

CHAPTER 4

(SB 32)

AN ACT relating to water well drillers.

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

➔Section 1. KRS 223.400 is amended to read as follows:

As used in KRS 223.405 to 223.460, unless the context requires otherwise:

- (1) "Alteration or repair of a water well" means any maintenance, addition, or change of well or pitless adapter, but does not include replacement or repair of a water pump or associated piping;~~+~~
- (2) "Board" means the Kentucky Water Well Certification Board;
- (3) "Cabinet" means the Energy and Environment Cabinet;
- (4) "Certificate" means a certificate of competency issued by the secretary stating that the water well driller has met all the requirements for the appropriate classification set forth in KRS 223.405 to 223.460 or by regulation;
- (5) "Person" means an individual, corporation, partnership, association, municipality, state and federal government, or other public body or other legal entity, or any officer, employee, or agent of any of the foregoing;~~+~~
- (6) "Secretary" means the secretary of the Energy and Environment Cabinet;
- (7) "Water well" or "well" means any excavation or opening in the surface of the earth that is drilled, cored, bored, washed, driven, jetted, or otherwise constructed when the actual or intended use in whole or part of an excavation is the removal of water for any purpose, including but not limited to culinary and household purposes, animal consumption, food manufacture, use of geothermal resources for domestic heating purposes and industrial, irrigation, and dewatering purposes, but not including wells to be used for watering stock or for general farmstead use if the wells do not provide water for human consumption;
- (8) "Water well driller" means a person who is qualified to engage in the drilling, alteration, or repair of a water well as defined in this chapter; *and*
- (9) *"Water well driller's assistant" means a person who is qualified to engage in the drilling, alteration, or repair of a water well under the supervision of a certified water well driller who provided the affidavit of supervision required under subsection (5)(g) of Section 3 of this Act.*

➔Section 2. KRS 223.405 is amended to read as follows:

It is unlawful for any person as defined in KRS 223.400, to construct, alter, or repair a water well without first having obtained a valid certificate *as a water well driller or as a water well driller's assistant* as provided for in KRS 223.425.

➔Section 3. KRS 223.425 is amended to read as follows:

- (1) Application for a certificate, or for renewal thereof, shall be made to the cabinet in writing under oath or affirmation, upon forms prescribed and furnished by the cabinet. The applications shall include:
 - (a) The name and address of the applicant;
 - (b) Prior experience, if any, in the field for which the applicant is applying;
 - (c) Any other information that the cabinet deems necessary in order to carry out the provisions of KRS 223.405 to 223.460; and
 - (d) All past and current licenses held in this or any other state relating to the provisions of KRS 223.405 to 223.460.
- (2) The cabinet may issue a water well driller certificate to any applicant who meets all of the provisions of KRS 223.405 to 223.460 and:
 - (a) Is at least eighteen (18) years of age; and

- (b) Is *legally permitted to work in* ~~[a citizen of]~~ the United States ~~[or has declared an intention to become a citizen of the United States]~~; and
 - (c) Has worked for two (2) years under the supervision of a certified water well driller or has other suitable experience or education as determined by the cabinet. For those in business on July 13, 1984, the two (2) year experience requirement shall be deemed satisfied if the driller has engaged in water well drilling, over the two (2) previous years; and
 - (d) Has a passing grade on the examination as determined by the cabinet.
- (3) ~~[Those persons in business for two (2) years on July 13, 1984, shall be deemed exempt from the examination requirements of this chapter and shall apply for and obtain a certificate by July 1, 1985.]~~
- ~~(4)~~ Those persons who are water witchers, dowzers, diviners, and any others who use divining rods for the purpose of locating underground water resources shall be exempt from KRS 223.405 to 223.460 for the purpose of locating underground water resources, but are not exempt from the requirements of KRS 223.405 to 223.460 for the purpose of installing water wells.
- ~~(4)~~~~(5)~~ The term of each certificate shall be one (1) year. Each certificate shall carry with it the right to successive renewal upon application and payment of fee, unless the board finds that the certified individual has failed to comply satisfactorily with KRS 223.405 to 223.460 or the regulations promulgated pursuant to KRS 223.420 or 223.435.
- (5) *Application for a certified water well driller's assistant card shall be made on forms prescribed and furnished by the cabinet. Applications shall include the following information:*
- (a) *Name and address of the applicant;*
 - (b) *Prior experience, if any, in the field for which the applicant is applying;*
 - (c) *Past and current licenses held in the Commonwealth or any other state that relates to KRS 223.405 to 223.460;*
 - (d) *Proof that the applicant is at least eighteen (18) years of age;*
 - (e) *Proof that the applicant is legally permitted to work in the United States;*
 - (f) *Proof that the applicant has a passing grade on examinations required by the cabinet;*
 - (g) *An affidavit of supervision signed by the certified water well driller, which shall include, at a minimum, the following information:*
 - 1. *The name and certification number of the certified water well driller;*
 - 2. *The name of the company under which the certified water well driller works;*
 - 3. *The name and address of the certified water well driller's assistant to be supervised under the company identified in subparagraph 2. of this paragraph;*
 - 4. *The effective date when supervision is to begin, and a statement that supervision shall remain in effect until such time as the certified water well driller provides written notice to the Division of Water and the water well driller's assistant of the termination of supervision;*
 - 5. *The types of duties or operations to be performed by the water well driller's assistant while under supervision of the certified water well driller, and a statement that the work to be performed shall be in accordance with all applicable statutes and administrative regulations; and*
 - 6. *Notarized signatures of the certified water well driller and the certified water well driller's assistants; and*
 - (h) *Any other information that the cabinet deems necessary in order to carry out KRS 223.405 to 223.460.*
- (6) *The water well driller's assistant card shall be effective for one (1) year and shall be subject to successive renewal upon submission of application and payment of prescribed fee by the cabinet unless:*
- (a) *The cabinet finds that the certified water well driller's assistant has failed to comply with any of the provisions of KRS 223.405 to 223.460 or the administrative regulations promulgated thereunder; or*

- (b) *The certified water well driller's assistant has failed to maintain an annual minimum of eight (8) hours of continuing education credits.*
- (7) *A certified water well driller is allowed to supervise a maximum of two (2) certified water well driller's assistants at any given time.*
- (8) *The water well driller's assistant shall be under the certified water well driller's direct supervision when constructing, modifying, abandoning, or testing a water well.*
- (9) *The cabinet shall promulgate administrative regulations to establish the required forms, process, examination, fees, affidavit of supervision, requirements of direct supervision by the certified driller, and any other requirements necessary for the implementation of the water well driller's assistant certification program.*

➔Section 4. KRS 223.430 is amended to read as follows:

- (1) Each application for issuance or renewal of a certificate shall be accompanied by a proof of either split limits liability coverage for bodily injury of at least twenty-five thousand dollars (\$25,000) per person with an aggregate of at least fifty thousand dollars (\$50,000) and for property damage of at least fifty thousand dollars (\$50,000) per accident with an aggregate of at least one hundred thousand dollars (\$100,000), or single limits liability coverage of not less than one hundred thousand dollars (\$100,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence. Notice shall be given by certified mail to the executive secretary and treasurer of the board by the insurer upon lapse of coverage by the insurance company for any reason, including nonpayment of premiums.
- (2) Prior to the issuance of a driller certificate, proof of a surety bond must be filed along with the application for a certificate. The penal sum of this bond shall be five thousand dollars (\$5,000), with the applicant designated as the principal obligor and the Commonwealth designated as the obligee. The surety may be called on by the secretary if the certified individual violates any design standards adopted as administrative regulations pursuant to KRS 223.420 or 223.435 or provision of KRS 223.405 to 223.460. The surety bond shall be used for the express purposes of correcting the violations. Notice of lapse of coverage for any reason by the surety shall be given by certified mail to the executive secretary and treasurer of the board by the surety.
- (3) *A water well driller's assistant shall work under the liability insurance and surety bond of the supervising certified water well driller, as required under subsections (1) and (2) of this section, unless the water well driller's assistant provides the cabinet proof that he or she obtained liability insurance or a surety bond.*

➔Section 5. KRS 223.440 is amended to read as follows:

- (1) *A water well driller*~~[Any person]~~ certified under KRS 223.425, shall keep a record of each *water well that is* constructed, altered, or sealed after July 13, 1984, and shall furnish a signed copy of such record to the cabinet within thirty (30) days after the completion of the construction or alteration. A copy of the record shall be furnished to the property owner by the driller within thirty (30) days of completion of the well. Each record required under this section shall be in a form prescribed by the cabinet and shall show:
- (a) The name and address of the owner of the well and the persons constructing or altering the well;
- (b) A sketch showing the distance from any road, intersection, septic tank drain fields and permanent structures;
- (c) The dates of commencement and completion of the construction or alteration of the well;
- (d) The depth, diameter, and type of casing;
- (e) The kind of joint couplings;
- (f) Information on screens and type of completion;
- (g) The discharge in gallons per minute and the shut-in pressure in pounds per square inch of a flowing well;
- (h) The static water level with reference to the land surface and estimation of well yield, and the drawdown with respect to the amount of water yielded per minute;
- (i) The kind, nature, approximate thickness and water-bearing capacity of the material in each stratum penetrated that shows the presence of water, with at least one (1) entry for each change in rock types;
~~and]~~

- (j) The type and amount of disinfectant used and the date of disinfection; *and*
 - (k) *A water well driller's assistant shall not be authorized to certify records related to the construction, modification, abandonment, or testing of a water well.*
- (2) Where the well is for potable use the well driller shall be responsible for having the well tested for fecal coliform and the initial disinfection of the well. The driller shall provide the well owner and the cabinet with the written results of any and all testing and a written assurance that the well has been properly disinfected, within thirty (30) days of well completion.
 - (3) A copy of the record shall be furnished by the cabinet to the Kentucky Geological Survey.
 - ➔Section 6. KRS 223.447 is amended to read as follows:
 - (1) An applicant for a water well driller certification *or a water well driller's assistant certification* shall be subject to a fee by the cabinet of *fifty dollars (\$50)*~~{twenty five dollars (\$25)}~~.
 - (2) An applicant to take a water well driller's certification *examination or a water well driller's assistant certification* examination shall be subject to a fee by the cabinet of *eighty dollars (\$80)*~~{forty dollars (\$40)}~~.
 - (3) An applicant for a water well driller's certification *or a water well driller's assistant certification*, upon notification by the cabinet that all requirements have been met for certification, shall be subject to a certification fee by the cabinet of *two hundred dollars (\$200)*~~{one hundred dollars (\$100)}~~ for initial certification.
 - (4) An applicant for *the renewal of* a water well driller's certificate *or the renewal of a water well driller's assistant certificate*~~{renewal}~~ shall be subject to a renewal fee by the cabinet of *two hundred dollars (\$200)*~~{one hundred dollars (\$100)}~~.

➔Section 7. KRS 223.450 is amended to read as follows:

All water well drillers *and water well driller's assistants*, before doing any water well related work in Kentucky, must comply with KRS 223.405 to 223.460 notwithstanding comparable state provisions in states other than Kentucky.

Signed by Governor March 11, 2019.