

165A.360 License -- Bond or other collateral -- Suspension or renewal -- Transferability -- Voidable student contracts.

- (1)
 - (a) No person shall maintain or operate a proprietary school located and doing business within this state until the school has been issued a license by the commission pursuant to the provisions of KRS 165A.310 to 165A.410.
 - (b) No person shall maintain or operate a proprietary school located without this state and do business within this state until the school has been issued a license by the commission pursuant to the provisions of KRS 165A.310 to 165A.410.
 - (c) No license shall be issued by the commission to any proprietary school which denies enrollment to any pupil on account of race, color, or creed. The Kentucky Commission on Human Rights shall have the power to investigate discriminatory practices of any proprietary school and shall report to the commission. Upon receipt of a report that a school is engaging in discriminatory practices, the commission shall deny or suspend the license of the 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 license unless it applies, through its officers or an owner, upon forms provided by the commission, and unless the application is accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral in a form approved by the commission, in a penal sum of not less than twenty thousand dollars (\$20,000).
- (3)
 - (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs:
 1. For the acquisition, permanent filing, and maintenance of student records of the school;
 2. 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 license; or
 3. 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 the student or students or any 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 or other collateral may be continuous.

- (b)
 1. Any claimant may file with the commission a duly verified claim against a proprietary school.
 2. The commission shall consider claims in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to the school cited in the claim, giving the time and place of the hearing.

3. If the claim is found to be correct and due to the claimant, and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on the bond or other collateral and the surety thereon, and if not paid may bring an action on such bond in Franklin Circuit Court.
- (4) A surety on the bond or other collateral may be released after the surety has made a written notice to the commission at least thirty (30) days prior to the release.
- (5) The surety bond or other collateral shall cover the period of the license, except when the surety shall be released in the manner as provided by this section.
- (6) (a) The license shall be suspended by operation of law when the proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the commission shall cause the proprietary school to receive at least ten (10) days' written notice prior to the release of the surety to the effect that the approval shall be suspended by operation of law until another surety bond or other collateral is filed in the same manner and like amount as required for the initial surety bond.
(b) The license shall be suspended by operation of law at any time any certified proprietary school denies enrollment to any pupil, on account of race, color, or creed.
- (7) The application for a license shall be accompanied by such supporting documents as the commission may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of the proprietary school.
- (8) A license shall be valid for a period of one (1) school year. A license may be renewed in the same manner and under the conditions prescribed by the commission.
- (9) Licenses 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 license and the information therein, governing the license in effect at the time of sale. The commission 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 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 the school has been previously issued a license by the commission.
(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 the school has been previously issued a license by the commission.
(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 license by the commission, shall be voidable at the option of the student notwithstanding any

subsequent issuance of a license to the school by the commission.

- (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.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 138, sec. 5, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 99, sec. 5, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 141, sec. 2, effective March 27, 2017. -- Amended 2012 Ky. Acts ch. 76, sec. 6, effective July 12, 2012. -- Amended 1982 Ky. Acts ch. 31, sec. 5, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 114, sec. 27, effective July 15, 1980. -- Created 1976 Ky. Acts ch. 363, sec. 6, effective July 1, 1976.