

a specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.

Section 3 deletes the words “by the executive authority” from the sentence:

“If a vacancy is not filled **by the executive authority** within sixty (60) days, the members of the code enforcement board shall fill the vacancy.”

Section 4 provides that, in addition to regular meetings, there **may** be optional special or emergency meetings of code enforcement boards. Local governments having code enforcement boards **shall** provide them with administrative personnel.

Section 5 is enabling legislation providing that local code enforcement boards **may** assign hearing officers, and assign their qualifications, training, duties, and authority. The procedural requirements for conducting code enforcement hearings and recording findings and final orders are identified. Appeal requirements are provided for. This section also requires local governments using hearing officers to **adopt by ordinance** provisions relating to appeals procedures for the final orders of hearing officers, including the ability to appeal in District Court.

Section 6 provides conforming language relating to **hearing officer** responsibilities. (i.e., serving subpoenas, and citations initiating enforcement proceedings before a hearing officer).

Section 7 amends KRS 65.8825 to make a conforming amendment for the utilization of **hearing officers** in the enforcement proceeding process. The section requires that citations contain information related to the following:

“The civil fine that will be imposed for the violation if the person does not contest the citation **if the local government has elected to use the alternative authorized under subsection (2)(b) of Section 2 of this Act**”.

Section 7 further amends KRS 65.8825 to modify the citation issued by code enforcement officers to include the possible use of hearing officers, and note that if a person fails to pay a civil fine that person shall be deemed to have waived the right to appeal the final order to District Court, and set out statutory procedures for the waiving of the right to appeal in District Court.

Section 8 amends KRS 65.8828 to provide that code enforcement boards **may** provide **notification of lienholders** with an interest in subject properties of hearings, and establishes protocols for final orders for code enforcement boards and for preliminary orders issued by hearing officers. Section 8 further amends KRS 65.8828 to note that a waiver of appeal in District Court occurs when a person requests a hearing, but does not appear at the hearing, and relating to the board determination of the commission of a violation, that the board may order the offender to pay a civil fine or remedy the violation;

Section 9 amends KRS 65.8831 to provide that **appeals of final orders** may be brought to the District Court. It clarifies that the District Court hears such appeal de novo, and also clarifies that when no appeal is filed with a District Court within 30 days, that the order of the board is final. Section 9 also makes technical changes.

Section 10 amends KRS 65.8835 to direct how **liens** are placed on property for subjects of citations and sets out permitted inclusions on the lien itself.

Section 11 creates a new section of KRS 65.8801 to 65.8839 that establishes a **lien notification system** for local governments to use to notify interested individuals of the placement of liens upon properties. The new section allows notification, relative to the lienholder notification system that provides notification of final orders, to be satisfied with the provision of an electronic link to the required elements, and requires the notice to be put on a website either fully or in summary form as set out in the bill. The bill provides that a local government may record a lien sooner than the 45 day period allowed in the section, and requires that if the lien is satisfied prior to the expiration of the 45 day period, the local government is to release the lien within 15 days of the satisfaction.

Section 12 amends KRS 65.8838 to include "**imminent danger**" as a condition when a local government may take immediate corrective action.

Section 13 is largely a restatement of KRS 381.770 (repealed in Section 18 of this Act) It creates a new section of KRS Chapter 65 that defines terms (11) and **establishes various nuisances** relating to: vehicles and machinery in various states of repair, uninhabited mobile or manufactured homes, rubbish and excessive weeds and grass, and unsafe structures on properties. The section also **sets conditions and processes for liens** and provides that the provisions of the section may be enforced through a code enforcement board.

Section 14 amends KRS 99.710 to permit that **duties assigned to vacant properties commissions be assigned to a local code enforcement board.**

Section 15 amends KRS 382.135 to **include the full name of the grantor and grantee in with the deed** to real property.

Section 16 amends KRS 426.530 to make a **conforming amendment** for a repeal.

Section 17 creates a non-codified section providing that the **Act's provisions shall not affect the status, priority or enforcement of existing liens.**

Section 18 repeals the following KRS sections:

82.700 Definitions for KRS 82.700 to 82.725.

82.705 Local government authorized to enact nuisance code.
82.710 Requirements for local government nuisance code.
82.715 Notice of violation -- Liability of property owner -- Appeal.
82.720 Lien of local government for fines and penalties -- Effect on rights of secured parties.
82.722 KRS 82.700 to 82.725 not to be enforced upon agricultural land in unincorporated portion of county.
82.725 Short title for KRS 82.700 to 82.725.
381.770 Abatement of nuisance -- Exceptions -- Enforcement ordinance -- Lien -- Personal liability of property owner.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB 422 GA is indeterminable and will range from nil to minimal.

The bill will have no immediate effect on a majority of Kentucky's **smallest cities** (which do not have code or nuisance enforcement boards). Most of Kentucky's **larger cities and counties (having either nuisance or code enforcement boards, or combined nuisance and code enforcement boards)** will need to revise ordinances and administrative procedures to bring them into conformity with the optional (if adopted) and mandatory provisions of this Act.

Also, the fiscal impact of both optional and mandatory provisions of HB 422 GA on any particular local government is indeterminable, since impacts depend on variations in the frequency of violations, the size of fines assessed according to the offense, appeals and appeal procedures, and the overall success of fine collection.

HB 422 GA may provide local governments with the opportunity to experience some (cost, time and effort) savings resulting from the use of formally assigned code enforcement hearing officers (along with related clarified and expedited procedures).

Data Source(s): LRC staff; Kentucky League of Cities; Kentucky Association of Counties

Preparer: H. Marks **Reviewer:** JWN **Date:** 3/22/16