

CHAPTER 100**(HB 250)**

AN ACT relating to the Kentucky Board of Home Inspectors.

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

➔Section 1. KRS 198B.030 is amended to read as follows:

- (1) There is hereby created the Kentucky Department of Housing, Buildings and Construction within the Public Protection Cabinet. The Governor shall appoint a commissioner to head the department. The commissioner shall receive for his or her services such compensation as the Governor shall determine.
- (2) The commissioner may employ sufficient staff to carry out the functions of the commissioner's office. Neither the commissioner nor any member of his or her staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the Department of Housing, Buildings and Construction.
- (3) The department shall serve as staff for the board of housing, buildings and construction as established by this chapter, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him or her by the Governor or secretary, or prescribed for the commissioner by law. The department or commissioner shall submit any proposed administrative regulation to the board and shall not promulgate the administrative regulation without giving the board the opportunity to produce written comments, as required by subsection ~~(8)~~~~(9)~~ of this section. If the board chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.
- (4) The department may enter into contracts or agreements with the federal government, its subdivisions and instrumentalities, other agencies of state government or with its subdivisions and instrumentalities, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.
- (5) Subject to the direction of the board of housing, buildings and construction, the commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.
- (6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.
- (7) The commissioner is authorized to receive, for and on behalf of the state, the department, and the board of housing, buildings and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this chapter, including expenses of administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.
- ~~(8)~~ ~~—The Kentucky Board of Home Inspectors established in KRS 198B.704 shall be attached to the department for administrative purposes.~~
- ~~(9)~~ (a) If the department has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with the department, the department shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (b) of this subsection.

- (b) 1. If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (a) of this subsection, the department shall distribute the proposed administrative regulation to the board or advisory committee.
- 2. The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.
- 3. The time limits in this paragraph shall begin from the day the department submits the regulatory change and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.
- 4. If a board or advisory committee is not scheduled to meet or meets only at the call of the department, the department shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the department may proceed with the administrative changes at its discretion.
- (c) To the extent that any other statute relating to the department's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.
- (d) If a board or advisory committee chooses to produce written comments, those comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.
- (e) The rights and privileges enumerated in this subsection that apply to boards and advisory committees shall also be granted to the Kentucky Board of Housing, Buildings and Construction.
- ~~(9)~~~~(10)~~ Any power or limitation relating to administrative regulations promulgated by the department that are subject to subsection ~~(8)~~~~(9)~~ of this section shall also apply to administrative regulations promulgated by the commissioner of the department.

➔Section 2. KRS 198B.040 is amended to read as follows:

The Kentucky Board of Housing, Buildings and Construction shall have the following general powers and duties:

- (1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;
- (2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability, and comfort;
- (3) To administer regulatory legislation relating to buildings and construction;
- (4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state, and local agencies in the programs as they relate to buildings and construction;
- (5) To assume administration and coordination of various state housing programs to include:
 - (a) Devising and implementing procedures, in conjunction with the Department for Local Government, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of this housing, and housing constructed and demolished each year;
 - (b) Designing programs coordinating the elements of housing finance, production, maintenance, and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;
 - (c) Establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;

- (d) Designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;
 - (e) Promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;
 - (f) Cooperating with various federal, state, and local agencies in their programs as they relate to housing; and
 - (g) Conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;
- (6) To recommend state building industry policies and goals to the Kentucky General Assembly;
 - (7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state;
 - (8) To promulgate administrative regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants; provided, however, that any such regulations must require that applications for permits to build public water purification plants will be submitted by the department to the Energy and Environment Cabinet for that cabinet's comments. Any such regulations shall require the Energy and Environment Cabinet's comments to be completed and submitted to the department within sixty (60) days;
 - (9) To promulgate administrative regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants; provided, however, that any such regulations must require that applications for permits to build public sewage treatment plants will be submitted by the department to the Energy and Environment Cabinet for that cabinet's comments. Any such regulations shall require the Energy and Environment Cabinet's comments to be completed and submitted to the department within sixty (60) days; and
 - (10) To promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures.
- (11)
 - (a) As used in this subsection, "main board" means the Kentucky Board of Housing, Buildings and Construction.
 - (b) If the main board has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with the main board, the main board shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (c) of this subsection.
 - (c)
 1. If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (b) of this subsection, the main board shall distribute the proposed administrative regulation to the board or advisory committee.
 2. The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.
 3. The time limits in this paragraph shall begin from the day the main board submits the regulatory change and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.
 4. If a board or advisory committee is not scheduled to meet or meets only at the call of the main board, the main board shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the main board may proceed with the administrative changes at its discretion.

- (d) To the extent that any other statute relating to the main board's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.
 - (e) If a board or advisory committee chooses to produce written comments, those comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.
- (12) Any power or limitation relating to administrative regulations promulgated by the Kentucky Board of Housing, Buildings and Construction that are subject to subsection (11) of this section shall also apply to the department and commissioner as described in KRS 198B.030~~(8)(9)~~ and ~~(9)(10)~~.

➔Section 3. KRS 198B.700 is amended to read as follows:

As used in KRS 198B.700 to 198B.738, unless otherwise provided:

- (1) "Applicant" means an individual who applies for a license as a home inspector;
- (2) "Board" means the Kentucky Board of Home Inspectors established in KRS 198B.704;
- (3) "Client" means a person who contracts with a licensed home inspector to obtain a home inspection and subsequent written home inspection report;
- ~~(4)~~ "Department" means the Kentucky Department of Housing, Buildings and Construction;
- ~~(5)~~ "Home inspection" means a visual analysis *performed for compensation* for the purpose of providing a professional opinion *and home inspection report* by a licensed home inspector, *regarding*~~of~~ the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice established by the board. Home inspection shall not include a code compliance inspection, or an inspection required under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS 227.600 regarding manufactured homes;
- ~~(5)(6)~~ "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after a home inspection. The report shall include the following:
 - (a) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient;
 - (b) The inspector's recommendation to repair or monitor deficiencies reported under paragraph (a) of this subsection;
 - (c) A list of any systems or components that were designated for inspection in the standards of practice adopted by the board but that were not inspected; and
 - (d) The reason a system or component listed under paragraph (c) of this subsection was not inspected;
- ~~(6)(7)~~ "Home inspector" means an individual who performs home inspections for compensation;
- ~~(7)(8)~~ "Licensee" means a person who performs home inspections and who is licensed under KRS 198B.700 to 198B.738 as a home inspector; and
- ~~(8)(9)~~ "Residential dwelling" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

➔Section 4. KRS 198B.702 is amended to read as follows:

KRS 198B.700 to 198B.738 shall apply to an individual who conducts home inspections for compensation, but shall not apply to the following:

- (1) An individual who is acting within the scope of the individual's employment as:
 - (a) A code enforcement official for the state or a political subdivision of the state; or
 - (b) A representative of a state or local housing agency or an individual acting under the authority of the United States Department of Housing and Urban Development;
- (2) An individual who is acting within the scope of the individual's license as a licensed:
 - (a) Architect under KRS Chapter 323;

- (b) Professional engineer under KRS Chapter 322;
 - (c) Plumbing contractor or journeyman plumber under KRS Chapter 318;
 - (d) Electrician, master electrician, or electrical contractor under KRS Chapter 227A;
 - (e) Liquefied petroleum gas dealers under KRS Chapter 234;~~{or}~~
 - (f) Master heating, ventilation, and air conditioning contractor, journeyman heating, ventilation, and air conditioning mechanic, or an apprentice heating, ventilation, and air conditioning mechanic under this chapter; *or*
 - (g) ***Fire protection sprinkler contractor, fire protection system certificate holder, or certified fire sprinkler inspector under this chapter;***
- (3) An individual licensed under KRS Chapter 324 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license;
 - (4) An individual who is licensed under KRS Chapter 324A as a real estate appraiser and is acting within the scope of the individual's license;
 - (5) An individual who holds a license under KRS Chapter 304 as an insurance adjuster and is acting within the scope of the individual's license;
 - (6) An individual who holds a permit, certificate, or license to:
 - (a) Use and apply pesticides; or
 - (b) Make diagnostic inspections and reports for wood destroying pests and fungi under KRS Chapter 217B and is acting within the scope of the individual's certificate or license;
 - (7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license;
 - (8) An individual who holds a current and valid license, certificate, or permit under KRS 227.550 to 227.660 and is acting within the scope of the individual's license, certificate, or permit as a:
 - (a) Manufactured home retailer;
 - (b) Manufactured home certified retailer; or
 - (c) Manufactured home certified installer; or
 - (9) ***A person not subject to licensure by the Commonwealth who is engaged in providing estimates for remodeling or repair to a residential dwelling***~~{ Employees of the Department of Housing, Buildings and Construction or the State Fire Marshall's Office acting in their official capacities as inspectors of buildings and manufactured housing}.~~

➔Section 5. KRS 198B.704 is amended to read as follows:

- (1) There is created ***an independent agency of state government***~~{a board}~~ to be known as the Kentucky Board of Home Inspectors, ***which shall be attached to the Office of Occupations and Professions in the Public Protection Cabinet for administrative purposes.***
- (2) The board shall be composed of ***nine (9)***~~{ten (10)}~~ members appointed by the Governor ***as follows:***~~{-}~~
 - (a) Five (5) of the ***board*** members shall:
 - 1. ***Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed no less than one hundred (100) fee-paid inspections per year over the last five (5) years; and***
 - 2. ***Be licensed by the board as a home inspector; and***
 - (b) ***The other four (4) board members shall be qualified as follows:***
 - 1. ***One (1) member shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;***

2. *One (1) member shall be a licensed real estate salesperson or broker under this chapter who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;*
3. *One (1) member shall represent the public at large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names; and*
4. *One (1) member shall be a licensed manufactured home retailer, certified retailer, or certified installer who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute.*

- ~~1. Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed one hundred (100) fee-paid inspections per year over the last five (5) years;~~
- ~~2. Be licensed by the board as a home inspector; and~~
- ~~3. Be selected from a list of fifteen (15) names submitted to the Governor, and compiled by a selection committee composed of eight (8) members, two (2) each from the American Society of Home Inspectors, the Kentucky Real Estate Inspectors Association, the National Association of Certified Home Inspectors, and the National Association of Home Inspectors, respectively.~~

~~(b) The other five (5) board members shall be qualified as follows:~~

- ~~1. One (1) person shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;~~
- ~~2. One (1) person shall be a licensed real estate salesperson or broker under KRS Chapter 324 who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;~~
- ~~3. One (1) person shall represent the public at large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names;~~
- ~~4. One (1) person shall be a licensed manufactured home retailer, certified retailer, or certified installer who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute; and~~
- ~~5. The commissioner of the Department of Housing, Buildings and Construction, or his or her designee shall be a member of the board.~~

~~(3) A board member required to have a license in accordance with subsection (2)(a)3. of this section, shall obtain the requisite license in accordance with KRS 198B.712, on or before July 1, 2006. If a board member does not obtain the requisite license on or before July 1, 2006, the board member shall be considered to have resigned from the board on July 1, 2006, and the Governor shall fill the vacancy in accordance with this section. If a board member resigns for failure to obtain a home inspectors license, the actions of the board member and board before July 1, 2006, shall be valid and viable.~~

~~(3) [(4)] The members of the board shall be residents of Kentucky.~~

~~(4) [(5)] Each member shall serve a term of three (3) years or until a successor has been duly appointed. Each member serving on July 1, 2011, shall continue to serve through his or her appointed term. [The initial terms of office for the nine (9) members appointed to the board by the Governor are as follows:~~

- (a) ~~Three (3) members for a term of three (3) years;~~
- (b) ~~Three (3) members for a term of two (2) years; and~~
- (c) ~~Three (3) members for a term of one (1) year.~~

~~Thereafter, all members shall serve a term of three (3) years, or until a successor has been duly appointed.~~

~~(6) The initial terms begin July 15, 2004.~~

~~(5)~~~~(7)~~ The Governor may remove a board member at any time for incompetence, neglect of duty, or unprofessional conduct.

~~(6)~~~~(8)~~ If a vacancy occurs in the membership of the board, the Governor shall appoint an individual to serve for the remainder of the unexpired term who has like qualifications required of the member who created the vacancy.

~~(7)~~~~(9)~~ A member shall not serve on the board for more than six (6) consecutive years.

(8) ***The board shall designate either a board member or a member of the board's administrative staff to serve as secretary to the board.***

~~(9)~~~~(10)~~ Each year the board shall elect a member as chairperson and a member as vice chairperson.

~~(10)~~~~(11)~~ The chairperson and vice chairperson shall serve in their respective capacities for no more than one (1) year consecutively and until a successor is elected.

~~(11)~~~~(12)~~ The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.

~~(12)~~~~(13)~~ If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

~~(13)~~~~(14)~~ The board shall meet at least quarterly each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

~~(14)~~~~(15)~~ The chairperson shall establish the date, time, and place for each meeting.

~~(15)~~~~(16)~~ A majority of the current members of the board constitutes a quorum.

~~(16)~~~~(17)~~ The affirmative vote of a majority of the members ~~[in attendance at a duly constituted meeting of the board]~~ is necessary for the board to take official action.

~~(17)~~~~(18)~~ Each member of the board is entitled to a minimum salary of thirty-five dollars (\$35) per diem. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as established under KRS 45.101.

~~(18)~~~~(19)~~ A member shall be automatically removed from the board and a vacancy shall be created if a member fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to such a code shall be determined by official action of the board.

➔Section 6. KRS 198B.706 is amended to read as follows:

The board shall:

- (1) Through the promulgation of administrative regulations:
 - (a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by KRS 198B.700 to 198B.738; and
 - (b) Require that a home inspection report include a statement that the home inspection report does not address environmental hazards ***and list all other exclusions with specificity*** ~~[which shall be listed with specificity by the board]~~;
- (2) Grant, deny, suspend, and revoke approval of examinations and courses of study regarding home inspections;
- (3) Issue ***or deny applications for licensure and renewals*** ~~[deny, suspend, place on probation, require additional continuing education, and revoke licenses for violations of KRS 198B.700 to 198B.738]~~;

- (4) Investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738, and, when appropriate, take action in accordance with KRS 198B.728 and 198B.730;
- (5) Bring actions in the name of the state in an appropriate court in order to enforce compliance with KRS 198B.700 to 198B.738 or the administrative regulations promulgated under KRS 198B.700 to 198B.738;
- (6) Establish license fees in an amount not to exceed two hundred fifty dollars (\$250) annually;
- (7) Inspect the records of a licensee in accordance with administrative regulations promulgated by the board;
- (8) Conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under KRS 198B.728 and 198B.730 ~~and exercise all powers granted under KRS Chapter 13B~~;
- (9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and, through the board's secretary, certify copies and authenticate all acts of the board;
- (10) Use counsel, consultants, and other persons, enter into contracts, and authorize expenditures that are reasonably necessary or appropriate to administer and enforce KRS 198B.700 to 198B.738 and administrative regulations promulgated thereunder;
- (11) Establish continuing education requirements for licensed home inspectors in accordance with KRS 19B.722 and 198B.724;
- (12) **Conduct disciplinary actions against licensees to include:**
 - (a) **Suspension, probation, or permanent revocation of a license;**
 - (b) **Requiring a licensee to obtain additional continuing education; and**
 - (c) **Issuance of a written reprimand**~~[Maintain the board's office, files, records, and property in the city of Frankfort];~~
- (13) Require all fee-paid home inspections to be conducted in accordance with the standards of practice of:
 - (a) The American Society of Home Inspectors;
 - (b) The National Association of Home Inspectors; or
 - (c) Any other approved standards of practice that are equal to the standards of practice of the organizations in paragraphs (a) and (b) of this subsection **as determined by the board.**

The board may establish standards of practice for home inspectors licensed in Kentucky at a later date, which will supersede any other standards of practice previously adopted by the board and, if adopted by regulation, the standards in paragraphs (a) and (b) of this subsection;

- (14) Exercise all other powers specifically conferred on the board under KRS 198B.700 to 198B.738; and
- (15) Promulgate administrative regulations to carry out the effective administration and the requirements of KRS 198B.700 to 198B.738.

➔Section 7. KRS 198B.710 is amended to read as follows:

- (1) There is established in the State Treasury a revolving fund for the use by the board.
- (2) All fees and other money received by the board in accordance with KRS 198B.706, 198B.712, 198B.714, 198B.722, and 198B.724 shall be deposited in the revolving fund established in subsection (1) of this section.
- (3) No part of this revolving fund shall revert to the general fund.
- (4) The compensation of board members and all of the board's expenses incurred by the board shall be paid from this revolving fund ~~including expenses attributable to the assistance set forth in KRS 198B.708 and 198B.732(6)~~.

➔Section 8. KRS 198B.712 is amended to read as follows:

- (1) An individual shall not advertise or claim to be a ~~licensed~~ home inspector and shall not conduct a home inspection for compensation without first obtaining a license as a home inspector.

- (2) An individual shall not advertise as, claim to be, or ***engage in or work at the trade of home inspection***~~operate as a home inspection business~~ unless an owner or employee of that business is a licensed home inspector.
- (3) The board shall deny a license to any applicant who fails to:
- (a) Furnish evidence satisfactory to the board, showing that the individual:
 1. Is at least eighteen (18) years of age;
 2. Has graduated from high school or earned a Kentucky or other state's general educational development (GED) diploma; and
 3. Meets other criteria established by the board ***through promulgation of administrative regulation***;
 - (b) Verify the information submitted on the application form;
 - (c) Complete a board-approved training program or course of study involving the performance of home inspections, and pass an examination prescribed or approved by the board;
 - (d) Submit to the board a certificate of insurance that is acceptable to the board and that:
 1. Is issued by an insurance company or other legal entity authorized to transact insurance business in Kentucky;
 2. Provides for general liability coverage of at least two hundred fifty thousand dollars (\$250,000);
 3. Lists the Kentucky Board of Home Inspectors as ~~the~~***the*** certificate holder of any insurance policy ***satisfying the requirements of***~~issued under~~ this paragraph;
 4. States that cancellation and nonrenewal of the underlying policy is not effective until the board receives at least ten (10) days' prior written notice of the cancellation or nonrenewal; and
 5. Contains any other terms and conditions established by the board; or
 - (e) Pay a licensing fee established in KRS 198B.706.
- (4) An individual applying for a license as a home inspector shall apply on a written or electronic form prescribed and provided by the board.

➔Section 9. KRS 198B.714 is amended to read as follows:

- (1) The licensing requirements for a home inspector may be waived for a person moving to Kentucky from another jurisdiction, and the person may be granted a license as a home inspector if ~~the person meets the following requirements~~:
- (a) The other jurisdiction grants the same privileges to licensees of Kentucky as Kentucky grants to licensees of that other jurisdiction;
 - (b) The person is licensed in the other jurisdiction;
 - (c) The licensing requirements of the other jurisdiction are ***determined by the board to be*** substantially similar to the requirements of KRS 198B.700 to 198B.738; and
 - (d) The person states that he or she has studied, is familiar with, and will abide by KRS 198B.700 to 198B.738 and the administrative regulations promulgated by the board.
- (2) A person seeking a license as a home inspector under this section shall:
- (a) Apply on a form prescribed and provided by the board; and
 - (b) Pay the applicable licensing fee established by the board.

➔Section 10. KRS 198B.722 is amended to read as follows:

- (1) The initial license for a home inspector issued in accordance with KRS 198B.700 to 198B.738, shall expire on the last day of the licensee's birth month in the following year. The board may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months.
- (2) Renewed licenses shall expire on the last day of the licensee's birth month of each even numbered year after the date of issuance of the renewed license.
- (3) An individual who applies to renew a license as a licensed home inspector shall:

- (a) Furnish evidence showing successful completion of the continuing education requirements of this section;
 - (b) Pay the renewal fee and late fee, if applicable, established by the board;
 - (c) Show proof of general liability insurance in the amount required by KRS 198B.712(3)(d); and
 - (d) Submit **a recent**~~[an acceptable]~~ background check **performed by the Kentucky State Police**.
- (4) Renewal notices shall be sent to each licensee at least sixty (60) days prior to the expiration of the license. The notice shall inform the licensee of the need to renew and the requirement of payment of the renewal fee.~~[If this notice of expiration is not sent by the board, the licensee is not subject to a sanction for failure to renew if, once notice is received from the board, the license is renewed within forty five (45) days of the receipt of the notice.]~~
- (5) Renewal and applicable late fees shall be paid with a credit card, a draft, a money order, a cashier's check, a certified or other personal check, or, if payment is made in person, the payment may be made in cash. If the board receives an uncertified personal check for the renewal fee and if the check does not clear the bank, the board may refuse to renew the license.
- (6) ~~[Before the end of each license period,]~~ Each licensee shall complete the continuing education required by the board **prior to applying for license renewal**. This requirement shall not exceed thirty (30) hours per two (2) year license cycle.~~[This requirement shall be effective beginning January 1, 2005.]~~
- (7) The board may, through the promulgation of administrative regulations:
- (a) Establish an inactive license for licensees who are not actively engaging in the home inspection business but wish to maintain their license;
 - (b) Reduce license and renewal fees for inactive licenses; and
 - (c) Waive the insurance requirements established in KRS 198B.712 for inactive licenses.

➔Section 11. KRS 198B.730 is amended to read as follows:

- (1) The procedures set forth in KRS Chapter 13B shall govern the board's conduct of disciplinary hearings.
- (2) The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.
- (3) If the board:
 - (a) Determines that an individual is not licensed under KRS 198B.700 to 198B.738 and is engaged in or believed to be engaged in activities for which a license is required under KRS 198B.700 to 198B.738, the board shall issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from the activities. The show cause order shall set forth a date, time, and place for a hearing at which the individual shall appear and show cause why the individual should not be subject to licensing under KRS 198B.700 to 198B.738;
 - (b) **Prior to**~~[After]~~ a hearing,~~[determines that the activities in which the individual is engaged are subject to licensing under KRS 198B.700 to 198B.738,]~~ the board may issue a cease and desist order that identifies the individual and describes activities that are the subject of the order.

- (4) A cease and desist order issued under this section shall be enforceable in a Circuit Court of the Commonwealth.

➔Section 12. KRS 198B.732 is amended to read as follows:

- (1) An individual is guilty of a Class B misdemeanor if the individual:
 - (a) Performs or offers to perform home inspections for compensation **in Kentucky** without being licensed as a home inspector and without being exempt from licensing;
 - (b) Presents as the individual's own the license of another;
 - (c) Intentionally gives false or materially misleading information to the board or to a board member in connection with a licensing matter;

- (d) Impersonates another licensee; or
 - (e) Uses an expired, suspended, revoked, or otherwise restricted license.
- (2) An individual is guilty of a Class A misdemeanor if the individual is convicted of a second or subsequent offense under this section within five (5) years ~~of~~^{after} a prior conviction of an offense under this section.
 - (3) When entering a judgment for an offense under this section, the court shall impose a service fee of an amount equal to any fee or other compensation earned by the individual in the commission of the offense.
 - (4) Each transaction involving unauthorized activities as described in this section shall constitute a separate offense.
 - (5) In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief shall allege and prove that, at the time that the cause of action arose, the party seeking relief was not in violation of KRS 198B.712.

~~{(6) The Housing, Buildings and Construction Legal Division within the Office of Legal Services in the Public Protection Cabinet shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this section.}~~

➔Section 13. KRS 198B.738 is amended to read as follows:

Home inspectors, when acting in that capacity, are prohibited from indicating orally or in writing that any condition is or is not in compliance with *the Kentucky Residential Code* ~~[any building code enforced under KRS Chapter 198B].~~

➔Section 14. KRS 198B.4005 (Effective July 1, 2011) is amended to read as follows:

- (1) The Elevator Advisory Committee is created within the Department of Housing, Buildings and Construction. The committee shall consist of eight (8) members, one (1) of whom shall be the commissioner of the Department 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 commissioner of the Department 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~~(8)~~~~(9)~~ and ~~(9)~~~~(10)~~ and 198B.040(11) and shall make recommendations to and otherwise advise the department 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 commissioner.
- (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 commissioner 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 15. KRS 227.300 is amended to read as follows:

- (1) The commissioner shall promulgate reasonable rules and regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. After promulgation of the Uniform State Building Code, no part of the standards of safety shall establish, in whole or in part, any building code other than the Uniform State Building Code, but the commissioner may supplement the Uniform State Building Code with fire safety regulations designed to operate in conjunction with the code.
- (2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance, or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; maximum occupancy loads and other requirements for buildings of public assembly; flue and chimney construction; heating devices; boilers and pressure vessels; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair, and service shops; application of flammable finishes, acetylene, liquefied petroleum gas, and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibers; airports and airport buildings; hazardous chemicals; rubbish; open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.
- (3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the commissioner shall allow persons who own, manage, or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his or her designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13A.050 but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13A concerning comment on or protest of proposed regulations. All professional associations relating to infant and preschool care shall be notified by the commissioner when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employees of the department for the purpose of drafting such standards.
- (4) The commissioner shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries which shall indicate the items inspectors from the Division of Fire Prevention will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate, or manage such centers or nurseries and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.

- (5) The commissioner shall issue supplemental regulations addressing the temporary change of use in buildings as authorized by KRS Chapter 198B. These regulations shall establish specific standards for such use and shall be designed to operate in conjunction with the Kentucky Building Code.
- (6) Any standards of safety or other regulations promulgated under this section shall be subject to the requirements of KRS 198B.030~~(8)(9)~~ and ~~(9)(10)~~ and 198B.040(11).

➔Section 16. KRS 227.530 is amended to read as follows:

- (1) There is hereby created an Electrical Advisory Committee which shall be attached to the Department of Housing, Buildings and Construction for administrative purposes. The committee shall be constituted as follows:
 - (a) Two (2) members chosen from public utility companies;
 - (b) Two (2) members who are electricians;
 - (c) Two (2) members who are certified electrical inspectors, one (1) of whom shall be employed by a governmental entity and the other who shall be an independent contractor engaged in the business of inspecting electrical installations;
 - (d) Two (2) members who are licensed professional electrical engineers;
 - (e) Two (2) members who are engaged in the business of electrical contracting; and
 - (f) One (1) member who is engaged in the business of electrical contracting and who employs no more than five (5) full-time employees when appointed.
- (2) Committee members shall be appointed by the Governor for four (4) year terms. No committee member shall be appointed for more than one (1) successive term.
- (3) The committee shall meet at least quarterly or upon request of the department for the purpose of considering matters relating to electrical installations and electrical inspections. The committee shall have the opportunity to review and comment on relevant administrative regulations that are subject to the requirements of KRS 198B.030~~(8)(9)~~ and ~~(9)(10)~~ and 198B.040(11) and shall make recommendations to and otherwise advise the department on these matters.
- (4) All committee members shall be compensated for expenses incurred in the conduct of Commonwealth business.

➔Section 17. KRS 227.560 is amended to read as follows:

- (1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to retailers and shall certify installers.
- (2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for Public Health, or their designees, and seven (7) citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home retailers, one (1) certified manufactured or mobile home installer, and three (3) members who shall have no interest in the industry to be regulated.
- (3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for Public Health shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his or her successor is appointed and has qualified.
- (4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years and three (3) to serve for four (4) years. In the initial appointment of the certified manufactured or mobile home installer to the board, the Governor shall designate the member to serve for a term expiring September 1, 2004.
- (5) All members appointed from the manufactured housing industry shall be required to remain licensed and certified during their term and are subject to removal for chronic absenteeism.
- (6) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.
- (7) The chairman of the board shall be elected by the board. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

- (8) Each appointed member shall be entitled to fifty dollars (\$50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.
- (9) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.
- (10) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the department and shall function under the supervision of the head of the department.
- (11) The provisions of KRS 198B.030~~(8)~~~~(9)~~ and ~~(9)~~~~(10)~~ and 198B.040(11) shall not apply to the board.

➔Section 18. KRS 227A.040 is amended to read as follows:

- (1) The department, with assistance from the Electrical Advisory Committee, shall administer and enforce the provisions of KRS 227A.010 to 227A.140 and shall evaluate the qualifications of applicants for licensure.
- (2) The department may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 227A.010 to 227A.140 or the administrative regulations promulgated under KRS 227A.010 to 227A.140 and KRS Chapter 13A.
- (3) The department shall conduct hearings under KRS Chapter 13B and keep records and minutes necessary to carry out the functions of KRS 227A.010 to 227A.140.
- (4) The department, with assistance from the Electrical Advisory Committee, shall evaluate the qualifications of applicants and issue licenses to qualified candidates.
- (5) The department shall renew licenses.
- (6) The department may:
 - (a) Refuse to issue or renew a license;
 - (b) Suspend or revoke a license;
 - (c) Impose supervisory or probationary conditions upon a licensee;
 - (d) Impose administrative disciplinary fines;
 - (e) Issue written reprimands or admonishments; and
 - (f) Take any combination of the actions permitted in this subsection.
- (7) The department may seek injunctive relief in the Circuit Court of Franklin County, in the county in which the violation occurred, or in the county where the business of the accused is located to stop any unlawful practice in KRS 227A.010 to 227A.140 and administrative regulations promulgated thereunder. The department may also seek injunctive relief for unlicensed persons who inappropriately use the title "electrical contractor," "electrician," or "master electrician."
- (8) The department, with comments and advice from the Electrical Advisory Committee if required by KRS 198B.030~~(8)~~~~(9)~~ and ~~(9)~~~~(10)~~, may promulgate administrative regulations to create a code of ethics and procedures governing the licensure of electrical contractors, electricians, and master electricians.
- (9) The department may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.

➔Section 19. KRS 236.030 is amended to read as follows:

After reasonable notice and opportunity to be heard in accordance with KRS Chapter 13A, the commissioner of housing, buildings and construction, upon advisement and subject to comment by the board under the requirements of KRS 198B.030~~(8)~~~~(9)~~ and ~~(9)~~~~(10)~~ and 198B.040(11), shall, by administrative regulation, fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state. Such administrative regulations shall be enforced by the Department of Housing, Buildings and Construction, Division of Plumbing.

→Section 20. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties specifying the matters to be considered before the submission to the commissioner of its suggested amendments to the code. No amendment of the code or any other related regulation shall be issued or promulgated by the department without the prior review and comment of the committee under the requirements of KRS 198B.030(8)~~(9)~~ and (9)~~(10)~~ and 198B.040(11). Any person aggrieved by any rule, regulation, or amendment approved by the department, within 30 days after such action has become final, may appeal therefrom to the Circuit Court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule, or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation, or amendment arose.

→Section 21. KRS 318.130 is amended to read as follows:

In order to administer this chapter, the department shall promulgate and thereafter from time to time may amend a code to be known as the Kentucky State Plumbing Code, regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and private water supplies, and methods and materials to be used therein within this state, using as a minimum standard the basic principles of the National Plumbing Code Coordinating Committee, as evidenced by that committee's final report of 1951 with variations thereof or additions thereto as the committee considers are warranted by local, climatic, or other conditions. The code may also designate the number of plumbing fixtures for public buildings. The department may adopt any other reasonable rule or regulation to administer this chapter if the rule or regulation has been subject to review and comment by the committee under the requirements of KRS 198B.030(8)~~(9)~~ and (9)~~(10)~~ and 198B.040(11). No rules or regulations so approved by the committee shall become effective except upon adoption by the department, in satisfaction of the requirements of KRS Chapter 13A. The department shall furnish to the committee proposed amendments to the code for the committee's review and comment prior to their adoption by the department. The department shall not promulgate any rules or regulations related to this chapter without granting the committee the opportunity to comment on the administrative regulation.

→Section 22. The following KRS section is repealed:

198B.708 Department to provide board with administrative supports.

Signed by Governor March 21, 2011.