

CHAPTER 116

(HB 220)

AN ACT relating to building safety and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *Only a licensed elevator mechanic working under the general supervision of an elevator contractor may:*
 - (a) *Erect, construct, alter, replace, maintain, remove, or dismantle any elevator or fixed guideway system contained within buildings or structures; or*
 - (b) *Wire any elevator or fixed guideway system from the mainline feeder terminals on the controller.*
- (2) *A licensed elevator contractor is not required for removing or dismantling elevators or fixed guideway systems:*
 - (a) *That are destroyed as a result of a complete demolition of a secured building or structure; or*
 - (b) *Where the hoistway or wellway is demolished back to the basic support structure and does not allow access that could endanger the safety and welfare of a person.*

➔SECTION 2. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *The Elevator Advisory Committee is created within the Office of Housing, Buildings and Construction. The committee shall consist of eight (8) members, one (1) of whom shall be the executive director of the Office of Housing, Buildings and Construction or his or her designee. The Governor shall appoint the remaining seven (7) members of the committee as follows:*
 - (a) *One (1) representative from a nationally recognized elevator manufacturing company;*
 - (b) *One (1) representative from an elevator servicing company;*
 - (c) *One (1) representative from the general public who has no financial interest in the elevator or fixed guideway system industry;*
 - (d) *One (1) representative involved in the installation, maintenance, and repair of elevators or fixed guideway systems;*
 - (e) *One (1) representative of an accessibility or residential elevator company;*
 - (f) *One (1) representative of the architectural design, elevator consulting, or engineering profession with experience in elevator design; and*
 - (g) *One (1) representative of organized labor.*
- (2) *The executive director of the Office of Housing, Buildings and Construction shall serve as a member of the committee by virtue of his or her office. The appointed members of the committee shall serve for terms of three (3) years, except that initially two (2) members shall be appointed for a one (1) year term, two (2) members shall be appointed for two (2) year terms, and three (3) members shall be appointed for three (3) year terms. No committee member shall be appointed for more than two (2) successive terms except as provided in subsection (4) of this section. The Governor shall, within the limits of this subsection, set the length of term of each of the initial appointees to the committee.*
- (3) *Vacancies occurring on the committee among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section. A replacement for a committee member shall be appointed immediately upon the expiration of the departing committee member's term of service.*
- (4) *If a committee member vacates his or her position on the committee prior to the expiration of the member's term, a replacement member shall be appointed for the period of the unexpired term. If the unexpired term is less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to two (2) successive three (3) year terms.*

- (5) *Members may be removed from the committee by the Governor for unethical conduct, neglect of duty, incompetence, or for failure to attend three (3) or more consecutive meetings of the committee. A dismissed member's remaining term shall be completed by the replacement member appointed by the Governor.*
- (6) *The committee shall be given the opportunity to review and comment on relevant administrative regulations that are subject to the requirements of KRS 198B.030(9) and (10) and 198B.040(11) and shall make recommendations to and otherwise advise the office on these matters. The committee shall perform any other duties and responsibilities relating to the development of administrative regulations for elevators and fixed guideway systems as assigned by the executive director.*
- (7) *Those members of the committee who are not salaried governmental employees shall be compensated for their time when attending committee meetings or attending to official duties as directed by the committee at the rate of thirty-five dollars (\$35) per day. All board members shall be compensated for expenses incurred in the conduct of board business.*
- (8) *The executive director or his or her designee shall serve as chair of the Elevator Advisory Committee. The chair shall only vote in the event of a tie among the appointed advisory committee members.*
- (9) *No member of the committee shall vote on any matter which will result in his or her direct or indirect financial gain.*

➔SECTION 3. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *The committee shall first meet and organize within ten (10) days after the appointment of its initial members.*
- (2) *The committee shall meet at least quarterly for the purpose of considering matters relating to elevators and fixed guideway systems and when necessary to make recommendations to the office on administrative regulations, appeals, and other relevant business. Special meetings may be called in accordance with KRS 61.823.*

➔SECTION 4. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall not work as an elevator contractor or elevator mechanic unless licensed by the office. A person may work as an elevator helper or apprentice without a license while under the general supervision of a licensed elevator mechanic.*
- (2) *A person who is a regular and bona fide full-time employee of a public university and who performs only routine maintenance on elevators for the public university shall be licensed as an elevator mechanic. The public university shall not be required to become licensed as an elevator contractor to employ a licensed elevator mechanic performing elevator maintenance for the public university under this subsection. An elevator mechanic who qualifies under this subsection shall only be authorized to conduct routine maintenance on any elevators for the public university, and shall be prohibited from performing any of the other activities authorized by subsection (1) of Section 1 of this Act.*
- (3) *The office may promulgate administrative regulations necessary to implement KRS 198B.400 to 198B.540.*

➔SECTION 5. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *An application for licensure as an elevator contractor shall contain the following:*
 - (a) *For an applicant who is a person or sole proprietor:*
 1. *Name;*
 2. *Residence; and*
 3. *Business address of the applicant;*
 - (b) *For an applicant that is a partnership:*
 1. *Names of the partners;*
 2. *Residential addresses of the partners; and*
 3. *Business address of the partnership;*

- (c) *For an applicant that is a domestic corporation:*
 - 1. *Name of the principal corporate officer;*
 - 2. *Residential address of the principal corporate officer; and*
 - 3. *Business address of the corporation;*
 - (d) *For an applicant that is a corporation other than a domestic corporation:*
 - 1. *Name of the corporation's agent who is authorized to accept service of process and official notices on behalf of the corporation in the state; and*
 - 2. *Physical address of the corporation's authorized agent;*
 - (e) *The number of years the applicant has engaged in the business of installing, maintaining, or servicing elevators or fixed guideway systems;*
 - (f) *The approximate number of persons, if any, to be employed by the elevator contractor applicant;*
 - (g) *Proof that he or she has complied with workers' compensation and unemployment insurance laws;*
 - (h) *Evidence that the applicant is covered by general liability, personal injury, and property damage insurance;*
 - (i) *Criminal record of convictions, if any, as verified through a criminal background check conducted by the Department of Kentucky State Police. The cost of the background check shall be paid by the applicant; and*
 - (j) *Upon request by the office, supplemental documentation of information required by this section.*
- (2) *An applicant for an elevator contractor license shall:*
- (a) *Employ at least one (1) licensed elevator mechanic who performs the work described in Section 1 of this Act; and*
 - (b) *Have proof of compliance with insurance requirements of Section 13 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *An application for licensure as an elevator mechanic shall contain the following:*
- (a) *Name;*
 - (b) *Residential address;*
 - (c) *Name and address of the applicant's employer, if employed;*
 - (d) *The number of years the applicant has engaged in the business of installing, maintaining, or servicing elevators or fixed guideway systems; and*
 - (e) *Upon request by the office, supplemental documentation of information required by this section.*
- (2) *An applicant for an elevator mechanic license shall demonstrate one (1) or more of the following to be eligible for licensure:*
- (a) 1. *Proof the applicant has not less than thirty-six (36) months of work experience in the elevator industry, in construction, maintenance, service, repair, or any combination of these activities as verified by current and previous employers or equivalent experience while serving in the United States military services; and*
 - 2. *Passage of a written, oral, or computerized examination administered by the office based upon the most recent referenced codes and standards;*
 - (b) 1. *Proof the applicant has worked without direct and immediate supervision as an elevator constructor, maintenance, or repair person for not less than three (3) years immediately prior to the effective date of this Act; and*

2. *Submission of an application for licensure within one (1) year after the effective date of this Act;*
- (c) *Certificate of completion from a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program, National Association of Elevator Contractors, or an equivalent program approved by the executive director; or*
- (d)
 1. *Certificate of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of KRS 198B.400 to 198B.540; and*
 2. *Proof of registration with the Bureau of Apprenticeship and Training, United States Department of Labor, or a state apprenticeship council.*

➔SECTION 7. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant for licensure as an elevator contractor under Section 5 of this Act or as an elevator mechanic under Section 6 of this Act who applies to the office prior to July 1, 2012, shall be licensed by the office without completing the licensure requirements as established in KRS 198B.400 to 198B.540, if the applicant is currently licensed, certified, or registered as an elevator contractor or elevator mechanic in another state whose standards are substantially equal to those in KRS 198B.400 to 198B.540.*
- (2) *Prior to July 1, 2012, an applicant who does not qualify for licensure under subsection (1) of this section or under Section 5 or 6 of this Act shall qualify for licensure by showing a minimum of three (3) years of verifiable experience engaging in business as an elevator contractor or elevator mechanic in this state.*
- (3) *After July 1, 2012, licensure under this section shall cease.*

➔SECTION 8. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

Any person, sole proprietor, partnership, or corporation holding a valid elevator or fixed guideway license from a state that has licensing, educational, and experience requirements substantially equal to or greater than those of KRS 198B.400 to 198B.540, and which grants licensing privileges to persons licensed in this state, may be issued an equivalent license in this state upon terms and conditions determined by the office. The terms and conditions shall be promulgated as an administrative regulation by the office.

➔SECTION 9. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *The office shall issue emergency elevator mechanic licenses whenever an emergency is declared by the Governor due to disaster, act of God, or work stoppage, and the number of persons in the state holding licenses granted by the office is determined by the executive director to be insufficient to cope with the emergency.*
- (2) *Elevator contractors shall respond as necessary to ensure the safety of the public.*
- (3) *Any person confirmed by a licensed elevator contractor to have a combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic's license from the office within five (5) business days after commencing work under this emergency provision if the work requires a license under ordinary circumstances. The elevator contractor employing the elevator mechanic shall furnish proof of competency as required by the office.*
- (4) *Each emergency elevator mechanic license shall be valid for a period of forty-five (45) days from the date of issuance and for the particular elevators or geographical areas designated by the office, and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic licensed under KRS 198B.400 to 198B.540.*
- (5) *The office may renew an emergency elevator mechanic license during the existence of a continuing emergency.*

➔SECTION 10. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *An elevator contractor shall notify the office when the contractor has no licensed personnel available to perform elevator work. The elevator contractor may request that the office issue temporary elevator*

mechanic licenses to persons confirmed by the licensed elevator contractor to have a combination of documented experience and education to perform elevator work without direct and immediate supervision.

- (2) *Any person confirmed by an elevator contractor to have a combination of documented experience and education to perform elevator work without direct and immediate supervision shall immediately seek a temporary elevator mechanic license from the office.*
- (3) *Each temporary license shall be valid for a period of one (1) year and only while the licensee is employed by the licensed elevator contractor that confirmed the individual as qualified.*
- (4) *The temporary license shall be renewable for additional terms of one (1) year each until there is no shortage of ordinary license holders.*

➔SECTION 11. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *Each person licensed under the provisions of KRS 198B.400 to 198B.540 shall annually, on or before the last day of the licensee's birth month, renew his or her license.*
- (2) *A sixty (60) day grace period shall be allowed after the anniversary date of the license during which time a licensee may continue to practice and may renew his or her license upon meeting the requirements promulgated through administrative regulations by the office.*
- (3) *A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination, the licensee shall be ineligible to practice in the Commonwealth.*
- (4) *After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon meeting the requirements promulgated through administrative regulations by the office. An applicant for reinstatement after termination of the license shall not be required to submit to any examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.*
- (5) *A suspended license is subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the office and the right to practice is restored by the office.*
- (6) *A revoked license is subject to reinstatement, expiration, or termination but may not be renewed.*
- (7) *An applicant for renewal or reinstatement of a license shall show evidence of completing at least eight (8) hours of continuing education provided by the National Elevator Industry Educational Program, National Association of Elevator Contractors, or another provider approved by the office. The office shall promulgate administrative regulations establishing the permissible content of continuing education programs and the qualifications of the providers.*
- (8) *When applicable, an applicant for renewal or reinstatement of an elevator contractor license shall submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained general liability coverage of at least one million dollars (\$1,000,000) for injury or death of any number of persons in any one (1) occurrence, with coverage of at least five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence.*
- (9) *The office may, through the promulgation of administrative regulations:*
 - (a) *Establish an inactive license for licensees who are not actively engaging in the elevator or fixed guideway system business but who wish to maintain their license;*
 - (b) *Determine continuing education requirements for reactivation;*
 - (c) *Waive the insurance requirements established in subsection (8) of this section for inactive licensees; and*
 - (d) *Establish reactivation procedures.*

➔SECTION 12. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *The renewal of all elevator contractor and elevator mechanic licenses shall be conditioned upon the submission of a certificate of completion of a continuing education course or courses that instruct licensees on new and existing applicable administrative regulations of the office.*
- (2) *Licensed elevator contractors and licensed elevator mechanics shall complete at least eight (8) hours of continuing education annually. Continuing education for a renewal year shall be attended and completed during that renewal year.*
- (3) *Continuing education courses shall be taught by instructors employed by continuing education providers that may include but shall not be limited to association seminars and labor training programs. Continuing education programs provided by the National Elevator Industry Educational Program or the National Association of Elevator Contractors shall be approved to meet the requirements for continuing education. The office may approve other education programs that meet its requirements established through administrative regulation under subsection (7) of Section 11 of this Act.*
- (4) *A licensee who is unable to complete the continuing education requirements for renewal under this section prior to the expiration of his or her license due to temporary disability may apply for a waiver from the office. The waiver shall be on a form provided by the office, with a notarized signature of the licensee, and accompanied by a certified statement from a physician attesting to the temporary disability. Application for medical waiver must be received by the office prior to the final day of the licensee's birth month. Upon termination of the temporary disability, the licensee shall submit a supplementary certified statement attesting to the termination of the temporary disability and proof of attendance of at least eight (8) hours of continuing education.*
- (5) *Falsifying or knowingly allowing another to falsify continuing education attendance records or certificates of completion shall constitute grounds for revocation of program approval required under this section.*

➔SECTION 13. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

Elevator contractors shall submit proof of insurance to the office for an insurance policy issued by an insurance company or other legal entity permitted to transact insurance business in Kentucky, providing:

- (1) *General liability coverage of at least one million dollars (\$1,000,000) for injury or death of any number of persons in any one (1) occurrence;*
- (2) *Coverage of at least five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence; and*
- (3) *Statutory workers' compensation insurance coverage.*

➔SECTION 14. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 198B.400 to 198B.540 shall not be construed to relieve or lessen the responsibility or liability of any person, partnership, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing, or repairing any elevator, fixed guideway system, or other related mechanisms for damages to person or property caused by any specifically related defect.

➔SECTION 15. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *The office shall conduct disciplinary hearings in accordance with KRS Chapter 13B.*
- (2) *The executive director may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the executive director's determination if he or she believes that allowing the licensee to keep an active license would represent a clear and immediate danger to the public's health, safety, or property if the licensee is allowed to continue working.*
- (3) *The executive director shall issue a letter to cease and desist with notice of opportunity to be heard in accordance with a KRS Chapter 13B hearing, to any individual if the executive director determines that:*
 - (a) *An individual is not licensed under the provisions of this chapter; and*
 - (b) *The individual is engaged in, or believed to be engaged in, activities for which an elevator contractor's or elevator mechanic's license is required under KRS 198B.400 to 198B.540.*

- (4) *After completion of the KRS Chapter 13B hearing, if it is determined that the individual's activities are subject to licensure under KRS 198B.400 to 198B.540, the executive director shall issue a cease and desist order that identifies the individual and specifically states the activities that are subject to the order.*
- (5) *A cease and desist order issued under this section shall be enforceable in the Circuit Court of the county of the licensee's place of business in accordance with KRS Chapter 13B.*

➔SECTION 16. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to a hearing conducted in accordance with KRS Chapter 13B, the executive director may suspend, revoke, or refuse to renew the license of an elevator contractor or elevator mechanic for any of the following actions by the licensee:*
 - (a) *Use of false evidence of misrepresentation in an application for an elevator contractor's or elevator mechanic's license;*
 - (b) *Attempting to transfer authority granted to the licensed contractor or mechanic to another individual;*
 - (c) *Incompetency or negligence relating to elevator service, installation, repair, or maintenance as determined by the executive director;*
 - (d) *Conviction of a felony after the effective date of this Act;*
 - (e) *Fraudulent or dishonest practices while engaging in the business of elevator service, installation, repair, or maintenance;*
 - (f) *Aiding or abetting any person attempting to evade the provisions of KRS 198B.400 to 198B.540; or*
 - (g) *Violating any provision of KRS 198B.400 to 198B.540 or the administrative regulations promulgated under KRS 198B.400 to 198B.540.*
- (2) *Subject to a hearing in accordance with KRS Chapter 13B, the executive director shall revoke the license of an elevator contractor or elevator mechanic who continues to work as if holding a valid license during a suspension imposed by the executive director.*
- (3) *Any licensee who is aggrieved by a final order of the executive director, resulting in the suspension, refusal to renew, or revocation of his or her license may appeal to the Circuit Court of the county of the licensee's place of business in accordance with KRS Chapter 13B.*
- (4) *Any reason for licensee discipline under subsection (1) of this section may also serve as the reason to deny an initial application for licensure as an elevator contractor or elevator mechanic.*

➔SECTION 17. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

If the license of an elevator contractor or elevator mechanic is revoked for any reason, the former licensee may, at the conclusion of the revocation period, reapply for his or her license.

➔SECTION 18. A NEW SECTION OF KRS 198B.400 TO 198B.540 IS CREATED TO READ AS FOLLOWS:

- (1) *The elevator safety program trust fund is created in the State Treasury as a separate revolving fund to be administered by the Office of Housing, Buildings and Construction. The trust fund shall consist of amounts deposited in the fund as provided in Section 29 of this Act and any other proceeds from grants, contributions, appropriations, or other money made available for the purposes of the trust fund.*
- (2) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year to be used for the purposes set forth in this section.*
- (3) *Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.*
- (4) *Trust fund moneys shall be used and are hereby appropriated for reasonable administrative expenses associated with the elevator safety program and other purposes as specified in subsection (7) of Section 2 of this Act.*

➔Section 19. KRS 198B.400 is amended to read as follows:

As used in KRS 198B.410 to 198B.540, unless the context otherwise requires:

- (1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus;~~;~~
- (2) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity;~~;~~
- (3) "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride;~~;~~
- (4) "General inspector" means a state inspector examined and hired to inspect elevators for the Office of Housing, Buildings and Construction;~~;~~
- (5) "Special inspector" means an inspector examined and certified by the office to inspect elevators in the state;~~;~~
- (6) "Inspector" means either a general or special inspector;~~;~~
- (7) "Office" means the Office of Housing, Buildings and Construction;~~;~~
- (8) "Certificate of operation" is a certificate issued by the office authorizing the operation of an elevator which must be conspicuously posted on the elevator at all times;~~;~~
- (9) "Escalator" means a moving stairway consisting of steps attached to a continuously circulating belt that is used to move persons from one (1) level to another;~~;~~
- (10) "Moving sidewalk" means horizontal flat panels attached to a continuously circulating belt used to move people;~~;~~
- (11) "Fixed guideway system" means any nonrail system, funicular, or automated people mover, either air-suspended or wheeled, that is not regulated by the Federal Transit Administration;~~;~~
- (12) *"Mine elevator" means an elevator permanently installed in a mine shaft to provide vertical transportation of mine personnel, their tools, equipment, and mine supplies;*
- (13) *"Stage elevator" means a section of a stage arranged to be raised and lowered above and below the stage in a vertical direction;*
- (14) *"Orchestra elevator" means a platform used for raising and lowering musicians in an orchestra in a vertical direction;*
- (15) *"Organ console elevator" means a mechanism used for raising and lowering an organ console, including the organist, in a vertical direction;*
- (16) *"Material lift" means a hoisting and lowering mechanism equipped with a car that moves within a guide system installed at an angle of greater than seventy (70) degrees from the horizontal, serving two (2) or more landings, for the purpose of transporting materials that are manually or automatically loaded or unloaded. A person shall not ride on a material lift;*
- (17) *"Committee" means the Elevator Advisory Committee;*
- (18) *"Elevator contractor" means any sole proprietor, partnership, or corporation possessing an elevator contractor license issued by the office and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or fixed guideway systems;*
- (19) *"Elevator mechanic" means any person who:*
 - (a) *Possesses an elevator mechanic license issued by the office;*
 - (b) *Is employed by an elevator contractor; and*
 - (c) *Is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or fixed guideway systems;*

- (20) *"Elevator helper" or "elevator apprentice" means any person who works under the general supervision of a licensed elevator mechanic. An elevator helper or elevator apprentice is not subject to licensure;*
- (21) *"Executive director" means the executive director of the Office of Housing, Buildings and Construction;*
- (22) *"Direct and immediate supervision" means that the licensed supervising authority is on-site. The supervisor is not required to have actual or direct sight of the person being directly supervised; and*
- (23) *"General supervision" means that the supervising authority oversees the work performed overall but is not required to be on-site at all times during work relating to elevators or fixed guideway systems.*

➔Section 20. KRS 198B.410 is amended to read as follows:

- (1) No person may act either as a general inspector or as a special inspector of elevators or fixed guideway systems unless he or she holds a certificate of competency from the office.
- (2) Application for examination as an inspector of elevators shall be in writing, accompanied by a fee of ten dollars (\$10), upon a blank to be furnished by the office, stating the school education of the applicant, a list of his or her employers, his or her period of employment, and the position held with each. An applicant shall also submit a letter from one (1) or more of his or her previous employers certifying as to his or her character and experience.
- (3) Applications shall be rejected which contain any willful falsification or untruthful statements. The applicant, if the office deems his or her history and experience sufficient, shall be tested by means of a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators, *fixed guideway systems*, and their appurtenances, and the applicant shall be accepted or rejected on the merits of his or her application and examination.
- (4) The office shall promulgate administrative regulations establishing the training and certification requirements for inspectors of fixed guideway systems.
- (5) The office shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety (90) days, and upon payment of an examination fee of ten dollars (\$10), to another examination. Should an applicant fail to pass the prescribed examination on second trial, he or she will not be permitted to be an applicant for another examination for a period of one (1) year after the second failure.

➔Section 21. KRS 198B.420 is amended to read as follows:

- (1) The office shall administer all aspects of the State Elevator and Fixed Guideway System Inspection Program.
- (2) The program shall be directed by a person with at least five (5) years' experience in the inspection or construction, installation, maintenance, and repair of elevators, *fixed guideway systems*, and their appurtenances.
- (3) The executive director of housing, buildings and construction may appoint and hire, from the holders of certificates of competency, general inspectors of elevators.
- (4) *Any person may request an investigation into an alleged violation of KRS 198B.400 to 198B.540 by giving notice to the office of the violation or danger. This notice shall be:*
 - (a) *In writing;*
 - (b) *Set forth with particularity regarding the grounds for the notice; and*
 - (c) *Signed by the person making the request.*
- (5) *If, upon receipt of the request for investigation, the office determines that there is evidence that a violation or danger exists, the office shall conduct an investigation in accordance with KRS 198B.400 to 198B.540 as soon as practicable. If the office finds no grounds to substantiate that a violation or danger exists, the office shall notify the requesting party in writing of the findings within fourteen (14) calendar days of the determination.*

➔Section 22. KRS 198B.450 is amended to read as follows:

If a certificate *issued under Section 20 of this Act* is lost or destroyed, a new one shall be issued in its place by the office without another examination, upon the payment of a fee of one dollar (\$1).

➔Section 23. KRS 198B.460 is amended to read as follows:

- (1) The owner or user of any elevator or fixed guideway system shall register with the office every elevator or fixed guideway system operated by him or her, giving the type, capacity, description, name of manufacturer, and purpose for which each is used. The registration shall be made on a form to be furnished by the office.
- (2) ***If the office has the information required by subsection (1) of this section in its possession, the owner or lessee shall not be required to duplicate the information. Elevators and fixed guideway systems for which construction has begun after the effective date of this Act shall be registered at the time they are completed and placed in service.***

➔Section 24. KRS 198B.470 is amended to read as follows:

- (1) ***Except as indicated under subsection (2) of this section***, every passenger elevator, ***freight elevator***, moving sidewalk, fixed guideway system, and escalator shall be inspected once every twelve (12) months.
- (2) ***The following shall be exempt from the annual inspection requirements of subsection (1) of this section:***
 - (a) ***Material lifts;***
 - (b) ***Grain elevators;***
 - (c) ***Mine elevators;***
 - (d) ***Stage elevators;***
 - (e) ***Orchestra elevators;***
 - (f) ***Organ console elevators;***
 - (g) ***Elevators and lifting devices solely in residential buildings used by the occupants of a dwelling unit, except where the lifting device is used or accessible by the occupants of more than one (1) dwelling unit;***
 - (h) ***Freight elevators on the licensed premises of a distillery licensed under KRS 243.030(1);***
 - (i) ***Non-federally regulated, funicular fixed guideway systems; and***
 - (j) ***Passenger elevators, freight elevators, moving sidewalks, fixed guideway systems, and escalators installed in federal properties and projects.***

➔Section 25. KRS 198B.480 is amended to read as follows:

- (1) Every inspector shall forward to the office a full report of each inspection made of any passenger elevator or fixed guideway system, showing the exact condition of the elevator or fixed guideway system, and the inspector shall leave a copy of the report at the elevator or fixed guideway system on the day the inspection is completed.
- (2) If any passenger elevator or fixed guideway system requires certain changes or repairs to make it reasonably safe to operate, recommendations shall be made by the inspector upon his or her report and a copy of the report as approved by the office shall be given to the owner or operator of the elevator or fixed guideway system, and, unless appealed, upon compliance ***with the report***~~therewith~~ and upon the payment of the fees required by law, the office shall issue a certificate of operation for a capacity not to exceed that named in the report of inspection. ***This***~~which~~ certificate shall be valid for one (1) year after the date of inspection.
- (3) If construction plans or an application of specifications is not approved, the office shall state in writing the necessary changes to obtain approval and the owner or operator shall be given a copy ***of the necessary changes***~~thereof~~, and, unless appealed, upon compliance ***by the owner or operator***~~therewith~~, the office shall approve the plans or specifications and issue a permit for construction.
- (4) Any owner or operator, within twenty (20) days from receipt of the copy of the report or statement of changes in plans or specifications, may make written application to the office upon forms to be furnished by the office for a hearing on the report or the statement regarding changes in plans or specifications as to whether the elevator or fixed guideway system in question is reasonably safe, or whether the elevator or fixed guideway system, if constructed in accordance with the plans and specifications, would be reasonably safe. The office shall promptly consider the application and schedule a hearing to be conducted consistent with the provisions of this section and KRS Chapter 13B.

- (5) If it appears from the evidence presented at the hearing that the elevator or fixed guideway system will be reasonably safe to operate without those changes or repairs shown in the report or by making only a part or all ~~of the changes~~~~thereof~~, or if none or only a part of all the changes in the plans or specifications are found necessary to make the elevator reasonably safe, the office shall issue its final order accordingly. If the final order requires changes or repairs to be made in the elevator or fixed guideway system or changes in the plans or specifications of either, the office shall, upon the payment of the required fees, issue a certificate of operation when the order has been executed or issue its approval of the plans or specifications. If the final order of the office has been affirmed or modified by appeal on the grounds of reasonable safety considered by the office, then the office shall, upon compliance with the final order and the payment of required fees, issue the certificate of operation or issue its approval of the plans and specifications; but, if the order of the office has been vacated, the certificate of operation, upon the payment of fees or approval of plans and specifications, shall be issued *immediately*~~forthwith~~. No elevator or fixed guideway system shall be operated after being inspected without *bearing a conspicuously posted*~~having a~~ certificate of operation~~conspicuously posted thereon~~, except pending a hearing on the issuance ~~of the certificate~~~~thereof~~.

➔Section 26. KRS 198B.490 is amended to read as follows:

- (1) The ~~office~~~~executive director of housing, buildings and construction~~ shall make, alter, amend, and repeal rules and *administrative* regulations exclusively for the safety and inspection of passenger elevators and fixed guideway systems. The ~~office~~~~executive director~~ shall have the authority to prescribe, by *administrative* regulation, *a reasonable*~~the~~ fee to be charged for each inspection. All fees established and regulated by this section shall be ~~paid~~~~payable~~ to the office, *made payable to the Kentucky State Treasurer*, except as may be provided in a specific written agreement between the executive director and any agency authorized to inspect elevators or fixed guideway systems by the provisions of this chapter.
- (2) *The office shall consult with the Elevator Advisory Committee, engineering authorities, and organizations concerned with standard safety codes, rules, and administrative regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of elevators and fixed guideway systems, and the qualifications that are necessary for an elevator mechanic, contractor, and inspector.*
- (3) *The office shall promulgate administrative regulations establishing the approved equipment regulated by KRS 198B.400 to 198B.540. These administrative regulations shall include the following, except as modified under subsection (4) of this section:*
- (a) *Safety Code for Elevators and Escalators, ASME A17.1/CSA B44;*
 - (b) *Safety Code for Existing Elevators and Escalators, ASME A17.3;*
 - (c) *Performance-Based Safety Code for Elevators and Escalators, ASME 17.7/CSA B44.7;*
 - (d) *Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1;*
 - (e) *Standard for the Qualification of Elevator Inspectors, ASME OEI-1; and*
 - (f) *Automated People Mover Standards, ASCE 21.*
- (4) *The office and the committee shall review the latest editions of any standard listed in subsection (3) of this section within twelve (12) months of that standard's effective date. Upon completion of reviews, the committee shall give the office its recommendations for or against adoption or modification of a standard.*
- (5) *All administrative regulations issued by the office relating to KRS 198B.400 to 198B.540 shall be consistent with the standards of safety as established in 815 KAR 10:060 and the Uniform State Building Code established in KRS 198B.050.*

➔Section 27. KRS 198B.510 is amended to read as follows:

- (1) No certificate of operation for any passenger elevator or fixed guideway system shall be issued until the elevator or fixed guideway system has been inspected and the *inspection* report~~thereof~~ filed with the office. The certificate of operation, when issued, shall bear the date of inspection, and shall be renewed as of the date of the subsequent inspection, provided the inspection is made at least one (1) year after the issuance of ~~this~~~~such~~ certificate. If the inspection is made during the year the certificate is in force, the renewal date shall be one (1) year from the date of the certificate being renewed and the renewal certificate shall show the date of inspection.

- (2) *All new elevator or fixed guideway system installations shall be performed by a licensed elevator contractor. Subsequent to installation, the elevator contractor shall certify compliance with the applicable sections of KRS 198B.400 to 198B.540. The licensed elevator contractor shall complete and submit the initial registration for each new installation.*
- (3) (a) *A state inspector shall inspect, in accordance with KRS 198B.400 to 198B.540, all newly installed elevators, platform lifts, and stairway chairlifts in private residences.*
- (b) *A state inspector may inspect, in accordance with KRS 198B.400 to 198B.540, any existing installed elevators, platform lifts, and stairway chairlifts in private residences at the request of the owner of the private residence.*

➔Section 28. KRS 198B.520 is amended to read as follows:

- (1) Before any new installation of an elevator or fixed guideway system of permanent nature shall be erected or before any existing elevator is removed to a different location, an application of specifications in duplicate shall be submitted to the office giving such information concerning the construction, installation, and operation of ~~the said~~ elevator or fixed guideway system as the office may require on forms to be furnished by the office, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction or classification, grade, or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the office containing such information for approval, ~~except for elevators in those municipal corporations which maintain their own elevator inspection departments, in which event the specifications shall be submitted to the elevator department of the municipal corporation for its approval and, if approved, a permit for the erection or repair of the elevator shall be issued by the municipal corporation~~. Upon approval of the application and construction plans, the office shall issue a permit for the erection or repair of the elevator or fixed guideway system. No new elevator or fixed guideway system shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the office.
- (2) *A permit issued under this section may be revoked by the office when:*
- (a) *A false statement or misrepresentation of a material fact in the application, plans, or specifications led to the issuance of the permit;*
- (b) *The permit was issued in error;*
- (c) *The work detailed under the permit is not being performed in accordance with the application, plans, or specifications;*
- (d) *Work is not being performed in accordance with the code or conditions of the permit; or*
- (e) *The elevator contractor to whom the permit was issued fails or refuses to comply with a lawfully issued stop work order.*
- (3) *A permit issued under this section shall expire if:*
- (a) *The work authorized by permit is not commenced within twenty-four (24) months after the date of issuance, or within a shorter period of time as specified by the office at the time the permit is issued; or*
- (b) *The work is abandoned for a period of sixty (60) days after work commences, or a shorter period of time as specified by the office at the time the permit is issued.*
- (4) *The office shall allow an extension of the allotted period if proof of good cause is provided with a request for an extension.*

➔Section 29. KRS 198B.530 is amended to read as follows:

~~A~~~~No~~ person shall *not* violate any law relative to the operation, construction, maintenance, and repair of passenger elevators or fixed guideway systems. All fines collected for a violation of this section shall be forwarded to the office, which shall pay the same into the State Treasury to the credit of the *elevator safety program trust fund as specified in Section 18 of this Act*~~general revenue fund~~.

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *The office shall issue a fire sprinkler inspector certification to an applicant who meets the following requirements:*

- (a) *Is at least eighteen (18) years of age;*
- (b) *Submits a completed fire sprinkler inspector's written or electronic application form as provided by the office;*
- (c) *Provides a certificate of insurance that:*
 - 1. a. *Is issued by an insurance company or other legal entity permitted to transact insurance business in Kentucky;*
 - b. *Insures for general liability coverage of at least five hundred thousand dollars (\$500,000); and*
 - c. *Includes liability insurance that shall cover the legal liability of the certified fire sprinkler inspector as the result of erroneous acts or failure to act in his or her capacity as a fire sprinkler inspector and shall be in the form of a certificate of insurance executed by an insurer permitted to do business in this state or exported by a licensed surplus lines broker to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210; or*
 - 2. *Submits an affidavit completed by a sprinkler contractor that the applicant is and will be an employee of a currently licensed sprinkler contractor in good standing with the office;*
- (d) 1. *Provides proof of passing scores on all portions of a standardized examination approved by the executive director; or*
- 2. *Is a current holder of certification from the National Institute for Certification in Engineering Technologies (NICET) for "Inspection and Testing of Water-Based Systems" Level 2 or higher; and*
- (e) *Upon request by the office, supplemental documentation of information as required under this subsection.*

(2) *All certification cards issued by the office shall remain the property of the office.*

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant for certification as a fire sprinkler inspector under this chapter making application to the office prior to July 1, 2012, shall be certified by the office without completing the certification requirements as established in this chapter if:*
 - (a) *The applicant is currently certified by the state of Kentucky, or*
 - (b) *The applicant is currently licensed, certified, or registered as a fire sprinkler inspector in another state whose standards are substantially equal to those in this chapter.*
- (2) *Prior to July 1, 2012, the office may issue a pending certification to an applicant. A pending certification shall allow the applicant to act in the capacity applied for until the applicant's permanent certification is issued or the application is denied.*
- (3) *After July 1, 2012, certification under this section shall cease.*

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *The initial annual certification for a fire sprinkler inspector shall be for not less than seven (7) months nor more than eighteen (18) months.*
- (2) *Any certification for a fire sprinkler inspector issued in accordance with this chapter shall expire on the last day of the inspector's birth month in the year following certification.*
- (3) *Renewal notices shall be sent to each certified inspector at least sixty (60) days prior to the expiration of his or her certification. The notice shall:*
 - (a) *Inform the certified inspector of the need to renew the certification; and*
 - (b) *Describe the materials to be submitted with a request for renewal.*
- (4) *An individual who applies to renew a certification as a certified fire sprinkler inspector shall:*

- (a) *Complete and submit the fire sprinkler inspector's written or electronic renewal form as provided by the office;*
- (b) *Show proof of general liability insurance in the amount required by this chapter; and*
- (c) *1. Provide proof of completion of six (6) hours of continuing education prior to certification renewal. The required continuing education shall be received within the twelve (12) months prior to renewal; or*
 - 2. Submit proof that the inspector is a current and valid holder of NICET certification in the testing of water-based systems.*
- (5) *A thirty (30) day grace period shall be allowed after the renewal deadline of the certification during which time a fire sprinkler inspector may continue to practice and may renew his or her certification upon meeting the requirements promulgated through administrative regulation by the office.*
- (6) *Any certification not renewed on or before the last day of the thirty (30) day grace period shall terminate based upon failure to timely renew certification. Upon termination, the individual shall no longer be eligible to inspect within the Commonwealth.*
- (7) *After expiration of the thirty (30) day grace period, a formerly certified fire sprinkler inspector with a terminated certification shall have the certification reinstated upon meeting the requirements promulgated through administrative regulation by the office. An applicant for reinstatement after termination of his or her certification shall not be required to submit to any examination as condition for reinstatement, if the reinstatement application is made within two (2) years from the date of certification termination.*
- (8) *After termination and two (2) years, the applicant shall retest and comply with application requirements set forth in Section 30 of this Act.*

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *The certification requirements established within this chapter may be waived for a person moving into the Commonwealth from another jurisdiction, and a fire sprinkler inspector's certification granted, if the person meets the following requirements:*
 - (a) *The other jurisdiction grants the same privileges to certified fire sprinkler inspectors of Kentucky as Kentucky grants to certified or licensed fire sprinkler inspectors of that other jurisdiction;*
 - (b) *The individual is certified or licensed in the other jurisdiction;*
 - (c) *The certification or licensing requirements of the other jurisdiction are substantially similar to the requirements in this chapter; and*
 - (d) *The individual submits a notarized letter stating that he or she has read, is familiar with, and will abide by this chapter and the administrative regulations promulgated by the office.*
- (2) *An individual seeking a fire sprinkler inspector's certification under this section shall:*
 - (a) *Submit a completed fire sprinkler inspector's written or electronic application form as provided by the office; and*
 - (b) *1. Provide a certificate of insurance that is issued by an insurance company or other legal entity permitted to transact business in Kentucky with a general liability coverage of at least five hundred thousand dollars (\$500,000). Liability insurance shall cover the legal liability of the certified fire sprinkler inspector as the result of erroneous acts or failure to act in his or her capacity as a fire sprinkler inspector and shall be in the form of a certificate of insurance executed by an insurer permitted to do business in this state or exported by a licensed surplus lines broker to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210; or*
 - 2. Submit an affidavit from a sprinkler contractor that he or she is covered as an employee of a sprinkler contractor that is in good standing and currently licensed by the office.*

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The executive director shall, through the promulgation of administrative regulations:

- (1) *Establish the procedures necessary to implement Sections 30 to 38 of this Act;*

- (2) *Establish an inactive status of certification for fire sprinkler inspectors who are not actively conducting inspections but wish to maintain their certification;*
- (3) *Establish a waiver of insurance requirements for inactive certifications;*
- (4) *Establish the reactivation procedure for a certification successfully placed into inactive status; and*
- (5) *Establish criteria for approval of continuing education providers and continuing education courses.*

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The standards to be utilized in the inspection of sprinkler systems shall be the standards set forth in the National Fire Protection Association's Article 25: Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems and is the edition prescribed by the executive director or other national standard as approved by the executive director.

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *The procedures set forth in KRS Chapter 13B shall govern the office's conduct of disciplinary hearings.*
- (2) *The executive director may summarily suspend a certification for up to ninety (90) days before a final adjudication or during an appeal of the executive director's determination if he or she believes that the certification would represent a clear and immediate danger to the public's health, safety, or property if the inspector is allowed to perform sprinkler system inspections.*
- (3) *The executive director shall issue a letter to cease and desist with notice of opportunity to be heard in accordance with KRS Chapter 13B, to any individual if the executive director:*
 - (a) *Determines that an individual is not certified under the provisions of this chapter; and*
 - (b) *Determines that the individual is engaged in, or believed to be engaged in, activities for which a fire sprinkler inspector's certification is required under this chapter.*
- (4) *After completion of the hearing, if it is determined that the activities in which the individual is engaged are subject to certification under this chapter, the executive director shall issue a cease-and-desist order that identifies the individual and specifically states the activities which are subject to the order.*
- (5) *A cease-and-desist order issued under this section shall be enforceable in the Circuit Court of the county of the certified inspector's place of business in accordance with KRS Chapter 13B.*

➔SECTION 37. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to a hearing conducted in accordance with KRS Chapter 13B, the executive director may suspend, revoke, or refuse to renew the certification of a certified fire sprinkler inspector for any of the following actions:*
 - (a) *Use of false evidence or misrepresentation in an application for a fire sprinkler inspector's certification;*
 - (b) *Attempting to transfer authority granted to the certified inspector to another individual;*
 - (c) *Incompetence or negligence in the inspection of fire protection sprinkler systems as determined by the executive director;*
 - (d) *Conviction of a felony or of any crime an element of which is dishonesty or fraud, under the laws of any state or of the United States;*
 - (e) *Fraudulent or dishonest practices while engaging in the business of sprinkler system inspections;*
 - (f) *Aiding or abetting any person attempting to evade the provisions of this chapter; or*
 - (g) *Violating any provision of this chapter or the administrative regulations promulgated thereunder.*
- (2) *The executive director shall revoke, subject to a hearing in accordance with KRS Chapter 13B, the certification of a fire sprinkler inspector who engages in inspection activities during a suspension of his or her certification.*

- (3) *Any certification holder who is aggrieved by a final order of the executive director, resulting in the suspension or revocation of certification, may appeal to the Circuit Court of the county of the certified inspector's place of business in accordance with KRS Chapter 13B.*

➔ SECTION 38. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

If the certification of a fire sprinkler inspector is revoked for any reason, the inspector may, at the conclusion of the revocation period, reapply for a sprinkler system inspector's certification.

➔ Section 39. KRS 198B.400 to 198B.540 shall be known and may be cited as the Kentucky Elevator Safety Act.

➔ Section 40. This Act takes effect July 1, 2011.

Signed by Governor April 12, 2010