

1 AN ACT relating to reorganization and making an appropriation therefor.

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

3 ➔SECTION 1. KRS CHAPTER 324B IS ESTABLISHED AND A NEW
4 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this chapter, unless the context requires otherwise:*

6 *(1) "Authority" means the Kentucky Real Estate Authority;*

7 *(2) "Cabinet" means the Public Protection Cabinet;*

8 *(3) "Commissioner" means the commissioner of the Department of Professional*
9 *Licensing;*

10 *(4) "Department" means the Department of Professional Licensing;*

11 *(5) "Executive director" means the executive director of the Kentucky Real Estate*
12 *Authority; and*

13 *(6) (a) "Real property board" means:*

14 *1. Kentucky Board of Home Inspectors, established under KRS 198B.700*
15 *to 198B.738;*

16 *2. Kentucky Board of Real Estate Professionals, established under KRS*
17 *Chapter 324;*

18 *3. Kentucky Board of Appraisers, established under KRS Chapter 324A;*
19 *or*

20 *4. Kentucky Board of Auctioneers, established under KRS Chapter 330;*
21 *and*

22 *(b) "Real property boards" means a combination of all the boards listed in*
23 *paragraph (a) of this subsection.*

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO
25 READ AS FOLLOWS:

26 *(1) The Department of Professional Licensing is hereby created within the Public*
27 *Protection Cabinet. The department shall be managed by a commissioner, who*

1 shall be appointed by the Governor. The department, in addition to its other
 2 duties as designated by law, shall supervise and have power and authority over
 3 the Kentucky Real Estate Authority and the real property boards.

4 (2) The department may charge the authority and the real property boards a
 5 reasonable amount for the department's administrative services.

6 (3) Within thirty (30) days after the effective date of this Act, the commissioner shall
 7 issue written statements indicating the specific responsibilities of each real
 8 property board, real property board member, and real property board staff
 9 member.

10 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO
 11 READ AS FOLLOWS:

12 (1) All administrative regulations promulgated by the real property boards or their
 13 predecessors shall be deemed retroactively promulgated by the commissioner on
 14 the date the administrative regulations were originally promulgated. All
 15 administrative regulations previously promulgated by the real property boards or
 16 their predecessors shall remain in full effect and shall be administered by the
 17 department, or by the authority and the real property boards, as determined by
 18 the commissioner consistent with this section. Any actions under this subsection
 19 shall conform to KRS 13A.312.

20 (2) The commissioner shall promulgate administrative regulations necessary to carry
 21 out the provisions of:

22 (a) KRS 198B.700 to 198B.738, relating to home inspectors;

23 (b) KRS Chapter 324, relating to real estate professionals;

24 (c) KRS Chapter 324A, relating to appraisers; and

25 (d) KRS Chapter 330, relating to auctioneers.

26 (3) The commissioner shall not promulgate any administrative regulation relating to
 27 a real property board or its area of jurisdiction unless that real property board

1 first adopts the proposed actions relating to the administrative regulation.

2 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO
3 READ AS FOLLOWS:

4 (1) The Kentucky Real Estate Authority is hereby created within the Department of
5 Professional Licensing.

6 (2) The authority shall be managed by an executive director, who shall be appointed
7 by the secretary of the Public Protection Cabinet, with prior written approval
8 from the Governor.

9 (3) The authority shall be composed of the following five (5) ex officio voting
10 members:

11 (a) The executive director; and

12 (b) The chairs of each of the four (4) real property boards.

13 (4) The executive director shall serve as chair of the authority, with the authority's
14 members annually selecting a vice chair to act in the chair's absence. The
15 executive director shall not vote in any matter requiring a vote of the authority
16 unless there is a tie vote among the other present and voting authority members
17 on that matter.

18 (5) The authority shall meet as often as necessary to perform its responsibilities. A
19 majority of the members shall constitute a quorum to conduct business.

20 (6) A member shall forfeit office and be automatically removed as a member of the
21 authority if the member misses three (3) consecutive meetings or misses more
22 than twenty-five percent (25%) of the meetings held over the previous twelve (12)
23 month period.

24 (7) Voting members of the authority shall be compensated no more than three
25 hundred dollars (\$300) per day for official business, subject to an annual
26 maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all
27 expenses paid and incurred in the discharge of official business consistent with

1 the reimbursement policy for state employees. The executive director shall not
 2 receive any additional compensation for his or her service as a member of the
 3 authority. Compensation and expenses for authority members permitted by this
 4 subsection shall be in addition to any compensation and expenses the authority
 5 member receives for that member's service on his or her respective real property
 6 board.

7 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) The authority shall:

10 (a) Oversee the following:

11 1. The Kentucky Board of Home Inspectors in fulfilling its duties under
 12 KRS Chapter 198B;

13 2. The Kentucky Board of Real Estate Professionals in fulfilling its
 14 duties under KRS Chapter 324;

15 3. The Kentucky Board of Appraisers in fulfilling its duties under KRS
 16 Chapter 324A; and

17 4. The Kentucky Board of Auctioneers in fulfilling its duties under KRS
 18 Chapter 330;

19 (b) Establish and maintain necessary offices within this state. The authority,
 20 the real property boards, and the employees of the authority and the real
 21 property boards shall all be consolidated into one (1) physical location;

22 (c) Make available for public inspection all decisions, opinions, and
 23 interpretations formulated or used by the authority in discharging its
 24 functions;

25 (d) Publicize the functions and purposes of the authority and the real property
 26 boards;

27 (e) Obtain office space, furniture, stationery, utilities, and other necessary

- 1 items for itself and the real property boards at their consolidated facility;
- 2 (f) Provide appropriate administrative staffing for the real property boards;
- 3 (g) Charge the real property boards a reasonable amount for the authority's
- 4 administrative services;
- 5 (h) Not impose a fine against a licensee who is licensed by one (1) of the real
- 6 property boards unless the real property board that licenses the person has
- 7 previously approved the imposition of the fine;
- 8 (i) Delegate any of its power and authority to its employees; and
- 9 (j) Promptly approve or deny requests for board members and board staff to
- 10 attend and travel to and from meetings and events relevant to the board or
- 11 to the industry the board represents.
- 12 (2) With the approval of the commissioner, the executive director and his or her staff
- 13 may enlist assistance to implement the duties and responsibilities of the authority
- 14 by entering into agreements with any:
- 15 (a) State agency or political subdivision of the state;
- 16 (b) Postsecondary institution; or
- 17 (c) Other person or entity.
- 18 (3) Each real property board shall submit an annual budget to the authority. The
- 19 real property board budget shall go into effect if approved by a majority vote of
- 20 the authority.
- 21 (4) (a) Any licensure denial, suspension, or revocation and any other penalty
- 22 issued by the real property boards may be appealed to the authority within
- 23 thirty (30) days of the appealable action. No officer or employee of the
- 24 cabinet, department, or authority shall attempt to influence or interfere with
- 25 any real property board's disciplinary decisions or proceedings.
- 26 (b) Upon receipt of an appeal, the authority shall schedule the matter for an
- 27 administrative hearing that shall be conducted in accordance with KRS

1 Chapter 13B. The authority may assign a hearing officer to hear the appeal.
 2 If the authority assigns a hearing officer, the authority shall retain the
 3 authority to issue a final order.

4 (c) An aggrieved party may appeal a final order of the authority to the Franklin
 5 Circuit Court pursuant to KRS Chapter 13B within thirty (30) days after the
 6 issuance of the order.

7 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) The secretary of the Public Protection Cabinet shall serve as the appointing
 10 authority for all personnel of the authority and the real property boards.

11 (2) The authority shall employ administrative coordinators, who shall carry out the
 12 administrative functions and day-to-day operations of the real property boards.

13 The maximum number of administrative coordinators shall be one (1) for each
 14 real property board. Administrative coordinators shall be exempted from the
 15 classified service.

16 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO
 17 READ AS FOLLOWS:

18 The executive director shall:

19 (1) Serve as chair of the authority;

20 (2) Carry out the policy and program directives of the authority;

21 (3) Be responsible for the day-to-day operations of the authority;

22 (4) Prepare annual reports on the authority's activities;

23 (5) Delegate any power to authority employees and contractors;

24 (6) Have at least ten (10) years of experience in one (1) of the professions under the
 25 jurisdiction of the authority and a real property board, and shall be active in that
 26 profession at the time of his or her appointment as the executive director; and

27 (7) Perform all other duties assigned by law.

1 ➔Section 8. KRS 224.10-052 is repealed, reenacted as a new section of KRS
2 Chapter 324B, and amended to read as follows:

- 3 (1) The **Department of Professional Licensing**~~[Office of Occupations and Professions]~~
4 in the Public Protection Cabinet shall provide administrative services, technical
5 assistance, and advice to the following boards and commissions at the request of the
6 individual boards or commissions, all of which maintain their identity and their full
7 authority for making policy decisions in the fields that they regulate: the State Board
8 of Accountancy, the Kentucky Board of Architects, the Kentucky Board of
9 Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board
10 of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky
11 Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State
12 Board of Registration for Professional Engineers and Land Surveyors, the Kentucky
13 Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky
14 Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board
15 of Physical Therapy, the State Board of Examiners of Psychologists,~~[the Kentucky~~
16 ~~Real Estate Commission,]~~ the Kentucky Board of Veterinary Examiners,~~[the Board~~
17 ~~of Auctioneers,]~~ the Kentucky Board of Landscape Architects, the State Board of
18 Medical Licensure, the Board of Speech-Language Pathology and Audiology, the
19 Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky
20 Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of
21 Social Work, and **any**~~[such]~~ other boards and commissions **that**~~[as]~~ are created to
22 license, certify, register, or otherwise regulate any occupational or professional
23 category.
- 24 (2) The **department**~~[office]~~ may also provide administrative services to a board or
25 commission that is created to license, certify, register, or otherwise regulate any
26 occupational or professional category if these administrative services are deemed to
27 be preferable or required after the review process conducted under **Section 9 of this**

1 ~~Act~~[KRS 224.10-053].

2 (3) To the extent that the department[office] provides administrative services, the
3 respective boards and commissions are relieved of the power and duty to provide
4 the services for themselves. The department[office] shall charge each board or
5 commission a reasonable amount for administrative services provided pursuant to
6 subsection (1) of this section. The department[office] may employ persons
7 previously employed by boards or commissions.

8 (4) The department[office] may receive complaints against the conduct of licensees
9 granted licensure by the boards and commissions assigned to the department[office]
10 for administrative purposes. The department[office] shall cause these[such]
11 complaints to be reduced to writing and forwarded to the appropriate board or
12 commission for investigation and a determination of the validity of the complaint.
13 The department[office] shall keep a record of all complaints received by it and
14 forwarded to a board or commission.

15 (5) Any board or commission listed in subsection (1) of this section, shall accept
16 personal checks in payment of license renewal fees.

17 **(6) The department shall have direct authority and control over the Real Estate**
18 **Authority and the real property boards under the purview of the authority.**

19 ➔Section 9. KRS 224.10-053 is repealed, reenacted as a new section of KRS
20 Chapter 324B, and amended to read as follows:

21 (1) As used in this section, "independent board or commission" means an executive
22 branch agency created by statute that serves the primary purpose of licensing,
23 certifying, registering, or otherwise regulating any occupational or professional
24 category. "Independent board or commission" does not include:

25 (a) An executive branch board or commission that is a part of another executive
26 branch agency;

27 (b) Any board or commission that is under the authority or jurisdiction of the

- 1 General Assembly or the judicial branch; or
- 2 (c) Any board or commission within any branch of state government if that board
- 3 or commission is expressly designed to:
- 4 1. Study, report, or make recommendations regarding a particular issue; or
- 5 2. Expire within a time certain.
- 6 (2) Any independent board or commission that is created after July 15, 2010, shall use
- 7 the administrative services of the Department of Professional Licensing~~[Office of~~
- 8 ~~Occupations and Professions]~~ as described under Section 8 of this Act~~[KRS 224.10-~~
- 9 ~~052]~~ unless that board or commission can reasonably demonstrate to the satisfaction
- 10 of the department~~[division]~~ that it will license, certify, register, or otherwise
- 11 regulate at least one hundred (100) persons. If the board or commission is able to
- 12 initially demonstrate that it will reach the threshold established in this subsection
- 13 and then fails to license, certify, register, or otherwise regulate at least one hundred
- 14 (100) persons at the end of any two (2) consecutive fiscal years, that board or
- 15 commission shall be subject to the process required in subsection (4) of this section.
- 16 (3) Any independent board or commission that was created before July 15, 2010, shall
- 17 undergo the process required in subsection (4) of this section if that board or
- 18 commission licenses, certifies, registers, or otherwise regulates less than one
- 19 hundred (100) persons at the end of any two (2) consecutive fiscal years ending on
- 20 or after June 30, 2010.
- 21 (4) (a) If an independent board or commission fails to regulate one hundred (100) or
- 22 more persons for two (2) consecutive fiscal years as described in subsections
- 23 (2) and (3) of this section, that board or commission shall submit a report
- 24 within ninety (90) days after the close of the second of the two (2) fiscal years
- 25 to the Department of Professional Licensing~~[Office of Occupations and~~
- 26 ~~Professions]~~ and to the Interim Joint Committee on Licensing and
- 27 Occupations of the Legislative Research Commission or to the corresponding

1 standing committees of the General Assembly. The report shall contain, at a
2 minimum:

- 3 1. The number of persons licensed, certified, registered, or otherwise
4 regulated by the board or commission at the close of each of the two (2)
5 fiscal years;
 - 6 2. A detailed accounting of the revenues, fees collected, board or
7 commission member reimbursements or per diems, staff salaries, costs,
8 expenses, and other financial activities of the board or commission for
9 each of the two (2) fiscal years; and
 - 10 3. The board or commission's plan to:
 - 11 a. Increase the number of persons it licenses, certifies, registers, or
12 otherwise regulates to one hundred (100) or more persons;
 - 13 b. Merge with one (1) or more other boards, commissions, or other
14 governmental entities, which will result in a merged entity that will
15 license, certify, register, or otherwise regulate one hundred (100)
16 or more persons; or
 - 17 c. Allow the Department of Professional Licensing~~[Office of~~
18 ~~Occupations and Professions]~~ to assume administrative duties for
19 the board or commission as described in Section 8 of this
20 Act~~[KRS 224.10-052]~~.
- 21 (b) If, after implementation of its plan under paragraph (a)3.a. or b. of this
22 subsection, an independent board or commission fails to license, certify,
23 register, or otherwise regulate one hundred (100) or more persons for an
24 additional three (3) consecutive fiscal years, for a total of five (5) consecutive
25 fiscal years, that board or commission shall allow the Department of
26 Professional Licensing~~[Office of Occupations and Professions]~~ to assume
27 administrative duties for the board or commission as described in Section 8 of

1 this Act~~[KRS 224.10-052]~~ within ninety (90) days after the end of the fifth
2 fiscal year.

3 ➔Section 10. KRS 12.020 is amended to read as follows:

4 Departments, program cabinets and their departments, and the respective major
5 administrative bodies that they include are enumerated in this section. It is not intended
6 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
7 bureau, interstate compact, commission, committee, conference, council, office, or any
8 other form of organization shall be included in or attached to the department or program
9 cabinet in which they are included or to which they are attached by statute or statutorily
10 authorized executive order; except in the case of the Personnel Board and where the
11 attached department or administrative body is headed by a constitutionally elected officer,
12 the attachment shall be solely for the purpose of dissemination of information and
13 coordination of activities and shall not include any authority over the functions,
14 personnel, funds, equipment, facilities, or records of the department or administrative
15 body.

16 I. Cabinet for General Government - Departments headed by elected officers:

- 17 (1) The Governor.
18 (2) Lieutenant Governor.
19 (3) Department of State.
20 (a) Secretary of State.
21 (b) Board of Elections.
22 (c) Registry of Election Finance.
23 (4) Department of Law.
24 (a) Attorney General.
25 (5) Department of the Treasury.
26 (a) Treasurer.
27 (6) Department of Agriculture.

- 1 (a) Commissioner of Agriculture.
- 2 (b) Kentucky Council on Agriculture.
- 3 (7) Auditor of Public Accounts.
- 4 II. Program cabinets headed by appointed officers:
- 5 (1) Justice and Public Safety Cabinet:
- 6 (a) Department of Kentucky State Police.
- 7 (b) Department of Criminal Justice Training.
- 8 (c) Department of Corrections.
- 9 (d) Department of Juvenile Justice.
- 10 (e) Office of the Secretary.
- 11 (f) Office of Drug Control Policy.
- 12 (g) Office of Legal Services.
- 13 (h) Office of the Kentucky State Medical Examiner.
- 14 (i) Parole Board.
- 15 (j) Kentucky State Corrections Commission.
- 16 (k) Office of Legislative and Intergovernmental Services.
- 17 (l) Office of Management and Administrative Services.
- 18 (m) Department for Public Advocacy.
- 19 (2) Education and Workforce Development Cabinet:
- 20 (a) Office of the Secretary.
- 21 1. Governor's Scholars Program.
- 22 2. Governor's School for Entrepreneurs Program.
- 23 (b) Office of Legal and Legislative Services.
- 24 1. Client Assistance Program.
- 25 (c) Office of Communication.
- 26 (d) Office of Budget and Administration.
- 27 1. Division of Human Resources.

- 1 2. Division of Administrative Services.
- 2 (e) Office of Technology Services.
- 3 (f) Office of Educational Programs.
- 4 (g) Office for Education and Workforce Statistics.
- 5 (h) Board of the Kentucky Center for Education and Workforce Statistics.
- 6 (i) Board of Directors for the Center for School Safety.
- 7 (j) Department of Education.
 - 8 1. Kentucky Board of Education.
 - 9 2. Kentucky Technical Education Personnel Board.
- 10 (k) Department for Libraries and Archives.
- 11 (l) Department of Workforce Investment.
 - 12 1. Office for the Blind.
 - 13 2. Office of Vocational Rehabilitation.
 - 14 3. Office of Employment and Training.
 - 15 a. Division of Grant Management and Support.
 - 16 b. Division of Workforce and Employment Services.
 - 17 c. Division of Unemployment Insurance.
- 18 (m) Foundation for Workforce Development.
- 19 (n) Kentucky Office for the Blind State Rehabilitation Council.
- 20 (o) Kentucky Workforce Investment Board.
- 21 (p) Statewide Council for Vocational Rehabilitation.
- 22 (q) Unemployment Insurance Commission.
- 23 (r) Education Professional Standards Board.
 - 24 1. Division of Educator Preparation.
 - 25 2. Division of Certification.
 - 26 3. Division of Professional Learning and Assessment.
 - 27 4. Division of Legal Services.

- 1 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 2 (t) Kentucky Educational Television.
- 3 (u) Kentucky Environmental Education Council.
- 4 (3) Energy and Environment Cabinet:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legislative and Intergovernmental Affairs.
- 7 2. Office of General Counsel.
- 8 3. Office of Administrative Hearings.
- 9 4. Mine Safety Review Commission.
- 10 5. Kentucky State Nature Preserves Commission.
- 11 6. Kentucky Environmental Quality Commission.
- 12 7. Kentucky Public Service Commission.
- 13 (b) Department for Environmental Protection.
- 14 1. Office of the Commissioner.
- 15 2. Division for Air Quality.
- 16 3. Division of Water.
- 17 4. Division of Environmental Program Support.
- 18 5. Division of Waste Management.
- 19 6. Division of Enforcement.
- 20 7. Division of Compliance Assistance.
- 21 (c) Department for Natural Resources.
- 22 1. Office of the Commissioner.
- 23 2. Division of Technical and Administrative Support.
- 24 3. Division of Mine Permits.
- 25 4. Division of Mine Reclamation and Enforcement.
- 26 5. Division of Abandoned Mine Lands.
- 27 6. Division of Oil and Gas.

- 1 7. Division of Mine Safety.
- 2 8. Division of Forestry.
- 3 9. Division of Conservation.
- 4 10. Office of the Reclamation Guaranty Fund.
- 5 11. Kentucky Mining Board.
- 6 (d) Department for Energy Development and Independence.
- 7 1. Division of Efficiency and Conservation.
- 8 2. Division of Renewable Energy.
- 9 3. Division of Biofuels.
- 10 4. Division of Energy Generation Transmission and Distribution.
- 11 5. Division of Carbon Management.
- 12 6. Division of Fossil Energy Development.
- 13 (4) Public Protection Cabinet.
- 14 (a) Office of the Secretary.
- 15 1. Office of Communications and Public Outreach.
- 16 2. Office of Legal Services.
- 17 a. Insurance Legal Division.
- 18 b. Charitable Gaming Legal Division.
- 19 c. Alcoholic Beverage Control Legal Division.
- 20 d. Housing, Buildings and Construction Legal Division.
- 21 e. Financial Institutions Legal Division.
- 22 (b) Crime Victims Compensation Board.
- 23 (c) Board of Claims.
- 24 (d) Kentucky Board of Tax Appeals.
- 25 (e) Kentucky Boxing and Wrestling Authority.
- 26 (f) Kentucky Horse Racing Commission.
- 27 1. Division of Licensing.

- 1 2. Division of Incentives and Development.
- 2 3. Division of Veterinary Services.
- 3 4. Division of Security and Enforcement.
- 4 (g) Department of Alcoholic Beverage Control.
- 5 1. Division of Distilled Spirits.
- 6 2. Division of Malt Beverages.
- 7 3. Division of Enforcement.
- 8 (h) Department of Charitable Gaming.
- 9 1. Division of Licensing and Compliance.
- 10 2. Division of Enforcement.
- 11 (i) Department of Financial Institutions.
- 12 1. Division of Depository Institutions.
- 13 2. Division of Non-Depository Institutions.
- 14 3. Division of Securities.
- 15 (j) Department of Housing, Buildings and Construction.
- 16 1. Division of Fire Prevention.
- 17 2. Division of Plumbing.
- 18 3. Division of Heating, Ventilation, and Air Conditioning.
- 19 4. Division of Building Code Enforcement.
- 20 (k) Department of Insurance.
- 21 1. Property and Casualty Division.
- 22 2. Health and Life Division.
- 23 3. Division of Financial Standards and Examination.
- 24 4. Division of Agent Licensing.
- 25 5. Division of Insurance Fraud Investigation.
- 26 6. Consumer Protection Division.
- 27 7. Division of Kentucky Access.

- 1 (1) *Department of Professional Licensing.*
- 2 *1. Kentucky Real Estate Authority*~~[Office of Occupations and~~
- 3 Professions].
- 4 (5) Labor Cabinet.
- 5 (a) Office of the Secretary.
- 6 1. Division of Management Services.
- 7 2. Office of General Counsel.
- 8 (b) Office of General Administration and Program Support for Shared
- 9 Services.
- 10 1. Division of Human Resource Management.
- 11 2. Division of Fiscal Management.
- 12 3. Division of Budgets.
- 13 4. Division of Information Services.
- 14 (c) Office of Inspector General for Shared Services.
- 15 (d) Department of Workplace Standards.
- 16 1. Division of Employment Standards, Apprenticeship, and
- 17 Mediation.
- 18 2. Division of Occupational Safety and Health Compliance.
- 19 3. Division of Occupational Safety and Health Education and
- 20 Training.
- 21 4. Division of Workers' Compensation Funds.
- 22 (e) Department of Workers' Claims.
- 23 1. Office of General Counsel for Workers' Claims.
- 24 2. Office of Administrative Law Judges.
- 25 3. Division of Claims Processing.
- 26 4. Division of Security and Compliance.
- 27 5. Division of Information and Research.

- 1 6. Division of Ombudsman and Workers' Compensation Specialist
- 2 Services.
- 3 7. Workers' Compensation Board.
- 4 8. Workers' Compensation Advisory Council.
- 5 9. Workers' Compensation Nominating Commission.
- 6 (f) Workers' Compensation Funding Commission.
- 7 (g) Kentucky Labor-Management Advisory Council.
- 8 (h) Occupational Safety and Health Standards Board.
- 9 (i) Prevailing Wage Review Board.
- 10 (j) Apprenticeship and Training Council.
- 11 (k) State Labor Relations Board.
- 12 (l) Employers' Mutual Insurance Authority.
- 13 (m) Kentucky Occupational Safety and Health Review Commission.
- 14 (6) Transportation Cabinet:
- 15 (a) Department of Highways.
- 16 1. Office of Project Development.
- 17 2. Office of Project Delivery and Preservation.
- 18 3. Office of Highway Safety.
- 19 4. Highway District Offices One through Twelve.
- 20 (b) Department of Vehicle Regulation.
- 21 (c) Department of Aviation.
- 22 (d) Department of Rural and Municipal Aid.
- 23 1. Office of Local Programs.
- 24 2. Office of Rural and Secondary Roads.
- 25 (e) Office of the Secretary.
- 26 1. Office of Public Affairs.
- 27 2. Office for Civil Rights and Small Business Development.

- 1 3. Office of Budget and Fiscal Management.
- 2 4. Office of Inspector General.
- 3 (f) Office of Support Services.
- 4 (g) Office of Transportation Delivery.
- 5 (h) Office of Audits.
- 6 (i) Office of Human Resource Management.
- 7 (j) Office of Information Technology.
- 8 (k) Office of Legal Services.
- 9 (7) Cabinet for Economic Development:
- 10 (a) Office of the Secretary.
- 11 1. Office of Legal Services.
- 12 2. Department for Business Development.
- 13 a. Office of Entrepreneurship.
- 14 i. Commission on Small Business Advocacy.
- 15 b. Office of Research and Public Affairs.
- 16 c. Bluegrass State Skills Corporation.
- 17 3. Office of Financial Services.
- 18 a. Kentucky Economic Development Finance Authority.
- 19 b. Division of Finance and Personnel.
- 20 c. Division of Network Administration.
- 21 d. Compliance Division.
- 22 e. Incentive Assistance Division.
- 23 (8) Cabinet for Health and Family Services:
- 24 (a) Office of the Secretary.
- 25 (b) Office of Health Policy.
- 26 (c) Office of Legal Services.
- 27 (d) Office of Inspector General.

- 1 (e) Office of Communications and Administrative Review.
- 2 (f) Office of the Ombudsman.
- 3 (g) Office of Policy and Budget.
- 4 (h) Office of Human Resource Management.
- 5 (i) Office of Administrative and Technology Services.
- 6 (j) Department for Public Health.
- 7 (k) Department for Medicaid Services.
- 8 (l) Department for Behavioral Health, Developmental and Intellectual
- 9 Disabilities.
- 10 (m) Department for Aging and Independent Living.
- 11 (n) Department for Community Based Services.
- 12 (o) Department for Income Support.
- 13 (p) Department for Family Resource Centers and Volunteer Services.
- 14 (q) Kentucky Commission on Community Volunteerism and Service.
- 15 (r) Kentucky Commission for Children with Special Health Care Needs.
- 16 (s) Governor's Office of Electronic Health Information.
- 17 (9) Finance and Administration Cabinet:
- 18 (a) Office of General Counsel.
- 19 (b) Office of the Controller.
- 20 (c) Office of Administrative Services.
- 21 (d) Office of Public Information.
- 22 (e) Office of Policy and Audit.
- 23 (f) Department for Facilities and Support Services.
- 24 (g) Department of Revenue.
- 25 (h) Commonwealth Office of Technology.
- 26 (i) State Property and Buildings Commission.
- 27 (j) Office of Equal Employment Opportunity and Contract Compliance.

- 1 (k) Kentucky Employees Retirement Systems.
- 2 (l) Commonwealth Credit Union.
- 3 (m) State Investment Commission.
- 4 (n) Kentucky Housing Corporation.
- 5 (o) Kentucky Local Correctional Facilities Construction Authority.
- 6 (p) Kentucky Turnpike Authority.
- 7 (q) Historic Properties Advisory Commission.
- 8 (r) Kentucky Tobacco Settlement Trust Corporation.
- 9 (s) Kentucky Higher Education Assistance Authority.
- 10 (t) Kentucky River Authority.
- 11 (u) Kentucky Teachers' Retirement System Board of Trustees.
- 12 (v) Executive Branch Ethics Commission.
- 13 (10) Tourism, Arts and Heritage Cabinet:
- 14 (a) Kentucky Department of Travel and Tourism.
- 15 1. Division of Tourism Services.
- 16 2. Division of Marketing and Administration.
- 17 3. Division of Communications and Promotions.
- 18 (b) Kentucky Department of Parks.
- 19 1. Division of Information Technology.
- 20 2. Division of Human Resources.
- 21 3. Division of Financial Operations.
- 22 4. Division of Facilities Management.
- 23 5. Division of Facilities Maintenance.
- 24 6. Division of Customer Services.
- 25 7. Division of Recreation.
- 26 8. Division of Golf Courses.
- 27 9. Division of Food Services.

- 1 10. Division of Rangers.
- 2 11. Division of Resort Parks.
- 3 12. Division of Recreational Parks and Historic Sites.
- 4 (c) Department of Fish and Wildlife Resources.
- 5 1. Division of Law Enforcement.
- 6 2. Division of Administrative Services.
- 7 3. Division of Engineering.
- 8 4. Division of Fisheries.
- 9 5. Division of Information and Education.
- 10 6. Division of Wildlife.
- 11 7. Division of Public Affairs.
- 12 (d) Kentucky Horse Park.
- 13 1. Division of Support Services.
- 14 2. Division of Buildings and Grounds.
- 15 3. Division of Operational Services.
- 16 (e) Kentucky State Fair Board.
- 17 1. Office of Administrative and Information Technology Services.
- 18 2. Office of Human Resources and Access Control.
- 19 3. Division of Expositions.
- 20 4. Division of Kentucky Exposition Center Operations.
- 21 5. Division of Kentucky International Convention Center.
- 22 6. Division of Public Relations and Media.
- 23 7. Division of Venue Services.
- 24 8. Division of Personnel Management and Staff Development.
- 25 9. Division of Sales.
- 26 10. Division of Security and Traffic Control.
- 27 11. Division of Information Technology.

- 1 12. Division of the Louisville Arena.
- 2 13. Division of Fiscal and Contract Management.
- 3 14. Division of Access Control.
- 4 (f) Office of the Secretary.
 - 5 1. Office of Finance.
 - 6 2. Office of Research and Administration.
 - 7 3. Office of Governmental Relations and Tourism Development.
 - 8 4. Office of the Sports Authority.
 - 9 5. Kentucky Sports Authority.
- 10 (g) Office of Legal Affairs.
- 11 (h) Office of Human Resources.
- 12 (i) Office of Public Affairs and Constituent Services.
- 13 (j) Office of Creative Services.
- 14 (k) Office of Capital Plaza Operations.
- 15 (l) Office of Arts and Cultural Heritage.
- 16 (m) Kentucky African-American Heritage Commission.
- 17 (n) Kentucky Foundation for the Arts.
- 18 (o) Kentucky Humanities Council.
- 19 (p) Kentucky Heritage Council.
- 20 (q) Kentucky Arts Council.
- 21 (r) Kentucky Historical Society.
 - 22 1. Division of Museums.
 - 23 2. Division of Oral History and Educational Outreach.
 - 24 3. Division of Research and Publications.
 - 25 4. Division of Administration.
- 26 (s) Kentucky Center for the Arts.
 - 27 1. Division of Governor's School for the Arts.

- 1 (t) Kentucky Artisans Center at Berea.
- 2 (u) Northern Kentucky Convention Center.
- 3 (v) Eastern Kentucky Exposition Center.
- 4 (11) Personnel Cabinet:
 - 5 (a) Office of the Secretary.
 - 6 (b) Department of Human Resources Administration.
 - 7 (c) Office of Employee Relations.
 - 8 (d) Kentucky Public Employees Deferred Compensation Authority.
 - 9 (e) Office of Administrative Services.
 - 10 (f) Office of Legal Services.
 - 11 (g) Governmental Services Center.
 - 12 (h) Department of Employee Insurance.
 - 13 (i) Office of Diversity and Equality.
 - 14 (j) Center of Strategic Innovation.

15 III. Other departments headed by appointed officers:

- 16 (1) Council on Postsecondary Education.
- 17 (2) Department of Military Affairs.
- 18 (3) Department for Local Government.
- 19 (4) Kentucky Commission on Human Rights.
- 20 (5) Kentucky Commission on Women.
- 21 (6) Department of Veterans' Affairs.
- 22 (7) Kentucky Commission on Military Affairs.
- 23 (8) Office of Minority Empowerment.
- 24 (9) Governor's Council on Wellness and Physical Activity.

25 ➔Section 11. KRS 12.252 is amended to read as follows:

- 26 (1) There is established within the Public Protection Cabinet a Department of Financial
27 Institutions, a Department of Insurance, a Department of Housing, Buildings and

1 Construction, a Department of Charitable Gaming, *a Department of Professional*
2 *Licensing*, and a Department of Alcoholic Beverage Control. Each department shall
3 be headed by a commissioner appointed by the Governor as required by KRS
4 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020.
5 Commissioners shall be directly responsible to the secretary and shall perform the
6 functions, powers, and duties provided by law and prescribed by the secretary.

7 ~~(2) There is established within the Public Protection Cabinet an Office of Occupations~~
8 ~~and Professions, which shall be headed by an executive director appointed by the~~
9 ~~secretary with the approval of the Governor as required by KRS 12.050. The~~
10 ~~executive director shall be directly responsible to the secretary and shall perform the~~
11 ~~functions, powers, and duties provided by law and prescribed by the secretary.~~

12 ~~(3)~~ The secretary of the Public Protection Cabinet shall be appointed by the Governor
13 in accordance with KRS 12.255. The Office of the Secretary shall contain the
14 following entities:

- 15 (a) The Office of Communications and Public Outreach, which shall be headed
16 by an executive director appointed by the secretary with the approval of the
17 Governor in accordance with KRS 12.050; and
18 (b) The Office of Legal Services, which shall be headed by an executive director
19 appointed by the secretary with the approval of the Governor in accordance
20 with KRS 12.050 and 12.210.

21 ~~(3)~~~~(4)~~ The following agencies are attached to the Public Protection Cabinet for
22 administrative purposes only, except as provided in KRS 131.330:

- 23 (a) Crime Victims Compensation Board;
24 (b) Board of Claims;
25 (c) Kentucky Board of Tax Appeals;
26 (d) Kentucky Boxing and Wrestling Authority; and
27 (e) Kentucky Horse Racing Commission.

1 ➔Section 12. KRS 164.6903 is amended to read as follows:

2 As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

- 3 (1) "Agency contract" means an agreement in which a student-athlete authorizes a
4 person to negotiate or solicit on behalf of the student-athlete a professional-sports-
5 services contract or an endorsement contract;
- 6 (2) "Athlete agent" means an individual who enters into an agency contract with a
7 student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter
8 into an agency contract. The term includes an individual who represents to the
9 public that the individual is an athlete agent. The term does not include a spouse,
10 parent, sibling, grandparent, or guardian of the student-athlete or an individual
11 acting solely on behalf of a professional sports team or professional sports
12 organization;
- 13 (3) "Athletic director" means an individual responsible for administering the overall
14 athletic program of an educational institution or, if an educational institution has
15 separately administered athletic programs for male and female students, the athletic
16 program for males or the athletic program for females, as appropriate;
- 17 (4) "Contact" means a communication, direct or indirect, between an athlete agent and a
18 student-athlete, to recruit or solicit the student-athlete to enter into an agency
19 contract;
- 20 (5) **"Department" means the Department of Professional Licensing**~~["Office" means~~
21 ~~the Office of Occupations and Professions]~~ in the Public Protection Cabinet;
- 22 (6) "Endorsement contract" means an agreement under which a student-athlete is
23 employed or receives consideration to use on behalf of the other party any value that
24 the student-athlete may have because of publicity, reputation, following, or fame
25 obtained because of athletic ability or performance;
- 26 (7) "Intercollegiate sport" means a sport played at the collegiate level for which
27 eligibility requirements for participation by a student-athlete are established by a

- 1 national association for the promotion or regulation of collegiate athletics;
- 2 (8) "Person" means an individual, corporation, business trust, estate, trust, partnership,
3 limited liability company, association, joint venture, or government; governmental
4 subdivision, agency, or instrumentality; public corporation, or any other legal or
5 commercial entity;
- 6 (9) "Professional-sports-services contract" means an agreement under which an
7 individual is employed, or agrees to render services, as a player on a professional
8 sports team, with a professional sports organization, or as a professional athlete;
- 9 (10) "Record" means information that is inscribed on a tangible medium or that is stored
10 in an electronic or other medium and is retrievable in perceivable form;
- 11 (11) "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to
12 164.6935;
- 13 (12) "State" means a state of the United States, the District of Columbia, Puerto Rico,
14 the United States Virgin Islands, or any territory or insular possession subject to the
15 jurisdiction of the United States; and
- 16 (13) "Student-athlete" means an individual who engages in, is eligible to engage in, or
17 may be eligible in the future to engage in, any intercollegiate sport. If an individual
18 is permanently ineligible to participate in a particular intercollegiate sport, the
19 individual is not a student-athlete for purposes of that sport.
- 20 ➔Section 13. KRS 164.6905 is amended to read as follows:
- 21 (1) By acting as an athlete agent in this state, a nonresident individual appoints the
22 **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ as
23 the individual's agent for service of process in any civil action in this state related to
24 the individual's acting as an athlete agent in this state.
- 25 (2) The **department**~~[office]~~ may issue subpoenas for any material that is relevant to the
26 administration of KRS 164.6901 to 164.6935.
- 27 (3) The **department**~~[office]~~ may promulgate administrative regulations in accordance

1 with KRS Chapter 13A that are necessary to carry out the provisions of KRS
2 164.6901 to 164.6935.

3 ➔Section 14. KRS 164.6909 is amended to read as follows:

- 4 (1) An applicant for registration shall submit an application for registration to the
5 department~~[office]~~ in a form prescribed by the department~~[office]~~. An application
6 filed under this section is a public record. The application shall~~[must]~~ be in the
7 name of an individual, and except as otherwise provided in subsection (2) of this
8 section, signed or otherwise authenticated by the applicant under penalty of perjury
9 and state or contain:
- 10 (a) The name of the applicant and the address of the applicant's principal place of
11 business;
- 12 (b) The name of the applicant's business or employer, if applicable;
- 13 (c) Any business or occupation engaged in by the applicant for the five (5) years
14 next preceding the date of submission of this application;
- 15 (d) A description of the applicant's:
- 16 1. Formal training as an athlete;
- 17 2. Practical experience as an athlete agent; and
- 18 3. Educational background relating to the applicant's activities as an athlete
19 agent;
- 20 (e) The names and addresses of three (3) individuals not related to the applicant
21 who are willing to serve as references;
- 22 (f) The name, sport, and last known team for each individual for whom the
23 applicant acted as an athlete agent during the five (5) years next preceding the
24 date of submission of the application;
- 25 (g) The names and addresses of all persons who are:
- 26 1. With respect to the athlete agent's business if it is not a corporation, the
27 partners, members, officers, managers, associates, or profit-sharers of

- 1 the business; and
- 2 2. With respect to a corporation employing the athlete agent, the officers,
- 3 directors, and any shareholder of the corporation having an interest of
- 4 five percent (5%) or greater;
- 5 (h) Whether the applicant or any person named pursuant to paragraph (g) of this
- 6 subsection has been convicted of a crime that, if committed in this state,
- 7 would be a crime involving moral turpitude or a felony, and identify the
- 8 crime;
- 9 (i) Whether there has been any administrative or judicial determination that the
- 10 applicant or any person named pursuant to paragraph (g) of this subsection has
- 11 made a false, misleading, deceptive, or fraudulent representation;
- 12 (j) Any instance in which the conduct of the applicant or any person named
- 13 pursuant to paragraph (g) of this subsection resulted in the imposition of a
- 14 sanction, suspension, or declaration of ineligibility to participate in an
- 15 interscholastic or intercollegiate athletic event on a student-athlete or
- 16 educational institution;
- 17 (k) Any sanction, suspension, or disciplinary action taken against the applicant or
- 18 any person named pursuant to paragraph (g) of this subsection arising out of
- 19 occupational or professional conduct; and
- 20 (l) Whether there has been any denial of an application for, suspension or
- 21 revocation of, or refusal to renew, the registration or licensure of the applicant
- 22 or any person named pursuant to paragraph (g) of this subsection as an athlete
- 23 agent in any state.
- 24 (2) An individual who has submitted an application for, and holds a certificate of,
- 25 registration or licensure as an athlete agent in another state, may submit a copy of
- 26 the application and certificate in lieu of submitting an application in the form
- 27 prescribed pursuant to subsection (1) of this section. The department~~office~~ shall

1 accept the application and the certificate from the other state as an application for
2 registration in this state if the application to the other state:

- 3 (a) Was submitted in the other state within six (6) months next preceding the
4 submission of the application in this state and the applicant certifies that the
5 information contained in the application is current;
- 6 (b) Contains information substantially similar to or more comprehensive than that
7 required in an application submitted in this state; and
- 8 (c) Was signed by the applicant under penalty of perjury.

9 ➔Section 15. KRS 164.6911 is amended to read as follows:

10 (1) Except as otherwise provided in subsection (2) of this section, the
11 department~~[office]~~ shall issue a certificate of registration to an individual who
12 complies with KRS 164.6909(1) or whose application has been accepted under
13 KRS 164.6909(2).

14 (2) The department~~[office]~~ may refuse to issue a certificate of registration if the
15 department~~[office]~~ determines that the applicant has engaged in conduct that has a
16 significant adverse effect on the applicant's fitness to act as an athlete agent. In
17 making the determination, the department~~[office]~~ may consider whether the
18 applicant has:

- 19 (a) Been convicted of a crime that, if committed in this state, would be a crime
20 involving moral turpitude or a felony;
- 21 (b) Made a materially false, misleading, deceptive, or fraudulent representation in
22 the application or as an athlete agent;
- 23 (c) Engaged in conduct that would disqualify the applicant from serving in a
24 fiduciary capacity;
- 25 (d) Engaged in conduct prohibited by KRS 164.6925;
- 26 (e) Had a registration or licensure as an athlete agent suspended, revoked, or
27 denied, or been refused renewal of registration or licensure as an athlete agent

1 in any state;

2 (f) Engaged in conduct the consequence of which was that a sanction,
3 suspension, or declaration of ineligibility to participate in an interscholastic or
4 intercollegiate athletic event was imposed on a student-athlete or educational
5 institution; or

6 (g) Engaged in conduct that significantly adversely reflects on the applicant's
7 credibility, honesty, or integrity.

8 (3) In making a determination under subsection (2) of this section, the
9 department~~[office]~~ shall consider:

10 (a) How recently the conduct occurred;

11 (b) The nature of the conduct and the context in which it occurred; and

12 (c) Any other relevant conduct of the applicant.

13 (4) An athlete agent may apply to renew a registration by submitting an application for
14 renewal in a form prescribed by the department~~[office]~~. An application filed under
15 this section is a public record. The application for renewal shall~~[must]~~ be signed by
16 the applicant under penalty of perjury and shall~~[must]~~ contain current information
17 on all matters required in an original registration.

18 (5) An individual who has submitted an application for renewal of registration or
19 licensure in another state, in lieu of submitting an application for renewal in the
20 form prescribed pursuant to subsection (4) of this section, may file a copy of the
21 application for renewal and a valid certificate of registration or licensure from the
22 other state. The department~~[office]~~ shall accept the application for renewal from the
23 other state as an application for renewal in this state if the application to the other
24 state:

25 (a) Was submitted in the other state within six (6) months next preceding the
26 filing in this state and the applicant certifies the information contained in the
27 application for renewal is current;

1 (b) Contains information substantially similar to or more comprehensive than that
2 required in an application for renewal submitted in this state; and

3 (c) Was signed by the applicant under penalty of perjury.

4 (6) A certificate of registration or a renewal of registration is valid for one (1) year.

5 ➔Section 16. KRS 164.6913 is amended to read as follows:

6 (1) The department~~[office]~~ may suspend, revoke, or refuse to renew a registration for
7 conduct that would have justified denial of registration under KRS 164.6911(2).

8 (2) The department~~[office]~~ may deny, suspend, revoke, or refuse to renew a certificate
9 of registration or licensure only after proper notice and an opportunity for a hearing
10 in accordance with KRS Chapter 13B.

11 (3) The department~~[office]~~ may issue a temporary certificate of registration while an
12 application for registration or renewal of registration is pending.

13 ➔Section 17. KRS 164.6915 is amended to read as follows:

14 An application for registration or renewal of registration shall~~[must]~~ be accompanied by a
15 fee in the following amount:

16 (1) An initial application for registration fee determined by the department~~[office]~~, not
17 to exceed three hundred dollars (\$300);

18 (2) An annual renewal fee determined by the department~~[office]~~, not to exceed three
19 hundred dollars (\$300); or

20 (3) An application for registration fee based upon certification of registration or
21 licensure issued by another state determined by the department~~[office]~~, not to
22 exceed two hundred fifty dollars (\$250).

23 ➔Section 18. KRS 164.6923 is amended to read as follows:

24 (1) An athlete agent shall retain the following records for a period of five (5) years:

25 (a) The name and address of each individual represented by the athlete agent;

26 (b) Any agency contract entered into by the athlete agent; and

27 (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation

1 of a student-athlete to enter into an agency contract.

2 (2) Records required to be retained in subsection (1) of this section are open to
3 inspection by the department~~[office]~~ during normal business hours.

4 ➔Section 19. KRS 164.6929 is amended to read as follows:

5 (1) An educational institution has a right of action against an athlete agent or a former
6 student-athlete for damages caused by a violation of KRS 164.6901 to 164.6935. In
7 an action under this section, the court may award to the prevailing party costs and
8 reasonable attorney's fees.

9 (2) Damages of an educational institution under subsection (1) of this section include
10 losses and expenses incurred because, as a result of the conduct of an athlete agent
11 or former student-athlete, the educational institution was injured by a violation of
12 KRS 164.6901 to 164.6935 or was penalized, disqualified, or suspended from
13 participation in athletics by a national association for the promotion and regulation
14 of athletics, by an athletic conference, or by reasonable self-imposed disciplinary
15 action taken to mitigate sanctions likely to be imposed by such an organization.

16 (3) A right of action under this section does not accrue until the educational institution
17 discovers or by the exercise of reasonable diligence would have discovered the
18 violation by the athlete agent or former student-athlete.

19 (4) Any liability of the athlete agent or the former student-athlete under this section is
20 several and not joint.

21 (5) The department~~[office]~~ may assess a civil penalty against an athlete agent not to
22 exceed twenty-five thousand dollars (\$25,000) for a violation of KRS 164.6901 to
23 164.6935.

24 (6) KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any
25 person under law or equity.

26 ➔Section 20. KRS 198A.030 is amended to read as follows:

27 (1) There is hereby created and established an independent, de jure municipal

1 corporation and political subdivision of the Commonwealth which shall be a public
2 body corporate and politic to be known as the Kentucky Housing Corporation.

3 (2) The Kentucky Housing Corporation is created and established as a de jure
4 municipal corporation and political subdivision of the Commonwealth to perform
5 essential governmental and public functions and purposes in improving and
6 otherwise promoting the health and general welfare of the people by the production
7 of residential housing in Kentucky.

8 (3) The corporation shall be governed by a board of directors, consisting of fifteen (15)
9 members, five (5) of whom shall be the Lieutenant Governor, the secretary of the
10 Finance and Administration Cabinet, the commissioner of the Department for Local
11 Government, the Attorney General, and the secretary of the Cabinet for Economic
12 Development, or their duly appointed designees, as public directors, and ten (10)
13 private directors who shall be appointed by the Governor, subject to confirmation
14 by the Senate as provided by KRS 11.160, as follows:

15 (a) One (1) private director representing the interests of financial lending
16 institutions located within the Commonwealth;

17 (b) One (1) private director representing the interests of the manufactured housing
18 industry within the Commonwealth;

19 (c) One (1) private director representing the interests of real estate practitioners
20 licensed by the Kentucky Board of Real Estate Professionals~~[Real Estate~~
21 ~~Commission]~~;

22 (d) One (1) private director representing the interests of the homeless population
23 within the Commonwealth;

24 (e) One (1) private director representing the interests of local government;

25 (f) One (1) private director representing the interests of the home construction
26 industry in the Commonwealth;

27 (g) One (1) private director representing the interests of consumers in the

- 1 Commonwealth;
- 2 (h) One (1) private director representing the interests of the Kentucky State
3 Building Trades Council;
- 4 (i) One (1) director representing the interests of nonprofit housing organizations
5 located within the Commonwealth; and
- 6 (j) One (1) director having significant professional experience in auditing,
7 financial accounting, municipal bond financing, or investment banking.
- 8 (4) Private directors appointed by the Governor may include previous members of the
9 board, and members may be reappointed for successive terms. All appointments
10 shall be for four (4) years, and the appointees shall serve until a qualified successor
11 is appointed.
- 12 (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold
13 office during the remainder of the term. A vacancy shall be filled in accordance
14 with the requirement and procedures for appointments.
- 15 (6) The Governor may remove any private director the Governor appointed~~whom he~~
16 ~~may appoint~~ in case of incompetency, neglect of duty, gross immorality, or
17 malfeasance in office, and the Governor~~he~~ may declare this~~his~~ office vacant and
18 may appoint a person for the vacancy as provided in this section.
- 19 (7) The Governor shall designate a director of the corporation to serve as chairman. The
20 term of the chairman shall extend to the earlier of either the date of expiration of the
21 chairman's~~his~~ then current term as a director of the corporation or a date six (6)
22 months after the expiration of the then current term of the Governor designating the
23 chairman.
- 24 (8) The board of directors shall annually elect one (1) of its members as vice chairman.
25 The board of directors shall also elect or appoint, and prescribe the duties of, other
26 officers the board of directors deems necessary or advisable, including an executive
27 director and a secretary, and the board of directors shall fix the compensation of the

1 officers.

2 (9) The executive director shall administer, manage, and direct the affairs and business
3 of the corporation, subject to the policies, control, and direction of the board of
4 directors of the corporation. The secretary of the corporation shall keep a record of
5 the proceedings of the corporation and shall be custodian of all books, documents,
6 and papers filed with the corporation, the minute book or journal of the corporation,
7 and its official seal. The secretary shall have authority to cause copies to be made of
8 all minutes and other records and documents of the corporation and to give
9 certificates under the official seal of the corporation to the effect that copies are true
10 copies, and all persons dealing with the corporation may rely upon the certificates.

11 (10) A majority of the board of directors of the corporation shall constitute a quorum for
12 the purposes of conducting its business and exercising its powers and for all other
13 purposes. A majority shall be determined by excluding any existing vacancies from
14 the total number of directors.

15 (11) Action shall be taken by the corporation upon a vote of a majority of the directors
16 present at a meeting at which a quorum shall exist called upon three (3) days'
17 written notice to each director or upon the concurrence of at least eight (8) directors.

18 (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for
19 attendance at each meeting of the board of directors or duly called committee
20 meeting of the board.

21 ➔Section 21. KRS 198B.700 is amended to read as follows:

22 As used in KRS 198B.700 to 198B.738, unless otherwise provided:

23 (1) "Applicant" means an individual who applies for a license as a home inspector;

24 (2) **"Authority" means the Kentucky Real Estate Authority established under KRS**
25 **Chapter 324B;**

26 **(3)** "Board" means the Kentucky Board of Home Inspectors established in KRS
27 198B.704;

1 ~~(4)~~~~(3)~~ "Client" means a person who contracts with a licensed home inspector to
2 obtain a home inspection and subsequent written home inspection report;

3 **(5) "Commissioner" means the commissioner of the Kentucky Department of**
4 **Professional Licensing;**

5 **(6) "Department" means the Kentucky Department of Professional Licensing**
6 **established under KRS Chapter 324B;**

7 ~~(7)~~~~(4)~~ "Home inspection" means a visual analysis performed for compensation for
8 the purpose of providing a professional opinion and home inspection report by a
9 licensed home inspector, regarding the condition of a residential dwelling and the
10 dwelling's attached garages and carports, any reasonable accessible installed
11 components, and the operation of the dwelling's systems, including any controls
12 normally operated by the owner of the dwelling, for systems and components in the
13 standards of practice established by the board. Home inspection shall not include a
14 code compliance inspection, or an inspection required under the National
15 Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C.
16 secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS
17 227.600 regarding manufactured homes;

18 ~~(8)~~~~(5)~~ "Home inspection report" means a written report prepared by a licensed home
19 inspector for compensation and issued after a home inspection. The report shall
20 include the following:

21 (a) A report on any system or component inspected that, in the professional
22 opinion of the inspector, is significantly deficient;

23 (b) The inspector's recommendation to repair or monitor deficiencies reported
24 under paragraph (a) of this subsection;

25 (c) A list of any systems or components that were designated for inspection in the
26 standards of practice adopted by the board but that were not inspected; and

27 (d) The reason a system or component listed under paragraph (c) of this

1 subsection was not inspected;

2 ~~(9)~~~~(6)~~ "Home inspector" means an individual who performs home inspections for
3 compensation;

4 ~~(10)~~~~(7)~~ "Licensee" means a person who performs home inspections and who is
5 licensed under KRS 198B.700 to 198B.738 as a home inspector; and

6 ~~(11)~~~~(8)~~ "Residential dwelling" means a structure consisting of at least one (1) but not
7 more than four (4) units, each designed for occupancy by a single family, whether
8 the units are occupied or unoccupied.

9 ➔SECTION 22. KRS 198B.704 IS REPEALED AND REENACTED TO READ
10 AS FOLLOWS:

11 **(1) (a) There is hereby created the Kentucky Board of Home Inspectors within the**
12 **Kentucky Real Estate Authority. The board shall consist of five (5)**
13 **members, each appointed by the Governor. Each board member shall serve**
14 **a term of three (3) years. The board shall annually select one (1) of its**
15 **members to serve as chair and one (1) of its members to serve as vice chair**
16 **to act in the chair's absence.**

17 **(b) Any member appointed to fill a vacancy occurring other than by expiration**
18 **of a term shall be appointed for the remainder of the unexpired term.**

19 **(c) No more than three (3) members of the same political party shall serve on**
20 **the board at the same time.**

21 **(d) No member of the board shall reside in the same county as another**
22 **member. The members of the board shall be residents of Kentucky.**

23 **(e) A majority of the board shall constitute a quorum for the transaction of**
24 **business.**

25 **(f) No member may serve on the board for more than six (6) consecutive years.**
26 **A member may serve on the board for six (6) consecutive years on more**
27 **than one (1) occasion if that person is not a member of the board for at least**

1 two (2) years between periods of board service.

2 (g) For any board member vacancy that is filled under this section by using a
3 list of names submitted to the Governor, the Governor shall appoint one (1)
4 of the individuals whose name was submitted on the initial list to fill the
5 vacancy, unless the Governor can present indisputable proof that no
6 individual on the list is qualified.

7 (2) The five (5) members of the board shall be chosen as follows:

8 (a) Three (3) members shall:

9 1. Have been actively engaged in performing home inspections in
10 Kentucky for at least five (5) years immediately before the member's
11 appointment to the board, or have completed no less than one hundred
12 (100) fee-paid inspections per year over the last five (5) years; and

13 2. Be licensed by the board as a home inspector;

14 (b) One (1) member shall represent the public at large and shall not be
15 associated with the home inspection, home building, or real estate business
16 other than as a consumer; and

17 (c) One (1) member shall be a real estate professional licensed under KRS
18 Chapter 324 who has been actively engaged in selling, trading, exchanging,
19 optioning, leasing, renting, managing, or listing residential real estate in
20 Kentucky for at least five (5) years immediately before the member's
21 appointment to the board. This member shall be selected from a list of three
22 (3) names submitted to the Governor from the Kentucky Association of
23 Realtors. When a vacancy occurs in this member position, the Kentucky
24 Association of Realtors shall have thirty (30) days after the vacancy occurs
25 to submit a new list of three (3) names to the Governor to fill the vacancy. If
26 the Kentucky Association of Realtors fails to timely submit this list to the
27 Governor, the authority shall immediately submit a list of three (3) names to

1 the Governor to fill this vacancy.

2 (3) The commissioner shall promulgate, amend, or repeal administrative regulations
3 relating to the board. The commissioner shall not promulgate, amend, or repeal
4 any administrative regulation relating to the board or its area of jurisdiction
5 unless the board first adopts the proposed actions relating to the administrative
6 regulation.

7 (4) Any action taken by the board, including any decision of the board to deny,
8 suspend, or revoke a license, or to issue a penalty, shall be appealable to the
9 authority. No officer or employee of the Public Protection Cabinet, department,
10 or authority shall attempt to influence or interfere with the board's disciplinary
11 decisions or proceedings.

12 (5) (a) The department may establish through the promulgation of administrative
13 regulations and the board may collect reasonable fees relating to the
14 administration and enforcement of this chapter for application or other
15 processing costs, on-line service, continuing education provider services,
16 copy and mailing services, or other fees necessary to offset the licensing and
17 processing costs.

18 (b) The board shall submit an annual budget to the authority. The board
19 budget shall go into effect if approved by a majority vote of the authority.
20 The total expenses for all purposes and obligations of the board shall not
21 exceed the total fees, charges, fines, penalties, and other income imposed
22 under this chapter and paid into the state treasury.

23 (c) The board may underwrite, within its financial limitations, educational
24 programs for the enlightenment and benefit of all licensees who have paid
25 fees pursuant to this chapter.

26 (d) The authority shall not impose a fine against a licensee who is licensed by
27 the board unless the board has previously approved the imposition of the

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fine.

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(6) A board member shall be automatically removed from the board and a vacancy shall occur when the board member:

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4

(a) Misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period;

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(b) Ceases to be a resident of the Commonwealth of Kentucky;

8

(c) Displays incompetence, neglect of duty, or unprofessional conduct; or

9

(d) Fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to this code shall be determined by official action of the board.

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(7) Voting members of the board shall be compensated no more than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the authority, board members and board staff may attend and travel to and from meetings and events relevant to the board or the industry the board represents.

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(8) The board shall meet at least quarterly each calendar year upon the call of the chair or the written request of a majority of the members of the board.

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(9) The chair shall establish the date, time, and place for each meeting.

21

➔Section 23. KRS 198B.706 is amended to read as follows:

22

The board shall:

23

(1) Through ~~the promulgation of~~ administrative regulations *promulgated by the commissioner:*

24

25

(a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by KRS 198B.700 to 198B.738; and

26

27

- 1 (b) Require that a home inspection report include a statement that the home
2 inspection report does not address environmental hazards and list all other
3 exclusions with specificity;
- 4 (2) Grant, deny, suspend, and revoke approval of examinations and courses of study
5 regarding home inspections;
- 6 (3) Issue or deny applications for licensure and renewals;
- 7 (4) Investigate complaints concerning licensees, or persons the board has reason to
8 believe should be licensees, including complaints concerning failure to comply with
9 KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS
10 198B.700 to 198B.738, and, when appropriate, take action in accordance with KRS
11 198B.728 and 198B.730;
- 12 (5) Bring actions in the name of the state in an appropriate court in order to enforce
13 compliance with KRS 198B.700 to 198B.738 or the administrative regulations
14 promulgated under KRS 198B.700 to 198B.738;
- 15 (6) ~~Charge~~~~Establish~~ license fees in an amount not to exceed two hundred fifty dollars
16 (\$250) annually, ***as established by the commissioner through the promulgation of***
17 ***administrative regulations***;
- 18 (7) Inspect the records of a licensee in accordance with administrative regulations
19 promulgated by the ~~commissioner~~~~board~~;
- 20 (8) Conduct or designate a member or other representative to conduct public hearings
21 on any matter for which a hearing is required under KRS 198B.728 and 198B.730;
- 22 (9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and,
23 through the board's secretary, certify copies and authenticate all acts of the board;
- 24 (10) ***If authorized by the commissioner and KRS Chapter 324B***, use counsel,
25 consultants, and other persons, enter into contracts, and authorize expenditures that
26 are reasonably necessary or appropriate to administer and enforce KRS 198B.700 to
27 198B.738 and ***all related*** administrative regulations~~[-promulgated thereunder]~~;

- 1 (11) Establish continuing education requirements for licensed home inspectors in
2 accordance with KRS 198B.722 and 198B.724;
- 3 (12) Conduct disciplinary actions against licensees to include:
4 (a) Suspension, probation, or permanent revocation of a license;
5 (b) Requiring a licensee to obtain additional continuing education; and
6 (c) Issuance of a written reprimand;
- 7 (13) Require all fee-paid home inspections to be conducted in accordance with the
8 standards of practice of:
9 (a) The American Society of Home Inspectors;
10 (b) The National Association of Home Inspectors; or
11 (c) Any other approved standards of practice that are equal to the standards of
12 practice of the organizations in paragraphs (a) and (b) of this subsection as
13 determined by the board.
- 14 The board may establish standards of practice for home inspectors licensed in
15 Kentucky at a later date, which will supersede any other standards of practice
16 previously adopted by the board and, if adopted by an administrative regulation
17 promulgated by the commissioner, the standards in paragraphs (a) and (b) of this
18 subsection;
- 19 (14) Exercise all other powers specifically conferred on the board under KRS 198B.700
20 to 198B.738; and
- 21 (15) Adopt, follow, and enforce~~Promulgate~~ administrative regulations promulgated by
22 the commissioner to carry out the effective administration and the requirements of
23 KRS 198B.700 to 198B.738.
- 24 ➔Section 24. KRS 198B.712 is amended to read as follows:
- 25 (1) An individual shall not advertise or claim to be a home inspector and shall not
26 conduct a home inspection for compensation without first obtaining a license as a
27 home inspector.

- 1 (2) An individual shall not advertise as, claim to be, or engage in or work at the trade of
2 home inspection unless an owner or employee of that business is a licensed home
3 inspector.
- 4 (3) The board shall deny a license to any applicant who fails to:
- 5 (a) Furnish evidence satisfactory to the board, showing that the individual:
- 6 1. Is at least eighteen (18) years of age;
- 7 2. Has graduated from high school or earned a Kentucky or other state's
8 general educational development (GED) diploma; and
- 9 3. Meets other criteria established by the commissioner~~[board]~~ through
10 promulgation of administrative regulations;
- 11 (b) Verify the information submitted on the application form;
- 12 (c) Complete a board-approved training program or course of study involving the
13 performance of home inspections, and pass an examination prescribed or
14 approved by the board;
- 15 (d) Submit to the board a certificate of insurance that is acceptable to the board
16 and that:
- 17 1. Is issued by an insurance company or other legal entity authorized to
18 transact insurance business in Kentucky;
- 19 2. Provides for general liability coverage of at least two hundred fifty
20 thousand dollars (\$250,000);
- 21 3. Lists the Kentucky Board of Home Inspectors as the certificate holder of
22 any insurance policy satisfying the requirements of this paragraph;
- 23 4. States that cancellation and nonrenewal of the underlying policy is not
24 effective until the board receives at least ten (10) days' prior written
25 notice of the cancellation or nonrenewal; and
- 26 5. Contains any other terms and conditions established by the board; or
- 27 (e) Pay a licensing fee established in KRS 198B.706.

1 (4) An individual applying for a license as a home inspector shall apply on a written or
2 electronic form prescribed by the commissioner and provided by the board.

3 ➔Section 25. KRS 198B.714 is amended to read as follows:

4 (1) The licensing requirements for a home inspector may be waived for a person
5 moving to Kentucky from another jurisdiction, and the person may be granted a
6 license as a home inspector if:

7 (a) The other jurisdiction grants the same privileges to licensees of Kentucky as
8 Kentucky grants to licensees of that other jurisdiction;

9 (b) The person is licensed in the other jurisdiction;

10 (c) The licensing requirements of the other jurisdiction are determined by the
11 board to be substantially similar to the requirements of KRS 198B.700 to
12 198B.738; and

13 (d) The person states that he or she has studied, is familiar with, and will abide by
14 KRS 198B.700 to 198B.738 and the related administrative regulations
15 promulgated by the commissioner~~[board]~~.

16 (2) A person seeking a license as a home inspector under this section shall:

17 (a) Apply on a form prescribed by the commissioner and provided by the board;
18 and

19 (b) Pay the applicable licensing fee established by the commissioner and
20 collected by the board.

21 ➔Section 26. KRS 198B.722 is amended to read as follows:

22 (1) The initial license for a home inspector issued in accordance with KRS 198B.700 to
23 198B.738, shall expire on the last day of the licensee's birth month in the following
24 year. The board may reduce the license fee on a pro rata basis for initial licenses
25 issued for less than twelve (12) months.

26 (2) Renewed licenses shall expire on the last day of the licensee's birth month of each
27 even numbered year after the date of issuance of the renewed license.

- 1 (3) An individual who applies to renew a license as a licensed home inspector shall:
- 2 (a) Furnish evidence showing successful completion of the continuing education
- 3 requirements of this section;
- 4 (b) Pay the renewal fee and late fee, if applicable, established by the
- 5 commissioner~~board~~;
- 6 (c) Show proof of general liability insurance in the amount required by KRS
- 7 198B.712(3)(d); and
- 8 (d) Submit a recent background check performed by the Kentucky State Police.
- 9 (4) Renewal notices shall be sent to each licensee at least sixty (60) days prior to the
- 10 expiration of the license. The notice shall inform the licensee of the need to renew
- 11 and the requirement of payment of the renewal fee.
- 12 (5) Renewal and applicable late fees shall be paid with a credit card, a draft, a money
- 13 order, a cashier's check, a certified or other personal check, or, if payment is made
- 14 in person, the payment may be made in cash. If the board receives an uncertified
- 15 personal check for the renewal fee and if the check does not clear the bank, the
- 16 board may refuse to renew the license.
- 17 (6) Each licensee shall complete the continuing education required by the board prior to
- 18 applying for license renewal. This requirement shall not exceed thirty (30) hours per
- 19 two (2) year license cycle.
- 20 (7) The commissioner~~board~~ may, through the promulgation of administrative
- 21 regulations:
- 22 (a) Establish an inactive license for licensees who are not actively engaging in the
- 23 home inspection business but wish to maintain their license;
- 24 (b) Reduce license and renewal fees for inactive licenses; and
- 25 (c) Waive the insurance requirements established in KRS 198B.712 for inactive
- 26 licenses.
- 27 ➔Section 27. KRS 198B.724 is amended to read as follows:

1 The ~~commissioner~~~~board~~ shall promulgate administrative regulations concerning the
2 continuing education required for the renewal of a home inspector license and shall:

- 3 (1) Establish procedures for approving organizations that provide continuing education;
4 and
5 (2) Prescribe the content, duration, and organization of continuing education courses
6 that contribute to the competence of home inspectors.

7 ➔Section 28. KRS 198B.728 is amended to read as follows:

8 **(1)** The board shall take disciplinary actions against or impose sanctions on a licensee
9 for failing to comply with any provision of KRS 198B.700 to 198B.738 or any
10 administrative regulations promulgated **by the commissioner** to carry out KRS
11 198B.700 to 198B.738.

12 **(2)** **Any licensure denial, suspension, or revocation and any other penalty issued by**
13 **the board may be appealed to the authority within thirty (30) days of the**
14 **appealable action.**

15 **(3)** **Upon receipt of an appeal, the authority shall schedule the matter for an**
16 **administrative hearing that shall be conducted in accordance with KRS Chapter**
17 **13B. The authority may assign a hearing officer to hear the appeal. If the**
18 **authority assigns a hearing officer, the authority shall retain the authority to**
19 **issue a final order.**

20 **(4)** **An aggrieved party may appeal a final order of the authority to the Franklin**
21 **Circuit Court pursuant to KRS Chapter 13B within thirty (30) days after the**
22 **issuance of the order.**

23 ➔Section 29. KRS 286.8-990 is amended to read as follows:

- 24 (1) This section shall be known and cited as the "Kentucky Residential Mortgage Fraud
25 Act."
26 (2) A person is guilty of residential mortgage fraud when, with the intent to defraud,
27 that person does any of the following in connection with the mortgage lending

1 process:

- 2 (a) Employs a device, scheme, or artifice to defraud;
- 3 (b) Engages in any act, practice, or course of business that operates or would
4 operate as a fraud or deceit upon any person;
- 5 (c) Fails to disburse funds in accordance with a loan commitment;
- 6 (d) Knowingly makes or attempts to make any material misstatement,
7 misrepresentation, or omission within the mortgage lending process with the
8 intention that a mortgage lender, mortgage broker, borrower, or any other
9 person or entity involved in the mortgage lending process relies on it;
- 10 (e) Knowingly uses or facilitates or attempts to use any misstatement,
11 misrepresentation, or omission within the mortgage lending process with the
12 intention that a mortgage lender, borrower, or any other person or entity
13 involved in the mortgage lending process relies on it;
- 14 (f) Receives or attempts to receive proceeds or any other funds in connection
15 with a residential mortgage closing that the person knew, or should have
16 known, resulted from a violation of paragraph (a), (b), (c), (d), or (e) of this
17 subsection;
- 18 (g) Knowingly causes to be filed with the commissioner or in any proceeding
19 under this subtitle any document that is, at the time and in the light of the
20 circumstances under which it is made, false or misleading in any material
21 respect; or
- 22 (h) Conspires or solicits another to violate any of the provisions of this
23 subsection.
- 24 (3) It shall be sufficient in any prosecution under this section for residential mortgage
25 fraud to show that the party accused acted with the intent to deceive or defraud. It
26 shall be unnecessary to show that any particular person or entity was harmed
27 financially in the transaction or that the person or entity to whom the deliberate

1 misstatement, misrepresentation, or omission was made relied upon the
2 misstatement, misrepresentation, or omission.

3 (4) In any criminal proceeding brought under this section, the crime shall be construed
4 to have been committed:

5 (a) In the county in which the residential real property for which a mortgage loan
6 is being sought is located;

7 (b) In any county in which any act was performed in furtherance of the violation;

8 (c) In any county in which any person alleged to have violated this section had
9 control or possession of any proceeds of the violation;

10 (d) If a closing occurred, in any county in which the closing occurred; or

11 (e) In any county in which a document containing a deliberate misstatement,
12 misrepresentation, or omission is filed with the official registrar of deeds or
13 with the Division of Motor Vehicles.

14 (5) Upon referral by the commissioner, the Kentucky Board of Real Estate
15 Professionals~~[Commission]~~, the Attorney General, the Kentucky Board of
16 Appraisers, or other parties; or upon its own investigation of available evidence
17 concerning any violation of this subtitle; the proper Commonwealth's attorney or
18 district attorney may institute the appropriate criminal proceedings under this
19 section.

20 (6) Unless the conduct is prohibited by some other provision of law providing for
21 greater punishment, a violation of this section involving a mortgage loan is a Class
22 D felony for the first or second offense and a Class C felony for each subsequent
23 offense.

24 (7) (a) All real and personal property of every kind used or intended for use in the
25 course of, derived from, or realized through a violation of this section shall be
26 subject to forfeiture to the Commonwealth. However, the forfeiture of any real
27 or personal property shall be subordinate to any security interest in the

1 property taken by a lender in good faith as collateral for the extension of credit
2 and recorded as provided by law, and no real or personal property shall be
3 forfeited under this section against an owner who made a bona fide purchase
4 of the property without knowledge of a violation of this section.

5 (b) In addition to the provisions of paragraph (a) of this subsection, courts may
6 order restitution to any person who has suffered a financial loss due to
7 violation of this section.

8 (8) In the absence of fraud, bad faith, or malice, a person shall not be subject to an
9 action for civil liability for filing reports or furnishing other information regarding
10 suspected residential mortgage fraud to a regulatory or law enforcement agency.

11 (9) Nothing in this subtitle shall limit the powers of the state to punish any person for
12 any conduct that constitutes a crime.

13 (10) The court may assess a fine of not less than one thousand dollars (\$1,000) nor more
14 than five thousand dollars (\$5,000,) against any person who is convicted of
15 violating any provision of this section.

16 (11) Any person who knowingly engages in the business of residential mortgage lending
17 regulated by this subtitle without first securing a license or registration therefore
18 shall be guilty of a Class A misdemeanor.

19 ➔Section 30. KRS 309.131 is amended to read as follows:

20 (1) There is hereby created the Kentucky Board of Licensure for Professional Art
21 Therapists that shall be attached to the Department of Professional
22 Licensing~~[Office of Occupations and Professions]~~ in the Public Protection Cabinet
23 for administrative purposes. The board shall consist of five (5) members who are
24 United States citizens and have been Kentucky residents for at least five (5) years
25 prior to their appointment. The board membership shall be determined as follows:

26 (a) Four (4) members shall be professional art therapists who are licensed
27 pursuant to KRS 309.133, and shall have engaged in art therapy practice for at

1 least five (5) years. These members shall not hold any elected or appointed
2 office in any professional organization of art therapy or closely related field
3 during their tenure on the board; and

4 (b) One (1) member shall represent the public. The public member shall not have
5 been licensed or have practiced as a professional art therapist, nor have any
6 significant financial interest, either direct or indirect, in the profession of art
7 therapy.

8 (2) All members of the board shall be appointed by the Governor for staggered terms of
9 four (4) years.

10 (3) The four (4) professional members shall be appointed from a list of eight (8) names
11 submitted by the board of directors of the Kentucky Art Therapy Association, Inc.,
12 and the one (1) public member shall be a citizen at large. Each member shall hold
13 office until a successor is appointed. Vacancies shall be filled in the same manner as
14 original appointments. No board member shall serve more than two (2) consecutive
15 terms.

16 (4) Each board candidate shall be licensed as an art therapist prior to nomination and
17 shall be actively engaged in the practicing or teaching of art therapy, except for the
18 one (1) public member.

19 (5) Members of the board shall receive no compensation, perquisite, or allowance.

20 (6) The board shall elect annually from its membership a chairman, secretary, and other
21 officers as necessary to carry out its duties.

22 (7) The board shall meet at least two (2) times each year. Additional meetings may be
23 called by the chairman, upon the written request of at least two (2) members of the
24 board. A simple majority of the board members shall constitute a quorum of the
25 board.

26 ➔Section 31. KRS 309.329 is amended to read as follows:

27 (1) There is hereby created the Kentucky Board of Licensed Diabetes Educators

1 consisting of five (5) members who shall be appointed by the Governor as follows:

2 (a) One (1) member shall be a licensed medical physician with experience in the
3 delivery of diabetes education appointed from a list of three (3) names
4 submitted by the State Board of Medical Licensure;

5 (b) One (1) member shall be a registered nurse with experience in diabetes
6 education appointed from a list of three (3) names submitted by the Kentucky
7 Board of Nursing;

8 (c) One (1) member shall be a pharmacist experienced in diabetes education,
9 licensed under KRS Chapter 315, and appointed from a list of three (3) names
10 submitted by the Kentucky Board of Pharmacy;

11 (d) One (1) member shall be a licensed dietitian or certified nutritionist with
12 experience in diabetes education appointed from a list of three (3) names
13 submitted by the Kentucky Board of Licensure and Certification for Dietitians
14 and Nutritionists; and

15 (e) One (1) member shall be a citizen at large who is not employed in the health
16 care field.

17 One (1) of the members appointed under paragraph (b), (c), or (d) of this subsection
18 shall have completed either the credentialing program of the American Association
19 of Diabetes Educators or the National Certification Board for Diabetes Educators.

20 (2) (a) The Governor shall initially appoint one (1) member and the citizen at large to
21 terms of four (4) years, two (2) members to terms of three (3) years, and one
22 (1) member to a term of two (2) years.

23 (b) All reappointments to the board shall be for terms of four (4) years.

24 (c) No member shall serve more than two (2) consecutive terms and shall serve
25 on the board until his or her successor is appointed.

26 (3) The board shall organize annually and elect one (1) of its members as chair and one
27 (1) of its members as secretary. A quorum of the board shall consist of three (3)

1 members. The board shall meet at least semiannually and upon the call of the chair,
2 or at the request of two (2) or more members to the secretary of the board.

3 (4) The board shall be placed for administrative purposes under the *Department of*
4 *Professional Licensing*~~[Office of Occupations and Professions]~~ of the Public
5 Protection Cabinet.

6 ➔Section 32. KRS 309.404 is amended to read as follows:

7 (1) There is hereby created the Kentucky Board of Durable Medical Equipment
8 Suppliers that shall be attached for administrative purposes to the *Department of*
9 *Professional Licensing*~~[Office of Occupations and Professions]~~ in the Public
10 Protection Cabinet. The board shall consist of five (5) members, each appointed by
11 the Governor. Four (4) members shall be appointed from a list of three (3) names
12 for each position submitted by the Kentucky Medical Equipment Suppliers
13 Association. One (1) member shall be a citizen at large who is not associated with
14 or financially interested in the practice or business regulated. Any vacancy shall be
15 filled for the unexpired term by the Governor, as provided in the original
16 appointment.

17 (2) To be eligible for appointment as a member of the board, a person shall be at least
18 twenty-one (21) years of age, of good moral character, a resident of this state, and a
19 licensed durable medical equipment services provider in this state for at least three
20 (3) consecutive years next preceding the date of his or her appointment.

21 (3) The terms of office of each member shall be four (4) years, or until a successor is
22 appointed and qualified.

23 (4) The board shall elect one (1) of its members as president and another of its
24 members as secretary. The secretary may, subject to approval by the board, employ
25 and fix the compensation of all personnel required for the administration of KRS
26 309.400 to 309.422. The board may make all rules and *promulgate all*
27 *administrative* regulations, not inconsistent with KRS 309.400 to 309.422, *that*

1 ~~are~~^[as may be] necessary to implement and carry out the provisions and purposes of
2 KRS 309.400 to 309.422.

3 (5) The board shall hold meetings at least twice a year and as frequently as it deems
4 necessary at a time and place within the Commonwealth as the board may
5 designate. A majority of the members shall constitute a quorum.

6 (6) The board may sue and be sued in its own name.

7 (7) Members of the board shall be immune from suit in any civil or criminal action
8 which is based upon any official act or acts performed by them in good faith as
9 members of the board.

10 (8) Members of the board shall receive no compensation for their services, but shall be
11 paid for actual travel and other expenses incurred in connection with the
12 performance of their duties and the business of the board.

13 (9) The board may utilize any materials, services, or facilities as may be made available
14 to it by other state agencies or may contract therefor, to the extent as the board in its
15 discretion may determine.

16 ➔Section 33. KRS 319B.020 is amended to read as follows:

17 The Kentucky Board of Prosthetics, Orthotics, and Pedorthics is hereby established. The
18 board shall consist of five (5) members who shall be appointed by the Governor.

19 (1) One (1) member shall be a citizen at large who is a consumer of orthotic, prosthetic,
20 or pedorthic professional services and is not affiliated with and does not have more
21 than five percent (5%) financial interest in any one (1) health care profession or
22 business.

23 (2) Four (4) members shall be practicing, licensed orthotists, licensed prosthetists, or
24 licensed pedorthists. These members may be licensed in more than one (1)
25 discipline and at least one (1) board member shall be a licensed pedorthist.
26 Membership of the board shall reasonably reflect representation from the
27 geographic areas in the Commonwealth.

- 1 (3) Each member of the board shall serve a term of three (3) years, except that of the
2 initial appointments to the board, two (2) members shall be appointed for two (2)
3 years, two (2) members shall be appointed for three (3) years, and one (1) member
4 shall be appointed for one (1) year. No member of the board shall serve more than
5 the greater of eight (8) consecutive years or two (2) full terms. The Governor may
6 remove any member of the board for misconduct, incompetence, or neglect of duty.
- 7 (4) The board shall meet at least annually and may meet at other times if necessary to
8 complete required business. A quorum of the board shall consist of a majority of
9 board members currently appointed. The board shall annually elect a chairperson
10 and vice chairperson who shall be licensed under this chapter.
- 11 (5) There shall be no liability on the part of, and no action for damages against, any
12 current or former board member, representative, agent, or employee of the board,
13 when the person is acting with ordinary care, is functioning within the scope of
14 board duties, is acting without malice, and has the reasonable belief that the actions
15 taken by him or her are warranted by law.
- 16 (6) Members of the board shall receive a per diem reimbursement of reasonable
17 expenses incurred as determined by the board in consultation with the Department
18 of Professional Licensing~~[Office of Occupations and Professions]~~ for each day
19 actually engaged in the duties of the office.

20 ➔Section 34. KRS 319B.040 is amended to read as follows:

21 The board may:

- 22 (1) Employ needed personnel and contract with the Department of Professional
23 Licensing~~[Office of Occupations and Professions]~~ within the Public Protection
24 Cabinet for the provision of administrative services;
- 25 (2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths,
26 and investigate allegations of practices violating the provisions of this chapter;
- 27 (3) Seek injunctive relief in the Circuit Court of the county where the violation

1 occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by
2 unlicensed persons;

3 (4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes
4 necessary to carry out the functions of this chapter;

5 (5) Suspend or revoke licenses, impose supervisory or probationary conditions upon
6 licensees, impose administrative disciplinary fines, issue written reprimands or
7 admonishments, or impose any combination of these penalties;

8 (6) Grant retired or inactive licensure status under conditions set forth by the board by
9 the promulgation of administrative regulations; and

10 (7) Issue advisory private letter rulings to any affected licensee who makes such a
11 request regarding any matters within the board's primary jurisdiction. Any private
12 letter ruling shall affect only the person making the inquiry and shall have no
13 precedential value for any other inquiry or future contested case that might come
14 before the board. Any dispute regarding a private letter ruling may, if the board
15 chooses to do so, be resolved pursuant to KRS Chapter 13B.

16 ➔Section 35. KRS 324.010 is amended to read as follows:

17 As used in this chapter, unless the context requires otherwise:

18 (1) "Real estate brokerage" means a single, multiple, or continuing act of dealing in
19 time shares or options, selling or offering for sale, buying or offering to buy,
20 negotiating the purchase, sale, or exchange of real estate, engaging in property
21 management, leasing or offering to lease, renting or offering for rent, or referring or
22 offering to refer for the purpose of securing prospects, any real estate or the
23 improvements thereon for others for a fee, compensation, or other valuable
24 consideration;

25 (2) "~~Board~~"~~["Commission"]~~ means the Kentucky Board of Real Estate
26 Professionals~~["Commission"]~~;

27 (3) "Net listing" means a listing agreement that provides for a stipulated net price to the

- 1 owner and the excess over the stipulated net price to be received by the licensee as
2 the fee compensation or other valuable consideration;
- 3 (4) "Principal broker" means a person licensed as a broker under KRS 324.046 who, in
4 addition to performing acts of real estate brokerage or transactions comprehended
5 by that definition, is the single broker responsible for the operation of the company
6 with which he or she is associated;
- 7 (5) "Real estate" means real estate in its ordinary meaning and includes timeshares,
8 options, leaseholds, and other interests less than leaseholds;
- 9 (6) "Sales associate" means any person licensed in accordance with KRS 324.046(2)
10 that is affiliated with a Kentucky-licensed principal broker and who, when engaging
11 in real estate brokerage, does so under the supervision of the principal broker;
- 12 (7) "Approved real estate school" means:
- 13 (a) A school that has been given a certificate of approval by the Kentucky
14 Commission on Proprietary Education or other regulatory bodies that exercise
15 jurisdiction over accreditation and approval and the Kentucky ***Board of*** Real
16 Estate ***Professionals***~~[Commission]~~. The school shall also be currently in good
17 standing with both the Kentucky Commission on Proprietary Education or
18 other regulatory bodies that exercise jurisdiction over accreditation and
19 approval and the ***board***~~[commission]~~; or
- 20 (b) A National Association of Realtors recognized program which has been
21 reviewed by the Kentucky ***Board of*** Real Estate ***Professionals***~~[Commission]~~
22 and deemed an approved real estate school;
- 23 (8) "Accredited institution" means a college or university accredited by appropriately
24 recognized educational associations or chartered and licensed in Kentucky that
25 grants credits toward a program for either an associate, baccalaureate, graduate, or
26 professional degree;
- 27 (9) "Property management" means the overall management of real property for others

- 1 for a fee, compensation, or other valuable consideration, and may include the
2 marketing of property, the leasing of property, collecting rental payments on the
3 property, payment of notes, mortgages, and other debts on the property,
4 coordinating maintenance for the property, remitting funds and accounting
5 statements to the owner, and other activities that the commissioner~~commission~~
6 may determine by promulgation of an administrative regulation;
- 7 (10) "Broker" means any person who is licensed under KRS 324.046(1) and performs
8 acts of real estate brokerage;
- 9 (11) "Designated manager" means a licensed sales associate or broker who manages a
10 main or branch office for the principal broker, at the principal broker's direction,
11 and has managing authority over the activities of the sales associates at that office;
- 12 (12) "Regular employee" means an employee who works for an employer, whose total
13 compensation is subject to withholding of federal and state taxes and FICA
14 payments, and who receives from the employer a fixed salary governed by federal
15 wage guidelines that is not affected by specific real estate transactions;
- 16 (13) "Referral fee" means consideration of any kind paid or demanded for the referral of
17 a potential or actual buyer, seller, lessor, or lessee of real estate;
- 18 (14) "Designated agency" means a form of agency relationship that exists when a
19 principal broker, in accordance with KRS 324.121, identifies different licensees in
20 the same real estate brokerage firm to separately represent more than one (1) party
21 in the same real estate transaction;
- 22 (15) "Affiliation" means the relationship agreed upon between a licensee and a principal
23 broker and reported to the board~~commission~~, where the licensee places his or her
24 license with the principal broker for supervision of the licensee's real estate
25 brokerage activity;
- 26 (16) "Canceled" means the status of a license when a licensee fails to renew a license,
27 writes the board~~commission~~ a check for fees that is not honored, fails to re-

1 affiliate with a principal broker, or fails to complete requirements for continuing or
2 post-license education;

3 (17) "Suspended" means the status of a license when disciplinary action has been
4 ordered against a licensee that prohibits the brokerage of real estate for a specific
5 period of time;

6 (18) "Revoked" means the status of a license when disciplinary action has been ordered
7 that removes the licensee's legal authority to broker real estate for a minimum of
8 five (5) years;~~and~~

9 (19) "Post-license education" means the forty-eight (48) hours of board-
10 approved~~commission approved~~ education required within two (2) years of
11 receiving or activating an initial sales associate license;

12 **(20) "Authority" means the Kentucky Real Estate Authority established under KRS**
13 **Chapter 324B;**

14 **(21) "Commissioner" means the commissioner of the Department of Professional**
15 **Licensing; and**

16 **(22) "Department" means the Department of Professional Licensing established**
17 **under KRS Chapter 324B.**

18 ➔Section 36. KRS 324.020 is amended to read as follows:

19 (1) It shall be unlawful for any person who is not licensed as a real estate broker or
20 sales associate to hold himself or herself out to the public as a real estate broker or
21 sales associate or use any terms, titles, or abbreviations which express, infer, or
22 imply that the person is licensed as a real estate broker or sales associate.

23 (2) No person shall practice real estate brokerage with respect to real estate located in
24 this state unless:

25 (a) The person holds a license to practice real estate brokerage under this chapter;
26 or

27 (b) The person has complied with KRS 324.235 to 324.238.

- 1 (3) A licensee who is an owner or a builder-developer shall comply with the provisions
2 of this chapter and the administrative regulations applying to real estate brokers and
3 sales associates.
- 4 (4) No broker shall split fees with or compensate any person who is not licensed to
5 perform any of the acts regulated by this chapter, except that a broker may:
- 6 (a) Pay a referral fee to a broker licensed outside of Kentucky for referring a
7 client to the Kentucky broker;
- 8 (b) Pay a commission or other compensation to a broker licensed outside of
9 Kentucky in compliance with KRS 324.235 to 324.238; or
- 10 (c) Pay a licensed auctioneer for services rendered in cases where an auctioneer
11 and real estate broker collaborate in the conduct of a sale of real estate at
12 auction.
- 13 (5) Except as authorized in KRS 324.112(1) and 324.425, no sales associate shall
14 supervise another licensed sales associate or manage a real estate brokerage office.
- 15 (6) The Kentucky **Board of** Real Estate **Professionals**~~[Commission]~~ may seek and
16 obtain injunctive relief against any individual acting in violation of this chapter by
17 filing a civil action in the Circuit Court where the **board**~~[commission]~~ is located or
18 where the unlawful activity took place.
- 19 ➔Section 37. KRS 324.040 is amended to read as follows:
- 20 (1) Every applicant for a license, whether as broker or sales associate, shall state
21 whether the applicant has ever had any broker's or sales associate's license revoked
22 or suspended. Every applicant for a license shall furnish a sworn statement setting
23 forth his **or her** business and residence address.
- 24 (2) Every applicant for a broker's or sales associate's license shall apply in writing upon
25 forms prepared or furnished by the **board**~~[commission]~~. The applicant shall state the
26 name of the person or company with which **the applicant**~~[he]~~ will be associated in
27 the business of real estate and the location of the place for which the license is

1 desired. The applicant also shall set forth the period of time, if any, during which he
2 or she has been engaged in the real estate business.

3 (3) Every applicant for a license shall be at least eighteen (18) years of age and shall
4 have attained a high school diploma or its equivalent. After an applicant passes the
5 required examination, the board~~[commission]~~ shall issue a license to the
6 applicant~~[him]~~.

7 ➔Section 38. KRS 324.045 is amended to read as follows:

8 (1) Licenses shall be granted only to persons who are trustworthy and competent to
9 transact the business of a broker or sales associate in a manner to safeguard the
10 interest of the public, and only after satisfactory proof of qualifications has been
11 presented to the board~~[commission]~~.

12 (2) In addition to proof of honesty, truthfulness, and good reputation of any applicant
13 for a license, each applicant shall pass a written examination conducted by the
14 board~~[commission]~~, or its authorized representative. The examination shall be of
15 the scope and wording sufficient in the judgment of the board~~[commission]~~ to
16 establish the competency of the applicant to act as a broker or sales associate in a
17 manner to protect the interests of the public. However, an examination shall not be
18 required for the renewal of any present or future license, unless the license has been
19 revoked, suspended, or is allowed to expire without renewal for a period of more
20 than one (1) year.

21 (3) The board~~[commission]~~ shall hold examinations at the times and places it
22 determines, and an examination fee shall be collected from each applicant to defray
23 the expenses of holding the examinations.

24 (4) Through~~[The commission may, by the promulgation of]~~ administrative regulations
25 promulgated by the commissioner, the board may require all licensure applicants
26 to submit to a criminal record check for which the applicant shall be responsible for
27 the payment of any fees incurred.

1 (5) Applicants shall be subject to a national criminal history check through the Federal
2 Bureau of Investigation. The applicant shall request the criminal history check and
3 shall provide the applicant's fingerprints to either the Federal Bureau of
4 Investigation or the Kentucky State Police for submission to the Federal Bureau of
5 Investigation to search for information regarding the applicant in the National
6 Crime Information Center or its successor entity. The results of the criminal history
7 check shall be sent to the **board**~~[commission]~~, and shall be sent to the applicant at
8 the applicant's request. The applicant shall:

- 9 (a) Authorize release of the results of the criminal history check to the
10 **board**~~[commission]~~;
- 11 (b) Pay the actual cost of the fingerprinting and criminal history check, if any;
- 12 (c) Complete the criminal history check within the ninety (90) calendar days prior
13 to the date the license application is received by the **board**~~[commission]~~; and
- 14 (d) Complete and return to the **board**~~[commission]~~ within one hundred twenty
15 (120) days a signed affidavit verifying that there is nothing on record to
16 prohibit the applicant from licensure.

17 ➔Section 39. KRS 324.046 is amended to read as follows:

- 18 (1) Every applicant for initial licensure as a broker shall have:
- 19 (a) Successfully completed not less than twenty-one (21) academic credit hours or
20 the equivalent from an accredited institution or approved real estate school.
21 Twelve (12) hours shall be in real estate courses, three (3) hours of which
22 shall be a course in broker management skills. The
23 **commissioner**~~[commission]~~ shall, by promulgation of administrative
24 regulations, determine the required course content of broker management
25 skills courses; and
- 26 (b) Been engaged in the real estate business as a sales associate averaging at least
27 twenty (20) hours per week for a period of twenty-four (24) months prior to

1 application.

- 2 (2) Every applicant for initial licensure as a sales associate shall have successfully
3 completed six (6) academic credit hours or their equivalent in real estate courses
4 from an accredited institution or approved real estate school.
- 5 (3) Proof of the academic credit hours shall be an official transcript from the attended
6 university or other documentation satisfactory to the board~~[commission]~~. Proof of
7 the requisite experience as a sales associate shall be either a sworn notarized
8 statement signed by the principal broker or principal brokers or other documentation
9 satisfactory to the board~~[commission]~~. The applicant may file a complaint with the
10 board~~[commission]~~ if the principal broker unjustly refuses to sign the statement.
- 11 (4) The board~~[commission]~~ may reduce the two (2) year experience requirement for
12 applicants for a broker's license to one (1) year, if the applicant has an associate
13 degree in real estate or a baccalaureate degree with a major or minor in real estate.
- 14 (5) Persons licensed under the real estate laws of this state prior to June 19, 1976 shall
15 not be subject to any educational changes in this chapter or subject to any
16 continuing education requirements.

17 ➔Section 40. KRS 324.080 is amended to read as follows:

18 The board~~[commission]~~ shall issue to each licensee a license in the form and size
19 prescribed by administrative regulation promulgated by the commissioner~~[commission]~~.
20 This license shall show the name and address of the licensee and, in case of a sales
21 associate's license, shall show the name and business address of the principal broker.
22 Each license shall ~~be~~^{have} imprinted ~~with~~^{thereon} the seal of the board~~[commission]~~
23 and other matter prescribed by administrative regulation promulgated by the
24 commissioner~~[commission]~~. The license of each sales associate shall be delivered or
25 mailed to the principal broker with whom the licensee is affiliated.

26 ➔Section 41. KRS 324.085 is amended to read as follows:

- 27 (1) All actively licensed agents except those licensees exempt under KRS 324.046(5),

1 shall successfully complete six (6) classroom or online hours of continuing
2 education each year. Three (3) of the six (6) hours shall be in real estate law.

3 (2) A licensee who is issued an initial sales associate license after January 1, 2016, shall
4 complete forty-eight (48) classroom or online hours of **board-**
5 **approved**~~[commission-approved]~~ post-license education:

6 (a) Provided by one (1) or a combination of the following:

- 7 1. An accredited institution; or
- 8 2. A **board-approved**~~[commission-approved]~~:
 - 9 a. Real estate school; or
 - 10 b. Broker-affiliated training program; and

11 (b) Within two (2) years of receiving or activating his or her license unless
12 extended by the **board**~~[commission]~~ for good cause shown.

13 (3) The license held by any licensee failing to complete his or her sales associate post-
14 license education requirements in accordance with subsection (2) of this section
15 shall be automatically canceled, in accordance with administrative regulations
16 **promulgated by the commissioner to establish**~~[establishing]~~ compliance and
17 delinquency procedures.

18 (4) The **commissioner**~~[commission]~~ shall promulgate administrative regulations to
19 establish procedures for implementing the requirements in this section.

20 (5) In order to qualify to teach continuing education or post-license courses, all
21 continuing education and post-license instructors shall maintain a minimum rating
22 as prescribed by the **commissioner**~~[commission]~~ by the promulgation of
23 administrative regulations.

24 ➔Section 42. KRS 324.090 is amended to read as follows:

25 (1) Licenses shall expire annually and shall be renewed each year on the date
26 determined by the **commissioner**~~[commission]~~ by administrative regulation. The
27 **board**~~[commission]~~ shall renew a license for each ensuing year, in the absence of

1 any reason or condition which might warrant the refusal of the granting of the
2 license, upon receipt of the written request of the applicant and payment of the
3 annual fees required. A new license shall be mailed only if the licensee's name,
4 address, status, or affiliation changes.

5 (2) A fine not to exceed two hundred dollars (\$200) shall be assessed for failure to
6 renew on time before a new license is issued. Failure to receive a renewal form shall
7 not constitute an adequate excuse for failure to renew on time nor shall failure of
8 the mail.

9 (3) Any license not renewed at the end of the renewal year as prescribed by *the*
10 *commissioner and enforced by the board*~~commission~~ shall automatically revert to
11 expired status. An expired license may be reactivated before a lapse of one (1) year,
12 if delinquent fees are paid by the licensee.

13 ➔Section 43. KRS 324.111 is amended to read as follows:

14 (1) A principal broker shall maintain an escrow account or accounts, separate from the
15 individual or office account, in which all contract deposits and money belonging to
16 others shall be deposited without unreasonable delay. The escrow accounts shall be
17 maintained within the State of Kentucky and shall be identified to the
18 *board*~~commission~~ in writing. Each principal broker shall advise the
19 *board*~~commission~~, in writing, if any overdraft occurs in the escrow account for
20 any reason other than service charges instituted by the bank, and which is not
21 corrected within seventy-two (72) hours of the broker receiving notice.

22 (2) The broker may place the deposit in an interest-bearing account or instrument. The
23 interest earned shall accrue to the person agreed to in writing by all parties.

24 (3) No checks shall be drawn against uncollected deposits in the escrow account.

25 (4) None of the contract deposits shall be withdrawn until the contract has been
26 terminated by performance, by agreement in writing between all parties, or by order
27 of a court of competent jurisdiction, except as permitted in subsection (6) of this

1 section.

2 (5) Upon licensure and each renewal, the principal broker shall sign a permit giving the
3 ~~board~~commission the permission to audit all his or her escrow accounts.

4 (6) Upon being notified that one (1) or more parties to a contract intends not to
5 perform, the broker may initiate the release process. The release process shall
6 require the broker to notify all parties at their last known address by certified mail
7 that the contract deposit shall be distributed to the parties specified in the letter
8 unless all parties enter into a written mutual release, or unless one (1) or more of the
9 parties initiate litigation within sixty (60) days of the mailing date of the certified
10 letter. If neither buyer nor seller initiates litigation or enters into a written release
11 within sixty (60) days of the mailing date of the certified letter, the broker may
12 release the deposit to the party identified in the certified letter without penalty under
13 this section and without civil liability in the courts of the Commonwealth of
14 Kentucky.

15 (7) All principal brokers whose companies engage in property management shall
16 maintain property management accounts separate from all other accounts or
17 specifically indicate in all escrow records if funds are property management funds.

18 (8) A broker or sales associate who owns rental property shall not be required to use the
19 principal broker's management account for the rental property, unless required by
20 the principal broker.

21 (9) If any licensee is alleged to have committed an escrow account violation that
22 warrants emergency action, the ~~board~~commission may conduct an emergency
23 hearing as authorized by KRS 324.150(1)(b).

24 ➔Section 44. KRS 324.112 is amended to read as follows:

25 (1) No principal broker shall maintain a branch office outside a one hundred (100) mile
26 radius of the main office without having a broker managing the branch office.

27 (2) A sales associate with two (2) years of experience in the real estate business,

1 averaging at least twenty (20) hours per week for a period of twenty-four (24)
2 months prior, may manage a branch office inside a one hundred (100) mile radius of
3 the main office.

4 (3) The principal broker shall register any branch office with the board~~[commission]~~
5 within ten (10) days of the creation of the branch office.

6 (4) The licenses of all licensees shall be kept on file in the office in which they are
7 actively engaged and affiliated.

8 (5) A principal broker in the process of closing a real estate brokerage business may
9 affiliate temporarily with another principal broker if:

10 (a) No other licensee is affiliated with the former principal broker;

11 (b) Both the former and the latter principal brokers represent to the
12 board~~[commission]~~ that the affiliation is for the purpose of closing the former
13 principal broker's business; and

14 (c) Both the former and the latter principal brokers give assurances satisfactory to
15 the board~~[commission]~~ that no consumer will be adversely affected by the
16 affiliation or the closing of the former principal broker's business.

17 ➔Section 45. KRS 324.115 is amended to read as follows:

18 (1) Except as provided in subsection (2) of this section, every broker licensed under
19 KRS 324.045 shall maintain a definite place of business in this state.

20 (2) A broker who is a nonresident shall not be required to maintain an active place of
21 business in this state if:

22 (a) He or she maintains a business place in the state of original licensure;

23 (b) The state of original licensure, in accordance with its reciprocity agreement
24 with the board~~[commission]~~, does not require Kentucky licensees holding
25 licenses in that state to maintain an office in that state; and

26 (c) Paragraphs (a) and (b) of this subsection do not conflict with the
27 board's~~[commission's]~~ agreement of reciprocity with the state of original

1 licensure.

2 ➔Section 46. KRS 324.117 is amended to read as follows:

- 3 (1) No real estate advertising shall be intentionally false, misleading, or deceptive.
- 4 (2) The name of a deceased broker may remain a part of the firm name.
- 5 (3) A sales associate may have his or her name in the firm name after two (2) years'
- 6 experience with the firm, averaging at least twenty (20) hours per week for twenty-
- 7 four (24) months.
- 8 (4) Whenever any real property is listed, a licensee shall include the name of the real
- 9 estate company listed on the licensee's real estate license or the name of the
- 10 principal broker with whom the licensee is affiliated in all advertisements of the
- 11 listed property, regardless of who places the advertisement, unless he or she is
- 12 selling, renting, leasing, or otherwise dealing in his or her own property. If listed
- 13 property is advertised by a customer or client of a listing licensee, the licensee shall,
- 14 at a minimum, provide the customer or client with written notification of the
- 15 requirements of this section. The licensee shall keep in his or her files a copy of the
- 16 notification and any other documentation that is generated by the licensee as proof
- 17 of his or her compliance with this section.
- 18 (5) The commissioner~~commission~~ shall, by the promulgation of administrative
- 19 regulations, define false, misleading, or deceptive advertising.
- 20 (6) The commissioner~~commission~~ shall, by the promulgation of administrative
- 21 regulations, define the manner in which licensees may utilize any Internet electronic
- 22 communication for advertising or marketing.

23 ➔Section 47. KRS 324.141 is amended to read as follows:

- 24 (1) (a) An individual who holds an active real estate license issued by another
- 25 jurisdiction within the United States may apply for a Kentucky license by first:
- 26 1. Completing the application forms;
- 27 2. Passing the state law portion of the licensing examination; and

1 3. Fulfilling all other pre-license qualifications as outlined in this chapter.

2 (b) The **commissioner**~~[commission]~~ shall promulgate administrative regulations
3 in accordance with KRS Chapter 13A to establish the procedures for
4 implementing paragraph (a) of this subsection.

5 (2) All individuals who have held a real estate license in another jurisdiction, whether
6 the license is currently active or canceled, shall be required to furnish, as part of his
7 or her application for a Kentucky license, a certification of good standing, issued by
8 the jurisdiction. The document shall include the individual's license history and any
9 disciplinary information available from that jurisdiction.

10 (3) Every nonresident applicant shall file an irrevocable consent stating that legal
11 actions may be commenced against the applicant in the proper court of any county
12 of this state in which a cause of action may arise in which the plaintiff may reside,
13 by the service of any process or pleading authorized by the laws of this state on the
14 **board**~~[commission]~~, the consent stipulating and agreeing that service of process or
15 pleadings on the **board**~~[commission]~~ shall be taken and held in all courts to be as
16 valid and binding as if service had been made upon the applicant in the State of
17 Kentucky. Any process or pleadings served upon the **board**~~[commission]~~ shall be by
18 duplicate copies, one (1) of which shall be filed in the office of the
19 **board**~~[commission]~~ and the other immediately forwarded by certified mail, return
20 receipt requested, to the main office of the applicant against which the process or
21 pleadings are directed.

22 ➔Section 48. KRS 324.142 is amended to read as follows:

23 Any licensee who engages in promotional activities in this Commonwealth for property
24 located outside of this Commonwealth shall first apply to the **board**~~[commission]~~ for its
25 approval before so doing, and shall comply with administrative regulations, restrictions,
26 and conditions the **commissioner**~~[commission]~~ may impose as well as those provisions
27 set forth in this chapter.

1 ➔Section 49. KRS 324.150 is amended to read as follows:

- 2 (1) (a) The **board**~~[commission]~~ or its staff may on its own initiative investigate the
3 actions of any licensee or any person who acts in that capacity. On the verified
4 written complaint of any person, the **board**~~[commission]~~ shall investigate the
5 actions of any person who assumes to act in that capacity, if the complaint,
6 together with any evidence presented in connection with it, alleges a prima
7 facie case that a violation set out in KRS 324.160 has been committed. After
8 the investigation, the **board**~~[commission]~~ may order a hearing and, in
9 appropriate cases, take disciplinary action against any licensee who is found in
10 violation of KRS 324.160.
- 11 (b) The **board**~~[commission]~~ may conduct an emergency hearing when alleged
12 escrow account violations warrant emergency action. The
13 **commissioner**~~[commission]~~ shall promulgate administrative regulations to
14 describe the specific circumstances and allegations that authorize emergency
15 action. The emergency hearing shall be conducted in accordance with KRS
16 Chapter 13B, as it relates to emergency orders and emergency hearings.
- 17 (2) To investigate allegations of practices violating the provisions of this chapter, the
18 **board**~~[commission]~~ may:
- 19 (a) Issue subpoenas to compel attendance of witnesses and the production of
20 books, papers, documents, or other evidence;
- 21 (b) Administer oaths;
- 22 (c) Review evidence;
- 23 (d) Enter the office or branch office of any principal broker for the purpose of
24 inspecting all documents required by the **board**~~[commission]~~ to be maintained
25 in the principal broker's office or branch office which relate to the allegations
26 of practices violating the provisions of this chapter;
- 27 (e) Examine witnesses; and

1 (f) Pay appropriate witness fees.

2 ➔Section 50. KRS 324.151 is amended to read as follows:

3 (1) All complaints against licensees shall be submitted to the **board**~~[commission]~~ on
4 forms furnished by the **board**~~[commission]~~. The complaint shall state facts which, if
5 true, would constitute a prima facie case that the licensee has violated the provisions
6 of KRS 324.160. If the complaint does not constitute a prima facie case, the
7 **board**~~[commission]~~ shall allow the complainant ten (10) days to revise and
8 supplement the complaint in order to cure any defect. If the complainant fails to
9 respond within ten (10) days or if the revised and supplemented complaint does not
10 constitute a prima facie case that the licensee has violated the provisions of KRS
11 324.160, the **board**~~[commission]~~ shall dismiss the matter without requiring the
12 licensee to file or serve a response.

13 (2) If the complaint constitutes a prima facie case that a licensee has violated the
14 provisions of KRS 324.160, a copy of the complaint, **any attached** exhibits~~[~~
15 ~~attached thereto]~~, and any subsequent pleadings, shall be served on the licensee, by
16 the **board**~~[commission]~~, at the licensee's last known address and shall show
17 certification that there has been service by writing to the last known address.

18 (3) If the **board**~~[commission]~~ serves the complaint upon the licensee, the licensee shall
19 file with the **board**~~[commission]~~ an answer to the complaint, properly notarized, on
20 forms secured from **board**~~[commission]~~ offices. The answer shall be returned to the
21 **board**~~[commission]~~ within twenty (20) days. The licensee shall deliver to the
22 complainant at his or her last known address a copy of the answer, **any attached**
23 exhibits~~[attached thereto]~~, and any subsequent pleadings. All further pleadings in
24 the matter filed with the **board**~~[commission]~~ by either party shall show that a copy
25 has been furnished to the opposing party or parties.

26 (4) If any licensee is alleged to have committed an escrow account violation that
27 warrants emergency action, the **board**~~[commission]~~ may conduct an emergency

1 hearing as authorized by KRS 324.150(1)(b).

2 ➔Section 51. KRS 324.160 is amended to read as follows:

- 3 (1) The board~~commission~~ may order any or all of the following sanctions for
4 violation of subsections (4) to (7) of this section:
- 5 (a) Suspension of any license;
 - 6 (b) Revocation of any license;
 - 7 (c) Levy of fines not to exceed one thousand dollars (\$1,000);
 - 8 (d) Placing of any licensee on probation for a period of up to twelve (12) months;
 - 9 (e) Requiring successful completion of academic credit hours or additional credit
10 hours in real estate courses from an accredited institution or approved real
11 estate school; or
 - 12 (f) Issuing a formal or informal reprimand.
- 13 (2) A canceled license may be renewed if the licensee pays all necessary fees and meets
14 all other active licensure requirements within one (1) year of the cancellation date.
15 No licensee whose license is canceled shall engage in real estate brokerage during
16 the period of cancellation or receive any compensation for real estate brokerage
17 unless the compensation was earned prior to the effective date of the cancellation.
- 18 (3) No licensee whose license is suspended shall engage in real estate brokerage or
19 receive any compensation for real estate brokerage unless the compensation was
20 earned prior to the suspension period.
- 21 (4) The board~~commission~~ shall impose sanctions set out in subsection (1) of this
22 section against a licensee for:
- 23 (a) Obtaining a license through false or fraudulent representation;
 - 24 (b) Making any substantial misrepresentation or failing to disclose known defects
25 which substantially affect the value of the property;
 - 26 (c) Making any false promises of a character likely to influence, persuade, or
27 induce;

- 1 (d) Pursuing a continued and flagrant course of misrepresentation or making false
2 promises through agents or advertising or otherwise;
- 3 (e) Acting for more than one (1) party in a transaction without the knowledge of
4 all parties for whom the licensee acts;
- 5 1. A real estate licensee shall not directly or indirectly buy property listed
6 with him or her or with the broker with whom the licensee is affiliated,
7 nor acquire an interest in the property~~[therein]~~, without first indicating
8 in writing on the offer to purchase his or her status as a licensee;
- 9 2. Before a licensee becomes a party to a contract to purchase real property,
10 the licensee shall disclose his or her status as a licensee to all parties to
11 the transaction, in writing, on the sales contract or on the offer to
12 purchase;
- 13 3. Before a licensee sells, or receives compensation for property in which
14 the licensee owns an interest, the licensee shall disclose, in writing, any
15 interest in the property to all parties to the transaction;
- 16 (f) Accepting valuable consideration for the performance of any of the acts
17 specified in this chapter, from any person, except from his or her principal
18 broker in accordance with a compensation agreement between them. When
19 acting as an agent in the management of property, a real estate licensee shall
20 not accept any commission, rebate, or profit on expenditures made for a client
21 without the full knowledge and consent of the client;
- 22 (g) Representing or attempting to represent a broker other than a principal broker,
23 without the express knowledge and consent of the principal broker with whom
24 the licensee is affiliated;
- 25 (h) Failing to account for or remit, within a reasonable time, any money belonging
26 to others that comes into the licensee's possession. When acting as a property
27 manager, the licensee shall render an accounting and remit all moneys to his

- 1 or her client strictly in accordance with the contract of employment;
- 2 (i) Paying valuable consideration to any person for services performed in
3 violation of this chapter;
- 4 (j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty
5 of, or having been convicted of, a felony or of a misdemeanor involving
6 sexual misconduct the time for appeal has lapsed or the judgment or
7 conviction has been affirmed on appeal, irrespective of an order granting
8 probation following the conviction suspending the imposition of sentence;
- 9 (k) Failing to report a conviction, plea of guilty, or an "Alford" plea to a felony or
10 a misdemeanor involving sexual misconduct to the board~~commission~~;
- 11 (l) Soliciting, selling, or offering for sale real property under a scheme or
12 program that constitutes a lottery, contest, or deceptive practice;
- 13 (m) Acting in the dual capacity of licensee and undisclosed principal in any real
14 estate transaction;
- 15 (n) Guaranteeing, authorizing, or permitting a person to guarantee that future
16 profits shall result from a resale of real property;
- 17 (o) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of
18 real property, or attempting to obtain a brokerage agreement with a consumer
19 knowing that the consumer had a written outstanding contract granting
20 exclusive agency with another real estate broker;
- 21 (p) Publishing or circulating an unjustified or unwarranted threat of legal
22 proceedings or other action;
- 23 (q) Failing or refusing on demand to furnish copies of a document pertaining to a
24 transaction dealing with real estate to a person whose signature is affixed to
25 the document;
- 26 (r) Failing, within a reasonable time, to provide information requested by the
27 board~~commission~~ as a result of a formal or informal complaint to the

- 1 **board**~~[commission]~~ which may indicate a violation of this chapter;
- 2 (s) Paying valuable consideration to any person for the name of potential sellers
- 3 or buyers, except as otherwise provided in KRS 324.020(4);
- 4 (t) Violating any of the provisions in this chapter or any lawful order, rule, or
- 5 administrative regulation made or issued under the provisions of this chapter;
- 6 (u) Any other conduct that constitutes improper, fraudulent, or dishonest dealing;
- 7 or
- 8 (v) Gross negligence.
- 9 (5) Any conduct constituting a violation of the Federal Fair Housing Act, including use
- 10 of scare tactics or blockbusting, shall be considered improper conduct as referred to
- 11 in subsection (4)(u) of this section.
- 12 (6) No unlawful act or violation of any provision of this chapter by any affiliated
- 13 licensee of the principal broker shall be cause for holding the principal broker
- 14 primarily liable, unless the broker has knowledge of the unlawful violation and did
- 15 not prevent it. The principal broker and his or her designated manager, if any, shall
- 16 exercise adequate supervision over the activities of licensed affiliates and all
- 17 company employees to ensure that violations of this chapter do not occur. The
- 18 failure of a broker or his or her designated manager to exercise adequate supervision
- 19 of the licensed affiliates shall constitute a violation of this chapter.
- 20 (7) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall
- 21 be considered improper dealing.
- 22 ➔Section 52. KRS 324.170 is amended to read as follows:
- 23 (1) The **board**~~[commission]~~ shall, before denying an application for license or before
- 24 ordering any disciplinary action against a licensee, order a hearing. The hearing
- 25 shall be conducted in accordance with the provisions of KRS Chapter 13B. If the
- 26 applicant or licensee is a sales associate, the **board**~~[commission]~~ shall also notify
- 27 the principal broker of the hearing by mailing notice by certified mail, return receipt

1 requested, to the broker's last known business address. The **board**~~[commission]~~
 2 shall order the presence of the principal broker or his or her designated
 3 representative at the hearing.

4 (2) All hearings shall be conducted by a quorum of the **board**~~[commission]~~ or by a
 5 hearing officer appointed by the **board**~~[commission]~~. Hearing officers shall not
 6 order any disciplinary action against a licensee. The function of hearing officers
 7 appointed to conduct hearings shall be to preside at the hearing and to prepare a
 8 recommended order to be submitted to the **board**~~[commission]~~.

9 (3) If any licensee is alleged to have committed an escrow account violation that
 10 warrants emergency action, the **board**~~[commission]~~ may conduct an emergency
 11 hearing as authorized by KRS 324.150(1)(b).

12 ➔Section 53. KRS 324.200 is amended to read as follows:

13 (1) If the **board**~~[commission]~~ determines after a hearing that any applicant is not
 14 entitled to receive a license, a license shall not be granted to the applicant, and if the
 15 **board**~~[commission]~~ determines after a hearing that any licensee has violated any of
 16 the provisions of this chapter, the disciplinary measures in KRS 324.160(1) may be
 17 ordered.

18 **(2) Any licensure denial, suspension, or revocation and any other penalty issued by**
 19 **the board may be appealed to the authority within thirty (30) days of the**
 20 **appealable action.**

21 **(3) Upon receipt of an appeal, the authority shall schedule the matter for an**
 22 **administrative hearing that shall be conducted in accordance with KRS Chapter**
 23 **13B. The authority may assign a hearing officer to hear the appeal. If the**
 24 **authority assigns a hearing officer, the authority shall retain the authority to**
 25 **issue a final order.**

26 ~~(4)~~**(2) Within thirty (30) days after the issuance of an order,** any party aggrieved by
 27 the action of the **board or authority**~~[commission]~~ in refusing to grant a license or in

1 ordering any disciplinary action may appeal to the Franklin Circuit Court or to the
2 Circuit Court where the licensee has his or her principal place of business or where
3 the applicant resides in accordance with KRS Chapter 13B. Disciplinary action
4 imposed by the board or authority~~[commission]~~ shall be automatically stayed
5 during the pendency of an appeal to a circuit or appellate court, unless otherwise
6 indicated in the final order of the board~~[commission]~~.

7 ➔Section 54. KRS 324.220 is amended to read as follows:

8 No person who has had a broker's or sales associate's license revoked shall be issued
9 another license for five (5) years from the date of revocation. All persons seeking
10 issuance of another license after the five (5) year period of revocation may do so only at
11 the discretion of the board~~[commission]~~ and shall retake the appropriate examination and
12 meet all of the contemporary licensing requirements.

13 ➔Section 55. KRS 324.236 is amended to read as follows:

14 An out-of-state principal broker and his or her out-of-state licensee, for or in the
15 expectation of a fee, commission, compensation, or other valuable consideration, may
16 engage in real estate brokerage with respect to commercial real estate if the requirements
17 of this section are satisfied:

18 (1) The out-of-state licensee shall be licensed with and work under the direct
19 supervision of the out-of-state principal broker;

20 (2) The out-of-state principal broker shall enter into a written cooperation agreement
21 with the Kentucky cooperating broker that shall include but not be limited to the
22 following:

23 (a) The terms of cooperation and compensation between the out-of-state principal
24 broker and the Kentucky cooperating broker;

25 (b) A description of the parties, the commercial real estate, or other information
26 sufficient to identify the specific transactions governed by the cooperation
27 agreement; and

- 1 (c) The effective date and a definite termination date of the cooperation
2 agreement; and
- 3 (3) Regarding transactions that fall within the scope of the cooperation agreement
4 specified in subsection (2) of this section, the out-of-state principal broker and the
5 out-of-state licensee shall:
- 6 (a) Work in cooperation with a Kentucky cooperating broker;
- 7 (b) Furnish the Kentucky cooperating broker with a copy of the out-of-state
8 principal broker's and out-of-state licensee's current real estate license from
9 the jurisdiction of his or her primary place of business;
- 10 (c) Limit acts of real estate brokerage to commercial real estate transactions
11 referenced in the cooperation agreement;
- 12 (d) Only list commercial real estate located in this state for sale, lease, or
13 exchange if the real estate is co-listed with the Kentucky cooperating broker;
- 14 (e) Be prohibited from holding escrow funds, security deposits, or other moneys
15 in escrow or other accounts located outside this state;
- 16 (f) Promptly provide the Kentucky cooperating broker with relevant
17 documentation relating to the specific transaction or transactions governed by
18 the cooperation agreement;
- 19 (g) Keep the Kentucky cooperating broker fully informed of all activities through
20 prompt communications;
- 21 (h) Perform all actions under the direct supervision and control of the Kentucky
22 cooperating broker;
- 23 (i) List his or her individual name, firm name, or both in advertising for
24 commercial real estate transactions only if the advertising:
- 25 1. Includes with equal prominence the same identifying information for the
26 Kentucky cooperating broker and his or her relevant licensees, except
27 that, with respect to multistate portfolio listings, only the name or firm

- 1 of the Kentucky cooperating broker printed in legible type shall be
 2 mandatory, with no requirement concerning prominence; and
 3 2. Otherwise complies with the requirements of this chapter;
 4 (j) Comply with and be bound by and subject to Kentucky law and the
 5 administrative regulations of the commissioner~~[commission]~~, including but
 6 not limited to KRS 324.235 to 324.238;
 7 (k) Not engage in improper conduct as set out in KRS 324.160(4); and
 8 (l) File with the Kentucky cooperating broker a true and complete notice of
 9 affiliation in compliance with KRS 324.327.

10 ➔Section 56. KRS 324.237 is amended to read as follows:

- 11 (1) A notice of affiliation required under KRS 324.236(3)(l) shall be filed with the
 12 Kentucky cooperating broker and shall include the following:
 13 (a) The name, firm name, firm address, firm telephone number, and real estate
 14 license number of the Kentucky cooperating broker;
 15 (b) The name, firm name, firm address, firm telephone number, address for
 16 service of process, and current real estate license numbers and jurisdictions of
 17 licensure of both the out-of-state principal broker and out-of-state licensee;
 18 (c) The effective date and a definite termination date of the corresponding
 19 cooperation agreement between the Kentucky cooperating broker and the out-
 20 of-state principal broker;
 21 (d) An agreement that the out-of-state principal broker and out-of-state licensee
 22 shall:
 23 1. Each comply with and be subject to KRS 324.235 to 324.238, Kentucky
 24 law, and administrative regulations promulgated by the
 25 commissioner~~[commission]~~;
 26 2. Not engage in improper conduct as set out in KRS 324.160(4); and
 27 3. Ensure that all documentation pertaining to transactions falling within

- 1 the scope of the cooperation agreement complies with Kentucky law;
- 2 (e) The irrevocable consent of the out-of-state principal broker and out-of-state
3 licensee that legal actions may be commenced against them in the proper court
4 of any county in this state in which a cause of action may arise or in which the
5 plaintiff may reside, by the service of process on the Kentucky Secretary of
6 State pursuant to KRS 454.210, and stipulating and agreeing that service of
7 process on the Kentucky Secretary of State shall be taken and held in all
8 courts to be as valid and binding as if service had been made upon the out-of-
9 state principal broker and out-of-state licensee in this state;
- 10 (f) A statement that the out-of-state principal broker and out-of-state licensee are
11 trustworthy and competent to transact business in a manner to safeguard the
12 interests of the public, and that during the five (5) year period prior to the
13 filing of the notice of affiliation:
- 14 1. No state has revoked the real estate license of the out-of-state principal
15 broker or out-of-state licensee pursuant to a disciplinary action; and
16 2. Neither the out-of-state principal broker nor the out-of-state licensee has
17 been convicted of a felony in any jurisdiction; and
- 18 (g) A statement that the out-of-state principal broker and out-of-state licensee
19 each consent to any criminal records check undertaken by the
20 board~~commission~~ in connection with any investigation pursuant to KRS
21 324.150.
- 22 (2) A notice of affiliation shall be true and complete and shall be signed or otherwise
23 authenticated under penalty of perjury by both the out-of-state principal broker and
24 out-of-state licensee.
- 25 (3) An out-of-state principal broker and out-of-state licensee may enter into cooperation
26 agreements and notices of affiliation with respect to more than one (1) Kentucky
27 cooperating broker.

1 ➔Section 57. KRS 324.238 is amended to read as follows:

2 For purposes of KRS 324.235 to 324.238:

- 3 (1) A person licensed in a jurisdiction where there is not a legal distinction between a
4 real estate principal broker and a real estate broker or salesperson shall satisfy the
5 requirements of an out-of-state principal broker;
- 6 (2) Preliminary exchanges of information and materials, discussions, and investment or
7 other advice pertaining to commercial real estate shall not constitute acts of real
8 estate brokerage by out-of-state principal brokers or out-of-state licensees;
- 9 (3) If any change in circumstances prevents compliance by the out-of-state principal
10 broker or out-of-state licensee, that person shall immediately cease and desist from
11 performing acts of real estate brokerage with respect to commercial real estate; and
- 12 (4) The board~~commission~~ may impose one (1) or more of the following sanctions or
13 penalties against an out-of-state principal broker or an out-of-state licensee for
14 failure to substantially comply with KRS 324.235 to 324.238 or for engaging in
15 improper conduct as set out in KRS 324.160(4):
- 16 (a) Levy fines not to exceed one thousand dollars (\$1,000);
- 17 (b) Issue a formal or informal reprimand;
- 18 (c) Report misconduct to the licensing authority of any state;
- 19 (d) Revoke or suspend the authority of the out-of-state principal broker or out-of-
20 state licensee to perform acts of real estate brokerage with respect to
21 commercial real estate;
- 22 (e) Publish and maintain a public registry of any sanctions or penalties imposed
23 pursuant to this subsection; and
- 24 (f) Report suspected violations of KRS Chapter 523 to the Commonwealth's
25 attorney of the county in which the office of the board~~commission~~ is
26 located.

27 ➔SECTION 58. KRS 324.281 IS REPEALED AND REENACTED TO READ

1 AS FOLLOWS:

2 (1) (a) There is hereby created the Kentucky Board of Real Estate Professionals
3 within the Kentucky Real Estate Authority. The board shall consist of five
4 (5) members, each appointed by the Governor. Each board member shall
5 serve a term of three (3) years. The board shall annually select one (1) of its
6 members to serve as chair and one (1) of its members to serve as vice chair
7 to act in the chair's absence.

8 (b) Any member appointed to fill a vacancy occurring other than by expiration
9 of a term shall be appointed for the remainder of the unexpired term.

10 (c) No more than three (3) members of the same political party shall serve on
11 the board at the same time.

12 (d) No member of the board shall reside in the same county as another
13 member.

14 (e) A majority of the board shall constitute a quorum for the transaction of
15 business.

16 (f) No member may serve on the board for more than six (6) consecutive years.
17 A member may serve on the board for six (6) consecutive years on more
18 than one (1) occasion if that person is not a member of the board for at least
19 two (2) years between periods of board service.

20 (g) For any board member vacancy that is filled under this section by using a
21 list of names submitted to the Governor, the Governor shall appoint one (1)
22 of the individuals whose name was submitted on the initial list to fill the
23 vacancy, unless the Governor can present indisputable proof that no
24 individual on the list is qualified.

25 (2) The five (5) members of the board shall be chosen as follows:

26 (a) Four (4) members shall be licensed under this chapter and shall each be
27 selected from a list of three (3) names submitted to the Governor from the

1 Kentucky Association of Realtors. When a vacancy occurs in one (1) of
2 these member positions, the Kentucky Association of Realtors shall have
3 thirty (30) days after the vacancy occurs to submit a new list of three (3)
4 names to the Governor to fill the vacancy. If the Kentucky Association of
5 Realtors fails to timely submit this list to the Governor, the authority shall
6 immediately submit a list of three (3) names to the Governor to fill the
7 vacancy; and

8 (b) One (1) member shall represent the public at large and shall not be
9 associated with the real estate business other than as a consumer.

10 (3) (a) The commissioner shall promulgate, amend, or repeal administrative
11 regulations relating to the board. The commissioner shall not promulgate,
12 amend, or repeal any administrative regulation relating to the board or its
13 area of jurisdiction unless the board first adopts the proposed actions
14 relating to the administrative regulation.

15 (b) The commissioner shall not promulgate any administrative regulation that
16 in any way fixes prices, establishes brokerage fees or other real estate
17 transaction fees, or sets the rate at which licensees are compensated.

18 (c) The authority shall not impose a fine against a licensee who is licensed by
19 the board unless the board has previously approved the imposition of the
20 fine.

21 (4) The board shall:

22 (a) Hold disciplinary hearings concerning matters in controversy as provided
23 by this chapter;

24 (b) Conduct examinations for applicants eligible under this chapter or
25 alternatively to contract with an entity to conduct examinations;

26 (c) Conduct necessary educational seminars and courses directed toward
27 continuing education within the real estate field;

- 1 (d) Investigate or cause to be investigated any irregularities in violation of this
2 chapter or the promulgated administrative regulations of the commissioner
3 related to this chapter; and
- 4 (e) Participate with any other agency of the Commonwealth or the authorized
5 agency of another state for the betterment or improvement of the
6 administration of the statutes or administrative regulations governing the
7 board.
- 8 (5) Any action taken by the board, including any decision of the board to deny,
9 suspend, or revoke a license, or to issue a penalty, shall be appealable to the
10 authority. No officer or employee of the Public Protection Cabinet, department,
11 or authority shall attempt to influence or interfere with the board's disciplinary
12 decisions or proceedings.
- 13 (6) The board shall submit an annual budget to the authority. The board budget
14 shall go into effect if approved by a majority vote of the authority. The board may
15 use funds to purchase liability insurance for board members.
- 16 (7) The board shall require all actively licensed agents, except for those agents who
17 were licensed prior to June 19, 1976, to successfully complete mandatory
18 continuing education as a condition of license renewal.
- 19 (8) The commissioner shall, by the promulgation of administrative regulations,
20 develop a review process to be adopted by the board by which the board may
21 approve continuing education courses for credit. An applicant may seek the
22 board's approval for credit for courses not previously approved by the board by
23 submitting sufficient information describing the course to the board for review.
- 24 (9) The Governor shall set the compensation of the members of the board, but voting
25 members of the board shall be compensated no more than three hundred dollars
26 (\$300) per day for official business, subject to an annual maximum of six
27 thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid

1 and incurred in the discharge of official business consistent with the
 2 reimbursement policy for state employees. With the approval of the authority,
 3 board members and board staff may attend and travel to and from meetings and
 4 events relevant to the board or to the industry the board represents.

5 (10) A board member shall forfeit office and be automatically removed as a board
 6 member if:

7 (a) The member misses three (3) consecutive meetings or misses more than
 8 twenty-five percent (25%) of the meetings held over the previous twelve (12)
 9 month period;

10 (b) The member enters a plea of guilty to, or has been found guilty of, a felony
 11 in which fraud is an essential element or to any crime involving moral
 12 turpitude and the time for appeal has lapsed or the judgment or conviction
 13 has been affirmed on appeal;

14 (c) A member ceases to be a bona fide resident of this Commonwealth;

15 (d) A licensee member of the board ceases to be licensed under this chapter; or

16 (e) A consumer member of the board acquires a license or financial interest in
 17 the practice of real estate.

18 ➔Section 59. KRS 324.2812 is amended to read as follows:

19 Nothing in this chapter or the administrative regulations promulgated under the authority
 20 of this chapter shall extend the jurisdiction of the Kentucky **Board of** Real Estate
 21 **Professionals**~~[Commission]~~ to community association managers and the management or
 22 business activities of not-for-profit community associations, which includes townhouse,
 23 condominium, homeowner, or neighborhood associations.

24 ➔Section 60. KRS 324.285 is amended to read as follows:

25 The **board**~~[commission]~~ shall adopt a seal **engraved** with the design **prescribed by** the
 26 **board**~~[commission prescribes engraved thereon]~~, by which it shall authenticate its
 27 proceedings. All records kept in the office of the **board**~~[commission]~~ under the authority

1 of this chapter shall be open to public inspection under the administrative regulations
2 promulgated~~[as shall be prescribed]~~ by the commissioner~~[commissioner]~~.

3 →Section 61. KRS 324.286 is amended to read as follows:

4 (1) Except for the fees and charges paid by the licensees to the board~~[commissioner]~~ and
5 deposited in the real estate education, research, and recovery fund, all fees and
6 charges collected by the department or board~~[commissioner]~~ under the provisions of
7 this chapter shall be paid into the general fund in the State Treasury.

8 (2) All expenses incurred by the department or board~~[commissioner]~~ under the
9 provisions of this chapter, including compensations to members, secretaries, clerks,
10 and assistants, except those expenses designated for payment out of the real estate
11 education, research, and recovery fund, shall be paid out of the general fund in the
12 State Treasury upon warrants of the secretary for finance and administration as
13 warrants generally are required to be drawn by the statutes governing these~~[such]~~
14 respective offices from time to time, when vouchers for the expenses~~[therefor]~~ are
15 exhibited and approved by the department or board~~[commissioner; provided, that]~~
16 The total expense for every purpose incurred shall not exceed the total fees, charges,
17 fines, and penalties imposed under the provisions of this chapter and paid into the
18 State Treasury.

19 (3) All expenses incurred by the department or board~~[commissioner]~~ and designated for
20 payment out of the real estate education, research, and recovery fund, including
21 payments to aggrieved parties and the expenses of carrying on the educational and
22 research requirements of KRS 324.410, shall be paid out of the real estate
23 education, research, and recovery fund in the same manner as required in this
24 section for payments out of the general fund.~~[; provided, that]~~ The total expenses
25 and payments for every purpose incurred and designated for payment out of the real
26 estate education, research, and recovery fund shall not exceed the total fees,
27 charges, and interest received by the department or board~~[commissioner]~~ and paid

1 into the real estate education, research, and recovery fund of the State Treasury.

2 ➔Section 62. KRS 324.287 is amended to read as follows:

3 The ~~commissioner~~~~[commission]~~ shall set, ***and the board shall*** charge~~[,]~~ and collect the
4 following fees:

- 5 (1) Examination fee, not to exceed one hundred dollars (\$100).
- 6 (2) Broker's and sales associate's original license fee, not to exceed thirty dollars (\$30).
- 7 (3) Broker's and sales associate's renewal fee, not to exceed thirty dollars (\$30).
- 8 (4) Transfer from one (1) principal broker to another, not to exceed ten dollars (\$10).
- 9 (5) Certification of status with the ~~commissioner~~~~[commission]~~, ***board***, ten dollars (\$10).
- 10 (6) Request for any change, not to exceed ten dollars (\$10).
- 11 (7) Recovery fund, not to exceed thirty dollars (\$30).
- 12 (8) Broker's and associate's applicant license criminal record check fee, not to exceed
13 thirty dollars (\$30).

14 ➔Section 63. KRS 324.288 is amended to read as follows:

15 No affiliation fee shall be charged in any year to a licensee. As used in this section,
16 "affiliation fee" means any fee or compensation paid by a licensee, to any person, for the
17 privilege of listing his ***or her*** license with a particular principal broker, in records
18 submitted to the ~~commissioner~~~~[commission]~~.

19 ➔Section 64. KRS 324.310 is amended to read as follows:

- 20 (1) If any sales associate is discharged or terminates his or her association with the
21 principal broker, it shall be the duty of the broker to immediately deliver or mail to
22 the ~~commissioner~~~~[commission]~~ the sales associate's license in a manner that complies with
23 KRS 324.312, along with the release statement signed by the principal broker. The
24 broker shall, at the time of mailing the sales associate's license to the
25 ~~commissioner~~~~[commission]~~, ***board***, address a communication to the last known residence address
26 of the sales associate, which shall advise the sales associate that his or her license
27 has been delivered or mailed to the ~~commissioner~~~~[commission]~~. A copy of the

1 communication to the sales associate shall accompany the license when mailed or
 2 delivered to the ~~board~~[commission]. It shall be unlawful for any sales associate to
 3 perform any of the acts contemplated by this chapter either directly or indirectly
 4 under authority of the sales associate's license from and after the date of receipt of
 5 the license from the broker by the ~~board~~[commission].

- 6 (2) A licensee may place his or her license in escrow with the ~~board~~[commission]
 7 provided that:
- 8 (a) The licensee does not engage in any real estate activity for others during the
 9 term of escrow of the license; and
- 10 (b) The licensee pays the annual license renewal fees for each year the license is
 11 in escrow.
- 12 (3) At the request of the licensee, upon the meeting of requirements applicable to active
 13 licenses and completion of all continuing education requirements, a license placed
 14 in escrow shall be automatically converted to an active license upon payment of the
 15 established change fee.

16 ➔Section 65. KRS 324.312 is amended to read as follows:

- 17 (1) A principal broker shall return an associate's license to the ~~board~~[commission]
 18 immediately:
- 19 (a) Upon the written termination of the association between the broker and the
 20 associate; or
- 21 (b) At any time upon the ~~board's~~[commission's] request.
- 22 (2) If a principal broker fails to return a license to the ~~board~~[commission] as required
 23 by subsection (1) of this section within five (5) business days, the
 24 ~~board~~[commission] shall consider the license as released, and the principal broker
 25 shall be in violation of KRS 324.160(4)(u).

26 ➔Section 66. KRS 324.330 is amended to read as follows:

- 27 (1) Notice in writing shall be given to the ~~board~~[commission] by each licensee of any

1 change of principal business location, a change of firm name, sales associate's
2 transfer from one (1) principal broker to another, or a change of surname. The
3 ~~**board**~~~~[commission]~~ shall issue a new license for the unexpired period and shall
4 charge the fee as provided in KRS 324.287(6) for effecting the change on its
5 records. This section shall apply to both brokers and sales associates.

6 (2) The ~~**board**~~~~[commission]~~ shall be notified in writing of a change of a residence
7 address within ten (10) days.

8 (3) A fee shall be assessed for certification of a licensee's status with the
9 ~~**board**~~~~[commission]~~.

10 (4) The ~~**commissioner**~~~~[commission]~~ shall, by the promulgation of administrative
11 regulations, require all licensees to file with the ~~**board**~~~~[commission]~~, at annual
12 renewal, their telephone numbers and, if applicable, their electronic mail addresses.

13 ➔Section 67. KRS 324.360 is amended to read as follows:

14 (1) This section shall apply to sales and purchases involving single-family residential
15 real estate dwellings if any person licensed under this chapter receives
16 compensation.

17 (2) The ~~**commissioner**~~~~[commission]~~ shall promulgate an administrative regulation
18 authorizing a "seller's disclosure of conditions form."

19 (3) The form shall provide for disclosure by the seller of the following:

20 (a) Basement condition and whether it leaks;

21 (b) Roof condition and whether it leaks;

22 (c) Source and condition of water supply;

23 (d) Source and condition of sewage service;

24 (e) Working condition of component systems; and

25 (f) Other matters the ~~**commissioner**~~~~[commission]~~ deems appropriate.

26 (4) The seller of the property shall complete and sign the form at the time he or she
27 executes any listing agreement or similar agreement by which a licensee intends to

1 market the property. A copy of the form shall be provided by the listing agent to any
2 prospective buyer or a buyer's authorized representative upon request. A copy of the
3 form shall be delivered by the listing agent to any prospective purchaser or his or
4 her representative within seventy-two (72) hours of the listing agent's receipt of a
5 written and signed offer to purchase. The listing agent shall solicit the signature of
6 the buyer on a copy of the form which the listing agent shall retain in the principal
7 broker's records. The signature shall evidence the listing agent's compliance with
8 the provisions of this section. Should the buyer refuse to sign the form, the licensee
9 shall record the buyer's refusal to sign on the form and retain a copy in his or her
10 principal broker's records.

11 (5) If the subject property is offered for sale by the property's owner without a listing
12 agreement, any licensee involved in the transaction shall provide a blank form to the
13 property's owner and shall request that the property's owner complete and sign the
14 form. If the property's owner completes and signs the form, the licensee shall
15 deliver the form to the buyer or potential buyer not later than one hundred twenty
16 (120) hours after the creation of any executory contract for sale of the property. The
17 licensee shall solicit the signature of the buyer on a copy of the form as delivered to
18 the buyer or prospective buyer and shall retain the copy in his or her principal
19 broker's records. The signature of the buyer or prospective buyer shall evidence the
20 listing agent's compliance with the provisions of this section. Should the buyer
21 refuse to sign the form, the licensee shall record the buyer's refusal to sign on the
22 form and retain a copy in his or her principal broker's records.

23 (6) The original of the form shall be retained by the listing broker or by the broker of
24 any licensee who presents an offer on a property not subject to a listing agreement.

25 (7) The form shall not be required for residential purchases of new homes if a warranty
26 is offered, for a sale of real estate at an auction, or for a court supervised
27 foreclosure.

- 1 (8) If the seller refuses to complete and sign the form, his or her refusal shall be
2 communicated in writing by the broker or sales associate who is involved in the
3 transaction to the purchaser or prospective purchaser, without unreasonable delay.
- 4 (9) It shall be a violation of this chapter for a licensee to complete any portion of the
5 form unless the licensee is the owner of the property or has been requested by the
6 owner to complete the form. The request shall be acknowledged in writing on the
7 form and the licensee shall be held harmless for any representation that appears on
8 the form.
- 9 ➔Section 68. KRS 324.395 is amended to read as follows:
- 10 (1) All real estate licensees, except those whose licenses are in escrow in accordance
11 with KRS 324.310(2), shall carry errors and omissions insurance to cover all
12 activities contemplated under this chapter.
- 13 (2) The board~~commission~~ shall make the insurance mandated under this section
14 available to all licensees by contracting with an insurance provider for a group
15 policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.
- 16 (3) Any policy obtained by the board~~commission~~ shall be available to all licensees
17 with no right on the part of the insurance provider to cancel any licensee.
- 18 (4) Licensees shall have the option of obtaining errors and omissions insurance
19 independently, if the coverage contained in the policy and the financial condition of
20 the insurance company complies with the minimum requirements established by the
21 board~~commission~~.
- 22 (5) The board~~commission~~ shall determine the terms and conditions of coverage
23 mandated under this section, including, but not limited to, the minimum limits of
24 coverage, the permissible deductible, and permissible exemptions.
- 25 (6) Each licensee shall be notified of the required terms and conditions of coverage for
26 the annual policy at least thirty (30) days prior to the annual license renewal date. A
27 certificate of coverage, showing compliance with the required terms and conditions

1 of coverage, shall be filed with the board~~[commission]~~ by the annual license
2 renewal date by each licensee who opts not to participate in the group insurance
3 program administered by the board~~[commission]~~.

4 (7) If the board~~[commission]~~ is unable to obtain errors and omissions insurance
5 coverage to insure all licensees who choose to participate in the group insurance
6 program at a reasonable annual premium, not to exceed two hundred dollars (\$200),
7 the insurance requirement mandated by this section shall be void during the
8 applicable contract year.

9 ➔Section 69. KRS 324.400 is amended to read as follows:

10 (1) There is hereby created and established in the State Treasury the real estate
11 education, research, and recovery fund.

12 (2) In addition to the license fees provided for in KRS 324.287, upon renewal of every
13 broker's and sales associate's license, as well as any and all other types of licenses, if
14 any, issued by the board~~[commission]~~, as of June 30, 1972, and every subsequent
15 regular annual renewal date~~[thereafter]~~, the board~~[commission]~~ shall charge each
16 of these~~[the aforesaid]~~ licensees an amount not to exceed thirty dollars (\$30) per
17 year to be included in the real estate education, research, and recovery fund. Each~~[~~
18 ~~and every]~~ original applicant for a license after July 1, 1972, shall likewise submit
19 to the board~~[commission]~~ an additional fee of thirty dollars (\$30) to be deposited in
20 the real estate education, research, and recovery fund and shall also be
21 subject~~[subjected thereafter]~~ to an annual renewal fee as of the regular renewal
22 period.

23 (3) In addition to the license fees provided for in KRS 324.287, the
24 board~~[commission]~~, based upon its own discretion as to need, may assess each
25 licensee upon renewal an amount less than thirty dollars (\$30) per year, or nothing,
26 but not more. Each original applicant shall~~[must]~~ pay the original amount of thirty
27 dollars (\$30), but on renewal will be subjected to the same renewal amount as other

1 licenses.

2 ➔Section 70. KRS 324.410 is amended to read as follows:

3 The purposes of the real estate education, research, and recovery fund shall be as follows:

4 (1) If a licensee, acting in the capacity of a licensee, has been duly found guilty of fraud
5 in the violation of one (1) or more of the provisions of KRS 324.160, and upon the
6 conclusion of a final order entered by the **board, by the authority**~~[commission]~~, or
7 by the courts, if appealed, the **board**~~[commission]~~ may pay to the aggrieved person
8 or persons an aggregate amount not to exceed twenty thousand dollars (\$20,000) per
9 claimant with combined payments to all claimants against any one (1) licensee not
10 to exceed fifty thousand dollars (\$50,000), if the licensee has refused to pay the
11 claim within a period of twenty (20) days of entry of a final order and if the amount
12 or amounts of money in question are certain and liquidated.

13 (2) The **board**~~[commission]~~ shall maintain a minimum level of four hundred thousand
14 dollars (\$400,000) for recovery and guaranty purposes. These funds may be
15 invested and reinvested in the same manner as funds of the state employees'
16 retirement system and the interest from the investments shall be deposited to the
17 credit of the real estate education, research, and recovery fund. Sufficient liquidity
18 shall be maintained so that there shall be money available to satisfy~~[any and]~~ all
19 claims **that**~~[which]~~ may be processed through the **board**~~[commission]~~ through the
20 means of formal administrative hearing as outlined in this chapter.

21 (3) The **board**~~[commission]~~, in its discretion, may use any~~[and all]~~ funds in excess of
22 the four hundred thousand dollars (\$400,000) level, regardless of whether it is from
23 the real estate education, research, and recovery fund fees or accrued interest **on the**
24 **fees**~~[thereon]~~, for the following purposes:

25 (a) To carry out the advancement of education and research in the field of real
26 estate for the benefit of those seeking a real estate license, and those licensed
27 under the provisions of this chapter and the improvement and making more

- 1 efficient the real estate industry;
- 2 (b) To underwrite educational seminars, caravans, and other forms of educational
3 projects for the use and benefit generally of real estate licensees;
- 4 (c) To establish a real estate chair or courses at Kentucky state institutions of
5 higher learning for the purpose of making the courses available to licensees
6 and the general public who may seek them on a college or university level;
- 7 (d) To contract for a particular research project in the field of real estate for the
8 Commonwealth of Kentucky;
- 9 (e) To sponsor, contract for, and to underwrite other educational and research
10 projects of a similar nature having to do with the advancement of the real
11 estate field in Kentucky;
- 12 (f) To receive recommendations and to cooperate and work with the Kentucky
13 Association of Realtors and other real estate groups for the enlightenment and
14 advancement of the real estate licensees of Kentucky; and
- 15 (g) To augment the trust and agency account for purposes of addressing cash flow
16 shortfalls, budget deficits, and for reimbursement of personnel, administrative,
17 operational, and capital expenses incurred by the trust and agency account
18 pursuant to the purposes of the education, research, and recovery fund as
19 provided in this section, an amount not to exceed two hundred fifty thousand
20 dollars (\$250,000) annually.
- 21 (4) Within one hundred twenty (120) days after the end of each fiscal year, the
22 ~~board~~commission shall make public, through its Web site or other public media, a
23 statement of income and expenses of the real estate education, research, and
24 recovery fund, the details of which are in accordance with state financial reporting
25 requirements.
- 26 ➔Section 71. KRS 324.420 is amended to read as follows:
- 27 (1) An aggrieved party may commence an administrative action which may result in

1 collection from the recovery fund by first filing a complaint with the
2 ~~**board**~~~~[commission]~~ on a form prepared by the ~~**board**~~~~[commission]~~. The complaint
3 shall constitute a prima facie case that a licensee is in violation of KRS 324.160 and
4 is subject to the same conditions set forth in KRS 324.150. If the complaint
5 constitutes a prima facie case and the matter is not settled, the ~~**board**~~~~[commission]~~
6 shall hold a hearing pursuant to the requirements set forth in the provisions of this
7 chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact
8 occurred. If a violation of fraud is~~[-so]~~ found, the ~~**board**~~~~[commission]~~ shall
9 determine if the violation resulted in damages to **the** complainant and in what
10 amount. If damages cannot be accurately determined, then the amount of damages
11 shall be determined by a Circuit Court in the county where the violation took place.
12 In the event the question of damages is referred to the Circuit Court, the decision of
13 the ~~**board**~~~~[commission]~~ will not be final and appealable until the question of
14 damages is certifiable.

15 (2) Upon final order by the ~~**board**~~~~[commission]~~ or upon certification to the
16 ~~**board**~~~~[commission]~~ by the Circuit Court on the issue of damages, and after the
17 licensee has refused to pay the claim within a period of twenty (20) days of entry of
18 a final order, the aggrieved party or parties shall be paid the amount or amounts by
19 the ~~**board**~~~~[commission]~~ from the recovery fund.

20 (3) The license of the licensee against whom the claim was made by the aggrieved party
21 shall be suspended or may be permanently revoked until~~[-such time as]~~ the licensee
22 has reimbursed the recovery fund in full for all amounts paid, plus interest at the
23 rate of ten percent (10%) per annum.

24 (4) Any party aggrieved by a final order of the ~~**board or authority**~~~~[commission]~~ may
25 appeal to the Circuit Court where the licensee has his **or her** principal place of
26 business or where the applicant resides in accordance with KRS Chapter 13B.

27 (5) Upon the final order of the court, and after the ~~**board**~~~~[commission]~~ has paid from

1 the real estate education, research, and recovery fund any sum to the aggrieved
2 party, the ~~board~~commission shall be subrogated to all of the rights of the
3 aggrieved party to the extent of the payment. The aggrieved party shall to the extent
4 of the payment assign his or her right, title, and interest in the judgment to the
5 ~~board~~commission. After ~~this~~such assignment, the ~~board~~commission may
6 challenge in bankruptcy court any attempt by a former licensee to discharge the
7 debt, if proper notice is given. Any funds recovered by the ~~board~~commission shall
8 be deposited in the real estate education, research, and recovery fund.

9 (6) No aggrieved party shall be entitled to recover compensation from the real estate
10 education, research, and recovery fund unless the action against the licensee is
11 commenced within two (2) years from actual knowledge of the cause of action or
12 from the time when circumstances should reasonably have put the aggrieved party
13 on notice of the cause of action.

14 (7) An aggrieved party shall not be entitled to recover compensation from the real
15 estate education, research, and recovery fund, unless the compensation is for the
16 actual financial harm suffered by the aggrieved party, and this financial harm is
17 specifically and directly related to the property.

18 (8) For purposes of this section, an "aggrieved party" shall mean either:

19 (a) A member of the consumer public who stands in a direct relationship to the
20 licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting,
21 or otherwise securing an interest in real estate through a licensee and who
22 believes that the licensee is in violation of the provisions of this chapter; or

23 (b) A member of the consumer public who directly engages the services of a
24 licensee for purposes of selling, leasing, renting, or otherwise dealing in his or
25 her own property.

26 (9) If at any time the money on deposit in the real estate education, research, and
27 recovery fund is insufficient to satisfy all or part of any duly-authorized claim ~~or~~

1 ~~portion thereof~~, the **board**~~[commission]~~ shall, when sufficient money has been
 2 deposited in the real estate education, research, and recovery fund, satisfy **all or part**
 3 **of the**~~[such]~~ unpaid claim~~[or portions thereof]~~, in the order that **the**~~[such]~~ claims or
 4 portions were originally filed, plus accumulated interest at the rate of ten percent
 5 (10%) per annum.

6 (10) Any funds in excess of the four hundred thousand dollar (\$400,000) level which are
 7 not being currently used, may be invested and reinvested as set forth in subsection
 8 (2) of KRS 324.410.

9 ➔Section 72. KRS 324.425 is amended to read as follows:

10 In case of death or other incapacity of a principal broker having a licensed sales associate
 11 or sales associates affiliated at the time of death or other incapacity, the
 12 **board**~~[commission]~~ reserves the right in its discretion, based upon the merits of each
 13 case, to permit one (1) of the sales associates to complete and close the then existing
 14 business of the deceased or incapacitated broker for a temporary period not to exceed six
 15 (6) months.

16 ➔Section 73. KRS 324A.010 is amended to read as follows:

17 As used in KRS 324A.010 to 324A.090, unless the context requires otherwise:

18 (1) "Appraisal" means an oral, written, or electronic communication of any type or
 19 nature which is independently and impartially prepared by a licensed or certified
 20 appraiser setting forth an analysis, opinion, or conclusion relating to the nature,
 21 quality, value, or utility of specified interests in, or aspects of, identified real estate,
 22 as of a specified date, for or in expectation of compensation;

23 (2) "Appraisal assignment" means an engagement for which an appraiser is employed
 24 or retained to act, or would be perceived by other parties or the public as acting, as a
 25 third party in rendering an unbiased real estate appraisal;

26 (3) "Appraisal report" means any communication, written, oral, or electronic conveying
 27 a real estate appraisal, and all other reports communicating an appraisal analysis,

1 opinion, or conclusion;

2 (4) "Board" means the Kentucky~~[Real Estate Appraisers]~~ Board of Appraisers created
3 under KRS 324A.015;

4 (5) "Certificate holder or licensee" means a person certified or licensed by the board
5 under this chapter;

6 (6) "Real estate" or "real property" means real estate in its ordinary meaning and
7 includes any leasehold or other estate or interest in, over, or under land, including
8 leaseholds, all appurtenances and improvements thereto, and may include personal
9 property which is integral to the use of the real property as appraised;

10 (7) "Uniform Standards of Professional Appraisal Practice" means the standards of
11 practice promulgated by the Appraisal Standards Board of the Appraisal
12 Foundation;~~and~~

13 (8) "Federally related transaction" means any real estate related financial transaction
14 that:

15 (a) A federal financial institution's regulatory agency engages in, contracts for, or
16 regulates; and

17 (b) Requires the services of an appraiser;

18 **(9) "Authority" means the Kentucky Real Estate Authority established under KRS**
19 **Chapter 324B;**

20 **(10) "Commissioner" means the commissioner of the Department of Professional**
21 **Licensing; and**

22 **(11) "Department" means the Department of Professional Licensing established**
23 **under KRS Chapter 324B.**

24 ➔SECTION 74. KRS 324A.015 IS REPEALED AND REENACTED TO READ
25 AS FOLLOWS:

26 **(1) (a) There is hereby created the Kentucky Board of Appraisers within the**
27 **Kentucky Real Estate Authority. The board shall consist of five (5)**

1 members, each appointed by the Governor. Each board member shall serve
2 a term of three (3) years. The board shall annually select one (1) of its
3 members to serve as chair and one (1) of its members to serve as vice chair
4 to act in the chair's absence.

5 (b) Any member appointed to fill a vacancy occurring other than by expiration
6 of a term shall be appointed for the remainder of the unexpired term.

7 (c) No more than three (3) members of the same political party shall serve on
8 the board at the same time.

9 (d) No member of the board shall reside in the same county as another
10 member.

11 (e) A majority of the board shall constitute a quorum for the transaction of
12 business.

13 (f) No member may serve on the board for more than six (6) consecutive years.
14 A member may serve on the board for six (6) consecutive years on more
15 than one (1) occasion if that person is not a member of the board for at least
16 two (2) years between periods of board service.

17 (g) For any board member vacancy that is filled under this section by using a
18 list of names submitted to the Governor, the Governor shall appoint one (1)
19 of the individuals whose name was submitted on the initial list to fill the
20 vacancy, unless the Governor can present indisputable proof that no
21 individual on the list is qualified.

22 (2) The five (5) members of the board shall be chosen as follows:

23 (a) Two (2) members of the board shall be certified real estate appraisers. The
24 appraiser appointees to the board shall be certified and shall have engaged
25 in the appraisal of real estate in Kentucky on a continuing basis for at least
26 ten (10) years;

27 (b) One (1) member of the board shall represent the public and shall not be

1 associated with or financially interested in the practice of real estate
2 appraisals; and

3 (c) Two (2) members of the board shall be employed in the lending industry.

4 (3) The commissioner shall promulgate, amend, or repeal administrative regulations
5 relating to the board. The commissioner shall not promulgate, amend, or repeal
6 any administrative regulation relating to the board or its area of jurisdiction
7 unless the board first adopts the proposed actions relating to the administrative
8 regulation.

9 (4) Any action taken by the board, including any decision of the board to deny,
10 suspend, or revoke a license, or to issue a penalty, shall be appealable to the
11 authority. No officer or employee of the Public Protection Cabinet, department,
12 or authority shall attempt to influence or interfere with the board's disciplinary
13 decisions or proceedings.

14 (5) A board member shall be automatically removed from the board and a vacancy
15 shall occur when:

16 (a) An appraiser member of the board ceases to be certified;

17 (b) A consumer member of the board acquires a certification as an appraiser;

18 (c) A lending industry member of the board ceases to be employed in the
19 lending industry;

20 (d) A board member enters a plea of guilty to, or has been found guilty of, a
21 felony and the time for appeal has passed or the judgment of conviction has
22 been finally affirmed on appeal;

23 (e) A board member misses three (3) consecutive meetings or misses more than
24 twenty-five percent (25%) of the meetings held over the previous twelve (12)
25 month period; or

26 (f) A board member ceases to be a bona fide resident of the Commonwealth of
27 Kentucky.

1 (6) The board shall adopt a seal with the design prescribed by the board, by which it
 2 shall authenticate its proceedings. Copies of all records and papers in the office
 3 of the board, if certified and authenticated by the seal of the board, shall be
 4 received in evidence in all courts equally and with like effect as the original. All
 5 records kept in the office of the board under the authority of this chapter shall be
 6 open to public inspection in accordance with KRS 61.870 to 61.884 and
 7 consistent with administrative regulations promulgated by the commissioner.

8 (7) The Governor shall set the compensation of the members of the board, but voting
 9 members of the board shall be compensated no more than three hundred dollars
 10 (\$300) per day for official business, subject to an annual maximum of six
 11 thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid
 12 and incurred in the discharge of official business consistent with the
 13 reimbursement policy for state employees. With the approval of the authority,
 14 board members and board staff may attend and travel to and from meetings and
 15 events relevant to the board or the industry the board represents.

16 (8) The board shall submit an annual budget to the authority. The board budget
 17 shall go into effect if approved by a majority vote of the authority.

18 (9) The authority shall not impose a fine against a licensee who is licensed by the
 19 board unless the board has previously approved the imposition of the fine.

20 ➔Section 75. KRS 324A.020 is amended to read as follows:

21 The board may:~~shall have authority to promulgate administrative regulations,~~

22 (1) Have subpoena power;~~;~~

23 (2) Hold disciplinary hearings;~~;~~

24 (3) Conduct examinations;~~;~~

25 (4) Conduct educational seminars;~~;~~

26 (5) Investigate allegations of wrongdoing under this chapter;~~;~~

27 (6) Seek and obtain injunctive relief to enforce the provisions of KRS 324A.010 to

1 324A.090:~~[,]~~

2 (7) Provide a list of certified appraisers to the Appraisal Subcommittee of the Federal
3 Financial Institutions Examination Council:~~[,]~~ and

4 (8) Perform any~~[such]~~ other functions and duties that are~~[as may be]~~ necessary in
5 carrying out the provisions of KRS 324A.010 to 324A.090.

6 ➔Section 76. KRS 324A.035 is amended to read as follows:

7 (1) The commissioner~~[board]~~ shall promulgate administrative regulations pursuant to
8 the provisions of this chapter and KRS Chapter 13A for certification or licensure of
9 appraisers who perform appraisals of real property in federally related transactions.
10 Requirements established by the commissioner~~[board]~~ relating to appraisers of
11 federally related transactions shall not exceed the minimum requirements
12 established by federal law or regulation;

13 (2) The commissioner~~[board]~~ shall promulgate administrative regulations pursuant to
14 KRS Chapter 13A for certification or licensure of appraisers of real property in
15 nonfederally related transactions.

16 (a) Appraisers who wish to be limited to appraisals of nonfederally related
17 transactions, and who have engaged in the appraisal of real estate for at least
18 ten (10) years prior to April 7, 1992, shall be certified or licensed as appraisers
19 of nonfederally related transactions.

20 (b) Appraisers who wish to be limited to appraisals of nonfederally related
21 transactions, and who have not engaged in the appraisal of real estate for at
22 least ten (10) years prior to April 7, 1992, shall be certified or licensed as
23 appraisers of nonfederally related transactions if they meet the certification or
24 licensure requirements established by the commissioner and the board.

25 (3) The commissioner~~[board]~~ shall establish by administrative regulations requirements
26 for:

27 (a) Classifications of appraisers;

- 1 (b) Certification and licensure;
- 2 (c) Renewal, suspension, or revocation of certification or licensure;
- 3 (d) Standards of professional appraisal practice, including experience, education,
- 4 and ethics;
- 5 (e) Examination of applicants for certification or licensure; and
- 6 (f) Continuing education of appraisers.

7 ➔Section 77. KRS 324A.040 is amended to read as follows:

- 8 (1) All applications for certification or licensure shall be made in writing to the board
- 9 and shall specify the classification of the certificate or license being applied for by
- 10 the applicant, and shall contain all information required by the board.
- 11 (2) Applicants for certification or licensure shall:
 - 12 (a) Successfully pass the examination required by the board; and
 - 13 (b) Meet other requirements established by this chapter and administrative
 - 14 regulations *promulgated by the commissioner to administer and enforce this*
 - 15 *chapter*~~[of the board]~~.
- 16 (3) The examination shall be given at times and places within the state as the board
- 17 shall prescribe; provided, however, the examination shall be given at least two (2)
- 18 times during each calendar year. Notice of passing or failing the examination shall
- 19 be provided to each applicant.

20 ➔Section 78. KRS 324A.045 is amended to read as follows:

- 21 (1) The board shall issue to each qualified applicant a certificate or license in *a* form
- 22 and size~~[as shall be]~~ prescribed by the board.
- 23 (2) Every certificate and license shall be subject to annual renewal on the date or dates
- 24 determined by the *commissioner through the promulgation of an*~~[board by]~~
- 25 administrative regulation. Each certificate and license holder shall submit proof of
- 26 compliance with the continuing education requirements when appropriate and the
- 27 annual renewal fee to the board on or before the last day of the designated month.

1 Failure to receive a renewal form shall not constitute an adequate excuse for failure
2 to renew on time.

3 (3) If the certificate or license holder fails to renew in a timely manner, the certificate or
4 license shall expire. Within six (6) months after the renewal date, the former
5 certificate or license holder shall be reinstated by complying with all appropriate
6 renewal requirements and paying a late fee not to exceed two hundred dollars
7 (\$200).

8 (4) If six (6) months or more elapse after the renewal date, the former certificate or
9 license holder shall be required to meet all current requirements as if applying for
10 initial certification or licensure.

11 ➔Section 79. KRS 324A.047 is amended to read as follows:

12 (1) Upon written request, any certificate holder or licensee may request to place his or
13 her certificate or license in inactive status for a period not to exceed three (3) years.

14 (a) The written request shall be made by completing a signed and sworn affidavit
15 on a form approved by the board.

16 (b) The board may require a fee of fifty dollars (\$50) for each change in status of
17 the certificate holder or licensee.

18 (c) A license issued to an individual as a trainee real property appraiser shall not
19 be eligible for inactive status.

20 (2) No inactive status certificate holder or licensee shall:

21 (a) Assume or use any title, designation, or abbreviation likely to create the
22 impression that he or she holds a certificate or license issued by the board;

23 (b) Describe or refer to any appraisal or evaluation of real estate by the term,
24 "state certified," "state licensed," or words of substantially similar meaning; or

25 (c) Prepare real estate appraisals for federally related transactions which, under
26 Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act
27 of 1989, require the services of a state-certified or state-licensed appraiser.

- 1 (3) To return to active status, a certificate holder or licensee shall:
- 2 (a) Petition the board for reactivation of the certificate or license;
- 3 (b) Pay the applicable renewal fee and roster fee required by this chapter; and
- 4 (c) Provide evidence of completion of the annually required continuing education
- 5 hours, as established by the commissioner~~board~~ and promulgated in
- 6 administrative regulations, for each year of inactive status.
- 7 (4) A certificate holder or licensee who petitions to return to active status after an
- 8 inactive period exceeding three (3) years shall be required to meet all the
- 9 requirements for original issuance of a license or certificate under this chapter.
- 10 (5) Violation of this subsection (2) of this section shall be grounds for disciplinary
- 11 action under this chapter.
- 12 ➔Section 80. KRS 324A.050 is amended to read as follows:
- 13 (1) The board may refuse to issue, refuse to renew, suspend, or revoke a certificate or
- 14 license, reprimand, admonish, place on probation, or impose a fine up to two
- 15 thousand dollars (\$2000) per each violation determined by the board, not to exceed
- 16 five thousand dollars (\$5000), on a certificate holder or licensee, or any
- 17 combination thereof, for any of the following reasons:
- 18 (a) Procuring or attempting to procure a certificate or license by knowingly
- 19 making a false statement or submitting false information, or through any form
- 20 of fraud or misrepresentation;
- 21 (b) Refusing to provide complete information in response to a question in an
- 22 application to the board or failing to meet the minimum qualifications
- 23 established by the commissioner~~board~~;
- 24 (c) Being convicted of any felony, or of a misdemeanor that may result in a
- 25 sentence which includes or requires incarceration;
- 26 (d) Committing an act involving dishonesty, fraud, or misrepresentation;
- 27 (e) Violating any of the provisions of KRS 324A.010 to 324A.090, the

- 1 administrative regulations of the commissioner~~[board]~~, or any lawful order of
2 the board;
- 3 (f) Violating the confidential nature of records to which the appraiser gained
4 access through employment or engagement as an appraiser;
- 5 (g) Committing any other conduct which constitutes or demonstrates bad faith,
6 untrustworthiness, impropriety, fraud, or dishonesty;
- 7 (h) Failing or refusing, without good cause, to exercise reasonable diligence in
8 developing an appraisal, preparing an appraisal report, or communicating an
9 appraisal;
- 10 (i) Being negligent or incompetent in developing an appraisal, in preparing an
11 appraisal report, or in communicating an appraisal;
- 12 (j) Failing to observe one (1) or more of the Uniform Standards of Professional
13 Appraisal Practice; or
- 14 (k) Having a license or registration certificate to practice as a licensed or certified
15 real property appraiser denied, limited, suspended, probated, or revoked in
16 another jurisdiction on grounds sufficient to cause licensure to be denied,
17 limited, suspended, probated, or revoked in this state.
- 18 (2) Notwithstanding any other provision of this chapter to the contrary, the
19 requirements of KRS Chapter 324A, the commissioner's~~[board's]~~ administrative
20 regulations, and the Uniform Standards of Professional Appraisal Practice shall
21 constitute the minimum standard of conduct and performance for a licensee or
22 credential holder in any work or service performed that is addressed by those
23 standards.
- 24 (3) In any proceeding in which a suspension of thirty (30) days or more, or revocation is
25 imposed, the board may require the respondent to pay the actual costs of the
26 investigation and all proceedings not to exceed ten thousand dollars (\$10,000).
- 27 (4) Three (3) years from the date of a revocation, any certificate holder or licensee

1 whose certificate or license has been revoked may petition the board for
2 reinstatement. The board shall investigate the petition and may reinstate, upon a
3 finding that the petitioner has complied with ~~any and~~ all terms prescribed by the
4 board and is able to engage in the practice of real estate appraisal within the
5 requirements of this chapter and the commissioner's administrative regulations. The
6 board may, in its discretion, require the petitioner to successfully pass the
7 examination required for the applicable certificate or license.

8 ➔Section 81. KRS 324A.052 is amended to read as follows:

- 9 (1) Any person or organization, including the board upon its own volition, may file
10 with the board a written complaint alleging a violation of any provision of this
11 chapter. The board shall investigate each complaint.
- 12 (2) If the investigation reveals evidence supporting the complaint, the board shall set
13 the matter for hearing in accordance with the provisions of KRS Chapter 13B before
14 fining, reprimanding, suspending, revoking, refusing to renew, or any combination
15 thereof.
- 16 (3) If the investigation reveals that the alleged violation did occur but was not of a
17 serious nature, the board may issue a written admonishment to the certificate holder
18 or licensee. A copy of the admonishment shall be placed in the recipient's
19 permanent file with the board. The recipient shall have the right to file a response to
20 the admonishment within thirty (30) days of its receipt and have the response placed
21 in the permanent file. The recipient may, alternatively, within thirty (30) days of the
22 receipt, file a request for hearing with the board. Upon receipt of this request, the
23 board shall set aside the written admonishment and set the matter for hearing in
24 accordance with the provisions of KRS Chapter 13B.
- 25 (4) After denying an application for a certificate or license or issuing an admonishment,
26 the board shall grant an administrative hearing in accordance with KRS Chapter
27 13B only upon written request of the applicant made within thirty (30) days of the

1 mailing of the letter of denial or admonishment.

2 (5) (a) Any licensure denial, suspension, or revocation and any other penalty
 3 issued by the board may be appealed to the authority within thirty (30) days
 4 of the appealable action.

5 (b) Upon receipt of an appeal, the authority shall schedule the matter for an
 6 administrative hearing that shall be conducted in accordance with KRS
 7 Chapter 13B. The authority may assign a hearing officer to hear the appeal.
 8 If the authority assigns a hearing officer, the authority shall retain the
 9 authority to issue a final order.

10 (6) Any party aggrieved by a final order of the board or authority may appeal to
 11 Franklin Circuit Court within thirty (30) days after the issuance of the order as
 12 provided by KRS Chapter 13B.

13 ➔Section 82. KRS 324A.065 is amended to read as follows:

14 (1) The commissioner~~[board]~~ shall establish through the promulgation of an
 15 administrative~~[by]~~ regulation, and the board shall collect, the following fees for
 16 certification or licensure as an appraiser for:

17 (a) Federally related transactions:

- 18 1. Initial application fee in an amount not to exceed two hundred twelve
 19 dollars (\$212), which shall include a fee for the current edition of the
 20 Uniform Standards of Professional Practice;
- 21 2. Examination fee in an amount not to exceed two hundred dollars (\$200);
- 22 3. a. An annual certificate or licensure fee in an amount not to exceed
 23 two hundred twelve dollars (\$212), which shall include a fee for
 24 the current edition of the Uniform Standards of Professional
 25 Appraisal Practice;
- 26 b. Duplicate certificate fee in an amount not to exceed ten dollars
 27 (\$10); and

- 1 c. Certificate correction fee in an amount not to exceed ten dollars
 2 (\$10); and
 3 4. Roster fee not to exceed fifty dollars (\$50); and
 4 (b) Nonfederally related transactions:
 5 1. Initial application fee in an amount not to exceed one hundred dollars
 6 (\$100);
 7 2. Examination fee in an amount not to exceed one hundred dollars (\$100);
 8 3. a. An annual certificate or licensure renewal fee in an amount not to
 9 exceed one hundred dollars (\$100);
 10 b. Duplicate certificate fee in an amount not to exceed five dollars
 11 (\$5); and
 12 c. Certificate correction fee in an amount not to exceed five dollars
 13 (\$5); and
 14 4. Roster fee not to exceed twenty-five dollars (\$25).
 15 (2) (a) All fees and charges collected by the board under the provisions of this
 16 chapter shall be paid into the Boards of Appraisers [~~Real Estate Appraisers~~
 17 ~~Board's~~] trust and agency account in the State Treasury.
 18 (b) All expenses incurred by the board under the provisions of this chapter,
 19 including compensation to the board members and staff, shall be paid out of
 20 this account, subject to approval of the commissioner [~~board~~].
 21 (c) The provisions of this subsection shall not apply to the fee charged pursuant to
 22 KRS 324A.155, which is required to be included in the appraisal management
 23 company recovery fund and which shall be paid into that fund.
 24 ➔Section 83. KRS 324A.100 is amended to read as follows:
 25 (1) The Kentucky [~~Real Estate Appraisers~~] Board of Appraisers shall require a national
 26 and state criminal background check for each initial application to be a licensed or
 27 certified real property appraiser under the following requirements:

- 1 (a) The applicant shall provide his or her fingerprints to the Department of
2 Kentucky State Police for submission to the Federal Bureau of Investigation
3 after a state criminal background check is conducted;
- 4 (b) The results of the national and state criminal background check shall be sent
5 to the board; and
- 6 (c) Any fee charged by the Department of Kentucky State Police and the Federal
7 Bureau of Investigation shall be an amount no greater than the actual cost of
8 processing the request and conducting the check.
- 9 (2) The board shall issue a license or certification to an applicant authorizing the
10 applicant to act or offer to act as a licensed or certified real property appraiser in this
11 state upon:
- 12 (a) Receipt of a properly completed application;
- 13 (b) Successful completion of all applicable education, experience, and
14 examination;
- 15 (c) Successful completion of all statutory and administrative regulation
16 requirements for licensing and certification of a real property appraiser; and
- 17 (d) Payment of the required application fee.

18 ➔Section 84. KRS 324A.150 is amended to read as follows:

19 As used in KRS 324A.150 to 324A.164, unless the context otherwise requires:

- 20 (1) "Appraisal management company" means a person who performs the actions
21 necessary to administer a network of state-licensed appraisers to fulfill requests for
22 appraisal management services on behalf of a client, whether directly or through the
23 use of software products or online, including but not limited to any of the following
24 actions:
- 25 (a) Recruiting appraisers;
- 26 (b) Contracting with appraisers to perform appraisal services;
- 27 (c) Collecting fees from clients;

- 1 (d) Negotiating fees with appraisers or reimbursing appraisers for appraisal
2 services;
- 3 (e) Receiving appraisal orders and appraisal reports;
- 4 (f) Submitting appraisal reports received from appraisers to the company's
5 clients;
- 6 (g) Reviewing or verifying appraisal reports; or
- 7 (h) Managing the process of having an appraisal performed, including providing
8 related administrative and clerical duties;
- 9 (2) "Appraisal management services" means conducting business by telephone, by
10 electronic means, by mail, or in person, directly or indirectly for compensation or
11 other pecuniary gain or in the expectation of compensation or other pecuniary gain
12 to:
- 13 (a) Solicit, accept, or offer to accept a request for appraisal services; or
- 14 (b) Employ or contract with a licensed or certified appraiser to perform appraisal
15 services;
- 16 (3) "Appraisal services" means the practice of developing an opinion of the value of
17 real estate in conformity with the minimum USPAP standards;
- 18 (4) "Appraiser" means an individual licensed by the board who, for a fee or other
19 consideration, develops and communicates a real estate appraisal or otherwise gives
20 an opinion of the value of real estate or any interest in real estate in conformity with
21 the minimum USPAP standards;
- 22 (5) "Appraiser panel" means a group of independent appraisers who have been selected
23 by an appraisal management company to perform appraisal services for the
24 appraisal management company;
- 25 (6) "Board" means the Kentucky~~[- Real Estate Appraisers]~~ Board of Appraisers
26 established by KRS 324A.015;
- 27 (7) "Client" means a person that contracts with or otherwise enters into an agreement

1 with an appraisal management company for the performance of appraisal services;

2 (8) **"Commissioner" means the commissioner of the Department of Professional**
 3 **Licensing established in KRS Chapter 324B;**

4 (9) "Controlling person" means an individual employed, appointed, or authorized by an
 5 appraisal management company to contract with clients or independent appraisers
 6 for the performance of appraisal services;

7 ~~(10)~~~~(9)~~ "Managing principal" has the same meaning as "controlling person";

8 ~~(11)~~~~(10)~~ "Registrant" means an appraisal management company or person that is
 9 registered or seeking registration under KRS 324A.152; and

10 ~~(12)~~~~(11)~~ "USPAP" means the Uniform Standards of Professional Appraisal Practice.

11 ➔Section 85. KRS 324A.152 is amended to read as follows:

12 (1) A person shall not act or offer to act as an appraisal management company or
 13 perform appraisal management services within the Commonwealth unless registered
 14 by the board.

15 (2) To be registered by the board, a person shall make written application to the board,
 16 submit to a criminal background check as provided in subsection (3) of this section,
 17 pay a filing fee established by the ~~commissioner~~~~board~~, and pay the fee required to
 18 be included in the appraisal management company recovery fund created in KRS
 19 324A.155. The written application shall include the following information:

20 (a) The name, street address, and telephone contact information of the person
 21 seeking registration;

22 (b) 1. If the registrant is a domestic organization, the designation of an agent
 23 for service of process; or

24 2. If the registrant is a foreign organization, documentation that the foreign
 25 organization is authorized to transact business in the Commonwealth
 26 and has appointed an agent for service of process by submitting a copy
 27 of:

- 1 a. The registrant's filing with the Secretary of State appointing an
2 agent for service of process; and
- 3 b. A certificate of authority issued by the Secretary of State.
4 A foreign organization's failure to comply with this paragraph may
5 result in rejection of the application;
- 6 (c) The name, residential street address, and contact information of any person
7 who owns ten percent (10%) or more of the appraisal management company
8 for which registration is being requested;
- 9 (d) The name, residential street address, and contact information of a controlling
10 person or managing principal;
- 11 (e) A certification that the registrant:
- 12 1. Has a system and process in place to verify that any person being added
13 to the appraiser panel of the appraisal management company, or who
14 may be used by the appraisal management company to otherwise
15 perform appraisals, holds a license in good standing in this state under
16 this chapter;
- 17 2. Has a system and process in place to review the work of all appraisers
18 that are performing appraisal services for the appraisal management
19 company on a periodic basis to ensure that the appraisal services are
20 being conducted in accordance with the minimum USPAP standards;
21 and
- 22 3. Maintains a detailed record of each request for appraisal services that it
23 receives and the appraiser that performs the appraisal services for the
24 appraisal management company;
- 25 (f) A certification from the registrant and any partner, member, manager, officer,
26 director, managing principal, controlling person, or person occupying a similar
27 status or performing similar functions, or person directly or indirectly

1 controlling the registrant that:

2 1. The application for registration when filed or after filing contains no
3 statement that, in light of the circumstances under which it was made, is
4 false or misleading with respect to a material fact;

5 2. The person certifying has not violated or failed to comply with KRS
6 324A.154, 324A.156, or 324A.158;

7 3. The person certifying and each person who owns ten percent (10%) or
8 more of the registrant has not pled guilty or nolo contendere to or been
9 found guilty of:

10 a. A felony; or

11 b. Within the past ten (10) years, a misdemeanor involving mortgage
12 lending or real estate appraising, or an offense involving breach of
13 trust or fraudulent or dishonest dealing;

14 4. The person certifying is not permanently or temporarily enjoined by a
15 court of competent jurisdiction from engaging in or continuing any
16 conduct or practice involving appraisal management services or
17 operating an appraisal management company;

18 5. The person certifying is not the subject of an order of the board or any
19 other state's appraisal management company regulatory agency denying,
20 suspending, or revoking the person's privilege to operate as an appraisal
21 management company; and

22 6. The person certifying has not acted as an appraisal management
23 company while not properly registered by the board; and

24 (g) Any other information required by the board.

25 (3) The board shall require a national and state criminal background check on the
26 person certifying under subsection (2)(f) of this section and each person who owns
27 ten percent (10%) or more of the registrant under the following requirements:

- 1 (a) The person certifying and each person who owns ten percent (10%) or more of
2 the registrant shall provide his or her fingerprints to the Department of
3 Kentucky State Police for submission to the Federal Bureau of Investigation
4 after a state criminal background check is conducted;
- 5 (b) The results of the national and state criminal background check shall be sent
6 to the board; and
- 7 (c) Any fee charged by the Department of Kentucky State Police and the Federal
8 Bureau of Investigation shall be an amount no greater than the actual cost of
9 processing the request and conducting the check.
- 10 (4) The board shall issue a certificate of registration to a registrant authorizing the
11 registrant to act or offer to act as an appraisal management company in this state
12 upon:
- 13 (a) Receipt of a properly completed application;
- 14 (b) Payment of the required filing fee;
- 15 (c) Payment of the fee required to be included in the appraisal management
16 company recovery fund; and
- 17 (d) A determination by the board that:
- 18 1. The registrant has not had a previous registration suspended or revoked;
19 and
- 20 2. The activities of the applicant shall be directed and conducted by
21 persons who:
- 22 a. Have not had a previous registration suspended or revoked;
- 23 b. Have not pled guilty or nolo contendere to or been found guilty of
24 a felony; or
- 25 c. Within the past ten (10) years have not pled guilty, pled nolo
26 contendere to, or been found guilty of a misdemeanor involving
27 mortgage lending or real estate appraising or an offense involving

1 a breach of trust or fraudulent or dishonest dealing.

2 (5) (a) If the board finds that there is substantial reason to deny the application for
3 registration, the board shall notify the registrant that the application has been
4 denied and shall afford the registrant an opportunity for a hearing before the
5 board to show cause why the registration should not be denied.

6 (b) All proceedings concerning the denial of a certificate of registration shall be
7 conducted in accordance with KRS Chapter 13B.

8 (c) The acceptance by the board of an application for registration does not
9 constitute the approval of its contents or waive the authority of the board to
10 take disciplinary action under KRS 324A.162.

11 (6) (a) Registrations issued under this section shall be renewed annually.

12 (b) Renewal shall occur on October 31 of each year.

13 (c) If the initial registration occurs less than six (6) months before October 31, the
14 renewal shall not be required until October 31 of the following year, and shall
15 then be renewed on October 31 of each subsequent year ~~thereafter~~.

16 (7) (a) Failure to renew a registration in a timely manner shall result in a loss of
17 authority to operate.

18 (b) A request to reinstate a certificate of registration shall be accompanied by
19 payment of a penalty of fifty dollars (\$50) for each month of delinquency, up
20 to six (6) months after expiration.

21 (c) After six (6) months' delinquency, a new application for registration shall be
22 required.

23 (8) The commissioner~~board~~ shall promulgate administrative regulations to establish
24 standards for the operation of appraisal management companies and for the
25 implementation and enforcement of KRS 324A.150 to 324A.164.

26 ➔Section 86. KRS 324A.154 is amended to read as follows:

27 The commissioner~~board~~ shall promulgate administrative regulations establishing a

1 reasonable filing fee to be paid by each appraisal management company seeking
2 registration under KRS 324A.152. The filing fee shall include the annual fee for inclusion
3 in the national registry maintained by the Appraisal Subcommittee of the Federal
4 Financial Institutions Examination Council.

5 ➔Section 87. KRS 324A.156 is amended to read as follows:

- 6 (1) A registrant that is an organization shall:
- 7 (a) Maintain a registered agent for service of process; and
- 8 (b) Provide to the board the information required by the Secretary of State
9 concerning the organization's agent for service of process. If changes are made
10 to the information required by the Secretary of State, the changes shall be
11 provided to the board within five (5) business days.
- 12 (2) A registrant shall maintain, or cause to be maintained, complete records of requests
13 for appraisal services referred to an appraiser licensed or certified by the board,
14 including without limitation records pertaining to the acceptance of fees from
15 clients and payments to appraisers. The board may inspect records, without prior
16 notice, periodically, or if the board determines that the records are pertinent to an
17 investigation of a complaint against a registrant.
- 18 (3) A registrant shall designate a controlling person or managing principal responsible
19 for ensuring compliance with this section.
- 20 (4) (a) The registrant shall file a form with the board:
- 21 1. Documenting the identity of the person designated as the controlling
22 person or managing principal; and
- 23 2. Certifying the individual's acceptance of the responsibility of a
24 controlling person or managing principal.
- 25 (b) The registrant shall submit a new form to the board within five (5) business
26 days after a change in its controlling person or managing principal.
- 27 (c) An individual registrant who operates as a sole proprietorship is deemed the

1 managing principal under this section.

2 (5) A registrant shall make and keep its accounts, correspondence, memoranda, papers,
3 books, and other records in accordance with administrative regulations promulgated
4 by the commissioner~~board~~. All records shall be retained for five (5) years unless
5 the board establishes a different, longer retention period for particular types of
6 records.

7 (6) The registrant shall disclose, on all invoices, purchase orders, or other documents
8 establishing work to be performed for or compensation due from its clients,
9 itemized actual fees paid to any third party for services performed, including
10 appraisal services, for the client through contract with or arrangement through the
11 registrant. The disclosure shall include:

12 (a) The name of the third party performing the service, including a licensed
13 appraiser performing appraisal services;

14 (b) The nature of the service and itemized fees paid to the third party for appraisal
15 services or any other services performed; and

16 (c) Itemized fees or charges received by the registrant for appraisal management
17 services.

18 If the disclosure~~made~~ becomes inaccurate because of changes to services
19 requested or performed, a revised or amended disclosure shall be provided by the
20 end of the next business day after the change to services has been performed, and
21 the revised or amended disclosure shall be clearly marked as revised or amended
22 and contain sufficient information for the client to identify the original disclosure
23 referenced.

24 (7) The provisions of this section do not exempt the registrant from any other reporting
25 requirements contained within any federal or state law.

26 ➔Section 88. KRS 324A.158 is amended to read as follows:

27 (1) An employee, director, officer, or agent of an appraisal management company or

1 any other third party acting as a joint venture partner with or as an independent
2 contractor for an appraisal management company shall not improperly influence or
3 attempt to improperly influence the development, reporting, result, or review of a
4 real estate appraisal, including but not limited to the use of intimidation, coercion,
5 extortion, bribery, blackmail, threat of nonpayment or withholding payment for
6 appraisal services, or threat of exclusion from future appraisal work.

7 (2) The registrant shall not:

8 (a) Request, allow, or require an appraiser to collect any portion of the fee
9 charged by the appraisal management company, including the appraisal fee,
10 from a borrower, homeowner, or other third party;

11 (b) Require an appraiser to provide the registrant with the appraiser's digital
12 signature or seal;

13 (c) Alter, amend, or change an appraisal report submitted by a licensed or
14 certified appraiser, by the following or any other actions:

15 1. Removing the appraiser's signature;

16 2. Adding or removing information to or from the appraisal report; or

17 3. Altering the final value opinion reported by an appraiser;

18 (d) Remove an appraiser from an appraiser panel without prior written notice to
19 the appraiser. An appraiser may only be removed from an appraiser panel with
20 written notice for:

21 1. A violation of the minimum USPAP standards or other applicable
22 statutes or administrative regulations resulting in a suspension or
23 revocation of the appraiser's license in Kentucky; or

24 2. Other substandard or otherwise improper performance as may be
25 determined by administrative regulations promulgated by the
26 commissioner~~board~~;

27 (e) Enter into contracts or agreements with an appraiser for the performance of

- 1 appraisal services unless the appraiser is licensed or certified in good standing
2 with the board;
- 3 (f) Request that an appraiser provide an estimated, predetermined, or desired
4 valuation in an appraisal report or provide estimated values or comparable
5 sales at any time before the appraiser completes an appraisal report;
- 6 (g) Provide to an appraiser an anticipated, estimated, encouraged, or desired value
7 for a property or a proposed or target amount to be loaned or borrowed, except
8 that a copy of the sales contract for purchase transactions may be provided;
- 9 (h) Commit an act or practice that impairs or attempts to impair an appraiser's
10 independence, objectivity, or impartiality; or
- 11 (i) Have a direct or indirect interest, financial or otherwise, in the property or
12 transaction involving the appraisal.
- 13 (3) Subsection (1) of this section shall not prohibit an appraisal management company
14 from requesting that an appraiser:
- 15 (a) Provide additional information about the basis for a valuation;
16 (b) Correct objective factual errors in an appraisal report; or
17 (c) Provide further detail, substantiation, or explanation for the appraiser's value
18 conclusion.
- 19 ➔Section 89. KRS 324A.160 is amended to read as follows:
- 20 (1) ~~The executive director of the~~ board shall keep a register of all applicants for
21 registration which shall include:
- 22 (a) The date of the application;
23 (b) The applicant's name;
24 (c) The applicant's business address; and
25 (d) The current status of the registration.
- 26 (2) The register shall be prima facie evidence of all matters contained in the register.
- 27 (3) The register shall be kept on file in the office of the board and shall be open for

1 public inspection in accordance with KRS 61.870 to 61.884.

2 ➔Section 90. KRS 324A.162 is amended to read as follows:

- 3 (1) The board may deny, suspend, revoke, or refuse to issue or renew the registration of
4 an appraisal management company, or may restrict or limit the activities of an
5 appraisal management company or of a person who owns an interest in or
6 participates in the business of an appraisal management company if the board finds
7 that any of the following circumstances apply to the applicant, a registrant, a person
8 owning ten percent (10%) or more of the applicant or registrant, a partner, member,
9 manager, officer, director, managing principal, controlling person, a person
10 occupying a similar status or performing similar functions, or a person directly or
11 indirectly controlling the applicant or registrant:
- 12 (a) The application for registration contained a statement that in light of the
13 circumstances under which it was made is false or misleading with respect to
14 a material fact;
- 15 (b) The person has violated or failed to comply with KRS 324A.152, 324A.154,
16 324A.156, or 324A.158 or failed to comply with administrative regulations
17 promulgated by the commissioner~~board~~ for the implementation and
18 enforcement of KRS 324A.150 to 324A.164;
- 19 (c) The person has pled guilty or nolo contendere to, or has been found guilty of,
20 a felony or, within the past ten (10) years, a misdemeanor involving mortgage
21 lending or real estate appraising or an offense involving a breach of trust or
22 fraudulent or dishonest dealing;
- 23 (d) The person is permanently or temporarily enjoined by a court of competent
24 jurisdiction from engaging in or continuing any conduct or practice involving
25 appraisal management services or operating an appraisal management
26 company;
- 27 (e) The person is the subject of an order of the board or any other state's appraisal

1 management company regulatory agency denying, suspending, or revoking the
2 person's privilege to operate as an appraisal management company;

3 (f) The person acted as an appraisal management company while not properly
4 registered by the board; or

5 (g) The person failed to pay the proper filing or renewal fee as provided under
6 KRS 324A.152 and 324A.154.

7 (2) Upon its own motion or the written complaint of a person reporting a violation of
8 subsection (1) of this section, and after notice and the opportunity for a hearing in
9 accordance with KRS Chapter 13B, the board may:

10 (a) Suspend or revoke the registration of a registrant;

11 (b) Impose a fine not to exceed five thousand dollars (\$5,000) per violation; or

12 (c) Take other appropriate disciplinary actions as established by the
13 commissioner~~board~~ through promulgation of administrative regulations.

14 (3) The board may appear in its own name in Franklin Circuit Court, or the Circuit
15 Court of the county where the alleged violation occurred, to obtain injunctive relief
16 to prevent a person from violating this section or KRS 324A.154, 324A.156, or
17 324A.158. The Circuit Court may grant a temporary or permanent injunction
18 regardless of whether:

19 (a) Criminal prosecution has been or may be instituted as a result of the violation;
20 or

21 (b) The person is the holder of a registration issued by the board.

22 ➔Section 91. KRS 324A.163 is amended to read as follows:

23 (1) The board shall administer the appraisal management company recovery fund solely
24 to provide restitution to each Kentucky licensed or certified real property appraiser
25 who has suffered pecuniary loss:

26 (a) As a result of an appraisal management company ceasing to be registered with
27 the board, either voluntarily or involuntarily;

- 1 (b) If an appraiser has received a final judgment from a court of competent
2 jurisdiction within the Commonwealth; and
- 3 (c) If no viable alternative for full restitution is available, as determined by the
4 board.
- 5 (2) Each fund distribution for restitution shall be made payable to the appropriate
6 appraiser as determined by the board. The amount to be paid to the appraiser shall
7 equal the actual amount of appraisal fees that are proven to be owed to the appraiser
8 by the relevant appraisal management company and any reasonable and appropriate
9 court costs associated with determining the final judgment in favor of the appraiser.
10 If the amount of restitution to be paid to any one (1) or more appraisers at any one
11 (1) time exceeds the balance in the fund, the board shall:
- 12 (a) Distribute as much of the restitution amount as possible, which shall be
13 deemed to satisfy in full any claim the relevant appraisers have on payments
14 from the recovery fund; and
- 15 (b) In the case of distributions to more than one (1) appraiser, provide for a pro
16 rata distribution of the available fund balance, which shall be deemed to
17 satisfy in full any claim the relevant appraisers have on payments from the
18 recovery fund.
- 19 (3) Whenever restitution is paid by the fund, the fund shall be subrogated to the amount
20 of the restitution.
- 21 (4) The commissioner~~board~~ shall promulgate administrative regulations in
22 accordance with KRS Chapter 13A to:
- 23 (a) Ensure that the balance of the fund established in KRS 324A.155 shall not fall
24 below three hundred thousand dollars (\$300,000); and
- 25 (b) Impose the fees assessed upon appraisal management companies under KRS
26 324A.155 whenever the balance of the fund is less than three hundred
27 thousand dollars (\$300,000). The board shall cease imposing the fees when

1 the balance of the fund is three hundred thousand dollars (\$300,000).

2 (5) Within one hundred twenty (120) days after the end of each fiscal year, the board
3 shall make public, in accordance with KRS 424.180 and 424.190, a statement of
4 income and expenses of the appraisal management company recovery fund, the
5 details of which are in accordance with generally accepted accounting principles.

6 ➔Section 92. KRS 329A.025 is amended to read as follows:

7 (1) The board shall administer and enforce the provisions of KRS 329A.010 to
8 329A.090 and shall evaluate the qualifications of applicants for licensure and issue
9 licenses.

10 (2) The board shall:

11 (a) Implement the provisions of KRS 329A.010 to 329A.090 through the
12 promulgation of administrative regulations in accordance with the provisions
13 of KRS Chapter 13A;

14 (b) Promulgate administrative regulations to establish fees which shall not exceed
15 the amounts necessary to generate sufficient funds to effectively carry out and
16 enforce the provisions of KRS 329A.010 to 329A.090;

17 (c) Promulgate by administrative regulation an examination to be administered at
18 least twice annually to license applicants. The examination shall be designed
19 to measure knowledge and competence in private investigating, including but
20 not limited to the following subject areas:

21 1. Federal and state constitutional principles;

22 2. Court decisions related to activities which could result in liability for the
23 invasion of privacy or other activities;

24 3. Eavesdropping and related offenses, assault and related offenses, search
25 and seizure laws, and laws regarding unlawful access to a computer;

26 4. General weapons use and concealed weapons laws;

27 5. Additional state criminal laws and related procedures that are relevant to

- 1 the practice of private investigating; and
- 2 6. Additional subject areas as determined by the board; and
- 3 (d) Promulgate by administrative regulation a code of professional practice and
- 4 conduct that shall be based upon generally recognized principles of
- 5 professional ethical conduct and be binding upon all licensees.
- 6 (3) The board may:
- 7 (a) Contract with the Department of Professional Licensing~~[Office of~~
- 8 ~~Occupations and Professions]~~ within the Public Protection Cabinet for the
- 9 provision of administrative services;
- 10 (b) Employ any persons it deems necessary to carry on the work of the board. The
- 11 board may define their duties and fix their compensation;
- 12 (c) Develop or sponsor at least six (6) hours of continuing professional education
- 13 annually;
- 14 (d) Approve and certify a forty (40) hour training class covering the subject areas
- 15 of the licensing examination;
- 16 (e) Renew licenses and require continuing professional education as a condition
- 17 for renewal;
- 18 (f) Waive the examination requirement for any applicant licensed in a reciprocal
- 19 state as prescribed in subsection (3)(m) of this section, who is licensed in
- 20 good standing in that state and meets all of the other requirements of KRS
- 21 329A.035;
- 22 (g) Suspend or revoke licenses, impose supervisory or probationary conditions
- 23 upon licensees, impose administrative disciplinary fines, or issue written
- 24 admonishments or reprimands, or any combination thereof;
- 25 (h) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer
- 26 oaths, and investigate allegations of practices violating the provisions of KRS
- 27 329A.010 to 329A.090;

- 1 (i) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes
2 necessary to carry out the board's functions;
- 3 (j) Organize itself into two (2) panels to separate the functions of inquiry and
4 hearings. Each panel shall have the power to act as either an inquiry or hearing
5 panel. No member serving on the inquiry panel shall serve on the hearing
6 panel for any one (1) particular case. Any final decision of the hearing panel
7 shall be considered as the final decision of the board and the hearing panel
8 may exercise all powers granted to the board pursuant to KRS Chapter 13B;
- 9 (k) Utilize mediation as a technique to resolve disciplinary matters;
- 10 (l) Seek injunctive relief in the Circuit Court of the county where the alleged
11 unlawful practice occurred to stop the unlawful practice of private
12 investigating by unlicensed persons or companies; and
- 13 (m) Negotiate and enter into reciprocal agreements with appropriate officials in
14 other states to permit licensed investigation companies and private
15 investigators who meet or exceed the qualifications established in KRS
16 329A.010 to 329A.090 to operate across state lines under mutually acceptable
17 terms.

18 ➔Section 93. KRS 330.020 is amended to read as follows:

19 As used in this chapter, unless the context otherwise requires:

- 20 (1) "Advertisement" means any written, oral, or electronic communication that:
- 21 (a) Offers real or personal property or any combination thereof by or at auction;
22 or
- 23 (b) Promotes, solicits, induces, or offers to conduct an auction or to provide
24 auction services;
- 25 (2) "Apprentice auctioneer" means any person who is employed or supervised, directly
26 or indirectly, by an auctioneer to deal or engage in any activity in subsection (6) of
27 this section, excluding the authority to enter into an auction listing contract or to

- 1 independently maintain an auction escrow account;
- 2 (3) "Auction" means any method of sale, lease, or exchange of real property, personal
3 property, or any combination thereof, by means of competitively increasing or
4 decreasing bids. Any sale, lease, or exchange of real property, personal property, or
5 any combination thereof, advertised or presented in any way by or at auction, is an
6 auction for the purposes of this chapter;
- 7 (4) (a) "Auction house" means any commercial establishment at which personal
8 property is regularly or customarily offered at auction, or at which personal
9 property is customarily or regularly deposited and accepted, on consignment
10 or otherwise, for sale at auction at a fixed location;
- 11 (b) "Auction house" does not mean:
- 12 1. Those establishments which limit personal property sold in regard to
13 Thoroughbred horses or other horses or any interests therein, including
14 but not limited to horse shares and seasons;
- 15 2. Tobacco and fixed-base livestock markets regulated by the United States
16 Department of Agriculture; or
- 17 3. Fixed-base motor vehicle markets regulated by the Kentucky Motor
18 Vehicle Commission pursuant to KRS Chapter 190;
- 19 (5) "Auction house operator" means the individual principally or ultimately responsible
20 for the operation of an auction house, or in whose principal interest the
21 establishment is operated. The auction house operator is responsible for retaining a
22 licensed auctioneer to call bids at all auctions at the auction house;
- 23 (6) "Auctioneer" or "principal auctioneer" means any person who offers, solicits,
24 negotiates, or attempts to offer, solicit, or negotiate an auction listing contract, sale,
25 lease, or exchange of real property, personal property, or any other item of value, or
26 any combination thereof, which may lawfully be kept or offered for sale, lease, or
27 exchange, or any combination thereof, by or at auction, or who offers the same at

1 auction and who is allowed to supervise and accepts the responsibility of sponsoring
2 one (1) or more apprentice auctioneers;

3 (7) **"Authority" means the Kentucky Real Estate Authority established under KRS**
4 **Chapter 324B;**

5 (8) "Board" means the Board of Auctioneers;

6 (9) **"Commissioner" means the commissioner of the Kentucky Department of**
7 **Professional Licensing;**

8 (10) **"Department" means the Kentucky Department of Professional Licensing**
9 **established under KRS Chapter 324B;**

10 (11)~~(8)~~ "Limited livestock auctioneer" means any auctioneer whose professional
11 activities are limited to the calling of bids at the sale of livestock at fixed-based
12 livestock yards operating under the control and guidance of the United States
13 Department of Agriculture;

14 (12)~~(9)~~ "Personal property" means any tangible or intangible property, goods,
15 services, chattels, merchandise, commodities, or any item of value in any form or
16 type, other than real property, which may be lawfully kept or offered for sale,
17 exchange, or lease;

18 (13)~~(10)~~ "Person" means any individual, association, partnership, corporation, limited
19 liability company, or other business entity, including any officer, director, or
20 employee thereof;

21 (14)~~(11)~~ "Real property" means real estate in its ordinary meaning, including but not
22 limited to timeshares, options, leaseholds, and other interests less than leaseholds of
23 any form or type which may be lawfully kept or offered for sale, exchange, or lease;
24 and

25 (15)~~(12)~~ "Sealed bid auction" means a sealed bidding procedure which incorporates or
26 allows for any competitive increasing or decreasing of bids after the opening of
27 sealed bids. A "sealed bid auction" is an auction subject to the provisions of this

1 chapter.

2 ➔SECTION 94. KRS 330.050 IS REPEALED AND REENACTED TO READ
3 AS FOLLOWS:

- 4 (1) (a) There is hereby created the Kentucky Board of Auctioneers within the
5 Kentucky Real Estate Authority. The board shall consist of five (5)
6 members, each appointed by the Governor. Each board member shall serve
7 a term of three (3) years. The board shall annually select one (1) of its
8 members to serve as chair and one (1) of its members to serve as vice chair
9 to act in the chair's absence.
- 10 (b) Any member appointed to fill a vacancy occurring other than by expiration
11 of a term shall be appointed for the remainder of the unexpired term.
- 12 (c) No more than two (2) auctioneer members of the same political party shall
13 serve on the board at the same time.
- 14 (d) No member of the board shall reside in the same county as another
15 member.
- 16 (e) A majority of the board shall constitute a quorum for the transaction of
17 business.
- 18 (f) No member may serve on the board for more than six (6) consecutive years.
19 A member may serve on the board for six (6) consecutive years on more
20 than one occasion if that person is not a member of the board for at least
21 two (2) years between periods of board service.
- 22 (g) For any board member vacancy that is filled under this section by using a
23 list of names submitted to the Governor, the Governor shall appoint one (1)
24 of the individuals whose name was submitted on the initial list to fill the
25 vacancy, unless the Governor can present indisputable proof that no
26 individual on the list is qualified.
- 27 (2) The five (5) members of the board, all of whom immediately prior to the date of

1 their appointment have been residents of the Commonwealth of Kentucky for five
2 (5) years, shall be chosen as follows:

3 (a) Four (4) members shall be auctioneers licensed under this chapter whose
4 vocation for a period of at least five (5) years has been that of an auctioneer.
5 These members shall each be selected from a list of three (3) names
6 submitted to the Governor from the Kentucky Auctioneer Association.
7 When a vacancy occurs among these member positions, the Kentucky
8 Auctioneer Association shall have thirty (30) days after the vacancy occurs
9 to submit a new list of three (3) names to the Governor to fill the vacancy. If
10 the Kentucky Auctioneer Association fails to timely submit this list to the
11 Governor, the authority shall immediately submit a list of three (3) names to
12 the Governor to fill this vacancy; and

13 (b) One (1) member shall be a citizen at large who is not associated with or
14 financially interested in the practice or business regulated.

15 (3) The commissioner shall promulgate, amend, or repeal administrative regulations
16 relating to the board. The commissioner shall not promulgate, amend, or repeal
17 any administrative regulation relating to the board or its area of jurisdiction
18 unless the board first adopts the proposed actions relating to the administrative
19 regulation.

20 (4) Any action taken by the board, including any decision of the board to deny,
21 suspend, or revoke a license, or to issue a penalty, shall be appealable to the
22 authority. No officer or employee of the Public Protection Cabinet, department,
23 or authority shall attempt to influence or interfere with the board's disciplinary
24 decisions or proceedings.

25 (5) (a) The board shall submit an annual budget to the authority. The board
26 budget shall go into effect if approved by a majority vote of the authority.

27 (b) The board may obtain for its members complete insurance coverage,

1 including but not limited to liability and errors and omissions insurance, so
2 long as the insurance concerns the business of the board.

3 (6) (a) All fees and charges collected by the board under this chapter shall be paid
4 into the State Treasury through the Finance and Administration Cabinet
5 and shall be credited to an agency fund account for the Board of
6 Auctioneers under KRS 45.253 and shall be withdrawn or expended as
7 provided in that section, if the payment, credit, withdrawal, or expense
8 provisions do not conflict with any provision of this chapter.

9 (b) The commissioner may establish through the promulgation of
10 administrative regulations and the board may collect reasonable fees
11 relating to the administration and enforcement of this chapter for
12 application or other processing costs, on-line service, continuing education
13 provider services, copy and mailing services, or other fees necessary to offset
14 the licensing and processing costs.

15 (b) The total expenses for all purposes and obligations of the board shall not
16 exceed the total fees, charges, fines, penalties, and other income imposed
17 under the provisions of this chapter and paid into the state treasury.

18 (c) The board may underwrite, within its financial limitations, educational
19 programs for the enlightenment and benefit of all licensees who have paid
20 fees pursuant to this chapter.

21 (7) The board shall maintain annually a list of the names and addresses of all
22 licensees regulated by the board. This list shall also contain the names of all
23 persons whose licenses have been suspended or revoked within the preceding
24 year, as well as any other information relative to the enforcement of the
25 provisions of this chapter that the board may deem of interest to the public.

26 (8) The authority shall not impose a fine against a licensee who is licensed by the
27 board unless the board has previously approved the imposition of the fine.

1 (9) A board member shall be automatically removed from the board and a vacancy
 2 shall occur when:

3 (a) An auctioneer member of the board ceases to be a licensed auctioneer;

4 (b) A citizen at large member of the board acquires a license regulated by the
 5 board;

6 (c) A board member enters a plea of guilty, an Alford plea, a plea of no contest
 7 to, or has been convicted of, any felony, and the time for appeal has passed
 8 or the judgment of conviction has been finally affirmed on appeal;

9 (d) A board member misses three (3) consecutive meetings or misses more than
 10 twenty-five percent (25%) of the meetings held over the previous twelve (12)
 11 month period; or

12 (e) A board member ceases to be a resident of the Commonwealth of Kentucky.

13 (10) The Governor shall set the compensation of the members of the board, but voting
 14 members of the board shall be compensated no more than three hundred dollars
 15 (\$300) per day for official business, subject to an annual maximum of six
 16 thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid
 17 and incurred in the discharge of official business consistent with the
 18 reimbursement policy for state employees. With the approval of the authority,
 19 board members and board staff may attend and travel to and from meetings and
 20 events relevant to the board and the industry the board represents.

21 ➔Section 95. KRS 330.060 is amended to read as follows:

22 (1) (a) Every applicant for licensure shall be at least eighteen (18) years of age, show
 23 proof of a high school diploma or equivalent, and, within the preceding five
 24 (5) years, shall not have committed any act that constitutes grounds for license
 25 suspension or revocation under this chapter.

26 (b) The board may waive the high school diploma or equivalent requirement for
 27 an apprentice, licensed prior to 1985, applying for an auctioneer license.

- 1 (c) Any license issued pursuant to this chapter shall be granted only to a person
2 found to be of good repute, trustworthy, and competent to transact the
3 business for which the license was granted in a manner requisite to
4 safeguarding the interest of the public.
- 5 (d) Effective July 1, 2015, an applicant for an apprentice auctioneer license or
6 auction house operator's license shall have successfully completed at least
7 twelve (12) hours of approved classroom instruction, consisting of the core
8 course and six (6) additional hours as prescribed by the board, from a board-
9 approved auction education provider.
- 10 (e) The board may waive the twelve (12) hours of approved classroom instruction
11 requirement if the applicant demonstrates sufficient previous auction
12 experience and competency by affidavit or other evidence as required by the
13 board.
- 14 (2) The board is authorized to require information from every applicant to determine
15 the applicant's honesty and truthfulness.
- 16 (3) (a) Every applicant shall successfully complete an examination, conducted by the
17 board or its authorized representative. Every application for examination shall
18 be submitted on board-prepared forms, and each applicant shall furnish
19 pertinent background data as outlined on the forms.
- 20 (b) To defray the cost of administration of the examination, the board shall
21 require each applicant to remit an examination fee established by
22 administrative regulations promulgated by the commissioner~~[board]~~ in
23 accordance with KRS Chapter 13A.
- 24 (c) Examination fees shall be nonrefundable.
- 25 (d) If the applicant is unable to attend the scheduled exam, the examination fee
26 shall be deferred to the next scheduled administration of the examination.
- 27 (e) Upon successful completion of the examination, the applicant shall apply for

1 initial licensure within forty-five (45) days of receiving notice of successfully
2 completing the examination.

3 (f) The examination shall be of the scope and wording sufficient in the judgment
4 of the board to establish the competency of the applicant to act as an
5 auctioneer or other licensee regulated by the board.

6 (4) If a license has been revoked, suspended, or is allowed to expire without renewal,
7 the board may require the applicant to pass the written examination or complete
8 some form of board-approved auction education before a license may be issued.

9 (5) If a license has not been renewed within six (6) months of the expiration date, the
10 board shall require a person to successfully complete the written examination before
11 a license is issued.

12 (6) In addition, every nonresident applicant shall file an irrevocable consent that actions
13 may be commenced against the applicant in any court of competent jurisdiction in
14 the Commonwealth of Kentucky, by the service of any summons, process, or
15 pleadings authorized by law on the authorized representative of the board. The
16 consent shall stipulate and agree that the service of any summons, process, or
17 pleadings on the authorized representative shall be taken and held in all courts to be
18 as valid and binding as if actual service had been made upon the applicant in
19 Kentucky. In case any summons, process, or pleadings are served upon the
20 authorized representative of the board, it shall be by duplicate copies, one (1) of
21 which shall be retained in the office of the board, and the other immediately
22 forwarded by certified mail, return receipt requested, to the last known business
23 address of the applicant against whom the summons, process, or pleadings are
24 directed.

25 ➔Section 96. KRS 330.070 is amended to read as follows:

26 (1) An apprentice auctioneer applying for an auctioneer license shall, subject to the
27 provisions of KRS 330.060:

- 1 (a) Possess a current Kentucky apprentice auctioneer license;
- 2 (b) Serve an apprenticeship for a period of one (1) year as an apprentice
3 auctioneer in Kentucky;
- 4 (c) Submit a statement to the board, signed by the principal auctioneer, verifying
5 that the applicant has actively and materially participated in at least ten (10)
6 auctions prior to application; and
- 7 (d) Successfully complete at least eighty (80) hours of approved classroom
8 instruction from a board-approved auction education provider. The board may
9 waive the eighty (80) hours of approved classroom instruction requirement if
10 the applicant demonstrates sufficient previous auction experience and
11 competency by affidavit or other evidence as required by the board.
- 12 (2) An apprentice auctioneer with an original license issued prior to June 30, 2010, or
13 after July 1, 2015, shall be required to successfully complete the auctioneer
14 examination.
- 15 (3) If an applicant for an auctioneer license resides in a state which does not have a
16 current reciprocity agreement with the board, the board may waive the eighty (80)
17 hour education requirement or the apprenticeship requirement, or both, if the
18 applicant demonstrates sufficient previous auction experience and competency by
19 affidavit or by other evidence as required by the board.
- 20 (4) An applicant for an auctioneer license who has previously held an auctioneer license
21 which has been revoked, suspended, or which has expired without renewal may
22 request, and the board may grant, a waiver of the requirement of possession of a
23 current apprentice license.
- 24 (5) Every application for a license issued by the board shall be submitted on forms
25 prepared by the board. Each applicant shall furnish pertinent background data as
26 outlined on those forms.
- 27 (6) The commissioner~~[board]~~ shall promulgate administrative regulations in

1 accordance with KRS Chapter 13A to establish an initial license fee and annual
2 renewal license fee, neither of which shall exceed one hundred fifty dollars (\$150).

3 (a) All licenses shall expire on the thirtieth day of June.

4 (b) Each license shall be renewed on or before the expiration date.

5 (c) In addition to the renewal fee, a late fee shall be established by administrative
6 regulations promulgated by the commissioner~~board~~ on each license renewed
7 within six (6) months after the expiration date.

8 (d) In the absence of any reason or condition which might warrant the refusal of
9 renewing a license, and upon timely receipt of the renewal form and the
10 annual fee, the board shall issue a license for the ensuing year.

11 (7) (a) The board may require as a condition precedent to the renewal of any license,
12 that each licensee complete continuing education up to ten (10) hours per
13 license year. The board may impose different continuing education
14 requirements upon different classifications of licenses under this chapter. The
15 continuing education requirements in this subsection shall not apply to those
16 auctioneers licensed prior to January 1, 1980.

17 (b) A licensee who has not completed the required continuing education may,
18 within the time period set forth in subsection (6) of this section, remit a fee
19 established by administrative regulations promulgated by the
20 commissioner~~board~~ with the applicable renewal fees, and the continuing
21 education reporting requirement shall be deferred to the next annual renewal.
22 If the licensee fails to meet the continuing education requirement for the next
23 annual renewal, the licensee shall successfully complete the examination
24 before renewal of his or her license.

25 (c) 1. The board may require all licensees to complete a six (6) hour board-
26 approved core course once every four (4) years, that includes the core
27 subjects of Kentucky auction statutes and administrative regulations,

1 ethics, and any other subject matter deemed appropriate by the board.

2 2. Effective July 1, 2016, each licensee with at least twenty-five (25) years
3 of continuous licensure shall be exempt from the requirements of this
4 paragraph.

5 (8) The board shall prepare and deliver to each licensee a pocket license. The pocket
6 license of the apprentice auctioneer shall contain the name and address of his or her
7 principal auctioneer. The board shall also prepare and deliver a license to each
8 auction house operator.

9 (a) Auction house operators shall display their licenses conspicuously and at all
10 times in the auction house identified on the license.

11 (b) All licensees shall carry their pocket licenses, or a digital facsimile thereof,
12 when performing auctioneering tasks, to be shown upon request.

13 (c) A license or pocket license shall be replaced upon the request of the licensee
14 and payment of a replacement fee established by administrative regulations
15 promulgated by the commissioner~~board~~ in accordance with KRS Chapter
16 13A.

17 (9) When an apprentice auctioneer is discharged or voluntarily terminates employment
18 with the auctioneer for any reason:

19 (a) It shall be the immediate duty of the principal auctioneer to deliver to the
20 board a written release of the apprentice auctioneer; and

21 (b) The apprentice auctioneer shall affiliate with a principal auctioneer within
22 thirty (30) days by submitting to the board an affiliation letter signed by the
23 new principal auctioneer and a fee established by administrative regulations
24 promulgated by the commissioner~~board~~ in accordance with KRS Chapter
25 13A.

26 An apprentice auctioneer shall not perform any of the acts regulated by this chapter
27 until receiving a new license bearing a new principal auctioneer's name and address.

- 1 (10) (a) A licensee may place his or her license in escrow with the board if the licensee
2 does not engage in any board-regulated auctioneering activity and continues to
3 pay the annual renewal license fee.
- 4 (b) For each year the license is in escrow, a licensee shall be exempt from the
5 contribution to the auctioneer's education, research, and recovery fund and the
6 continuing education requirement.
- 7 (c) To reactivate a license in escrow, the licensee shall complete the core course
8 and pay a reactivation fee and the annual renewal recovery fee, both of which
9 shall be established by administrative regulations promulgated by the
10 commissioner~~board~~ in accordance with KRS Chapter 13A.
- 11 (11) Notice in writing shall be given to the board by each licensee of any change of
12 principal business location or residence address within ten (10) days of the change,
13 and the board shall issue an updated license for the unexpired period. The board
14 may fine, suspend, or revoke the license of a licensee who does not notify the board
15 of a change of address within ten (10) days. Changing a business or a residence
16 address on its records shall entitle the board to collect a fee established by
17 administrative regulations promulgated by the commissioner~~board~~ in accordance
18 with KRS Chapter 13A.

19 ➔Section 97. KRS 330.110 is amended to read as follows:

20 The board may suspend for a period up to five (5) years or revoke the license of any
21 licensee, or levy fines not to exceed two thousand dollars (\$2,000), with a maximum fine
22 of five thousand dollars (\$5,000) per year arising from any single incident or complaint,
23 against any licensee, or place any licensee on probation for a period of up to five (5)
24 years, or require successful passage of any examination administered by the board, or
25 require successful completion of any course of auction study or auction seminars
26 designated by the board, or issue a formal reprimand, or order any combination of the
27 above, for violation by any licensee of any of the provisions of this chapter, or for any of

- 1 the following causes:
- 2 (1) Obtaining a license through false or fraudulent representation;
 - 3 (2) Making any substantial misrepresentation;
 - 4 (3) Pursuing a continued and flagrant course of misrepresentation or intentionally
5 making false promises or disseminating misleading information through agents or
6 advertising or otherwise;
 - 7 (4) Accepting valuable consideration as an apprentice auctioneer for the performance of
8 any of the acts specified in this chapter, from any person, except his or her principal
9 auctioneer;
 - 10 (5) Failing to account for or remit, within a reasonable time, any money belonging to
11 others that comes into the licensee's possession, commingling funds of others with
12 the licensee's own funds, or failing to keep the funds of others in an escrow or
13 trustee account;
 - 14 (6) Paying valuable consideration to any person for services performed in violation of
15 this chapter, or procuring, permitting, aiding, or abetting any unlicensed person
16 acting in violation of any of the provisions of this chapter;
 - 17 (7) Entering a plea of guilty, an Alford plea, a plea of no contest to, or being convicted
18 of, any felony, and the time for appeal has passed or the judgment of conviction has
19 been finally affirmed on appeal;
 - 20 (8) Violation of any provision of this chapter or any administrative regulation
21 promulgated by the commissioner~~[board]~~;
 - 22 (9) Failure to furnish voluntarily at the time of execution, copies of all written
23 instruments prepared by any licensee to each signatory of the written instrument;
 - 24 (10) Any conduct of a licensee which demonstrates bad faith, dishonesty, incompetence,
25 or untruthfulness;
 - 26 (11) Any other conduct that constitutes improper, fraudulent, dishonest, or negligent
27 dealings;

- 1 (12) Failure to enter into a binding written auction listing contract with the seller or with
 2 the seller's duly authorized agent prior to advertising, promoting, or offering any
 3 real or personal property by or at auction;
- 4 (13) Failure to provide a receipt to all persons consigning personal property with any
 5 licensee for auction;
- 6 (14) Failure to establish and maintain, for a minimum of five (5) years from final
 7 settlement, complete and correct written or electronic records and accounts of all
 8 auction transactions, including:
- 9 (a) Listing contracts, including the name and address of the seller;
- 10 (b) Written purchase contracts;
- 11 (c) Descriptive inventory and final bid amounts of all items or lots offered;
- 12 (d) Buyer registration records; and
- 13 (e) Settlement records, including all moneys received and disbursed and escrow
 14 account activity;
- 15 (15) Failure of any licensee to present any auction-related information, including but not
 16 limited to advertisements, listing contracts, purchase contracts, clerking records,
 17 buyer registration records, settlement records, escrow account information, license,
 18 or any other auction-related information, subsequent to a request by the board, the
 19 department, or appropriate personnel designated by the department~~board's~~
 20 ~~executive director, a board compliance officer, or board counsel~~; or
- 21 (16) Failure of a principal auctioneer to provide supervision to his or her apprentice
 22 auctioneers.
- 23 ➔Section 98. KRS 330.130 is amended to read as follows:
- 24 (1) Before denying an application for license or before imposing any disciplinary action
 25 authorized under KRS 330.110, the board shall set the matter for an administrative
 26 hearing, if a hearing is requested by the applicant or licensee. The hearing shall be
 27 conducted in accordance with KRS Chapter 13B. If the subject of the hearing is an

1 apprentice auctioneer, the board shall also provide notification of the hearing to the
 2 auctioneer employing the apprentice auctioneer~~[him]~~ or whose employ he or she is
 3 about to enter, by sending notice by certified mail, return receipt requested, to the
 4 auctioneer's last known business address.

5 **(2) Any licensure denial, suspension, or revocation and any other penalty issued by**
 6 **the board may be appealed to the authority within thirty (30) days of the**
 7 **appealable action.**

8 **(3) Upon receipt of an appeal, the authority shall schedule the matter for an**
 9 **administrative hearing that shall be conducted in accordance with KRS Chapter**
 10 **13B. The authority may assign a hearing officer to hear the appeal. If the**
 11 **authority assigns a hearing officer, the authority shall retain the authority to**
 12 **issue a final order.**

13 ~~(4)~~~~(2)~~ Any party aggrieved by a final order of the board or authority refusing to
 14 grant a license or suspending or revoking a license may appeal the final order within
 15 thirty (30) days after the issuance of the order to the Franklin Circuit Court or
 16 the Circuit Court of the county in which the applicant or licensee resides, in
 17 accordance with KRS Chapter 13B.

18 ➔Section 99. KRS 330.192 is amended to read as follows:

19 (1) (a) There is hereby created and established in the State Treasury the auctioneer's
 20 education, research, and recovery fund.

21 (b) In addition to the license fees established in KRS 330.070, and KRS 330.095,
 22 the board may assess each licensee a renewal recovery fee established by
 23 administrative regulations promulgated by the commissioner~~[board]~~ in
 24 accordance with KRS Chapter 13A. Each initial applicant shall pay an initial
 25 recovery fee established by administrative regulations promulgated by the
 26 commissioner~~[board]~~ in accordance with KRS Chapter 13A.

27 (2) The purposes of the auctioneer's education, research, and recovery fund shall be as

1 follows:

- 2 (a) When a licensee has been duly found guilty of violating one (1) or more of the
3 provisions of this chapter, or one (1) or more of the administrative regulations
4 duly promulgated by the commissioner~~[board]~~, and upon the conclusion of a
5 final order entered by the board, by the authority, or by the courts, if appealed,
6 the board is authorized to pay to the aggrieved party an amount not to exceed
7 fifty thousand dollars (\$50,000) against any one (1) licensee, if the licensee
8 has refused to pay the claim within twenty (20) days of entry of a final order
9 and provided further that the amount or amounts of money in question are
10 certain and liquidated.
- 11 (b) The board shall maintain a minimum of two hundred fifty thousand dollars
12 (\$250,000) for recovery and guaranty purposes. These funds may be invested
13 and reinvested in the same manner as funds of the State Employees'
14 Retirement System and the interest from said investments shall be deposited
15 to the credit of the research and recovery fund, or, in the discretion of the
16 board, to the agency fund account as set out in KRS 330.050(6). Sufficient
17 liquidity, however, shall be maintained so that money is available to satisfy all
18 claims which may be processed through the board by means of administrative
19 hearing as outlined in this chapter.
- 20 (c) The board may use funds in excess of two hundred fifty thousand dollars
21 (\$250,000), whether from the auctioneer's education, research, and recovery
22 fund fees or accrued interest thereon, for any of the following purposes:
- 23 1. To advance education and research in the auction field for the benefit of
24 those seeking an auctioneer license, those licensed under the provisions
25 of this chapter, and to improve and make more efficient the auction
26 industry;
 - 27 2. To underwrite educational seminars, caravans, and other forms of

- 1 educational projects for the general benefit of licensees;
- 2 3. To establish an auction chair or courses at Kentucky state institutions of
3 higher learning for the purpose of making college or university level
4 courses available to licensees and the general public;
- 5 4. To contract for a particular research project in the auction field for the
6 Commonwealth of Kentucky;
- 7 5. To sponsor, contract for, and to underwrite all other educational and
8 research projects that contribute to the advancement of the auction field
9 in Kentucky;
- 10 6. To cooperate with associations of auctioneers and any other groups for
11 the enlightenment and advancement of Kentucky licensees;
- 12 7. To increase the level of the auctioneer's education, research, and
13 recovery fund above two hundred fifty thousand dollars (\$250,000); and
- 14 8. To augment the regular trust and agency account of the board for
15 purposes of addressing cash flow shortfalls, budget deficits, and for
16 reimbursement of personnel, administrative, operational, and capital
17 expenses incurred by the trust and agency account pursuant to the
18 purposes of the education, research, and recovery fund as provided in
19 this section, an amount not to exceed two hundred fifty thousand dollars
20 (\$250,000) annually.
- 21 (d) Within one hundred twenty (120) days after the end of each fiscal year, the
22 board shall make public, through its Web site or other public media, a
23 statement of income and expenses of the auctioneer's education, research, and
24 recovery fund, the details of which are in accordance with state financial
25 reporting requirements.
- 26 (3) (a) If a licensee is found guilty of one (1) or more provisions of this chapter or of
27 violating one (1) or more of the administrative regulations of the

1 commissioner~~board~~, and if the amount of the money lost by the aggrieved
2 party or parties is in dispute or cannot be determined accurately, then the
3 amount of damages shall be determined by the Circuit Court in the county
4 where the alleged violation took place, provided that the board or the
5 authority has previously determined that a violation of the license laws or of
6 the administrative regulations has occurred and a final order has been entered.

7 (b) If an order has been entered and the license rights of the licensee have been
8 finally adjudicated, then the local Circuit Court shall determine the monetary
9 damages due from the ~~aforesaid~~ violation or violations described in this
10 subsection.

11 (c) When a final order has been entered by the Circuit Court, Court of Appeals, or
12 Supreme Court, and upon certification to the board, the aggrieved party or
13 parties shall be paid an amount not to exceed fifty thousand dollars (\$50,000)
14 by the board, and the license held by the licensee against whom the claim was
15 made by the aggrieved party shall be suspended at least until the licensee has
16 reimbursed the auctioneer's education, research, and recovery fund for all
17 amounts paid to the aggrieved party due to the violation of the licensee.

18 (d) When, upon the final order of the court, the board has paid from the
19 auctioneer's education, research, and recovery fund any sum to the aggrieved
20 party, the board shall be subrogated to all of the rights of the aggrieved party
21 to the extent of the payment and the aggrieved party shall, to the extent of the
22 payment, assign his or her right, title, and interest in the judgment to the
23 board.

24 (e) All claims for monetary damages or relief from the auctioneer's education,
25 research, and recovery fund shall be made in writing and submitted to the
26 board within twelve (12) months of the act of the auctioneer giving rise to the
27 loss. Failure to file a claim within the twelve (12) month period shall bar the

1 claim. Additional evidence shall be submitted by the claimant if required by
2 the board.

3 (f) Notwithstanding any other provisions of this chapter, no unreimbursed
4 amount greater than fifty thousand dollars (\$50,000) shall be paid by the board
5 on account of any one (1) licensee, no matter over how long a time, or for how
6 many claims, and no matter~~[-what]~~ the number of claimants~~[-be]~~ or the size of
7 ~~the~~^{such} claims, individually or in the aggregate. Should the licensee
8 reimburse the fund for all amounts paid, then future claims timely filed with
9 the board concerning different matters may be received pursuant to this
10 section.

11 (g) No claims shall be approved under this section for amounts which, in the
12 aggregate, exceed the maximum payable on account of any one (1) licensee in
13 effect at the time of the act or acts of the licensee giving rise to the claims,
14 except to the extent of said maximum. Statutory increases in the maximum set
15 out in this section do not apply retroactively.

16 (4) All categories of licensees under this chapter are covered under the provisions of
17 this section for the benefit and protection of the public.

18 (5) This section is not intended to substitute for, circumvent, or duplicate other
19 remedies existing at law or otherwise for claimants or potential claimants, but
20 constitutes a last resort for aggrieved persons who would not, but for the provisions
21 of this section, be able to recover their losses by any other means available. The
22 board shall have full discretion to require that claimants exhaust all other remedies
23 prior to proceeding under this section, including but not limited to the remedy of
24 obtaining a judgment by all diligent and appropriate means.

25 ➔Section 100. KRS 334.170 is amended to read as follows:

26 The *Department of Professional Licensing*~~[Office of Occupations and Professions]~~ in
27 the Public Protection Cabinet shall provide administrative aid to the board to assist it in

1 the discharge of its duties.

2 ➔Section 101. KRS 344.385 is amended to read as follows:

3 (1) Where a real estate broker or a real estate salesman has failed to comply with an
4 order issued by the commission or has been found to have committed an unfair
5 housing practice in violation of KRS 344.380, the commission shall notify in
6 writing the **Board of** Real Estate **Professionals**~~[Commission]~~ of the
7 Commonwealth of Kentucky of the failure to comply or violation.

8 (2) In the case of an order with respect to a discriminatory housing practice that
9 occurred in the course of a business subject to licensing or regulation by a state or
10 federal government agency, the commission shall, not later than thirty (30) days
11 after the date of the issuance of the order, or if the order is judicially reviewed,
12 thirty (30) days after the order is in substance affirmed upon review:

13 (a) Send copies of the finding of fact, conclusions of law, and the order to that
14 governmental agency; and

15 (b) Recommend to that governmental agency appropriate disciplinary action,
16 including, where appropriate, the suspension or revocation of the license of
17 the respondent.

18 ➔Section 102. KRS 433.900 is amended to read as follows:

19 As used in KRS 433.900 to 433.906, unless the context otherwise requires:

20 (1) "Applicant" means a secondary metals recycler seeking an application for a
21 certificate of registration with the **Department of Professional Licensing**~~[Office of
22 Occupations and Professions]~~ of the Public Protection Cabinet, as provided in KRS
23 433.902. If the secondary metals recycler is owned by a corporation, limited liability
24 company, partnership, limited partnership, incorporated association, or any other
25 entity organized for the purpose of engaging in business as a secondary metals
26 recycler, "applicant" means the officers of these entities;

27 (2) "Ferrous metals" means any metal containing significant quantities of iron or steel;

- 1 (3) "Nonferrous metals" means metal not containing significant quantities of iron,
2 including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and
3 alloys thereof;
- 4 (4) "Name-based background check" means a statewide search of the centralized
5 criminal history record information system by the Department of Kentucky State
6 Police, utilizing the name, date of birth, and Social Security number of the
7 applicant;
- 8 (5) "Restricted metals" means any of the following metal items:
- 9 (a) Manhole covers;
 - 10 (b) Electric light poles or other utility poles;
 - 11 (c) Guardrails;
 - 12 (d) Street signs, traffic signs, or traffic signals;
 - 13 (e) Whole road tiles;
 - 14 (f) Funeral markers or funeral vases;
 - 15 (g) Railroad equipment, including but not limited to a tie plate, signal house,
16 control box, switch plate, e-clip, or rail tie junction;
 - 17 (h) Condensing or evaporating coils made from copper, aluminum, or aluminum-
18 copper, including the tubing or rods from a heating or air conditioning unit
19 that is not from a window air conditioning unit or automobile air conditioning
20 unit;
 - 21 (i) Stainless steel beer kegs;
 - 22 (j) A catalytic converter or any nonferrous part of a catalytic converter unless
23 purchased as part of a vehicle; or
 - 24 (k) Storm drain covers; and
- 25 (6) (a) "Secondary metals recycler" means:
- 26 1. Any person who is engaged in the business of gathering or obtaining
27 ferrous or nonferrous metals that have served their original economic

- 1 purpose or is in the business of performing the manufacturing process by
2 which ferrous metals or nonferrous metals are converted into raw
3 material products consisting of prepared grades and having an existing
4 or potential monetary value;
- 5 2. Any person who has facilities for performing the manufacturing process
6 by which ferrous metals or nonferrous metals are converted into raw
7 material products consisting of prepared grades and having an existing
8 or potential monetary value, other than by the exclusive use of hand
9 tools, by methods including but not limited to processing, sorting,
10 cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or
11 changing the physical form or chemical content thereof; or
- 12 3. Any recycler, dealer in junk or metals, dealer in secondhand articles,
13 vendor of bottles or rags, or collector of or dealer in articles found in
14 ashes, garbage, or other refuse, whether a dealer, collector, or vendor
15 operates an established place of business or an itinerant business.
- 16 (b) "Secondary metals recycler" shall not include a municipal solid waste
17 department or any entity which has been issued a municipal solid waste
18 transporter license by the Kentucky Transportation Cabinet and which gathers
19 or obtains ferrous or nonferrous metals in a vehicle registered in Kentucky to
20 transport solid waste.
- 21 ➔Section 103. KRS 433.902 is amended to read as follows:
- 22 (1) (a) Each secondary metals recycler shall submit to a name-based background
23 check as provided in subsection (2) of this section and obtain a certificate of
24 registration from the Department of Professional Licensing~~[Office of~~
25 ~~Occupations and Professions]~~ of the Public Protection Cabinet within sixty
26 (60) days of the effective date of administrative regulations promulgated
27 pursuant to this section.

- 1 (b) The application for certificate of registration shall be in a form and format
2 determined by the Department of Professional Licensing~~[Office of~~
3 ~~Occupations and Professions]~~ of the Public Protection Cabinet and shall
4 contain at a minimum the following:
- 5 1. The name of the secondary metals recycling business;
 - 6 2. The name or names of each applicant;
 - 7 3. The address of each secondary metals recycling business owned by the
8 applicant; and
 - 9 4. Contact information for the purposes of KRS 433.906.
- 10 (c) Any person listed on an application for a certificate of registration shall be at
11 least eighteen (18) years of age prior to the date that the application is
12 submitted.
- 13 (d) Any corporation, limited liability company, partnership, limited partnership,
14 incorporated association, or any other entity engaged in business as, or
15 organized for the purpose of engaging in business as, a secondary metals
16 recycler submitting an application shall~~[must]~~ be organized and qualified to
17 do business in the Commonwealth.
- 18 (e) The Department of Professional Licensing~~[Office of Occupations and~~
19 ~~Professions]~~ of the Public Protection Cabinet shall charge each applicant a
20 reasonable fee established by administrative regulation equal to the actual
21 administrative costs of processing an application for a certificate of
22 registration.
- 23 (f) If an applicant is the owner of more than one (1) secondary metals recycling
24 location, the Department of Professional Licensing~~[Office of Occupations~~
25 ~~and Professions]~~ of the Public Protection Cabinet shall charge a fee for each
26 location that is no greater than the actual administrative costs of processing
27 the application for certificate of registration. Upon approval of the application,

1 the *Department of Professional Licensing*~~[Office of Occupations and~~
2 ~~Professions]~~ of the Public Protection Cabinet shall issue a certificate of
3 registration for each location.

4 (g) Each applicant that receives a certificate of registration from the *Department*
5 *of Professional Licensing*~~[Office of Occupations and Professions]~~ of the
6 Public Protection Cabinet as provided in this section shall be required to pay
7 an annual renewal fee equal to the actual administrative costs of processing
8 the renewal of the certificate for registration.

9 (h) The list of secondary metals recyclers registered with the *Department of*
10 *Professional Licensing*~~[Office of Occupations and Professions]~~ of the Public
11 Protection Cabinet as provided in this section shall be public information and
12 available upon written request to the *Department of Professional*
13 *Licensing*~~[Office of Occupations and Professions]~~ of the Public Protection
14 Cabinet.

15 (2) (a) Prior to approval of the application, the *Department of Professional*
16 *Licensing*~~[Office of Occupations and Professions]~~ of the Public Protection
17 Cabinet shall require a name-based background check on each applicant.

18 (b) Each applicant shall provide written authorization to the Department of
19 Kentucky State Police to perform a name-based background check and release
20 the results to the *Department of Professional Licensing*~~[Office of~~
21 ~~Occupations and Professions]~~ of the Public Protection Cabinet.

22 (c) Any request for a name-based background check shall be on a form or through
23 a process approved by the Department of Kentucky State Police, which may
24 charge a fee to be paid by the applicant in an amount no greater than the actual
25 cost of processing the request.

26 (d) The *Department of Professional Licensing*~~[Office of Occupations and~~
27 ~~Professions]~~ of the Public Protection Cabinet shall not issue a certificate of

1 registration to an applicant if the name-based background check results reveal
2 that the applicant has been convicted of, or entered a plea of guilty, an Alford
3 plea, or a plea of nolo contendere to, a felony involving theft, larceny, dealing
4 in stolen property, receiving stolen property, burglary, embezzlement, or
5 obtaining property by false pretenses, any felony drug offense, or knowingly
6 and intentionally violating the laws of the Commonwealth relating to
7 registration as a secondary metals recycler.

8 (3) A secondary metals recycler's certificate of registration shall be conspicuously
9 displayed at the location of the secondary metals recycler listed on the application
10 for certificate of registration or at each location if the secondary metals recycler
11 owns more than one (1) business location.

12 (4) The *Department of Professional Licensing*~~[Office of Occupations and Professions]~~
13 of the Public Protection Cabinet shall promulgate administrative regulations in
14 accordance with KRS Chapter 13A to implement the provisions of this section.

15 (5) The *Department of Professional Licensing*~~[Office of Occupations and Professions]~~
16 of the Public Protection Cabinet shall not be responsible for any disciplinary action
17 against any secondary metals recycler seeking an application for certificate of
18 registration.

19 ➔Section 104. KRS 433.906 is amended to read as follows:

20 (1) A secondary metals recycler shall maintain at its place of business, or otherwise
21 have immediate access to, an e-mail address, facsimile, or other equipment of
22 similar function on which notifications of stolen restricted metals, ferrous metals,
23 and nonferrous metals may be expeditiously received from law enforcement
24 officials or electronic metal theft notification systems.

25 (2) The equipment shall be operable at all times during the secondary metal recycler's
26 customary business hours. The secondary metals recycler shall notify the
27 *Department of Professional Licensing*~~[Office of Occupations and Professions]~~ of

1 the Public Protection Cabinet within two (2) days of any change to the contact
2 information used for the purposes of this section.

3 ➔Section 105. The following KRS sections are repealed:

4 324.2811 Automatic removal of member from commission.

5 324.282 Election of chairperson -- Rules and regulations.

6 324.283 Compensation of commission members.

7 324.284 Employees -- Office -- Equipment and supplies.

8 324A.025 Officers of board -- Meetings -- Compensation.

9 324A.060 Executive director -- Qualifications.

10 ➔Section 106. Of the initial three appointments made to each of the Board of
11 Real Estate Professionals, Board of Appraisers, Board of Auctioneers, and Board of
12 Home Inspectors under Executive Order 2016-859, for each board one board member's
13 term shall expire on October 31, 2017, one board member's term shall expire on October
14 31, 2018, and one board member's term shall expire on October 31, 2019. The person
15 appointed as chair of each of the real property boards in Executive Order 2016-859 shall
16 remain chair for one full year after the date of appointment. The two additional
17 appointments to each board required by Sections 22, 58, 74, and 94 of this Act shall be
18 made to complete the five board member requirement for each board, rather than replace
19 the initial appointments made under Executive Order 2016-859.

20 ➔Section 107. Any member of the Board of Real Estate Professionals, Board of
21 Appraisers, Board of Auctioneers, or Board of Home Inspectors, as those boards existed
22 and were named on November 30, 2016, may continue to serve the board as a nonvoting
23 ex officio member until that member's term expires. Upon expiration of a nonvoting ex
24 officio member's term, the position shall lapse and the number of nonvoting ex officio
25 members shall be reduced accordingly. Nonvoting ex officio members shall be
26 compensated no more than one hundred dollars (\$100) per day for official business,
27 subject to an annual maximum of two thousand dollars (\$2,000). Nonvoting ex officio

1 members shall be reimbursed for all expenses paid and incurred in the discharge of
2 official business consistent with the reimbursement policy for state employees.

3 ➔Section 108. All active personnel employed by the Board of Real Estate
4 Professionals, the Board of Appraisers, the Board of Auctioneers, and the Board of Home
5 Inspectors on November 30, 2016, as those boards existed and were named on that date,
6 are hereby transferred to the Kentucky Real Estate Authority.

7 ➔Section 109. Notwithstanding KRS 12.028(5), the General Assembly confirms
8 Executive Order 2016-859, dated December 1, 2016, and Executive Order 20163-881,
9 dated December 14, 2016, to the extent not otherwise confirmed or superseded by this
10 Act.