

1 AN ACT relating to local code enforcement.

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

3 ➔Section 1. KRS 65.8811 is amended to read as follows:

- 4 (1) (a) A code enforcement board shall consist of no fewer than three (3) members
5 who shall be appointed by the executive authority of the local government,
6 subject to the approval of the legislative body.
- 7 (b) A joint code enforcement board shall ***be appointed as set out in the terms of***
8 ***an interlocal agreement and shall*** include representation on the board of all
9 participating local governments. ***Two (2) or more participating local***
10 ***governments may share an appointment or appointments***~~[- and members~~
11 ~~shall be appointed]~~ as set out in the terms of the interlocal agreement.
- 12 (2) The initial appointments to a code enforcement board shall be as follows:
- 13 (a) One-third (1/3) of the membership or one-third (1/3) of the membership and
14 one (1) member of the board shall be appointed for a term of one (1) year;
- 15 (b) One-third (1/3) of the membership or one-third (1/3) of the membership and
16 one (1) member of the board shall be appointed for a term of two (2) years;
17 and
- 18 (c) One-third (1/3) of the membership or one-third (1/3) of the membership and
19 one (1) member of the board shall be appointed for a term of three (3) years.
- 20 All subsequent appointments shall be made for a term of three (3) years.
- 21 (3) (a) Each member of a code enforcement board shall have resided within the
22 boundaries of the local government unit for a period of at least one (1) year
23 prior to the date of the member's appointment and shall reside there
24 throughout the term in office.
- 25 (b) Board members serving on joint code enforcement boards shall have resided
26 within the boundaries of the local government they represent for a period of at
27 least one (1) year prior to the date of the member's appointment and shall

- 1 reside there throughout the term in office.
- 2 (4) A member may be reappointed, subject to approval of the legislative body **or, in the**
3 **case of a joint appointment, approval of the legislative bodies.**
- 4 (5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by
5 the executive authority, subject to the approval of the legislative body. **Joint**
6 **appointments shall require an agreement of the executive authorities and**
7 **approval of the legislative bodies in filling the vacancy.** If a vacancy is not filled
8 within sixty (60) days, the remaining members of the code enforcement board shall
9 fill the vacancy. All vacancies shall be filled for the remainder of the unexpired
10 term.
- 11 (6) Any member of a code enforcement board may be removed by the appointing
12 authority **or authorities** for misconduct, inefficiency, or willful neglect of duty. Any
13 appointing authority **or authorities exercising** ~~who exercises~~ the power to remove
14 a member of a code enforcement board shall submit a written statement to the
15 member and to the legislative body of the local government **or local governments,**
16 setting forth the reasons for removal. The member so removed shall have the right
17 of appeal to the Circuit Court.
- 18 (7) All members of a code enforcement board shall, before entering upon their duties,
19 take the oath of office prescribed by Section 228 of the Constitution of the
20 Commonwealth of Kentucky.
- 21 (8) The members of a code enforcement board may be reimbursed for expenses or
22 compensated, or both, as specified in the ordinance creating the board.
- 23 (9) No member of a local government code enforcement board shall hold any elected or
24 appointed office, whether paid or unpaid, or any position of employment with the
25 unit of local government **that is subject to the jurisdiction of** ~~that has created~~ the
26 code enforcement board.
- 27 (10) Each legislative body that elects to establish a code enforcement board is

1 encouraged to provide opportunities for education regarding pertinent topics for the
2 members of the code enforcement board.

3 ➔Section 2. KRS 65.8825 is amended to read as follows:

- 4 (1) Enforcement proceedings before a code enforcement board or hearing officer shall
5 be initiated by the issuance of a citation by a code enforcement officer.
- 6 (2) When a code enforcement officer, based upon personal observation or investigation,
7 has reasonable cause to believe that a person has committed a violation of a local
8 government ordinance, the officer is authorized to issue a citation by:
- 9 (a) Personal service to the alleged violator;
- 10 (b) Leaving a copy of the citation with any person eighteen (18) years of age or
11 older who is on the premises, if the alleged violator is not on the premises at
12 the time the citation is issued; ~~{or}~~
- 13 (c) *Mailing a copy of the citation by regular first-class mail to the last known*
14 *recorded mailing address of the alleged violator; or*
- 15 *(d) If, in the exercise of reasonable diligence, the issuance of a citation using*
16 *the methods set out in paragraphs (a) to (c) of this subsection is not*
17 *possible, then the citation is properly served by* posting a copy of the citation
18 in a conspicuous place on the premises~~[and mailing a copy of the citation by~~
19 ~~regular, first-class mail of the United States Postal Service to the owner of~~
20 ~~record of the property if no one is on the premises at the time the citation is~~
21 ~~issued].~~
- 22 (3) When authorized by ordinance, a code enforcement officer may, in lieu of
23 immediately issuing a citation, give notice that a violation shall be remedied within
24 a specified period of time. If the person to whom the notice is given fails or refuses
25 to remedy the violation within the time specified, the code enforcement officer is
26 authorized to issue a citation.
- 27 (4) The citation issued by the code enforcement officer shall be in a form prescribed by

1 the local government and shall contain, in addition to any other information
2 required by ordinance or rule of the board:

3 (a) The date and time of issuance;

4 (b) The name and address of the person to whom the citation is issued;

5 (c) The date and time the offense was committed;

6 (d) The facts constituting the offense;

7 (e) The section of the code or the number of the ordinance violated;

8 (f) The name of the code enforcement officer;

9 (g) The civil fine that will be imposed for the violation if the person does not
10 contest the citation if the local government has elected to use the alternative
11 authorized under KRS 65.8808(2)(b);

12 (h) The maximum civil fine that may be imposed if the person elects to contest
13 the citation;

14 (i) The procedure for the person to follow in order to pay the civil fine or to
15 contest the citation; and

16 (j) A statement that if the person fails to pay the civil fine set forth in the citation
17 or contest the citation, within the time allowed, the person shall be deemed to
18 have waived the right to a hearing before the code enforcement board or
19 hearing officer to contest the citation and that the determination that a
20 violation was committed shall be final, and the alleged violator shall be
21 deemed to have waived the right to appeal the final order to District Court.

22 (5) After issuing a citation to an alleged violator, the code enforcement officer shall
23 notify the code enforcement board by delivering the citation to the administrative
24 official designated by ordinance or by the board. The code enforcement officer,
25 hearing officer, or code enforcement board may also elect to provide notice of the
26 issuance of the citation to any lienholder with an interest in the subject premises.

27 (6) When a citation is issued, the person to whom the citation is issued shall respond to

1 the citation within seven (7) days of the date the citation is issued by either paying
 2 the civil fine set forth in the citation or requesting, in writing, a hearing to contest
 3 the citation. If the person fails to respond to the citation within seven (7) days, the
 4 person shall be deemed to have waived the right to a hearing to contest the citation
 5 and the determination that a violation was committed shall be considered final. In
 6 this event, the citation, as issued, shall be deemed a final order determining that the
 7 violation was committed and imposing the civil fine set forth in the citation, and the
 8 alleged violator shall be deemed to have waived the right to appeal the final order to
 9 District Court. Notice of the final order shall be provided to the cited violator **by:**

10 **(a) Regular first-class mail;**

11 **(b) Certified mail, return receipt requested;**

12 **(c) Personal delivery; or**

13 **(d) Leaving a copy of the order at that person's usual place of residence with**
 14 **any individual residing therein who is eighteen (18) years of age or older**
 15 **and who is informed of the contents of the order** ~~in the manner set forth in~~
 16 ~~KRS 65.8828(5)}~~.

17 ➔Section 3. KRS 65.8836 is amended to read as follows:

- 18 (1) A local government adopting the provisions of KRS 65.8801 to 65.8839 shall
 19 implement a system for notification to lienholders that meets the minimum
 20 requirements of subsection (2) of this section and shall comply with the procedures
 21 to permit remedial action by lienholders as provided in subsection (3) of this section
 22 in order to obtain and maintain the lien priority over previously filed liens granted
 23 in KRS 65.8835.
- 24 (2) A local government shall create a notification system that provides lienholders and
 25 others that elect to do so with electronic notifications of all final orders entered
 26 pursuant to KRS 65.8801 to 65.8839. The system shall meet the following
 27 minimum requirements:

- 1 (a) An individual or entity may register with the local government to receive
2 information on each final order by providing a name, mailing address, phone
3 number, and an electronic mailing address to the local government. The local
4 government shall accept this information in any form submitted by a
5 registrant. It shall be the responsibility of the registrant to maintain and update
6 its contact information with the local government, except that a local
7 government shall inform a registrant of any evidence the local government
8 receives that the electronic mailing address is invalid or not functional in order
9 to provide the registrant an opportunity to submit an updated electronic
10 mailing address;
- 11 (b) No less than once a month but no more frequently than once per week, the
12 local government shall send electronic mail notification of all final orders
13 issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last
14 date of notification to each party registered pursuant to paragraph (a) of this
15 subsection. The notification shall, at a minimum, include or provide an
16 electronic link to a document or database meeting the requirements of this
17 paragraph that includes:
- 18 1. The name of the person charged with a violation;
 - 19 2. The physical address of the premises where the violation occurred;
 - 20 3. The last known mailing address for the owner of the premises where the
21 violation occurred *if, in the exercise of reasonable diligence, it is*
22 *ascertainable.*
 - 23 4. A specific description of the citation leading to the final order, including
24 the citation detail set forth in KRS 65.8825(4)(a) to (h), which may be
25 satisfied by including a copy of the full citation;
 - 26 5. The findings of the final order, including the penalty or penalties
27 imposed by the final order, which may be satisfied by providing a copy

1 of the full final order; and

2 6. The status of the final order in regards to its ability to be appealed
3 pursuant to KRS 65.8831, except that the local government shall provide
4 an update to registrants if an appeal is filed on a final order pursuant to
5 KRS 65.8831;

6 (c) **At the same time the electronic notification required under paragraph (b) of**
7 **this subsection is sent,** a local government shall post ~~this~~^{the} notification
8 ~~required under paragraph (b) of this subsection~~ or provide a summary of the
9 information regarding each final order required by paragraph (b) of this
10 subsection in a conspicuous place on its public Web site, which shall be
11 affiliated with the local government and contain other information about the
12 local government~~[, within ten (10) days of the issuance of the final order]~~. If
13 the local government posts using summary form:

14 1. The summary shall be calculated to reasonably allow identification of
15 the specific properties which may be impacted by the lien; and
16 2. Upon request, the local government shall provide the complete record of
17 a final order created under paragraph (b) of this subsection without
18 charge; and

19 (d) A local government shall maintain the records created under this subsection
20 for a period of ten (10) years following their issuance.

21 (3) (a) A lien holder of record may, within forty-five (45) days from the date of
22 issuance of notification under subsection (2) of this section, correct the
23 violation if it has not already been abated, or elect to pay all civil fines
24 assessed for the violation and all charges and fees incurred by the local
25 government in connection with the enforcement of the ordinance, including
26 abatement costs. This subsection shall not prohibit the local government from
27 taking immediate action if necessitated under KRS 65.8838.

- 1 (b) The lien provided by KRS 65.8835 shall not take precedence over previously
2 recorded liens if:
- 3 1. The local government failed to comply with the requirements of
4 subsection (2) of this section for notification of the final order; or
 - 5 2. A prior lienholder corrected the violation or paid all civil fines assessed
6 for the violation and all charges and fees incurred by the local
7 government in connection with the enforcement of the ordinance,
8 including abatement costs within forty-five (45) days as provided in
9 paragraph (a) of this subsection.
- 10 (c) A lien that does not take precedence over previously recorded liens under the
11 circumstances outlined in paragraph (b) of this subsection, shall, if the final
12 order remains partially unsatisfied, take precedence over all other subsequent
13 liens except liens for state, county, school board and city taxes.
- 14 (d) Nothing contained in this subsection shall prohibit a local government from
15 recording a lien before the forty-five (45) day period established in paragraph
16 (a) of this subsection expires. If the lien is fully satisfied prior to the
17 expiration of the forty-five (45) day period established in paragraph (a) of this
18 subsection, the local government shall release the lien in the county clerk's
19 office where the lien is recorded within fifteen (15) days of satisfaction.
- 20 (4) The local government may delegate responsibility for compliance with this section
21 to the code enforcement board or its administrative staff as specified in the
22 ordinance establishing and governing the operation of the code enforcement board.
- 23 (5) The failure of a local government to comply with this section or the failure of a lien
24 to take precedence over previously filed liens as provided in subsection (3)(b) of
25 this section, shall not limit or restrict any other remedies that the local government
26 has against the property or the violator.
- 27 (6) ~~The requirements of this section shall not be mandatory for a local government's~~

1 ~~compliance with KRS 65.8840.~~

2 ~~(7)~~—The requirements of this section shall not apply to a local government when it

3 enforces KRS 65.8840.