

1 AN ACT relating construction performance bonding.

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

3 ➔Section 1. KRS 198B.040 is amended to read as follows:

4 The Kentucky Board of Housing, Buildings and Construction shall have the following
5 general powers and duties:

- 6 (1) To conduct or cause to be conducted studies to determine the needs of the building
7 industry of Kentucky;
- 8 (2) To conduct or cause to be conducted or participate in studies of the costs of the
9 various factors of building construction and use of buildings and to recommend
10 programs and procedures which will minimize the cost of buildings, including the
11 use of energy, while maintaining safety, durability, and comfort;
- 12 (3) To administer regulatory legislation relating to buildings and construction;
- 13 (4) To assume administrative coordination of the various state construction review
14 programs and to cooperate with various federal, state, and local agencies in the
15 programs as they relate to buildings and construction;
- 16 (5) To assume administration and coordination of various state housing programs to
17 include:
- 18 (a) Devising and implementing procedures, in conjunction with the Department
19 for Local Government, for attaining and maintaining an accurate count of the
20 housing inventory in Kentucky, including information on the age, physical
21 condition, size, facilities, and amenities of this housing, and housing
22 constructed and demolished each year;
- 23 (b) Designing programs coordinating the elements of housing finance, production,
24 maintenance, and rehabilitation for the purpose of assuring the availability of
25 safe, adequate housing in a healthful environment for all Kentucky citizens;
- 26 (c) Establishing or causing to be established public information and educational
27 programs relating to housing, to include informing Kentucky citizens about

- 1 housing and housing related programs that are available on all levels of
2 government;
- 3 (d) Designing and administering, or participating in the design and administration
4 of educational programs to prepare low income families for home ownership,
5 and counseling them during their early years as homeowners;
- 6 (e) Promoting educational programs to assist sponsors in the development and
7 management of low and moderate income housing for sale or rental;
- 8 (f) Cooperating with various federal, state, and local agencies in their programs
9 as they relate to housing; and
- 10 (g) Conducting or causing to be conducted studies to determine the housing
11 preferences of Kentucky citizens and the present and future housing
12 requirements of the state;
- 13 (6) To recommend state building industry policies and goals to the Kentucky General
14 Assembly;
- 15 (7) To adopt and promulgate a mandatory uniform state building code, and parts
16 thereof, which shall establish standards for the construction of all buildings, as
17 defined in KRS 198B.010, in the state;
- 18 (8) To promulgate administrative regulations providing for the proper construction of
19 public water purification plants, other than the water treatment equipment and
20 systems in such plants; provided, however, that any such regulations must require
21 that applications for permits to build public water purification plants will be
22 submitted by the department to the Energy and Environment Cabinet for that
23 cabinet's comments. Any such regulations shall require the Energy and Environment
24 Cabinet's comments to be completed and submitted to the department within sixty
25 (60) days;
- 26 (9) To promulgate administrative regulations providing for the proper construction of
27 sewage treatment plants, other than the sewage treatment equipment and systems in

1 such plants; provided, however, that any such regulations must require that
2 applications for permits to build public sewage treatment plants will be submitted
3 by the department to the Energy and Environment Cabinet for that cabinet's
4 comments. Any such regulations shall require the Energy and Environment
5 Cabinet's comments to be completed and submitted to the department within sixty
6 (60) days;~~and~~

7 (10) To promulgate administrative regulations for the safe installation and operation of
8 plumbing and plumbing fixtures;~~and~~

9 (11) (a) As used in this subsection, "main board" means the Kentucky Board of
10 Housing, Buildings and Construction.

11 (b) If the main board has proposed a new or amended administrative regulation
12 that directly and clearly relates to the work of a profession, class of workers,
13 or industry that is under the authority of any board or advisory committee that
14 is created by statute and is controlled, superseded, administratively attached,
15 or affiliated with the main board, the main board shall not promulgate the
16 proposed administrative regulation without first receiving comments from the
17 affected board or advisory committee, subject to the restrictions of paragraph
18 (c) of this subsection.

19 (c) 1. If a proposed administrative regulation affects a board or advisory
20 committee that qualifies under paragraph (b) of this subsection, the main
21 board shall distribute the proposed administrative regulation to the board
22 or advisory committee.

23 2. The affected board or advisory committee shall be granted a maximum
24 of sixty (60) days to submit its comments on the proposed regulatory
25 change. If the administrative regulation is a new emergency regulation,
26 the affected board or advisory committee shall be granted a maximum of
27 thirty (30) days to submit its comments on the proposed regulatory

1 change.

2 3. The time limits in this paragraph shall begin from the day the main
3 board submits the regulatory change and sets a date for a proposed
4 hearing for the comments of the affected board or advisory committee. If
5 the board or advisory committee is already scheduled to meet at a time
6 that will give it an adequate opportunity to review the regulation and
7 respond, the hearing may be held at that meeting.

8 4. If a board or advisory committee is not scheduled to meet or meets only
9 at the call of the main board, the main board shall arrange for the board
10 or advisory committee to meet at a time that will allow the board or
11 advisory committee an adequate opportunity to review and comment on
12 the regulation within the time limit. If the affected board or advisory
13 committee fails to comment within the time limit, the main board may
14 proceed with the administrative changes at its discretion.

15 (d) To the extent that any other statute relating to the main board's authority to
16 promulgate administrative regulations conflicts with this section, this section
17 shall take precedence.

18 (e) If a board or advisory committee chooses to produce written comments, those
19 comments shall be attached to any public submission of the administrative
20 regulation, including any filing under KRS Chapter 13A;~~[-]~~

21 (12) Any power or limitation relating to administrative regulations promulgated by the
22 Kentucky Board of Housing, Buildings and Construction that are subject to
23 subsection (11) of this section shall also apply to the department and commissioner
24 as described in KRS 198B.030(8) and (9); ~~and~~[-]

25 **(13) (a) To promulgate the administrative regulations necessary to implement a**
26 **program for performance bonding of contractors and subcontractors.**

27 **(b) The program for performance bonding shall apply to all contractors or**

- 1 subcontractors in any trade or class of workers subject to the board's
2 oversight and regulation.
- 3 (c) The program for performance bonding shall apply to any project:
- 4 1. Subject to review by the Department of Housing, Buildings and
5 Construction or any local agency acting pursuant to KRS 198B.060;
6 and
- 7 2. Whose cost is five thousand dollars (\$5,000) or greater.
- 8 (d) The program for performance bonding shall, at a minimum, require that a
9 contractor or subcontractor post a performance bond satisfactory to the
10 department executed by a surety company authorized to do business in this
11 Commonwealth, in an amount equal to one hundred percent (100%) of the
12 contract price and any subsequent negotiated changes to the contract price.