

1 AN ACT relating to administrative regulations.

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

3 ➔Section 1. KRS 13A.010 is amended to read as follows:

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

- 5 (1) "Administrative body" means each state board, bureau, cabinet, commission,
6 department, authority, officer, or other entity, except the General Assembly and the
7 Court of Justice, authorized by law to promulgate administrative regulations;
- 8 (2) "Administrative regulation" means each statement of general applicability
9 promulgated by an administrative body that implements, interprets, or prescribes
10 law or policy, or describes the organization, procedure, or practice requirements of
11 any administrative body. The term includes an existing administrative regulation, a
12 new administrative regulation, an emergency administrative regulation, an
13 administrative regulation in contemplation of a statute, and the amendment or repeal
14 of an existing administrative regulation, but does not include:
- 15 (a) Statements concerning only the internal management of an administrative
16 body and not affecting private rights or procedures available to the public;
- 17 (b) Declaratory rulings;
- 18 (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
- 19 (d) Statements relating to acquisition of property for highway purposes and
20 statements relating to the construction or maintenance of highways; or
- 21 (e) Rules, regulations, and policies of the governing boards of institutions that
22 make up the postsecondary education system defined in KRS 164.001
23 pertaining to students attending or applicants to the institutions, to faculty and
24 staff of the respective institutions, or to the control and maintenance of land
25 and buildings occupied by the respective institutions;
- 26 (3) "Adopted" means that an administrative regulation has become effective in
27 accordance with the provisions of this chapter;

- 1 (4) "Authorizing signature" means the signature of the head of the administrative body
2 authorized by statute to promulgate administrative regulations;
- 3 (5) "Commission" means the Legislative Research Commission;
- 4 (6) "Effective" means that an administrative regulation has completed the legislative
5 subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- 6 (7) "Federal mandate" means any federal constitutional, legislative, or executive law or
7 order that requires or permits any administrative body to engage in regulatory
8 activities that impose compliance standards, reporting requirements, recordkeeping,
9 or similar responsibilities upon entities in the Commonwealth;
- 10 (8) "Federal mandate comparison" means a written statement containing the
11 information required by KRS 13A.245;
- 12 (9) "Filed" or "promulgated" means that an administrative regulation, or other
13 document required to be filed by this chapter, has been submitted to the
14 Commission in accordance with this chapter;
- 15 (10) **"Last effective date" means the latter of:**
16 **(a) The most recent date an ordinary administrative regulation became**
17 **effective, without including the date a technical amendment was made**
18 **pursuant to subsection (10) of Section 2 of this Act or KRS 13A.2255(2) or**
19 **13A.312; or**
20 **(b) The date a certification letter was filed with the regulations compiler for**
21 **that administrative regulation pursuant to subsection (4) of Section 5 of this**
22 **Act, if the letter stated that the administrative regulation shall remain in**
23 **effect without amendment.**
- 24 **(11)** "Local government" means and includes a city, county, urban-county, charter
25 county, consolidated local government, special district, or a quasi-governmental
26 body authorized by the Kentucky Revised Statutes or a local ordinance;
- 27 **(12)**~~**(11)**~~ "Proposed administrative regulation" means an administrative regulation that:

1 (a) Has been filed by an administrative body; and

2 (b) Has not become effective or been withdrawn;

3 ~~(13)~~~~(12)~~ "Regulatory impact analysis" means a written statement containing the
4 provisions required by KRS 13A.240;

5 ~~(14)~~~~(13)~~ "Small business" means a business entity, including its affiliates, that:

6 (a) Is independently owned and operated; and

7 (b) 1. Employs fewer than one hundred fifty (150) full-time employees or their
8 equivalent; or

9 2. Has gross annual sales of less than six million dollars (\$6,000,000);

10 ~~(15)~~~~(14)~~ "Statement of consideration" means the document required by KRS 13A.280
11 in which the administrative body summarizes the comments received, its responses
12 to those comments, and the action taken, if any, as a result of those comments and
13 responses;

14 ~~(16)~~~~(15)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee,
15 any other subcommittee of the Legislative Research Commission, an interim joint
16 committee, or a House and Senate standing committee;

17 ~~(17)~~~~(16)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular
18 circumstances surrounding regulated entities; and

19 ~~(18)~~~~(17)~~ "Written comments" means comments submitted to the administrative body's
20 contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United
21 States mail, e-mail, or facsimile and may include but is not limited to comments
22 submitted internally from within the promulgating administrative body or from
23 another administrative body.

24 ➔Section 2. KRS 13A.040 is amended to read as follows:

25 The director of the Legislative Research Commission shall appoint an administrative
26 regulations compiler who shall:

27 (1) Receive administrative regulations, and other documents required to be filed by the

- 1 provisions of this chapter, tendered for filing;
- 2 (2) Stamp administrative regulations tendered for filing with the time and date of
3 receipt;
- 4 (3) Provide administrative and support services to the subcommittee;
- 5 (4) Maintain a file of administrative regulations and other documents required to be
6 filed by this chapter, for public inspection, with suitable indexes;
- 7 (5) Maintain a file of ineffective administrative regulations;
- 8 (6) Maintain a file of material incorporated by reference, including superseded or
9 ineffective material incorporated by reference;
- 10 (7) Prepare the Kentucky Administrative Regulations Service;
- 11 (8) Upon request, certify copies of administrative regulations and other documents that
12 have been filed with the regulations compiler;
- 13 (9) Correct errors that do not change the substance of an administrative regulation,
14 including, but not limited to, typographical errors, errors in format, and grammatical
15 errors;
- 16 (10) Change items in an administrative regulation in response to a specific written
17 request for a technical amendment submitted by the administrative body if the
18 regulations compiler determines that the requested changes do not affect the
19 substance of the administrative regulation. Examples of technical amendments
20 include the address of the administrative body, citations to statutes or other
21 administrative regulations if a format change within that statute or administrative
22 regulation has changed the numbering or lettering of parts, or other changes in
23 accordance with KRS 13A.312;
- 24 (11) Refuse to accept for filing administrative regulations, and other documents required
25 to be filed by this chapter, that do not conform to the drafting, formatting, or filing
26 requirements established by the provisions of KRS 13A.190(4) to (10), 13A.220,
27 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body

1 in writing of the reasons for refusing to accept an administrative regulation for
 2 filing;

3 **(12) Maintain a list of all administrative regulation numbers and the corresponding**
 4 **last effective date, based on the information included in the history line of each**
 5 **administrative regulation;** and

6 **(13)**~~(12)~~ Perform other duties required by the Commission or by a subcommittee.

7 ➔Section 3. KRS 13A.310 is amended to read as follows:

8 (1) **Except as provided in Sections 4 and 5 of this Act,** an administrative regulation,
 9 once adopted, cannot be withdrawn but shall be repealed if it is desired that it no
 10 longer be effective.

11 (2) **Except as provided in Sections 4 and 5 of this Act,** an administrative regulation,
 12 once adopted, cannot be suspended but shall be repealed if it is desired to suspend
 13 its effect.

14 (3) (a) An administrative regulation shall be repealed only by the promulgation of an
 15 administrative regulation that:

- 16 1. Is titled "Repeal of (state number of administrative regulation to be
 17 repealed)";
- 18 2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND
 19 CONFORMITY" paragraph;
- 20 3. Includes in the body of the administrative regulation, a citation to the
 21 number and title of the administrative regulation or regulations being
 22 repealed; and
- 23 4. Meets the filing and formatting requirements of KRS 13A.220.

24 (b) 1. Except as provided in subparagraph 2. of this paragraph, on the effective
 25 date of an administrative regulation that repeals an administrative
 26 regulation, determined in accordance with KRS 13A.330 or 13A.331,
 27 the regulations compiler shall delete the repealed administrative

1 regulation and the repealing administrative regulation from the
2 Kentucky Administrative Regulations Service.

3 2. If the repealing administrative regulation specifies an effective date that
4 is after the administrative regulation would become effective pursuant to
5 KRS 13A.330 or 13A.331, the specified effective date shall be
6 considered the effective date of the repealing administrative regulation.
7 On the specified effective date, the regulations compiler shall delete the
8 repealed administrative regulation and the repealing administrative
9 regulation from the Kentucky Administrative Regulations Service.

10 (c) An administrative body may repeal more than one (1) administrative
11 regulation in an administrative regulation promulgated pursuant to paragraph
12 (a) of this subsection if the administrative regulations being repealed are
13 contained in the same chapter of the Kentucky Administrative Regulations
14 Service.

15 (4) (a) An ordinary administrative regulation may be withdrawn by the promulgating
16 administrative body at any time prior to its adoption.

17 (b) An ordinary administrative regulation that has been found deficient may be
18 withdrawn by the promulgating administrative body at any time prior to
19 receipt by the regulations compiler of the determination of the Governor made
20 pursuant to KRS 13A.330 or 13A.331 or may be withdrawn by the Governor.

21 (c) If an ordinary administrative regulation is withdrawn, the administrative body
22 or the Governor shall inform the regulations compiler of the reasons for
23 withdrawal in writing.

24 (5) Once an ordinary administrative regulation is withdrawn, it shall not be reinstated,
25 except by repromulgation as a totally new matter.

26 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO
27 READ AS FOLLOWS:

- 1 (1) An ordinary administrative regulation with a last effective date on or after July 1,
 2 2012, shall expire seven (7) years after its last effective date, except as provided by
 3 the certification process in Section 5 of this Act.
- 4 (2) An ordinary administrative regulation with a last effective date before July 1,
 5 2012 shall expire on July 1, 2019, except as provided by the certification process
 6 in Section 5 of this Act.
- 7 (3) For all administrative regulations that expire under this section or Section 5 of
 8 this Act, the regulations compiler shall:
- 9 (a) Delete them from the Kentucky Administrative Regulations Service;
 10 (b) Add them to the list of ineffective administrative regulations; and
 11 (c) Beginning on January 1, 2020, and at least once every six (6) months
 12 thereafter, publish a list of administrative regulations that have expired
 13 since the most recent previous list was published under this paragraph.
- 14 (4) Within three (3) months of the effective date of this Act, and at least once every
 15 six (6) months thereafter, the regulations compiler shall publish a list of existing
 16 administrative regulations and their corresponding last effective dates.

17 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO
 18 READ AS FOLLOWS:

- 19 (1) If an administrative body does not want an administrative regulation to expire
 20 under Section 4 of this Act, the administrative body shall:
- 21 (a) Review the administrative regulation in its entirety for compliance with the
 22 requirements of KRS Chapter 13A and current law governing the subject
 23 matter of the administrative regulation; and
- 24 (b) Prior to the expiration date, file a certification letter with the regulations
 25 compiler stating whether the administrative regulation shall be amended or
 26 remain in effect without amendment.
- 27 (2) The certification letter shall be on the administrative body's official letterhead, in

1 the format prescribed by the regulations compiler, and include the following
2 information:

3 (a) The name of the administrative body;

4 (b) The number of the administrative regulation;

5 (c) The title of the administrative regulation;

6 (d) A statement that:

7 1. The administrative body shall be amending the administrative
8 regulation; or

9 2. The administrative regulation shall remain in effect without
10 amendment; and

11 (e) A brief statement in support of the decision.

12 (3) (a) If the certification letter was filed pursuant to subsection (1)(b) of this
13 section, stating that the administrative regulation shall be amended, the
14 administrative body shall file an amendment to the administrative
15 regulation in accordance with KRS Chapter 13A within eighteen (18)
16 months of the date the certification letter was filed.

17 (b) If the amendment was filed in accordance with paragraph (a) of this
18 subsection:

19 1. The administrative regulation shall not expire if it is continuing
20 through the administrative regulations process; or

21 2. The administrative regulation shall expire on the date the amendment
22 is withdrawn or otherwise ceases going through the administrative
23 regulations process.

24 (c) Once the amendment is effective, the regulations compiler shall update the
25 last effective date for that administrative regulation to reflect the
26 amendment's effective date.

27 (4) If the certification letter was filed pursuant to subsection (1)(b) of this section,

1 stating that the administrative regulation shall remain in effect without
2 amendment, the regulations compiler shall:

3 (a) Update the administrative regulation's history line to state that a
4 certification letter was received; and

5 (b) Change the last effective date of the administrative regulation to the date
6 the certification letter was received.

7 (5) If filed by the deadline established in KRS 13A.050(3), the regulations compiler
8 shall publish in the Administrative Register of Kentucky each certification letter
9 received:

10 (a) In summary format; or

11 (b) In its entirety.