01-01	23-	Religious Program (Amended <u>9/14/22</u> [11/14/14])
LLCC 01-03	23-	Inmate Family Emergency Notification (Amended <u>9/14/22</u> [11/14/14])
LLCC 01-01	24-	Counseling and Social Services (Amended <u>9/14/22</u> [7/26/13])
LLCC 01-01	25-	Final Release (Amended <u>9/14/22</u> [8/7/15])

LLCC 01-01	26-	Citizen Involvement and Volunteer Services Program (Amended <u>9/14/22</u> [9/15/14])
LLCC 02-01	26-	Use of Students (Amended <u>9/14/22</u> [5/15/12])
LLCC 02-02	26-	Student and Volunteer Identification Badges (Amended <u>9/14/22</u> [5/15/12])
LLCC 03-01	26-	Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, Students, and Volunteers (Amended <u>9/14/22</u> [5/15/12])

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. **This material may be obtained from the Department of Corrections Web site at <https://corrections.ky.gov/About/Pages/Ircfilings.aspx>.**

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

CHANGES TO MATERIAL INCORPORATED BY REFERENCE:

LLCC 05-02-02

Page 1, A.1.

After "CPP 5.1 Research", insert ", Surveys, and Data Requests".
Delete "and Survey Projects".

LLCC 09-14-02

Page 1, References/Authority

After "197.025", delete ", 432.495".

LLCC 09-18-01

Page 1, References/Authority

After "LLCC", insert "16-02-01".
Delete "16-03-01".

Page 8, II.1.2.

After "LLCC 09-09-02", insert "Entry and Exit Control".
Delete "Search Plan".

LLCC 12-04-01

Page 2, C.2.

After "for the week, they", insert "shall".
Delete "should".

Page 2, C.3.

After "The log shall be store on", insert "the".
After "computer.", delete "At no time shall".
Capitalize "an".

After "inmate", insert "shall not".
After "hygiene items", insert "at any time".

LLCC 14-03-01

Page 6, H.3.

After "All legal mail items", insert "shall".
Delete "are to".
After "A postage lien", insert "shall".
Delete "will".

LLCC 15-01-03

Page 3, D.3.

After "LLCC 12-01-01 Sanitation", insert the following:
 "Living Condition Standards and Clothing Issues"
Delete "and Hygiene".

Page 5, K.2.

After "08-02-01", insert a space.

LLCC 16-01-01

Page 6, II.J.1.

After "All books and publications", insert "shall".
Delete "must".

LLCC 16-02-01

Page 6, H.5.

After "any jewelry except", delete "a".

LLCC 16-03-04

Page 1, References/Authority

After "LLCC", insert "16-02-01".
Delete "16-03-01".

LLCC 19-01-02

Page 4, II.C.8.a.

After "This shall be documented in the Job", delete the return and "b.".
Renumber remaining paragraphs accordingly.

LLCC 20-01-01

Page 6, F.1.

After "(CPP) 20.1", insert a space.



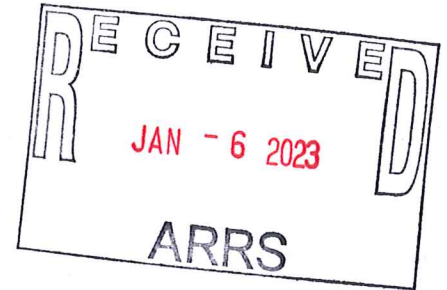
Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091

January 4, 2023



Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 907 KAR 3:160. Specialized children's services clinics.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 3:160, the Department for Medicaid Services proposes the attached suggested substitute to 907 KAR 3:160.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services, at (502) 564-4321 ext. 2015.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Final, 1-3-2023

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations

907 KAR 3:160. Specialized children's services clinics.

RELATES TO: KRS 205.557(1)(c), 205.560, ~~[205.557(1)(c), 314.011(14), 620.020(4), 620.050]~~

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.557(5)~~EO 2004-726]~~

NECESSITY, FUNCTION, AND CONFORMITY: ~~[EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.]~~ The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the requirements for providers and reimbursement by the Medicaid program for services provided by a specialized children's services clinic.

Section 1. Definitions. (1) "Affiliation agreement" means a written agreement between a provider and a children's advocacy center to perform a child ~~[sexual abuse]~~ medical evaluation~~[examination]~~.

(2) "Approved behavioral health practitioner" means an independently licensed practitioner who is:

- (a) A physician;
- (b) A psychiatrist;
- (c) An advanced practice registered nurse;
- (d) A physician assistant;
- (e) A licensed psychologist;
- (f) A licensed psychological practitioner;
- (g) A certified psychologist with autonomous functioning;
- (h) A licensed clinical social worker;
- (i) A licensed professional clinical counselor;
- (j) A licensed marriage and family therapist;
- (k) A licensed professional art therapist;
- (l) A licensed clinical alcohol and drug counselor; or
- (m) A licensed behavior analyst.~~["Child sexual abuse medical examination" means an examination to determine child sexual abuse that includes:~~

~~(a) A medical history taken from the child and a nonimplicated parent, guardian or primary caretaker;~~

- ~~(b) A physical examination with detailed attention to the anogenital area;~~
- ~~(c) If clinically indicated, a colposcopic examination; and~~
- ~~(d) A mental health screening, provided on the same day and at the same location as the physical examination, to determine the impact of the alleged abuse on the mental health status of the child and the need for mental health services.]~~

(3) "Approved behavioral health practitioner under supervision" means an individual under billing supervision of an approved behavioral health practitioner who is:

(a)1. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

2. A certified psychologist working under the supervision of a board-approved licensed psychologist;

3. A marriage and family therapy associate;

4. A certified social worker;

5. A licensed professional counselor associate;

6. A licensed professional art therapist associate;

7. A licensed clinical alcohol and drug counselor associate;

8. A certified alcohol and drug counselor; or

9. A licensed assistant behavior analyst; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(4) "Child medical evaluation" is defined by KRS 205.557(1)(c).

(5)[(3)] "Children's advocacy center" is defined in KRS 620.020(4).

(6)[(4)] "Department" means the Department for Medicaid Services or its designated agent.

(7)[(5)] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Sexual assault nurse examiner" or "SANE" is defined in KRS 314.011(14).

[(6) "Mental health professional" means:

(a) A psychologist as defined in KRS 319.010(8);

(b) A licensed clinical social worker in accordance with KRS 335.100;

(c) An advanced registered nurse practitioner as defined in KRS 314.011(7);

(d) A licensed marriage and family therapist as defined in KRS 335.300(2);

(e) A certified professional counselor as defined in KRS 335.500(2); or

(f) A certified professional art therapist as defined in KRS 309.130(2).]

(9)[(7)] "Specialized children's services clinic" means a clinic enrolled with the Kentucky Medicaid program that provides child [sexual abuse] medical evaluations[examinations] and that meets the requirements of Section 3 of this administrative regulation.

[(8) "Usual and customary charge" means the amount a provider bills to the general public.]

Section 2. Covered Services. (1) A child medical evaluation[~~child sexual abuse medical examination~~] provided as a clinic service by a specialized children's services clinic shall be covered if medically necessary and provided to a recipient who is under the age of eighteen (18) years.

(2) [Consistent with KRS 205.557(1)(c),] A child medical evaluation includes[is] any combination of one (1) or more of the [following] services as established in KRS 205.557(1)(c) or:

—(a) A medical history taken from the child and a nonimplicated parent, guardian, or primary caretaker;

—(b) A comprehensive physical examination;

—(c) Laboratory services;

—(d) Photo documentation;

—(e) Follow-up evaluation;

—(f) A mental health screening to determine the impact of the alleged abuse on the mental health status of the child and the need for mental health services; or

—(g) an evidence-based trauma screening approved by the Children's Advocacy Centers of Kentucky, or its successor agency.

(3) A child medical evaluation[~~child sexual abuse medical examination~~] shall be performed by:

(a) A licensed physician, an advance practice registered nurse, a physician assistant, or a sexual assault nurse examiner who:

1. Completes the medical history and physical examination;

2. Is employed by, under contract with, or has an affiliation agreement with a specialized children's services clinic;

3. Has received specialized training in the medical examination of sexually-abused children; and

4. ~~[Has received specialized training in the use of a colposcope and has access to a colposcope in the specialized children's services clinic; and~~

5.] Shall make reports resulting from child medical evaluations~~[child sexual abuse medical examinations]~~ available for peer review and maintain confidentiality in accordance with Section 7[6] of this administrative regulation; and

(b) As necessary, an approved behavioral health practitioner or an approved behavioral health practitioner under supervision~~[a mental health professional]~~ who:

1. Performs a mental health screening or evidence-based trauma screening to determine the mental health status of the child and the need for further mental health services;

2. Is ~~[directly]~~ supervised by the physician, physician assistant, or advanced practice registered nurse who performs the medical examination and evaluation;

3. Is employed by, under contract with, or has an affiliation agreement with a specialized children's services clinic; and

4. Has received specialized training in the mental health screening or evidence-based trauma screening and assessment of sexually-abused children.

(4) ~~[The following]~~ Mental health treatment services, limited to those as established in paragraphs (a) through (i) of this subsection, may be offered by a specialized children's services clinic to a person who is involved with or impacted by the subject matter of a child medical evaluation, and services shall meet the requirements as established in this subsection.[:]

(a) A screening shall:

1. Determine the likelihood that an individual has a mental health disorder, a substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder;

3. Establish the need for an in-depth assessment; and

4. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the provider to:

a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;

b. Determine the individual's readiness for change;

c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the individual to develop a treatment and service plan;

4. Not include a psychological or psychiatric evaluation or assessment; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(c) Crisis intervention:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:

a. The recipient; or

b. Another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for an individual with a behavioral health disorder;

3. Shall be provided:

a. On-site at a specialized children's clinic;

b. As an immediate relief to the presenting problem or threat; and

c. In a one-on-one encounter between the provider and the recipient, which is delivered either in-person or via telehealth if appropriate pursuant to 907 KAR 3:170;

4. May include:

a. Verbal de-escalation, risk assessment, or cognitive therapy; or

b. Further service planning including:

(i) Lethal means reduction for suicide; or

(ii) Substance use disorder or relapse prevention;

5. Shall be followed by a referral to non-crisis services if applicable; and

6. Shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(d)1. Intensive outpatient program services shall:

a. Be an alternative to or transition from a higher level of care for a mental health disorder;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. Be provided at least three (3) hours per day at least three (3) days per week for adults;

d. Be provided at least six (6) hours per week for adolescents;

e. Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education related to identified goals in the recipient's treatment plan; and

f. Be provided in-person.

2. During psycho-education, the recipient or recipient's family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program services treatment plan shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, a specialized services clinic shall have:

a. Access to a board-certified or board-eligible psychiatrist for consultation;

b. Access to a psychiatrist, a physician, or an advanced practiced registered nurse for medication prescribing and monitoring;

c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) recipients to one (1) staff person;

d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles; and

e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with this section and to coordinate the provision of services among team members.

5. Intensive outpatient program services shall be provided by:

a. An approved behavioral health practitioner, except for a licensed behavior analyst; or

b. An approved behavioral health practitioner under supervision, except for a licensed assistant behavior analyst.

(e) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; and

b. Restoration of a recipient to the recipient's best possible functional level from a mental health disorder;

2. Consist of:

a. ~~A~~~~An in-person or via telehealth as appropriate pursuant to 907 KAR 3:170,~~ one-on-one encounter between the provider and recipient **conducted in-person or via telehealth as appropriate pursuant to 907 KAR 3:170;** and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functionality;

4. Not exceed three (3) hours per day; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(f)1. Family outpatient therapy shall consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170, behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals, including multiple members from one (1) family, who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Restoration of a recipient to **the recipient's[their]** best possible functional level from a mental health disorder; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

4. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(g)1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; and

(ii) Restoration of a recipient to **the recipient's[their]** best possible functional level from a mental health disorder;

c. Consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170, behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

d. Be provided to a recipient in a group setting:

(i) Of nonrelated individuals; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. A family outpatient therapy group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of a group receiving group outpatient therapy shall be related to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(h)1. Collateral outpatient therapy shall:

a. Consist of an in-person or appropriate telehealth, provided pursuant to 907 KAR 3:170, behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's treatment plan; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. Written consent by a parent or custodial guardian to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(i)1. Peer support services shall:

a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a mental health disorder to a recipient by sharing a similar mental health disorder in order to bring about a desired social or personal change;

(ii) A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a mental health disorder to a parent or family member of a child sharing a similar mental health disorder in order to bring about a desired social or personal change; or

(iii) An individual, who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing as a child or youth an emotional, social, or behavioral disorder that is defined in the current version of the Diagnostic and Statistical Manual for Mental Disorders;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

- e. Be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;
- f. Be identified in each recipient's plan of care;
- g. Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's plan of care; and
- h. Be provided face-to-face or via telehealth, as established pursuant to 907 KAR 3:170.
- 2. To provide peer support services, a specialized children's services clinic shall:
 - a. Have demonstrated:
 - (i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and
 - (ii) Experience in serving individuals with behavioral health disorders;
 - b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240;
 - c. Use an approved behavioral health practitioner to supervise peer support specialists;
 - d. Have the capacity to coordinate the provision of services among team members;
 - e. Have the capacity to provide ongoing continuing education and technical assistance to peer support specialists;
 - f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and
 - g. Require peer support services provided to recipients in a group setting not exceeding eight (8) individuals within any group at a time.
- (5) Ongoing mental health treatment services shall be provided by:
 - (a)1. An approved behavioral health practitioner; or
 - 2. An approved behavioral health practitioner under supervision; and
 - (b)1. A provider who is an employee of the specialized children's services clinic; or
 - 2. A provider who has a contractual relationship with the specialized children's services clinic and who does not duplicate the provided behavioral health services to the recipient for another Medicaid provider.

Section 3. Provider Requirements. (1) A provider shall be enrolled with the department as a specialized children's services clinic.

(2) A specialized children's services clinic shall be a children's advocacy center whose providers are employed by, under contract with, or have a signed affiliation agreement with the clinic.

(3) A SANE who is a registered nurse, but not an APRN, shall be under the supervision of a physician, an APRN, or a physician assistant who is employed or contractually associated with the specialized children's services clinic for billing purposes.

Section 4. Billing for Services. (1) A child medical evaluation~~[child sexual abuse medical examination]~~ shall be billed by a specialized children's services clinic as a comprehensive clinic service which shall include:

(a) The services of the;

- 1. Physician;
- 2. Advanced practice registered nurse;
- 3. Physician assistant; or
- 4. SANE.

(b) Mental health screening services provided by an approved behavioral health practitioner or an approved behavioral health practitioner under supervision~~[a mental health professional];~~

(c) Services and supplies furnished as an incidental part of the [physician's-]professional services performed by a provider listed in paragraph (a) of this subsection in the course of diagnosis and treatment; ~~[or]~~[and]

(d) Medical services provided by other clinic employees under the direct supervision of the physician, advanced practice registered nurse, physician assistant, or SANE; or

(e) Follow-up services provided by the physician, advanced practice registered nurse, physician assistant, SANE, approved behavioral health practitioner, or approved behavioral health practitioner under supervision.

(2) Child medical evaluation services provided by a physician, **an** advanced practice registered nurse, **a** physician assistant, **a** SANE, or an approved behavioral health practitioner or an approved behavioral health practitioner under supervision~~[mental health professional]~~ employed by, under contract with, or having a signed affiliation agreement with a specialized children's services clinic shall be billed under the clinic's provider number using a single reimbursement code designated by the department.

(3) Mental health treatment by an approved behavioral health practitioner or approved behavioral health practitioner under supervision shall be billed per encounter by the specialized children's services clinic as consistent with:

(a) The Outpatient Behavioral Health Fee Schedule, or its successor fee schedule, **available at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>**; and

(b) Section 2 of this administrative regulation.

(4)(a) A specialized children's services clinic may provide laboratory services directly if:

1. The clinic has the appropriate **Clinical Laboratory Improvement Amendments (CLIA)** certificate to perform laboratory testing pursuant to 907 KAR 1:028; and

2. The services are prescribed by a physician, **an** advanced practice registered nurse, **a** physician assistant, or **a** SANE who has a contractual relationship with the clinic.

(b) If a specialized children's services clinic does not have the appropriate CLIA certificate to perform necessary laboratory testing, it shall establish a contractual relationship with a laboratory or facility with the appropriate CLIA certificate in order to perform any laboratory service required pursuant to this administrative regulation. The contracted laboratory shall not separately bill for any services provided for a specialized children's services clinic that are also submitted for reimbursement pursuant to this administrative regulation.

(c) Laboratory services may be administered, as appropriate, by:

1. A physician;

2. An APRN;

3. A physician assistant;

4. A SANE;

5. An approved behavioral health practitioner; or

6. An approved behavioral health practitioner under supervision.

Section 5. Reimbursement. (1) The department shall establish a prospective payment~~[a statewide reimbursement]~~ rate or rates for each specialized children's services clinic based on an annual cost report or survey~~[a review of cost data and a consideration of rates paid to providers for similar services]~~.

(a) The prospective payment rate **shall[will]** reflect a true and actual cost for a specialized children's services clinic as established by expenses from the previous year.

(b) The prospective reimbursement rate shall incorporate additional expected expenses for the next year, including expected inflation for the next year.

(2)(a) A managed care organization shall accept the surveys submitted by the department and the department's determination of a prospective reimbursement rate for each and any specialized children's services clinic.

(b) A managed care organization shall not require separate submission of a cost report by a specialized children's services clinic to the managed care organization.~~[The initial rate of reimbursement for a child sexual abuse medical examination shall be the lesser of:~~

~~(a) An all-inclusive statewide rate of \$538 per examination; or~~

~~(b) The provider's usual and customary charge for the service.~~

~~(3) The department shall determine the statewide rate using updated cost data submitted on an annual cost report from the center.]~~

~~(3)(a) The department shall utilize the rates established pursuant to subsection (1) of this section to inform the prospective reimbursement rate.~~

~~(b)1. A cost report shall be submitted by each center annually or upon request by the department.~~

~~2. A specialized children's clinic may submit a cost report to the department at any time that there is an increase of five (5) percent in cost during the year.~~

~~(4)(a) An ongoing mental health treatment service shall be billed consistent with Section 4(3) of this administrative regulation.~~

~~(b) The department and each managed care organization shall reimburse at least at the minimum of the rates published on the Outpatient Behavioral Health Fee Schedule, or its successor fee schedule, for services related to ongoing mental health treatment.~~

Section 6. Reimbursement Prior to Implementation of a Prospective Payment Rate. The department and each managed care organization (MCO) shall reimburse pursuant to this subsection until a prospective payment rate is established pursuant to Section 5 **of this administrative regulation**. At that time, this section shall become nonoperational.

(1)(a) The department and each managed care organization shall reimburse at least twenty-five (25) percent greater than the Physician's Fee Schedule established pursuant to 907 KAR 3:010 for each service related to a child medical evaluation.

(b) 1. The department may establish and publish a ~~[""]~~Specialized Children's Clinic Fee Schedule~~[""]~~ for use by specialized children's clinics.

2. If established and published the fee schedule shall be located at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(c) The department shall establish any additional procedure codes needed to perform services pursuant to this administrative regulation.

(2) The department and each managed care organization shall reimburse at least at the minimum of the rate for a specialized children's services clinic established pursuant to subsections (1) or (3) of this section.

(3) In the alternative, a specialized children's services clinic may bill a comprehensive rate for services rendered during the time that this section is operational, not including a follow-up evaluation:

(a) The initial rate shall be no less than \$894, and shall be updated, if necessary, for inflation.

(b) The department may collaborate with designated representatives of the children's advocacy centers to establish a comprehensive rate that is based on any increases in fees or rates established pursuant to subsection (1) of this section.

(c) A separate bill may be submitted by a specialized children's clinic for a follow-up evaluation.

(4)(a) An ongoing mental health treatment service shall be billed consistent with Section 4(3) of this administrative regulation.

(b) The department and each managed care organization shall reimburse at least at the minimum of the rates published on the Outpatient Behavioral Health Fee Schedule, or its successor fee schedule, for services related to ongoing mental health treatment.

Section 7.[Section 6.] Medical Records and Confidentiality. (1) Except to the department, duly authorized representatives of federal or state agencies, multidisciplinary team members acting pursuant to KRS 620.050 or a physician, a physician assistant, **an** APRN, **a** SANE, or an approved behavioral health practitioner participating in a peer review of a specific child sexual or physical abuse or neglect case, a specialized children's services clinic shall not disclose any information concerning an eligible recipient without:

(a) Written consent of:

1. The recipient; or
2. If the recipient is a minor, the recipient's parent, legal guardian, or attorney; or

(b) A subpoena from a court of appropriate jurisdiction.

(2) A specialized children's services clinic shall:

(a) Maintain a recipient's medical records in accordance with 907 KAR 1:672;

(b) Maintain up-to-date recipient medical records at the site where the medical services are provided;

(c) Ensure that a recipient's medical record shall be readily retrievable, complete, organized, and legible and shall reflect sound medical recordkeeping practices; and

(d) Safeguard medical records against loss, destruction, and unauthorized use.

Section 8.~~[Section 7.]~~ Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid recipient shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 9. The department may administer any benefits or services related to a specialized children's services clinic outside of the managed care benefit.

Section 10. Federal Approval and Federal Financial Participation. The cabinet's coverage and reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage and reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval of the coverage and reimbursement, as relevant.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

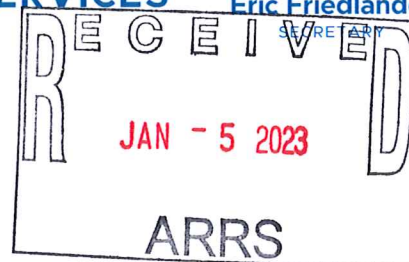


Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091



January 5, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 922 KAR 2:165 LRC staff suggested amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 2:165, the Department for Community Based Services proposes the attached LRC staff suggested amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Staff-suggested Amendment

12/27/2022

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care**

922 KAR 2:165. Employee Child Care Assistance Partnership.

Page 5

Section 3(4)

Line 21

After "paid for", insert "½".

Delete ",".

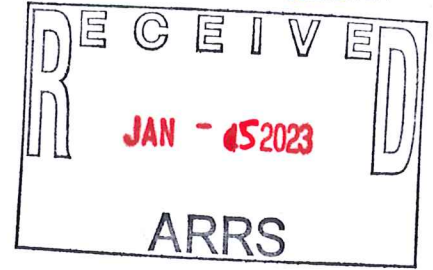


Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091



January 5, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: **922 KAR 2:165** agency amendment

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 2:165 and incorporated material, the Department for Community Based Services proposes the attached agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Child Care

922 KAR 2:165. Employee Child Care Assistance Partnership.

Page 8

Section 8

Lines 19-20

After "determination", insert the following:

within thirty (30) days of adverse action from the Office of the
Ombudsman and Administrative Review, Quality Advancement Branch,
275 East Main Street, 2 E-O, Frankfort, KY 40621

Delete the following:

in accordance with 921 KAR 2:055 or 922 KAR 2:260

Page 9

Section 9(1)(b)

Lines 3-4

After "Action",", insert "01/23".

Delete "09/22".

Incorporated material

DCC-605

Page 1

The appeals language is being amended consistent with the administrative regulation. The revision date of the form has been updated to "01/23".

For Office Use Only:
Contract # _____
Date _____

Employee Child Care Assistance Partnership Notice of Action

Your application to participate in the Employee Child Care Assistance Partnership was:

Approved Denied Terminated

The reason for this is:

Effective: _____ through (unless terminated) _____

Business contribution and frequency: _____

State match: _____

Employer/business name _____

Address _____ City _____ State _____ Zip _____

Employee name _____

Address _____ City _____ State _____ Zip _____

Child care provider/business name _____

Address _____ City _____ State _____ Zip _____

If you are dissatisfied with this decision, you may request an administrative hearing within thirty (30) days from the Office of the Ombudsman and Administrative Review, Quality Advancement Branch, 275 East Main Street, 2 E-O, Frankfort, KY 40621.