

## CHAPTER 76

## ( HB 308 )

AN ACT relating to regulation of for-profit postsecondary educational institutions.

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

➔Section 1. KRS 165A.310 is amended to read as follows:

*As used in this chapter:*

- (1) "Proprietary school" or "school" means a privately owned *for-profit* educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method.
- (2) "~~Commission~~~~Board~~" means the *Kentucky Commission on*~~State Board for~~ Proprietary Education.
- (3) "Cabinet" means the Finance and Administration Cabinet.
- (4) "Agent" means any person employed by an institution to act as agent, solicitor, broker, or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.
- (5) "Degree" means associate degree.
- (6) "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.
- (7) "School year" is beginning the first day of July and ending the thirtieth day of June next following except when approval shall be suspended or canceled pursuant to the provisions herein.
- (8) "CDL" means a commercial driver's license as defined in KRS 281A.010.
- (9) "CDL driver training" means a course of study that complies with the provisions of KRS 332.095 governing the instruction of persons in the operation of commercial motor vehicles.
- (10) "CDL driver training school" means any person, firm, partnership, association, educational institution, establishment, agency, organization, or corporation that offers CDL driver training to persons desiring to obtain a Kentucky CDL in order to operate a commercial motor vehicle and for which a fee or tuition is charged.
- (11) "Classification" means as established in KRS 281A.170.
- (12) "Commercial motor vehicle" means as defined in KRS 281A.010.
- (13) "Endorsement" means as established in KRS 281A.170.
- (14) "Restrictions" means as established in KRS 281A.170.
- (15) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.
- (16) "*Formal complaint*" means a written statement filed on a form specified by the commission in which the complainant alleges that a school has violated a Kentucky statute or administrative regulation and has negatively impacted the complainant, and resolution is requested by the commission.
- (17) The definition of a proprietary school shall not include the following:
  - (a) A school or educational institution supported entirely or partly by taxation from either a local or state source;
  - (b) A parochial, denominational, or eleemosynary school or institution;
  - (c) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the state *commission*~~board~~;

- (d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee; or
- (e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, ~~and~~ the State Board of Embalmers and Funeral Directors of the State of Kentucky established by KRS 316.170, *or the Kentucky Council on Postsecondary Education established by KRS 164.011.*

➔Section 2. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year *bachelor's degree* ~~[college level course]~~ recognized by the Council on Postsecondary Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate *for-profit* proprietary schools, including but not limited to *traditional, Web-based, distance learning, or* correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

➔Section 3. KRS 165A.330 is amended to read as follows:

- (1) No person shall conduct, operate, maintain, or establish a proprietary school as herein defined or use any words which designate or tend to designate to the public that the operator of the school is qualified to conduct, operate, and maintain the school, unless he holds a valid current license from the *commission* ~~[board]~~.
- (2) Completed applications for a license shall be filed with the *commission* ~~[board]~~ thirty (30) working days prior to being considered by the *commission* ~~[board]~~.
- (3) Renewal applications shall be filed with the *commission* ~~[board]~~ by May 15, prior to the June 30 expiration date.
- (4) The school owner shall notify the *commission* ~~[board]~~ if any personnel involved in the applicant school has ever been associated as owner, partner, director, or other administrator with a school that has had its license revoked or that has closed and caused students a loss of money. The *commission* ~~[board]~~ may consider this information in granting, renewing or revoking a license.
- (5) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any such school unless the person holds a valid license as agent of the school for which he is soliciting.

➔SECTION 4. KRS 165A.340 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *The Kentucky Commission on Proprietary Education is hereby created as an independent agency of the Commonwealth and shall be attached to the Education and Workforce Development Cabinet for administrative purposes. The commission shall be composed of the following members:*
  - (a) *Two (2) members who are representative of privately owned for-profit postsecondary educational institutions licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;*
  - (b) *Two (2) members who are representative of privately owned for-profit postsecondary technical schools licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;*
  - (c) *Four (4) members who are representative of the public at large with a background in education, business, or industry in Kentucky and appointed by the Governor;*
  - (d) *The secretary of the Education and Workforce Development Cabinet, or the secretary's designee;*
  - (e) *The president of the Council on Postsecondary Education, or the president's designee; and*
  - (f) *The commissioner of education, or the commissioner's designee.*
- (2) *Initial terms of appointed members shall be staggered by the Governor. Thereafter, terms shall be four (4) years or until successors are duly appointed and qualified. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment. An appointed member shall not serve more than two (2) consecutive full terms, except that a member may be reappointed after a break in service of one (1) full term.*

- (3) *The commission shall employ and fix the compensation of an executive director, who shall be its secretary and principal executive officer. The executive director shall have a background in the regulation of commerce, business, or education, and shall be responsible for:*
- (a) *Organizing and staffing meetings of the commission;*
  - (b) *Establishing policies to ensure retention of original licensing documentation;*
  - (c) *Ensuring that minutes and other financial, procedural, complaint, and operational records are securely maintained and archived;*
  - (d) *Internal and external correspondence and communication;*
  - (e) *Submitting reports and strategic agenda items for review and approval;*
  - (f) *Assisting the commission in the promulgation of administrative regulations;*
  - (g) *Carrying out policy and program directives of the commission;*
  - (h) *Preparing budget submissions;*
  - (i) *Ensuring that formal complaints are provided to the complaint committee and arranging for independent investigations as needed;*
  - (j) *Ensuring that an independent audit of the commission's finances is conducted annually;*
  - (k) *Ensuring that formal written agreements are executed for the procurement of administrative and legal services;*
  - (l) *Formalizing office policies and procedures relating to licensing and financial operations;*
  - (m) *Developing and implementing a process for monitoring expenditures and reconciling on a monthly basis commission and student protection fund receipts reported in the Enhanced Management Administrative Reporting System (EMARS); and*
  - (n) *Other activities necessary to ensure that the commission meets its designated duties and responsibilities.*
- (4) *The commission shall have full authority to employ and fix the compensation for any personnel, including counsel, as it may deem necessary to effectively administer and enforce the provisions of this chapter. The commission shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.*
- (5) *The commission shall annually elect a chairperson. The chairperson shall not be a school representative appointed pursuant to subsection (1)(a) or (b) of this section.*
- (6) (a) *The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:*
- 1. *Commission operating and accountability procedures;*
  - 2. *Requirements for each licensed institution to publicly disclose according to standardized protocols both in print and Web-based materials information about:*
    - a. *Any information that the schools are required to report by the federal Higher Education Opportunity Act, Pub. L. No. 110-315, using the Integrated Postsecondary Education Data System (IPEDS) of the National Center for Educational Statistics as a condition of participating in Title IV federal financial aid programs;*
    - b. *The job placement rate of program graduates in the field of study and the types of jobs for which graduates are eligible;*
    - c. *Articulation agreements with other postsecondary educational institutions and the rights and responsibilities of students regarding transfer of credits;*
    - d. *The complaint procedures available to students; and*
    - e. *The existence of the student protection fund created in Section 12 of this Act, and procedures for students to file a claim, including but not limited to the documentation required for submission of a claim;*

3. *Quality standards and compliance monitoring schedules of traditional programs, correspondence courses, and Web-based, distance learning courses offered over the Internet;*
  4. *A schedule for reviewing advertisements and recruitment materials and practices of member institutions to ensure compliance with this chapter;*
  5. *An equitable structure of licensure and renewal fees, to be paid by licensed schools, necessary to carry out the provisions and purposes of this chapter and to support adequate staffing of commission responsibilities. The fee structure shall be based on the gross revenue of licensed schools, number of students enrolled, and whether the school is located within the state or outside the state; and*
  6. *The method for calculating placement rates that are to be disclosed pursuant to this subsection.*
- (b) *The commission shall have the authority to promulgate other administrative regulations, in cooperation with the Kentucky Department of Education and the Council on Postsecondary Education, as it deems necessary for the proper administration of this chapter.*
- (7) *The commission shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places within this state as the commission may designate. The majority of the members shall constitute a quorum, and all meetings shall be conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.*
  - (8) *The commission may sue and be sued in its own name.*
  - (9) *Commission members shall receive a per diem of one hundred dollars (\$100) for attendance at each commission meeting and may be reimbursed for ordinary travel and other expenses while engaged in the business of the commission.*
  - (10) *The commission shall administer and enforce the provisions of this chapter pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.*
  - (11) *The commission shall have the power to subpoena witnesses and school records as it deems necessary.*
  - (12) *The commission chairperson shall appoint a complaint committee and designate its chairperson. The chairperson of the complaint committee shall not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution. School representatives appointed pursuant to subsection (1)(a) or (b) of this section shall not constitute a majority of the committee's membership. A committee member shall not vote on a matter in which a conflict of interest exists. The committee shall review each formal complaint and, if evidence supports an alleged violation of this chapter or any administrative regulation promulgated thereunder, the committee shall:*
    - (a) *Authorize an investigative report;*
    - (b) *Participate in informal procedures to resolve complaints;*
    - (c) *Ensure timely correspondence to parties involved in complaints; and*
    - (d) *After review of all evidence and investigative reports, make recommendations for the disposition of complaints to the full commission.*
  - (13) *No later than November 30, 2013, and annually thereafter, the commission shall provide a status report on the requirements of this section to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Education. The report shall include a summary of the data, including school performance information, relating to the requirements of subsection (6)(a) of this section.*

➔Section 5. KRS 165A.350 is amended to read as follows:

- (1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless the school shall have been issued by the *commission*~~board~~ a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to 165A.410 and the person shall have been issued an agent's permit for said proprietary school.
- (2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the *commission*~~board~~.

- (3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the *commission*~~{board}~~, and unless the application shall be accompanied by a fee as established by the *commission*~~{board}~~ and a good and sufficient surety bond or other collateral as required by the *commission*~~{board}~~ but not less than five thousand dollars (\$5,000).
- (4) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to the student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school. The amount of liability on the surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall not exceed the penal sum of the bond. The surety bond may be continuous.
- (b) Any claimant may file with the *commission*~~{board}~~ a duly verified claim against an agent. The *commission shall consider complaints in a timely manner*~~{board may consider a claim}~~ after ten (10) days' written notice by certified mail, return receipt requested, to the licensee of the complaint giving time and place of hearing thereon and if the claim is found to be correct and due to the claimant, and if the *commission*~~{board}~~ cannot effect a settlement by persuasion and conciliation, the *commission*~~{board}~~ shall make a demand upon the principal on the bond and the surety thereon, and if not paid shall bring an action on the bond in any court of record within the State of Kentucky.
- (5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.
- (6) A surety on the bond may be released therefrom after the surety shall make a written notice thereof directed to the *commission*~~{board}~~ at least thirty (30) days prior to release.
- (7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner provided herein.
- (8) Notwithstanding the provisions of other sections, the *commission*~~{board}~~ may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section, if the proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to 165A.410.
- (9) The *commission*~~{board}~~ may issue a conditional license on a monthly basis for up to a nine (9) month period of time.
- (10) An agent's permit shall be suspended by operation of law when the agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the *commission*~~{board}~~ shall cause the agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that the permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the *commission*~~{board}~~.
- (11) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or canceled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.
- (12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

➔Section 6. KRS 165A.360 is amended to read as follows:

- (1) No person shall maintain or operate a proprietary school located and doing business within this state until said school shall have been issued a certificate of approval by the *commission*~~{board}~~ pursuant to the provisions of KRS 165A.310 to 165A.410. No person shall maintain or operate a proprietary school located without this state and do business within this state until said school shall have been issued a certificate of approval or a certificate of registration by the *commission*~~{board}~~ pursuant to the provisions of KRS 165A.310 to 165A.410. No certificate of approval shall be issued by the *commission*~~{board}~~ to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school, and shall report thereon to the *commission*~~{board}~~, and said *commission*~~{board}~~ shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a certificate of such school, in accordance with the provisions of this section and after notice and public hearing as required herein.

- (2) No proprietary school shall be issued a certificate unless it shall make application, through its officers or an owner, upon forms to be provided by the *commission*~~[state board]~~, and unless *the*~~[said]~~ application shall be accompanied by a fee as established by the *commission*~~[board]~~ and a good and sufficient surety bond or other collateral in a penal sum of not less than twenty thousand dollars (\$20,000).
- (3) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the certificate, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.
- (b) Any claimant may file with the *commission*~~[board]~~ a duly verified claim against a proprietary school. *The commission shall consider complaints in a timely manner*~~[board may consider such claim]~~ after ten (10) days' written notice by certified mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the *commission*~~[board]~~ cannot effect a settlement by persuasion and conciliation, the *commission*~~[board]~~ shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the State of Kentucky.
- (4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the *commission*~~[board]~~ at least thirty (30) days prior to said release.
- (5) The surety bond shall cover the period of the certificate except when said surety shall be released in the manner as provided by this section.
- (6) (a) The certificate shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the *commission*~~[board]~~ shall cause said proprietary school to receive at least ten (10) days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.
- (b) The certificate shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.
- (7) The application for a certificate shall be accompanied by such supporting documents as the *commission*~~[board]~~ may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.
- (8) A certificate shall be valid for a period of one (1) school year. A certificate may be renewed in the same manner and under the conditions prescribed by the *commission*~~[board]~~.
- (9) Certificates are transferable to another owner. If a change of ownership occurs, the new owner shall within ten (10) days, reexecute and affirm the application for certificate of approval or certificate of registration and the information therein, governing said certificate in effect at the time of sale. The *commission*~~[board]~~ may establish a reasonable fee for the recording and processing of such changes.
- (10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the *commission*~~[board]~~ upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.
- (11) (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless said school has been previously issued a certificate by the *commission*~~[board]~~.
- (b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless said school has been previously issued a certificate by the *commission*~~[board]~~.
- (c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a certificate by the *commission*~~[board]~~, shall be voidable at the option of the student notwithstanding any subsequent issuance of a certificate to the school by the *commission*~~[board]~~.

- (d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the county of the student's residence or other appropriate court, at the option of the student.

➔Section 7. KRS 165A.370 is amended to read as follows:

- (1) No proprietary school located or doing business in this state shall be issued a certificate under these provisions until the **commission** ~~has~~~~board shall have~~ determined that the proprietary school is maintained, operated, or, in the event of a new proprietary school, that the school, **after a physical inspection of the premises**, can be reasonably maintained and operated, in substantial compliance with the following minimum standards:
  - (a) That the instructional quality and content of each course or program of instruction or study shall be adequate to provide reasonable education and training to each enrolled student, and that the quality and content shall be consistent with the public interest.
  - (b) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide training and preparation of the quality specified in paragraph (a) of this subsection.
  - (c) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (a) of this subsection.
  - (d) That the administrators shall hold a baccalaureate degree from an accredited college or university, or demonstrate the appropriate training or experience related to the responsibilities of the position as determined by the **commission**~~board~~.
  - (e) That the instructors shall hold a baccalaureate degree from an accredited college or university in the area of teaching responsibility, or demonstrate appropriate training or experience related to the responsibilities of the position as determined by the **commission**~~board~~.
  - (f) That a copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school's graduates for the preceding twelve (12) months be furnished each student applicant prior to enrollment.~~{ Federal guidelines on placement and graduation rates shall be used. }~~
  - (g) That, as defined by **commission**~~board~~ regulation, a diploma, associate degree, certificate, or other appellation shall be awarded to the student upon satisfactory completion of training by the proprietary school which indicates that the course or courses of instruction or study had been satisfactorily completed.
  - (h) That adequate records shall be maintained and available for inspection and shall include the following materials:
    1. Current personnel forms;
    2. Teacher evaluations;
    3. Inventory of equipment and instructional material; and
    4. Faculty transcripts.
  - (i) That separate files shall be maintained on each student and be available for inspection, and shall include copies of the following materials:
    1. Student's application for admission;
    2. Enrollment agreement;
    3. Academic record;
    4. Attendance record;
    5. Financial payment record; and
    6. Placement record.
  - (j) That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

- (k) That the proprietary school is financially sound and reasonably capable of fulfilling commitments to students for training and preparation.
  - (l) That the school shall have available, if requested by the *commission*~~[board]~~, a financial statement certified by an independent accountant, and a profit-loss statement certified by the owner as being true and current. The *commission*~~[board]~~ may call for any or all of the above information *at any time*.
  - (m) That the proprietary school does not utilize advertising of any type which is untrue, deceptive, or misleading and shall be able to document all advertised claims.
  - (n) That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character as determined by the *commission*~~[board]~~.
  - (o) That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment if the student shall discontinue the training or be excluded therefrom.
  - (p) That the school shall prominently display its current license and the address and telephone number of the *commission*~~[board]~~ office.
  - (q) That the proprietary school adheres to the other requirements consistent with the public interest as the *commission*~~[board]~~ shall determine are necessary to improve the courses or programs of instruction or study offered by the school, and to prevent misrepresentation, fraud, and collusion in the offering thereof.
- (2) The *commission shall*~~[board may]~~ investigate, appraise, and evaluate from time to time, *or upon receipt of a formal complaint*, any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school *or its programs are*~~[is]~~ maintained and operated or, in the event of a new proprietary school, whether the new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section *and all other applicable Kentucky statutes and administrative regulations*. The investigation, appraisal, and evaluation shall include but is not limited to inspection of all records, books, and facilities at reasonable times and places without *prior* notice.
- (3) If the *commission determines*~~[board shall determine]~~ upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that the school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the *commission*~~[board]~~ shall issue a certificate to the proprietary school.
- (4) If the *commission determines*~~[board shall determine]~~ that any school is not maintained and operated, or cannot be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section and the minimum requirements determined by the *commission, or is in violation of Kentucky statutes or administrative regulations, the commission*~~[board, the board]~~, after notice and an opportunity for a hearing to be conducted in accordance with KRS Chapter 13B, may deny the issuance of a certificate or may establish conditions in conformity with these provisions which shall be met by the school prior to issuance of a certificate. The *commission*~~[board]~~ may issue a conditional license for up to a nine (9) month period of time.

➔Section 8. KRS 165A.380 is amended to read as follows:

- (1) All fees collected pursuant to *this chapter, except those collected pursuant to Section 12 of this Act*,~~[these provisions]~~ shall be deposited in the State Treasury *in a*~~[a]~~ trust and agency account of the *Kentucky Commission on*~~[State Board for]~~ Proprietary Education and *shall be used by the commission to defray*~~[applied to]~~ the cost of administering *and enforcing this chapter*.~~[KRS 165A.310 to 165A.410]~~
- (2) *Notwithstanding KRS 45.229, any moneys remaining in the account at the end of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the account shall become a part of the account and shall not lapse.*

➔Section 9. KRS 165A.390 is amended to read as follows:

- (1) An agent's permit may be revoked by the *commission*~~[board]~~ for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the *commission*~~[board]~~ for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.



- (2) In the event that the certificate of approval of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at least ten (10) days' written notice of said suspension, and of the suspension or revocation of the certificate of approval of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.
- (3) A certificate of approval issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed herein, **or for violation of a Kentucky statute or an administrative regulation**. A certificate of approval may be suspended or revoked by the **commission**~~board~~ for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.
- (4) An agent's permit or the certificate of approval of a proprietary school may be suspended or revoked by the **commission**~~board~~ for other valid reasons.
- (5) A licensed proprietary school, prior to discontinuance of operation, shall convey all student records as required by the **commission**~~board~~ to a location designated by the **commission**~~board~~. Said records may be retained in such a manner and for such a time as the **commission**~~board~~ may designate.

➔Section 10. KRS 165A.400 is amended to read as follows:

The **commission**~~board~~ shall have the authority to promulgate and adopt reasonable rules and regulations for the administration of **this chapter**~~the provisions of KRS 165A.310 to 165A.390~~.

➔Section 11. KRS 165A.410 is amended to read as follows:

The Attorney General may, at the request of the **Kentucky Commission on**~~State Board for~~ Proprietary Education or on his own motion, bring in a Circuit Court appropriate action for the enforcement of the provisions of this chapter. Any such action under this section may, at the discretion of the Attorney General, be brought either in the county in which the violation occurred or in the Franklin Circuit Court, or other appropriate court.

➔Section 12. KRS 165A.450 is amended to read as follows:

All licensed schools, resident and nonresident, shall be required to contribute to a student protection fund. The fund shall be used to pay off debts, **including refunds to students enrolled or on leave of absence by not being enrolled for one (1) academic year or less from the school at the time of the closing, incurred due to the closing of a school, discontinuance of a program, loss of license, or loss of accreditation by a school or program. The Kentucky Commission on Proprietary Education shall promulgate administrative regulations in accordance with KRS Chapter 13A to:**

- (1) **Ensure that there is a renewable fund maintained solely to reimburse eligible Kentucky students, the balance of which shall not fall below five hundred thousand dollars (\$500,000);**
- (2) (a) **Impose an equitable scaled structure of fees assessed upon schools licensed by the commission when the balance of the fund drops below the minimum balance specified in subsection (1) of this section. The fee structure shall take into account:**
  1. **The number of students enrolled in the school;**
  2. **The tuition and fees charged to students;**
  3. **A school's prior contribution to the fund;**
  4. **Adjustments in fees to replace disbursements from the fund; and**
  5. **Whether the licensed school is located within the state or outside the state.**
- (b) **The commission shall cease imposing the assessment described in paragraph (a) of this subsection when the balance of the fund is replenished to the required minimum balance specified in subsection (1) of this section;**
- (3) **Ensure that repayment to the fund is made if, after having received payment from the fund, a student receives a financial settlement, including but not limited to a bankruptcy payout, forgiveness of loan debt, payout of bond, or payment from another state from its student protection fund;**

- (4) *Establish requirements for a licensed school to notify the commission and to remit documentation of student records prior to its closing, including penalties such as fines or restrictions on future licensing assessed to owners that do not meet these requirements;*
- (5) *Require licensed institutions to make all students aware of the student protection fund and establish the process for filing claims;*
- (6) *Impose a time frame after a school closes during which a student may file a claim against the fund; and*
- (7) *Establish an appeals process for students who disagree with a commission decision* ~~[The amount each school shall contribute shall be the same amount as its licensing fee].~~

➔Section 13. KRS 165A.465 is amended to read as follows:

- (1) All persons initially applying for a license to operate a CDL driver training school or a license as a CDL driver training instructor shall be required to undergo a state and national criminal history background check conducted by the Department of Kentucky State Police. Application forms for a license to operate a CDL driver training school or a license as a CDL driver training instructor shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR THIS LICENSE. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A LICENSE TO OPERATE A CDL DRIVER TRAINING SCHOOL OR A LICENSE FOR A CDL DRIVER TRAINING INSTRUCTOR."
- (2) All applicants shall be required to submit to being fingerprinted in accordance with administrative regulations promulgated by the Department of Kentucky State Police under KRS Chapter 13A. If the applicant is a corporation, the fingerprints of all officers shall be required.
- (3) The results of the state and national criminal history background checks shall be sent to the ~~commission~~~~board~~ for review within seventy-two (72) hours. If circumstances prohibit the results from being sent to the ~~commission~~~~board~~ within seventy-two (72) hours, the application shall not be processed further until the results are made available to the ~~commission~~~~board~~. The ~~commission~~~~board~~ shall inform the applicant if, based upon the criminal history background check, the applicant is either eligible or ineligible to be issued a license to operate a CDL driver training school or a license for a CDL driver training instructor. The ~~commission~~~~board~~ shall promulgate administrative regulations under KRS Chapter 13A specifying the offenses and conditions under which an application shall be denied based upon a criminal history background check.
- (4) Any fee charged by the Department of Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable if, based upon the background check, the ~~commission~~~~board~~ denies the person the right to be issued a license under this chapter. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.

➔Section 14. KRS 165A.470 is amended to read as follows:

- (1) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the person holds a valid current license issued by the ~~commission~~~~board~~. The following persons shall not be allowed to be connected in any capacity whatsoever with a CDL driver training school:
  - (a) Any person whose employment duties in any way relate to the issuance of a motor vehicle operator's license under KRS Chapter 186 or 281A;
  - (b) Any employee of the ~~commission~~~~board~~, Justice and Public Safety Cabinet, or Department of Kentucky State Police; and
  - (c) Any member of the immediate family of persons identified in paragraphs (a) and (b) of this subsection.
- (2) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the school has:
  - (a) At least one (1) licensed CDL driver training instructor in its employ; and
  - (b) At least one (1) commercial motor vehicle owned or leased in the name of the CDL driver training school that is properly registered in the Commonwealth and that has undergone a safety inspection within the past twelve (12) months.

- (3) A person shall not continue to operate a CDL driver training school if the **commission**~~board~~ has suspended, revoked, canceled, or refused to renew the school's license.
- (4) A person shall not act as an instructor for a CDL driver training school unless the person holds a valid current license as an instructor issued by the **commission**~~board~~ and unless the person is employed by a licensed CDL driver training school.

➔Section 15. KRS 165A.475 is amended to read as follows:

- (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the **commission**~~board~~ on forms prepared and furnished by the **commission**~~board~~. The application shall include the following information:
  - (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;
  - (b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license, and are each of good moral character;
  - (c) A description of the established place of business together with the hours during which the CDL driver training school is conducted and a description of the equipment and facilities used in CDL driver training;
  - (d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one (1) accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the **commission**~~board~~. Upon request by an applicant, the **commission**~~board~~ shall review an application and provide a letter to the applicant that a proposed CDL driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.
- (2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the **commission**~~board~~ and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the **commission**~~board~~ denies the person the right to be issued a license under this chapter.
- (3) The **commission**~~board~~ shall pay the Department of Kentucky State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.
- (4) Upon receipt of an application for a license to operate a CDL driver training school, the **commission**~~board~~ shall request the Department of Kentucky State Police to investigate the person's program and verify the information contained in the application. The Department of Kentucky State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Department of Kentucky State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the **commission**~~board~~ prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions.
- (5) Any person seeking a license to act as a CDL driver training instructor shall apply to the **commission**~~board~~ on forms prepared and furnished by the **commission**~~board~~ setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.

- (6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20) to the *commission*~~board~~ and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the *commission*~~board~~ denies the person the right to be issued a license under this chapter.
- (7) In making the determination of good moral character under this section, the *commission*~~board~~ shall consider but shall not be limited to the following:
- (a) If the applicant has been convicted of a crime;
  - (b) The age of the applicant at the time any criminal conviction was entered;
  - (c) The length of time that has elapsed since the applicant's last criminal conviction; and
  - (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school.

➔Section 16. KRS 165A.480 is amended to read as follows:

- (1) Upon receipt of a satisfactory application accompanied by the prescribed fee, the *commission*~~board~~ shall issue a license to the applicant.
- (2) If the license is issued to a CDL driver training school, it shall be posted and at all times displayed in a conspicuous place so that all persons visiting the school may readily see the license.
- (3) If the license is issued to a CDL driver training instructor, the person shall carry the license at all times during which the person is actually giving instruction to any student. Upon request, the instructor shall exhibit the license to any student taking instruction from him or her and to any other person authorized by law to examine operators' licenses.

➔Section 17. KRS 165A.485 is amended to read as follows:

- (1) Every license issued for the operation of a CDL driver training school shall expire on June 30 following the date of the issuance unless revoked or canceled by the *commission*~~board~~.
- (2) Before July 1 of each year every CDL driver training school shall apply for renewal of its license. The application shall be on forms prepared and furnished by the *commission*~~board~~.
- (3) Every license issued to a CDL driver training instructor shall expire on June 30 following the date of the issuance unless revoked or canceled by the *commission*~~board~~.
- (4) Before July 1 of each year every CDL driver training instructor shall apply for renewal of his or her license. The application shall be on forms prepared and furnished by the *commission*~~board~~.

~~{(5) All fees collected under this chapter or the administrative regulations adopted pursuant to this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used in defraying the costs and expenses of the administration of this chapter. No part of this fund shall revert to the general funds of the Commonwealth.}~~

➔Section 18. KRS 165A.490 is amended to read as follows:

The *commission*~~board~~ shall, upon receipt of satisfactory evidence, suspend, revoke, refuse to issue, or refuse to renew the license of a CDL driver training school or a CDL driver training instructor if:

- (1) The licensee fails or refuses to comply with the provisions of this chapter or any administrative regulation adopted hereunder;
- (2) The licensee has made a false material statement or has concealed a material fact in connection with his or her application;
- (3) The licensee or any partner, or other person directly interested in the CDL driver training school held a license issued under this chapter which was revoked or suspended and not reinstated;
- (4) The licensee has been guilty of a fraudulent practice in attempting to obtain for himself or another a license to operate a motor vehicle;

- (5) Written notice of the cancellation of insurance required by KRS 165A.475 is received by the **commission**~~[board]~~ and the licensee does not present satisfactory evidence of insurance to the secretary prior to the effective date of the cancellation.

➔Section 19. KRS 165A.495 is amended to read as follows:

Any person whose license to conduct a CDL driver training school or any person whose license to give instructions in these schools has been suspended or revoked or the issue or renewal thereof is refused, may request a hearing. The request shall be in writing addressed to the **commission**~~[board]~~ who shall conduct a hearing thereon as soon as possible. The hearing shall be conducted in accordance with KRS Chapter 13B. Any person may appeal from the final order of the **commission**~~[board]~~ in the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 20. KRS 165A.500 is amended to read as follows:

- (1) Every CDL driver training school and CDL driver training instructor shall maintain records showing the name, address, and instruction permit or operator's license number of each person to whom instruction is given. The records shall also indicate the type of instruction given and the length of time of the instruction.
- (2) The records required by this section shall be maintained in a manner identical to the retention requirements the Kentucky Community and Technical College System complies with for student records under KRS Chapter 171. The records shall also be available for inspection by the **commission**~~[board]~~, but shall otherwise remain confidential.

➔Section 21. KRS 165A.510 is amended to read as follows:

The **commission**~~[board]~~ shall, ~~within thirty (30) days of April 9, 2002,~~ promulgate administrative regulations under KRS Chapter 13A governing the following:

- (1) Standards for CDL driver training school office facilities, branch office facilities, classroom facilities, and off-the-road testing facilities;
- (2) Conflict of interest by persons associated with a CDL driver training school;
- (3) Requirements for the testing and licensing of CDL driver training instructors, including qualifications for classroom instructors and off-the-road and on-the-road instructors;
- (4) Maintenance and inspection of student instruction records, including documentation verifying the minimum course hours required under KRS 332.095 have been completed before the student is issued a release from the CDL driver training school;
- (5) A schedule of fees or all charges made by the school including but not limited to administrative fees, registration fees, fees for classroom instruction, and fees for off-the-road and on-the-road training;
- (6) Contracts and agreements involving CDL driver training schools;
- (7) Advertising and solicitation of students by CDL driver training schools;
- (8) Inspections of commercial motor vehicles used by CDL driver training schools, including mandatory equipment and out-of-service criteria;
- (9) Insurance requirements for commercial motor vehicles used by CDL driver training schools; and
- (10) Procedures for the suspension, revocation, nonrenewal, and denial of an application for licensure as a CDL driver training school or licensure as a CDL driver training instructor.

➔Section 22. KRS 164.945 is amended to read as follows:

As used in KRS 164.945 to 164.947, unless the context otherwise requires:

- (1) (a) "College" means any educational facility or institution maintained or conducted by any person, association, partnership, corporation, or trust and operating as an institute, junior college, college, university, or entity of whatever kind which awards a degree, diploma, or other statement of recognition purporting to indicate a level of collegiate attainment beyond secondary school graduation. This definition includes private colleges located in Kentucky, private colleges located outside of Kentucky but which operate in Kentucky, and public colleges located outside of Kentucky but which operate in Kentucky.
- (b) The term "college" does not include state-supported colleges and universities authorized by KRS 164.100, 164.290, 164.580, and 164.810, nor does it include colleges licensed or approved for

establishment and operation under the statutory authority given to the Kentucky Board of Barbering under KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists under KRS 317A.030, the ***Kentucky Commission on***~~State Board of~~ Proprietary Education under KRS 165A.340, or the State Board of Nursing under KRS 314.121.

- (2) "Degree" means any academic or honorary title of designation, mark, appellation, series of letters, numbers or words, such as, but not limited to, associate, bachelors, masters, doctorate, or fellow, which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level.
- (3) "Diploma" means a certificate, transcript, report, document, or title of designation, mark, appellation, series of letters, numbers, or words which signifies, purports, or is generally taken to signify attendance, progress, or achievement in an academic program.

➔Section 23. KRS 224.10-052 is amended to read as follows:

- (1) The Office of Occupations and Professions in the Public Protection Cabinet shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the Kentucky Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers,~~the State Board for Proprietary Education,~~ the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.
- (2) The office may also provide administrative services to a board or commission that is created to license, certify, register, or otherwise regulate any occupational or professional category if these administrative services are deemed to be preferable or required after the review process conducted under KRS 224.10-053.
- (3) To the extent that the office provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The office shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The office may employ persons previously employed by boards or commissions.
- (4) The office may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the office for administrative purposes. The office shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The office shall keep a record of all complaints received by it and forwarded to a board or commission.
- (5) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

➔Section 24. KRS 309.363 is amended to read as follows:

- (1) A person, institution, or business entity offering a massage therapy program of instruction shall file a completed application for a certificate of good standing with the board on a form prescribed by the board and pay a fee as specified in KRS 309.357. The completed application shall provide proof acceptable to the board that the following criteria have been met:
  - (a) The school is licensed to operate by the Kentucky ***Commission on***~~State Board of~~ Proprietary Education, the Council on Postsecondary Education, or their equivalent in another state;
  - (b) A curriculum statement showing clock hours devoted to each subject with the following minimums:
    1. One hundred twenty-five (125) hours of anatomy, physiology, or kinesiology;

2. A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint movement, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking;
  3. Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, client documentation, legalities of massage, and modality courses designed to meet the school's specific program objectives;
  4. Forty (40) hours of pathology; and
  5. The school may use its discretion in allotting the additional thirty-five (35) curricular hours that are required under KRS 309.358;
- (c) A listing of instructional staff and their qualifications as follows:
1. Instructors of the practical courses shall be licensed massage therapists and shall have three (3) years of experience in the practice of massage therapy;
  2. Instructors of science courses shall be either licensed massage therapists with three (3) years of experience in the practice of massage therapy or have certification or specific higher education in the subject they are teaching; and
  3. Instructors in adjunctive courses shall have subject-specific education and experience.
- (2) The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.

➔Section 25. KRS 324.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Real estate brokerage" means a single, multiple, or continuing act of dealing in time shares or options, selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee, compensation, or other valuable consideration;
- (2) "Commission" means the Kentucky Real Estate Commission;
- (3) "Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the fee compensation or other valuable consideration;
- (4) "Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;
- (5) "Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;
- (6) "Sales associate" means any person licensed in accordance with KRS 324.046(2) that is affiliated with a Kentucky-licensed principal broker and who, when engaging in real estate brokerage, does so under the supervision of the principal broker;
- (7) "Approved real estate school" means:
  - (a) A school that has been given a certificate of approval by the **Kentucky Commission on~~State Board for~~** Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the **Kentucky Commission on~~State Board for~~** Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the commission; or
  - (b) A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;
- (8) "Accredited institution" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward a program for either an associate, baccalaureate, graduate, or professional degree;

- (9) "Property management" means the overall management of real property for others for a fee, compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;
- (10) "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage;
- (11) "Designated manager" means a licensed sales associate or broker who manages a main or branch office for the principal broker, at the principal broker's direction, and has managing authority over the activities of the sales associates at that office;
- (12) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;
- (13) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;
- (14) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with KRS 324.121, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;
- (15) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his or her license with the principal broker for supervision of the licensee's real estate brokerage activity;
- (16) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing education;
- (17) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time; and
- (18) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years.

➔Section 26. KRS 332.095 is amended to read as follows:

- (1) All CDL driver training schools, as defined in KRS 165A.310, shall offer a minimum one hundred sixty (160) hours of instruction to each student that has never been issued a CDL by any state. Each school shall be required to use the curriculum that has been approved by the **Kentucky Commission on**~~State Board for~~ Proprietary Education in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System. Each school shall perform an evaluation of each student and determine the student's skill level to operate a commercial motor vehicle as beginner, intermediate, or advanced. The curriculum shall require a minimum number of hours of instruction based upon a student's skill level.
- (2) Each school may provide the one hundred sixty (160) hour approved curriculum in a manner that best utilizes the staff and equipment of the school including but not limited to nights, weekends, holidays, and hours of operation.
- (3) All CDL driver training schools, as defined in KRS 165A.310, may offer a refresher course of instruction to a resident who has one (1) year or more verifiable experience operating a commercial motor vehicle. The schools shall verify and maintain records documenting those students attending a refresher course. A refresher course may be offered on an hourly basis.
- (4) The ratio of students to instructors during a one hundred sixty (160) hour course shall not exceed:
  - (a) Thirty (30) students to one (1) instructor during classroom instruction;
  - (b) Six (6) students to one (1) instructor during off-the-road training; and
  - (c) Three (3) students to one (1) instructor during on-the-road training.
- (5) All CDL driver training schools, as defined in KRS 165A.310, shall require each student to undergo a drug test at the time the person applies to enroll in the school.



➔Section 27. The terms of the existing members of the State Board for Proprietary Education shall terminate as of the effective date of this Act, but they shall continue to serve until the membership of the Kentucky Commission on Proprietary Education created in Section 3 of this Act is appointed by the Governor. The Governor may appoint individuals who served on the previous board if they meet the membership requirements established in Section 3 of this Act. All appropriations, records, resources, and other materials, shall be transferred by the Office of Occupations and Professions in the Public Protection Cabinet to the Kentucky Commission on Proprietary Education.

➔Section 28. In order to reflect the transfer of statutory duties from the State Board of Proprietary Education to the Kentucky Commission on Proprietary Education in this Act, the reviser of statutes shall change any references to the State Board of Proprietary Education in the Kentucky Revised Statutes that were not change by this Act to the Kentucky Commission on Proprietary Education.

**Signed by Governor April 11, 2012.**