

1 AN ACT relating to civil rights.

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

3 ➔Section 1. KRS 344.010 is amended to read as follows:

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

- 5 (1) ***"Commission" means the Kentucky Commission on Human Rights;***~~Person"~~
6 ~~includes one (1) or more individuals, labor organizations, joint apprenticeship~~
7 ~~committees, partnerships, associations, corporations, legal representatives, mutual~~
8 ~~companies, joint stock companies, trusts, unincorporated organizations, trustees,~~
9 ~~trustees in bankruptcy, fiduciaries, receivers, or other legal or commercial entity; the~~
10 ~~state, any of its political or civil subdivisions or agencies.]~~
- 11 (2) ***"Commissioner" means a member of the commission;***~~Commission" means the~~
12 ~~Kentucky Commission on Human Rights.]~~
- 13 (3) ***"Credit transaction" means any open-end or closed-end credit transaction,***
14 ***whether in the nature of a loan, retail installment transaction, credit card issue or***
15 ***charge, or otherwise, and whether for personal or for business purposes, in***
16 ***which a service, finance, or interest charge is imposed, or which provides for***
17 ***repayment in scheduled payments, when the credit is extended in the course of***
18 ***the regular course of any trade or commerce, including but not limited to***
19 ***transactions by banks, savings and loan associations, or other financial lending***
20 ***institutions of whatever nature, by stockbrokers, or by a merchant or mercantile***
21 ***establishment which as part of its ordinary business permits or provides that***
22 ***payment for purchases of property or services therefrom may be***
23 ***deferred;***~~Commissioner" means a member of the commission.]~~
- 24 (4) "Disability" means, with respect to an individual:
- 25 (a) A physical or mental impairment that substantially limits one (1) or more of
- 26 the major life activities of the individual;
- 27 (b) A record of such an impairment; or

1 (c) Being regarded as having such an impairment.

2 Persons with current or past controlled substances abuse or alcohol abuse problems
3 and persons excluded from coverage by the Americans with Disabilities Act of
4 1990, Pub. L. No.~~[(P.L.)~~ 101-336, as amended,~~]~~ shall be excluded from this
5 section;~~[-]~~

6 (5) "Discrimination" means any direct or indirect act or practice of exclusion,
7 distinction, restriction, segregation, limitation, refusal, denial, or any other act or
8 practice of differentiation or preference in the treatment of a person or persons, or
9 the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under
10 this chapter;~~[-]~~

11 (6) "Discriminatory housing practice" means an act that is unlawful under Section
12 18, 19, 20, 21, or 23 of this Act;~~[Real property" includes buildings, structures, real~~
13 ~~estate, lands, tenements, leaseholds, cooperatives, condominiums, and~~
14 ~~hereditaments, corporeal and incorporeal, or any interest in the above.]~~

15 (7) (a) "Familial status" means one (1) or more individuals who have not attained
16 the age of eighteen (18) years and are domiciled with:
17 1. A parent or another person having legal custody of the individual or
18 individuals; or
19 2. The designee of a parent or other person having custody, with the
20 written permission of the parent or other person.

21 (b) The protection afforded against discrimination on the basis of familial
22 status shall apply to any person who is pregnant or is in the process of
23 securing legal custody of any individual who has not attained the age of
24 eighteen (18) years;~~["Housing accommodations" includes improved and~~
25 ~~unimproved property and means any building, structure, lot or portion thereof,~~
26 ~~which is used or occupied, or is intended, arranged, or designed to be used or~~
27 ~~occupied as the home or residence of one (1) or more families, and any vacant~~

1 land which is offered for sale or lease for the construction or location thereon
2 of any such building or structure.]

3 (8) **"Family" includes a single individual;**[Real estate operator" means any individual
4 or combination of individuals, labor organizations, joint apprenticeship committees,
5 partnerships, associations, corporations, legal representatives, mutual companies,
6 joint stock companies, trusts, unincorporated organizations, trustees in bankruptcy,
7 receivers, or other legal or commercial entity, the county, or any of its agencies, that
8 is engaged in the business of selling, purchasing, exchanging, renting, or leasing
9 real estate, or the improvements thereon, including options, or that derives income,
10 in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate;
11 or an individual employed by or acting on behalf of any of these.]

12 (9) **"Financial institution" means a bank, banking organization, mortgage company,**
13 **insurance company, or other lender to whom application is made for financial**
14 **assistance for the purchase, lease, acquisition, construction, rehabilitation,**
15 **repair, maintenance, or improvement of real property, or an individual employed**
16 **by or acting on behalf of any of these;**[Real estate broker" or "real estate salesman"
17 means any individual, whether licensed or not, who, on behalf of others, for a fee,
18 commission, salary, or other valuable consideration, or who with the intention or
19 expectation of receiving or collecting the same, lists, sells, purchases, exchanges,
20 rents, or leases real estate, or the improvements thereon, including options, or who
21 negotiates or attempts to negotiate on behalf of others such an activity; or who
22 advertises or holds himself out as engaged in these activities; or who negotiates or
23 attempts to negotiate on behalf of others a loan secured by mortgage or other
24 encumbrance upon a transfer of real estate, or who is engaged in the business of
25 charging an advance fee or contracting for collection of a fee in connection with a
26 contract whereby he undertakes to promote the sale, purchase, exchange, rental, or
27 lease of real estate through its listing in a publication issued primarily for this

1 purpose; or any person employed by or acting on behalf of any of these.]

2 (10) **"Gender identity" means having or being perceived as having a gender identity or**
3 **expression, whether or not traditionally associated with the sex assigned to that**
4 **person at birth;**[Financial institution" means bank, banking organization, mortgage
5 company, insurance company, or other lender to whom application is made for
6 financial assistance for the purchase, lease, acquisition, construction, rehabilitation,
7 repair, maintenance, or improvement of real property, or an individual employed by
8 or acting on behalf of any of these.]

9 (11) **"Housing accommodations" includes improved and unimproved property and**
10 **means any building, structure, lot, or portion thereof which is used or occupied,**
11 **or is intended, arranged, or designed to be used or occupied, as the home or**
12 **residence of one (1) or more families, and any vacant land which is offered for**
13 **sale or lease for the construction or location thereon of any such building or**
14 **structure;**

15 **(12)** "Licensing agency" means any public or private organization which has as one (1)
16 of its duties the issuing of licenses or the setting of standards which an individual
17 must hold or must meet as a condition to practicing a particular trade or profession
18 or to obtaining certain employment within **this Commonwealth**[the state] or as a
19 condition to competing effectively with an individual who does hold a license or
20 meet the standards;[-]

21 [~~(12) "Credit transaction" shall mean any open or closed end credit transaction whether in~~
22 ~~the nature of a loan, retail installment transaction, credit card issue or charge, or~~
23 ~~otherwise, and whether for personal or for business purposes, in which a service,~~
24 ~~finance, or interest charge is imposed, or which provides for repayment in scheduled~~
25 ~~payments, when such credit is extended in the course of the regular course of any~~
26 ~~trade or commerce, including but not limited to transactions by banks, savings and~~
27 ~~loan associations, or other financial lending institutions of whatever nature, stock~~

1 ~~brokers, or by a merchant or mercantile establishment which as part of its ordinary~~
2 ~~business permits or provides that payment for purchases of property or services~~
3 ~~therefrom may be deferred.]~~

4 (13) *"Local commission" means a local human rights commission created pursuant*
5 *to Section 17 of this Act;*

6 (14) *"Person" includes one (1) or more individuals, labor organizations, joint*
7 *apprenticeship committees, partnerships, associations, corporations, legal*
8 *representatives, mutual companies, joint stock companies, limited liability*
9 *companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy,*
10 *fiduciaries, receivers, or other legal or commercial entity, or the Commonwealth*
11 *and any of its political or civil subdivisions or agencies;*~~["To rent" means to lease,~~
12 ~~to sublease, to let, or otherwise to grant for a consideration the right to occupy~~
13 ~~premises not owned by the occupant.]~~

14 (15)~~(14)~~ *"Real estate broker" or "real estate salesman" means any individual,*
15 *whether licensed or not, who, on behalf of others, for a fee, commission, salary,*
16 *or other valuable consideration, or who with the intention or expectation of*
17 *receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases*
18 *real estate, or the improvements thereon, including options, or who negotiates or*
19 *attempts to negotiate on behalf of others such an activity; or who advertises or*
20 *holds himself or herself out as engaged in these activities; or who negotiates or*
21 *attempts to negotiate on behalf of others a loan secured by mortgage or other*
22 *encumbrance upon a transfer of real estate; or who is engaged in the business of*
23 *charging an advance fee or contracting for collection of a fee in connection with*
24 *a contract whereby he or she undertakes to promote the sale, purchase, exchange,*
25 *rental, or lease of real estate through its listing in a publication issued primarily*
26 *for this purpose; or any person employed by or acting on behalf of any of*
27 *these;*~~["Family" includes a single individual.]~~

1 ~~(16)~~~~(15)~~ ~~(a)~~ "Real estate operator" means any individual or combination of
 2 individuals, labor organizations, joint apprenticeship committees, partnerships,
 3 associations, corporations, legal representatives, mutual companies, joint stock
 4 companies, limited liability companies, trusts, unincorporated organizations,
 5 trustees in bankruptcy, receivers, or other legal or commercial entity, the county,
 6 or any of its agencies, that is engaged in the business of selling, purchasing,
 7 exchanging, renting, or leasing real estate, or the improvements thereon,
 8 including options, or that derives income, in whole or in part, from the sale,
 9 purchase, exchange, rental, or lease of real estate; or an individual employed by
 10 or acting on behalf of any of these;~~["Familial status" means one (1) or more~~
 11 ~~individuals who have not attained the age of eighteen (18) years and are domiciled~~
 12 ~~with:~~

- 13 1. ~~A parent or another person having legal custody of the individual or~~
 14 ~~individuals; or~~
 15 2. ~~The designee of a parent or other person having custody, with the~~
 16 ~~written permission of the parent or other person.~~

17 ~~(b) The protection afforded against discrimination on the basis of familial status~~
 18 ~~shall apply to any person who is pregnant or is in the process of securing legal~~
 19 ~~custody of any individual who has not attained the age of eighteen (18) years.]~~

20 ~~(17)~~~~(16)~~ "Real estate-related transaction" means any of the following:

- 21 (a) The making or purchasing of loans or providing other financial assistance:
 22 1. For purchasing, constructing, improving, repairing, or maintaining a
 23 housing accommodation; or
 24 2. Secured by real estate; or
 25 (b) The selling, brokering, or appraising of real property, except that a person
 26 engaged in the business of furnishing appraisals of real property may take
 27 into consideration factors other than race, color, religion, national origin,

1 sex, sexual orientation, gender identity, disability, or familial
 2 status; [~~Discriminatory housing practice" means an act that is unlawful under~~
 3 ~~KRS 344.360, 344.367, 344.370, 344.380, or 344.680.]~~

4 (18) "Real property" includes buildings, structures, real estate, lands, tenements,
 5 leaseholds, cooperatives, condominiums, and hereditaments, corporeal and
 6 incorporeal, or any interest in them;

7 (19) "Sexual orientation" means an individual's actual or imputed heterosexuality,
 8 homosexuality, or bisexuality; and

9 (20) "To rent" means to lease, to sublease, to let, or otherwise to grant for a
 10 consideration the right to occupy premises not owned by the occupant.

11 ➔ Section 2. KRS 344.020 is amended to read as follows:

12 (1) The general purposes of this chapter are:

13 (a) To provide for execution within the Commonwealth^[state] of the policies
 14 embodied in the~~[Federal]~~ Civil Rights Act of 1964, Pub. L. No. 88-352, as
 15 amended~~[(78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968~~
 16 ~~(82 Stat. 81)]~~, the Fair Housing Act, Pub. L. No. 90-284, as amended~~[(42~~
 17 ~~U.S.C. 360)]~~, the~~[Federal]~~ Age Discrimination in Employment Act of 1967,
 18 Pub. L. No. 90-202, as amended~~[(81 Stat. 602)]~~, the Americans with
 19 Disabilities Act of 1990, Pub. L. No.~~[(P.L.] 101-336[)]~~, as amended, and the
 20 Civil Rights Act of 1991, Pub. L. No. 102-166~~[as amended (P.L. 102-166,~~
 21 ~~amended by P.L. 102-392)]~~;

22 (b) To safeguard all individuals within the Commonwealth^[state] from
 23 discrimination because of familial status, race, color, religion, national origin,
 24 sex, sexual orientation, gender identity, age forty (40) and over, or because of
 25 the person's status as a qualified individual with a disability as defined in~~[~~
 26 ~~KRS 344.010 and]~~ KRS 344.030; thereby to protect their interest in personal
 27 dignity and freedom from humiliation, to make available to the

1 Commonwealth^[state] their full productive capacities, to secure the
 2 Commonwealth^[state] against domestic strife and unrest which would menace
 3 its democratic institutions, to preserve the public safety, health, and general
 4 welfare, and to further the interest, rights, and privileges of individuals within
 5 the Commonwealth^[state]; **and**

6 (c) To establish as the policy of the Commonwealth the safeguarding of the rights
 7 of an individual selling or leasing his primary residence through private sale
 8 without the aid of any real estate operator, broker, or salesman and without
 9 advertising or public display.

10 (2) This chapter shall be construed to further the general purposes stated in this section
 11 and the special purposes of the particular provision involved.

12 (3) Nothing in this chapter shall be construed as indicating an intent to exclude local
 13 laws on the same subject matter not inconsistent with this chapter.

14 (4) Nothing contained in this chapter shall be deemed to repeal any other law of this
 15 Commonwealth^[state] relating to discrimination because of familial status, race,
 16 color, religion, national origin, sex, **sexual orientation, gender identity,** age forty
 17 (40) and over, or because of the person's status as a qualified individual with a
 18 disability as defined in KRS 344.030.

19 ➔Section 3. KRS 344.025 is amended to read as follows:

20 No provision in KRS Chapter 18A shall be construed to preclude any classified or
 21 unclassified state employee from appealing to the personnel board any action alleged to
 22 be in violation of laws prohibiting discrimination based on **an individual's**^{[a person's}
 23 ~~status as a qualified individual with a disability,]~~ sex, **sexual orientation, gender identity,**
 24 age, religion, ~~or]~~ race, or national origin, **or because the person is a qualified individual**
 25 **with a disability as defined in KRS 344.030,** in accordance with this chapter.

26 ➔Section 4. KRS 344.040 is amended to read as follows:

27 (1) It is an unlawful practice for an employer:

- 1 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to
2 discriminate against an individual with respect to compensation, terms,
3 conditions, or privileges of employment, because of the individual's race,
4 color, religion, national origin, sex, sexual orientation, gender identity, age
5 forty (40) and over, because the person is a qualified individual with a
6 disability, or because the individual is a smoker or nonsmoker, as long as the
7 individual~~person~~ complies with any workplace policy concerning smoking;
- 8 (b) To limit, segregate, or classify employees in any way which would deprive or
9 tend to deprive an individual of employment opportunities or otherwise
10 adversely affect status as an employee, because of the individual's race, color,
11 religion, national origin, sex, sexual orientation, gender identity, or age forty
12 (40) and over, because the person is a qualified individual with a disability, or
13 because the individual is a smoker or nonsmoker, as long as the
14 individual~~person~~ complies with any workplace policy concerning smoking;
15 or
- 16 (c) To require as a condition of employment that any employee or applicant for
17 employment abstain from smoking or using tobacco products outside the
18 course of employment, as long as the person complies with any workplace
19 policy concerning smoking.
- 20 (2) (a) A difference in employee contribution rates for smokers and nonsmokers in
21 relation to an employer-sponsored health plan shall not be deemed to be an
22 unlawful practice in violation of this section.
- 23 (b) The offering of incentives or benefits offered by an employer to employees
24 who participate in a smoking cessation program shall not be deemed to be an
25 unlawful practice in violation of this section.

26 ➔Section 5. KRS 344.050 is amended to read as follows:

- 27 (1) It is an unlawful practice for an employment agency to fail or refuse to refer for

1 employment~~[,]~~ or **to** otherwise~~[to]~~ discriminate against~~[,]~~ an individual because of~~[~~
 2 his~~]~~ race, color, religion, national origin, sex, **sexual orientation, gender identity,** or
 3 age forty (40) and over, or because the person is a qualified individual with a
 4 disability, or to classify or refer for employment an individual **because of**~~on the~~
 5 ~~basis of disability,~~ race, color, religion, national origin, sex, **sexual orientation,**
 6 **gender identity,** or age~~[between]~~ forty (40) and **over, or because the person is a**
 7 **qualified individual with a disability**~~[seventy (70)]~~.

8 (2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or
 9 terminate from licensing an individual because of race, color, religion, national
 10 origin, sex, **sexual orientation, gender identity,** or age forty (40) and over, or
 11 because the person is a qualified individual with a disability.

12 ➔Section 6. KRS 344.060 is amended to read as follows:

13 It is an unlawful practice for a labor organization:

14 (1) To exclude or to expel from its membership~~[,]~~ or **to** otherwise~~[to]~~ discriminate
 15 against~~[,]~~ a member~~,~~ or applicant for membership~~,~~ because of race, color, religion,
 16 national origin, sex, **sexual orientation, gender identity,** or age forty (40) and over,
 17 or because the person is a qualified individual with a disability.

18 (2) To limit, segregate, or classify its membership, or to classify or fail to refuse to refer
 19 for employment an individual, in any way which would deprive or tend to deprive
 20 an individual of employment opportunities, or would limit such employment
 21 opportunities or otherwise adversely affect the status as an employee or as an
 22 applicant for employment, because of race, color, religion, national origin, sex,
 23 **sexual orientation, gender identity,** or age forty (40) and over, or because the
 24 person is a qualified individual with a disability.

25 (3) To cause or attempt to cause an employer to discriminate against an individual in
 26 violation of this section.

27 ➔Section 7. KRS 344.070 is amended to read as follows:

1 It is an unlawful practice for an employer, labor organization, or joint labor-management
2 committee controlling apprenticeship or other training or retraining, including on-the-job
3 training programs, to discriminate against an individual because of race, color, religion,
4 national origin, sex, sexual orientation, gender identity, or age forty (40) and over, or
5 because the person is a qualified individual with a disability in admission to or
6 employment in, any program established to provide apprenticeship or other training.

7 →Section 8. KRS 344.080 is amended to read as follows:

8 It is an unlawful practice for an employer, labor organization, licensing agency, or
9 employment agency to print or publish or cause to be printed or published a notice or
10 advertisement relating to employment by such an employer or membership in or any
11 classification or referral for employment by the employment or licensing agency,
12 indicating any preference, limitation, specification, or discrimination, based on race,
13 color, religion, national origin, sex, sexual orientation, gender identity, or age forty (40)
14 and over, or because the person is a qualified individual with a disability, except that such
15 a notice or advertisement may indicate a preference, limitation, or specification based on
16 religion, national origin, sex, or age forty (40) and over, or because the person is a
17 qualified individual with a disability, when religion, national origin, sex, or age forty (40)
18 and over, or because the person is a qualified individual with a disability, is a bona fide
19 occupational qualification for employment.

20 →Section 9. KRS 344.100 is amended to read as follows:

21 ~~[Notwithstanding]~~ Any ~~[other]~~ provision of this chapter to the contrary notwithstanding,
22 it is not an unlawful practice for an employer to apply different standards of
23 compensation, or different terms, conditions, or privileges of employment pursuant to a
24 bona fide seniority or merit system, or a system which measures earnings by quantity or
25 quality of production or to employees who work in different locations, if the differences
26 are not the result of an intention to discriminate because of race, color, religion, national
27 origin, sex, sexual orientation, gender identity, or age forty (40) and over, or because the

1 person is a qualified individual with a disability, nor is it an unlawful practice for an
2 employer to give and to act upon the results of any professionally developed ability test
3 provided that the test, its administration, or action upon the results ***thereof*** is not
4 designed, intended, or used to discriminate because of race, color, religion, national
5 origin, sex, ***sexual orientation, gender identity***, or age forty (40) and over, or because the
6 person is a qualified individual with a disability.

7 ➔Section 10. KRS 344.110 is amended to read as follows:

8 (1) Nothing~~[contained]~~ in this chapter requires an employer, employment agency, labor
9 organization, or joint labor-management committee subject to this chapter to grant
10 preferential treatment to an individual or to a group because of the race, color,
11 religion, national origin, sex, ***sexual orientation, gender identity***, or age forty (40)
12 and over, or because the person is a qualified individual with a disability, of the
13 individual or group on account of an imbalance which may exist with respect to the
14 total number or percentage of ***individuals***~~[persons]~~ of any race, color, religion,
15 national origin, sex, ***sexual orientation, gender identity***, or age forty (40) and over,
16 or because the person is a qualified individual with a disability, employed by an
17 employer, referred or classified for employment by an employment agency or labor
18 organization, admitted to membership or classified by a labor organization, or
19 admitted to, or employed in, an apprenticeship or other training program, in
20 comparison with the total number or percentage of ***individuals***~~[persons]~~ of race,
21 color, religion, national origin, sex, ***sexual orientation, gender identity***, or age forty
22 (40) and over, or because the person is a qualified individual with a disability, in the
23 ***Commonwealth***~~[state]~~ or a community, section, or other area, or in the available
24 workforce in the ***Commonwealth***~~[state]~~ or a community, section, or other area.

25 (2) Nothing~~[contained]~~ in this chapter shall prohibit:

- 26 (a) Minimum hiring ages otherwise provided by law.
27 (b) State compliance with federal regulations.

- 1 (c) Termination of the employment of any person who is unable to perform the
 2 essential functions of the job, with or without reasonable accommodation.
- 3 (d) Any post-job-offer physical or medical examinations of applicants or
 4 employees which an employer requires to determine their ability to perform
 5 the essential functions of the job, with or without reasonable accommodation.
- 6 (e) An employer, labor organization, or employment agency from observing the
 7 terms of a bona fide seniority system or any bona fide employee benefit plan
 8 such as a retirement, pension, or insurance plan which is not a subterfuge to
 9 evade the purposes of this chapter, except that no such employee benefit plan
 10 shall excuse the failure to hire any individual.

11 →Section 11. KRS 344.120 is amended to read as follows:

12 Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for
 13 a person to deny an individual the full and equal enjoyment of the goods, services,
 14 facilities, privileges, advantages, and accommodations of a place of public
 15 accommodation, resort, or amusement **because**~~[, as defined in KRS 344.130, on the~~
 16 ~~ground]~~ of **the individual's** disability, race, color, religion,~~[or]~~ national origin, **sexual**
 17 **orientation, or gender identity.**

18 →Section 12. KRS 344.140 is amended to read as follows:

19 It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue,
 20 display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a
 21 written, printed, oral, or visual communication, notice, or advertisement, which indicates
 22 that the goods, services, facilities, privileges, advantages, and accommodations of a place
 23 of public accommodation, resort, or amusement will be refused, withheld from, or denied
 24 an individual **because**~~[on account]~~ of disability, race, color, religion,~~[or]~~ national origin,
 25 **sexual orientation, or gender identity,** or that the patronage of, or presence at, a place of
 26 public accommodation, resort, or amusement, of an individual, on account of disability,
 27 race, color, religion,~~[or]~~ national origin, **sexual orientation, or gender identity** is

1 objectionable, unwelcome, unacceptable, or undesirable.

2 ➔Section 13. KRS 344.170 is amended to read as follows:

3 The function of the commission shall be to encourage fair treatment for, to foster mutual
4 understanding and respect among, and to discourage discrimination against **individuals**
5 **on the basis of disability, race, color, religion, national origin, sex, sexual orientation,**
6 **gender identity, or age forty (40) and over**~~[any racial or ethnic group or its members].~~

7 ➔Section 14. KRS 344.180 is amended to read as follows:

8 The powers and duties of the commission shall be:

- 9 (1) To employ an executive director and other necessary personnel within the limits of
10 funds made available;
- 11 (2) To conduct research projects or make studies into and publish reports on
12 discrimination in Kentucky;
- 13 (3) To receive and investigate complaints of discrimination and to recommend ways of
14 eliminating any injustices occasioned thereby;
- 15 (4) To hold public hearings and request the attendance of witnesses;
- 16 (5) To cooperate with other organizations, public and private, to discourage
17 discrimination;
- 18 (6) To encourage fair treatment for all persons regardless of **disability,** race, **color,**
19 **religion, national origin, sex, sexual orientation, gender identity,** or **age forty (40)**
20 **and over**~~[national ancestry];~~
- 21 (7) To make an annual report to the Governor **and the General Assembly** of its
22 activities under this chapter.

23 ➔Section 15. KRS 344.190 is amended to read as follows:

24 In the enforcement of this chapter, the commission~~[on Human Rights]~~ shall have the
25 following powers and duties:

- 26 (1) To maintain an office in the city of Louisville and other offices within the
27 **Commonwealth**~~[state]~~ as may be deemed necessary.

- 1 (2) To meet and exercise its powers at any place within the Commonwealth.
- 2 (3) Within the limitations provided by law, to appoint an executive director, attorneys,
3 hearing examiners, clerks, and other employees and agents as it may deem
4 necessary. At the direction of the commission, attorneys appointed under this
5 section may appear for and represent the commission in any court. The commission
6 may, by written order, delegate the authority given by this subsection to its
7 executive director, except as that authority relates to the appointment of its
8 executive director.
- 9 (4) To promote the creation of local commissions on human rights, to cooperate with
10 state, local, and other agencies, both public and private, and individuals, and to
11 obtain upon request and utilize the services of all governmental departments and
12 agencies.
- 13 (5) To cooperate with the ~~United States~~ Equal Employment Opportunity Commission,
14 created by ~~Section 705 of~~ the Civil Rights Act of 1964, **Pub. L. No. 88-352** ~~(78~~
15 ~~Stat. 241)~~, in order to achieve the purposes of that act, and with other federal and
16 local agencies in order to achieve the purposes of that act, and with other federal
17 and local agencies in order to achieve the purposes of this chapter.
- 18 (6) To accept gifts or bequests, grants, or other payments, public or private, to help
19 finance its activities.
- 20 (7) To accept reimbursement pursuant to Section 709(b) of the Civil Rights Act of
21 1964, **Pub. L. No. 88-352**, ~~(78 Stat. 241)~~ for services rendered to assist the ~~Federal~~
22 ~~Federal~~ Equal Employment Opportunity Commission.
- 23 (8) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon
24 complaints alleging violations of this chapter.
- 25 (9) At any time after a complaint is filed, to require answers to interrogatories, compel
26 the attendance of witnesses, examine witnesses under oath or affirmation in person
27 or by deposition, and require the production of documents relevant to the complaint.

- 1 The commission may make rules authorizing any member or individual designated
2 to exercise these powers in the performance of official duties.
- 3 (10) To furnish technical assistance requested by persons subject to this chapter to
4 further their compliance with this chapter or an order issued thereunder.
- 5 (11) To make studies appropriate to effectuate the purposes and policies of this chapter
6 and to make the results thereof available to the public.
- 7 (12) To render annual written reports to the Governor and the General
8 Assembly~~[Legislature]~~. The reports may contain recommendations of the
9 commission for legislative or other action to effectuate the purposes and policies of
10 this chapter.
- 11 (13) To create local or statewide advisory agencies that in its judgment will aid in
12 effectuating the purpose of this chapter. The commission may empower these
13 agencies:
- 14 (a) To study and report on problems of discrimination because of disability, race,
15 color, religion,~~[or]~~ national origin, sex, sexual orientation, or gender
16 identity~~;~~;
- 17 (b) To foster, through community effort or otherwise, goodwill among the groups
18 and elements of the population of the Commonwealth~~;~~~~[state,]~~ and
- 19 (c) To make recommendations to the commission for the development of policies
20 and practices that will aid in carrying out the purposes of this chapter.
21 Members of such agencies~~[committees]~~ shall serve without pay but shall be
22 reimbursed for expenses incurred in such service. The commission may make
23 provision for technical and clerical assistance to the agencies~~[committees]~~.
- 24 (14) To~~[adopt,]~~ promulgate administrative~~[, amend, and rescind]~~ regulations to
25 effectuate the purposes and provisions of this chapter, including regulations
26 requiring the posting of notices prepared or approved by the commission.
- 27 (15) To purchase liability insurance for the protection of all members of the commission

1 to protect them from liability arising in the course of pursuing their duties as
 2 members of the commission and for all full-time employees to protect them from
 3 liability arising in the course or scope of their employment. This insurance shall be
 4 purchased with money contained in the agency appropriated budget.

5 ➔Section 16. KRS 344.300 is amended to read as follows:

6 (1) **City, county, urban-county, consolidated local, charter county, and unified local**
 7 **governments**~~[Cities and counties]~~ are authorized to adopt and enforce ordinances,
 8 orders, and resolutions prohibiting all forms of discrimination, including
 9 discrimination on the basis of race, color, religion, disability, familial status,~~[or]~~
 10 national origin, sex, **sexual orientation, gender identity,** or age, and to prescribe
 11 penalties for violations thereof, such penalties being in addition to the remedial
 12 orders and enforcement herein authorized.

13 (2) **City, county, urban-county, consolidated local, charter county, and unified local**
 14 **governments**~~[Cities and counties]~~ may adopt and enforce ordinances, orders, and
 15 resolutions prohibiting discrimination; no ordinance, order, or resolution shall
 16 attempt to exempt more transactions from its coverage than are exempted by KRS
 17 344.362 and 344.365.

18 ➔Section 17. KRS 344.310 is amended to read as follows:

19 Any city,~~[or]~~ county, **urban-county, consolidated local, charter county, or unified local**
 20 **government,** or one (1) or more **of those local governments**~~[cities and counties]~~ acting
 21 jointly, may create a **local** human rights commission~~[(hereinafter a "local commission")]~~:

22 (1) To provide for execution within its jurisdiction of the policies embodied in this
 23 chapter and the~~[Federal]~~ Civil Rights Act of 1964, **Pub. L. No. 88-352**~~[(78 Stat.~~
 24 ~~241)]~~; and

25 (2) To safeguard all individuals within its jurisdiction from discrimination because of
 26 race, color, religion,~~[or]~~ national origin, sex, **sexual orientation, gender identity,** or
 27 age.

1 ➔Section 18. KRS 344.360 is amended to read as follows:

2 It is an unlawful housing practice for a real estate operator, or for a real estate broker, real
3 estate salesman, or any person employed by or acting on behalf of any of these:

- 4 (1) To refuse to sell, exchange, rent, or lease, or otherwise deny to or withhold, real
5 property from any person because of race, color, religion, sex, **sexual orientation,**
6 **gender identity,** familial status, disability, or national origin;
- 7 (2) To discriminate against any person because of race, color, religion, sex, **sexual**
8 **orientation, gender identity,** familial status, disability, or national origin in the
9 terms, conditions, or privileges of the sale, exchange, rental, or lease of real
10 property or in the furnishing of facilities or services in connection therewith;
- 11 (3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real
12 property from any person because of race, color, religion, sex, **sexual orientation,**
13 **gender identity,** familial status, disability, or national origin;
- 14 (4) To refuse to negotiate for the sale, rental, or lease of real property to any person
15 because of race, color, religion, sex, **sexual orientation, gender identity,** familial
16 status, disability, or national origin;
- 17 (5) To represent to any person that real property is not available for inspection, sale,
18 rental, or lease when it is so available, or to refuse to permit any person to inspect
19 real property because of ~~his~~ race, color, religion, sex, **sexual orientation, gender**
20 **identity,** familial status, disability, or national origin;
- 21 (6) To make, print, circulate, post, or mail or cause to be printed, circulated, posted, or
22 mailed an advertisement or sign, or to use a form of application for the purchase,
23 rental, or lease of real property, or to make a record of inquiry in connection with
24 the prospective purchase, rental, or lease of real property, which indicates, directly
25 or indirectly, a limitation, specification, or discrimination as to race, color, religion,
26 sex, **sexual orientation, gender identity,** familial status, disability, or national
27 origin or an intent to make such a limitation, specification, or discrimination;

- 1 (7) To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or
2 lease with the understanding that any person may be discriminated against in the
3 sale, rental, or lease of that real property or in the furnishing of facilities or services
4 in connection therewith because of ~~his~~ race, color, religion, sex, sexual
5 orientation, gender identity, familial status, disability, or national origin;
- 6 (8) To otherwise deny to or withhold real property from any person because of ~~his~~
7 race, color, religion, sex, sexual orientation, gender identity, familial status,
8 disability, or national origin;
- 9 (9) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a
10 housing accommodation to any buyer or renter because of a disability of:
- 11 (a) That buyer or renter;
- 12 (b) A person residing in or intending to reside in that housing accommodation
13 after it is so sold, rented, or made available; or
- 14 (c) Any person associated with that buyer or renter; or
- 15 (10) To discriminate against any person in the terms, conditions, or privileges of sale or
16 rental of a dwelling, or in the provision of services or facilities in connection with
17 such housing accommodation, because of a disability of:
- 18 (a) That person; or
- 19 (b) A person residing in or intending to reside in that housing accommodation
20 after it is sold, rented, or made available; or
- 21 (c) Any person associated with that person.
- 22 (11) For purposes of this section, discrimination includes:
- 23 (a) A refusal to permit, at the expense of the disabled person, reasonable
24 modifications of existing premises occupied or to be occupied by a person, if
25 the modifications may be necessary to afford the person full enjoyment of the
26 premises; except that, in the case of a rental, the landlord may, where it is
27 reasonable to do so, condition permission for a modification on the renter

1 agreeing to restore the interior of the premises to the condition that existed
2 before the modification, reasonable wear and tear excepted.

3 (b) A refusal to make reasonable accommodations in rules, policies, practices, or
4 services, when the accommodations may be necessary to afford the person
5 equal opportunity to use and enjoy a housing accommodation; or

6 (c) In connection with the design and construction of covered multifamily
7 housing accommodations for first occupancy after January 1, 1993, a failure to
8 design and construct those housing accommodations in a manner ensuring that
9 they have at least one (1) entrance on an accessible route unless impractical to
10 do so because of the terrain or unusual characteristics of the site. Housing
11 accommodations with a building entrance on an accessible route shall comply
12 with the following requirements:

13 1. The public use and common use portions of the housing
14 accommodations shall be readily accessible to and usable by disabled
15 persons;

16 2. All the doors designed to allow passage into and within all premises
17 within the housing accommodations shall be sufficiently wide to allow
18 passage by disabled persons in wheelchairs; and

19 3. All premises within the housing accommodations shall contain the
20 following features of adaptive design:

21 a. An accessible route into and through the housing accommodation;

22 b. Light switches, electrical outlets, thermostats, and other
23 environmental controls in accessible locations;

24 c. Reinforcements in bathroom walls to allow later installation of
25 grab bars; and

26 d. Usable kitchens and bathrooms so that an individual in a
27 wheelchair can maneuver about the space.

1 (12) Compliance with the appropriate requirements of the American National Standard
2 for buildings and facilities providing accessibility and usability for physically
3 disabled persons, ~~[(commonly cited as "ANSI A117.1 - 1986",)]~~ suffices to satisfy
4 the requirements of subsection (11)(c)3. of this section.

5 (13) As used in subsection (11) of this section, the term "covered multifamily housing
6 accommodation" means:

7 (a) Buildings consisting of four (4) or more units if the buildings have one (1) or
8 more elevators; and

9 (b) Ground floor units in other buildings consisting of two (2) or more units.

10 (14) Nothing in this section requires that a housing accommodation be made available to
11 an individual whose tenancy would constitute a direct threat to the health or safety
12 of other individuals or whose tenancy would result in substantial physical damage
13 to the property of others.

14 ➔Section 19. KRS 344.367 is amended to read as follows:

15 It is an unlawful practice for a person in the business of insuring against hazards to refuse
16 to enter into, or discriminate in the terms, conditions, or privileges of, a contract of
17 insurance against hazards to a housing accommodation because of the race, color,
18 religion, national origin, familial status, disability,~~[-or]~~ sex, **sexual orientation, or gender**
19 **identity** of persons owning, or residing in or near the housing accommodation.

20 ➔Section 20. KRS 344.370 is amended to read as follows:

21 It is an unlawful practice for a financial institution or for any person or other entity whose
22 business includes engaging in real estate-related transactions:

23 (1) To discriminate against an individual because of the race, color, religion,~~[-or]~~
24 national origin, familial status, disability, sex, **sexual orientation, gender identity,**
25 or age of the individual or the present or prospective owner, tenant, or occupant of
26 the real property or of a member, stockholder, director, officer, employee, or
27 representative of any of these, in the granting, withholding, extending, modifying,

1 or renewing the rates, terms, conditions, privileges, or other provisions of financial
2 assistance or in the extension of services in connection therewith;

3 (2) To use a form of application for financial assistance or to make or keep a record or
4 inquiry in connection with applications for financial assistance which indicate,
5 directly or indirectly, a limitation, specification, or discrimination as to race, color,
6 religion, *national origin*, familial status, disability, *sex, sexual orientation*, or
7 *gender identity*,~~[national origin]~~ or an intent to make such a limitation,
8 specification, or discrimination; *or*

9 (3) To discriminate by refusing to give full recognition, because of sex, to the income
10 of each spouse or the total income and expenses of both spouses where both
11 spouses become or are prepared to become joint or several obligors in real estate
12 transactions~~]; or~~

13 ~~(4) As used in this section, the term "real estate related transaction" means any of the~~
14 ~~following:~~

15 ~~(a) The making or purchasing of loans or providing other financial assistance;~~

16 ~~1. For purchasing, constructing, improving, repairing, or maintaining a~~
17 ~~housing accommodation; or~~

18 ~~2. Secured by real estate.~~

19 ~~(b) The selling, brokering, or appraising of real property except that a person~~
20 ~~engaged in the business of furnishing appraisals of real property may take into~~
21 ~~consideration factors other than race, color, religion, national origin, sex,~~
22 ~~disability, or familial status].~~

23 ➔Section 21. KRS 344.380 is amended to read as follows:

24 It is an unlawful practice for a real estate operator, a real estate broker, a real estate
25 salesman, a financial institution, an employee of any of these, or any other person, for the
26 purpose of inducing a real estate transaction from which a person may benefit financially:

27 (1) To represent that a change has occurred or will or may occur in the composition

1 with respect to race, color, religion, sex, sexual orientation, gender identity,
 2 disability, familial status, or national origin of the owners or occupants in the block,
 3 neighborhood, or area in which the real property is located;

4 (2) To represent that this change will or may result in the lowering of property values,
 5 an increase in criminal or antisocial behavior, or a decline in the quality of schools
 6 in the block, neighborhood, or area in which the real property is located; or

7 (3) To induce or attempt to induce any person to sell or rent any dwelling by
 8 representations regarding the entry or prospective entry into the neighborhood of a
 9 person or persons of a particular race, color, religion, sex, sexual orientation,
 10 gender identity, disability, familial status, or national origin.

11 ➔Section 22. KRS 344.400 is amended to read as follows:

12 (1) It shall be an unlawful practice for any person, whether acting for himself or
 13 another, in connection with any credit transaction because of race, color, religion,
 14 national origin, ~~or~~ sex, sexual orientation, or gender identity to:

15 (a) Deny credit to any person;

16 (b) Increase the charges or fees for or collateral required to secure any credit
 17 extended to any person;

18 (c) Restrict the amount or use of credit extended or impose different terms or
 19 conditions with respect to the credit extended to any person or any item or
 20 service related thereto; or

21 (d) Attempt to do any of the unlawful practices defined in this section.

22 (2) The provisions of this section shall not prohibit any party to a credit transaction
 23 from considering the credit history of any individual applicant.

24 (3) The provisions of this section shall not prohibit any party to a credit transaction
 25 from considering the application of Kentucky law on dower and ~~or~~ curtesy or ~~or~~
 26 descent and distribution to the particular case or from taking reasonable action
 27 thereon.

1 ➔Section 23. KRS 344.680 is amended to read as follows:

2 It shall be unlawful to deny any person access to, or membership or participation in, any
3 multiple listing service, real estate brokers' organization, or other service, organization, or
4 facility relating to the business of selling or renting housing accommodations, or to
5 discriminate against a person in the terms or conditions of access, membership, or
6 participation, on account of race, color, religion, sex, sexual orientation, gender identity,
7 disability, familial status, or national origin.

8 ➔Section 24. KRS 18A.095 is amended to read as follows:

9 (1) A classified employee with status shall not be dismissed, demoted, suspended, or
10 otherwise penalized except for cause.

11 (2) Prior to dismissal, a classified employee with status shall be notified in writing of
12 the intent to dismiss him. The notice shall also state:

13 (a) The specific reasons for dismissal including:

- 14 1. The statutory or regulatory violation;
- 15 2. The specific action or activity on which the intent to dismiss is based;
- 16 3. The date, time, and place of such action or activity; and
- 17 4. The name of the parties involved;

18 (b) That the employee has the right to appear personally, or with counsel if he has
19 retained counsel, to reply to the head of the cabinet or agency or his designee;
20 and

21 (c) Whether the employee is placed on administrative leave by the appointing
22 authority with pay upon receiving the intent to dismiss letter prior to the
23 agency's final action.

24 (3) The Personnel Cabinet shall prescribe and distribute a form to be completed and
25 forwarded by an employee who wishes to appear before the head of the cabinet or
26 agency or his designee, to each appointing authority. The form shall be attached to
27 every notice of intent to dismiss and shall contain written instructions explaining:

- 1 (a) The right granted an employee under the provisions of this section relating to
2 pretermination hearings; and
- 3 (b) The time limits and procedures to be followed by all parties in pretermination
4 hearings.
- 5 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,
6 excluding the day he receives the notice, the employee may request to appear,
7 personally or with counsel if he has retained counsel, to reply to the head of the
8 cabinet or agency or his designee.
- 9 (5) Unless waived by the employee, the appearance shall be scheduled within six (6)
10 working days after receipt of an employee's request to appear before the head of the
11 cabinet or agency or his designee, excluding the day his request is received.
- 12 (6) No later than five (5) working days after the employee appears before the head of
13 the cabinet or agency or his designee, excluding the day of the appearance, the
14 cabinet head or agency or his designee shall:
- 15 (a) Determine whether to dismiss the employee or to alter, modify, or rescind the
16 intent to dismiss; and
- 17 (b) Notify the employee in writing of the decision.
- 18 (7) If the cabinet or agency head or his designee determines that the employee shall be
19 dismissed or otherwise penalized, the employee shall be notified in writing of:
- 20 (a) The effective date of his dismissal or other penalization;
- 21 (b) The specific reason for this action, including:
- 22 1. The statutory or regulatory violation;
- 23 2. The specific action or activity on which the dismissal or other
24 penalization is based;
- 25 3. The date, time, and place of the action or activity; and
- 26 4. The name of the parties involved; and
- 27 (c) That he may appeal the dismissal or other penalization to the board within

1 sixty (60) days after receipt of this notification, excluding the day he receives
2 notice.

3 (8) A classified employee with status who is demoted, suspended, or otherwise
4 penalized shall be notified in writing of:

5 (a) The demotion, suspension, or other penalization;

6 (b) The effective date of the demotion, suspension, or other penalization;

7 (c) The specific reason for the action including:

8 1. The statutory or regulatory violation;

9 2. The specific action or activity on which the demotion, suspension, or
10 other penalization is based;

11 3. The date, time, and place of the action or activity; and

12 4. The name of the parties involved; and

13 (d) That he or she has the right to appeal to the board within sixty (60) days,
14 excluding the day that he or she received notification of the personnel action.

15 (9) Any unclassified employee who is dismissed, demoted, suspended, or otherwise
16 penalized for cause may, within thirty (30) days after the dismissal, demotion,
17 suspension, or other form of penalization, appeal to the board for review thereof.

18 (10) (a) An employee whose position is reallocated shall be notified in writing by the
19 appointing authority of:

20 1. The reallocation; and

21 2. His right to request reconsideration by the secretary within ten (10)
22 working days of receipt of the notice, excluding the day he receives
23 notification.

24 (b) He shall be provided with a form prescribed by the secretary on which to
25 request reconsideration.

26 (c) The employee shall file a written request for reconsideration of the
27 reallocation of his position with the secretary in a manner and form prescribed

1 by the secretary and shall be given a reasonable opportunity to be heard
2 thereon by the secretary. The secretary shall make a determination within sixty
3 (60) days after the request has been filed by an employee. After
4 reconsideration of the request by the secretary, the employee may appeal to the
5 board.

6 (11) Any state employee, applicant for employment, or eligible on a register may appeal
7 to the board on the grounds that his right to inspect or copy records, including
8 preliminary and other supporting documentation, relating to him has been denied,
9 abridged, or impeded by a public agency. The board shall conduct a hearing to
10 determine whether the records related to the employee, applicant, or eligible, and
11 whether his right to inspect or copy these records was denied, abridged, or impeded.
12 If the board determines that the records related to the employee and that the right to
13 inspect or copy these records has been denied, abridged, or impeded, the board shall
14 order the public agency to make them available for inspection and copying and shall
15 charge the cost of the hearing to the public agency. A state employee, an applicant
16 for employment, and an eligible on a register shall not have the right to inspect or to
17 copy any examination materials.

18 (12) Any classified employee may appeal to the board an action alleged to be based on
19 discrimination due to race, color, religion, national origin, sex, sexual orientation,
20 gender identity, disability, or age forty (40) and above. Nothing in this section shall
21 be construed to preclude any classified or unclassified employee from filing with
22 the Kentucky Commission on Human Rights a complaint alleging discrimination on
23 the basis of race, color, religion, national origin, sex, sexual orientation, gender
24 identity, disability, or age in accordance with KRS Chapter 344.

25 (13) When an eligible's name is removed from a register, the secretary shall notify the
26 eligible of his action and the reasons therefor, together with his right of appeal. An
27 eligible's name shall be restored to the register upon presentation of reasons

- 1 satisfactory to the secretary or in accordance with the decision of the board.
- 2 (14) (a) Any employee, applicant for employment, or eligible on a register, who
3 believes that he has been discriminated against, may appeal to the board.
- 4 (b) Any applicant whose application for admission to an open-competitive
5 examination has been rejected shall be notified of this rejection and the
6 reasons therefor and may appeal to the board for reconsideration of his
7 qualifications and for admission to the examination. Applicants may be
8 conditionally admitted to an examination by the secretary pending
9 reconsideration by the board.
- 10 (c) Any applicant who has taken an examination may appeal to the board for a
11 review of his rating in any part of the examination to assure that uniform
12 rating procedures have been applied equally and fairly.
- 13 (d) An appeal to the board by applicants or eligibles under subsections (11) and
14 (13) of this section and under this subsection shall be filed in writing with the
15 executive director not later than thirty (30) calendar days after the notification
16 of the action in question was mailed.
- 17 (15) An evaluation may be appealed to the board if an employee has complied with the
18 review procedure established in KRS 18A.110(7)(j).
- 19 (16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the
20 board. Appeal forms shall be available at the employee's place of work. The
21 Personnel Cabinet shall be responsible for the distribution of these forms.
- 22 (b) The appeal form shall be attached to any notice, or copy of any notice, of
23 dismissal, demotion, suspension, fine, involuntary transfer, or other
24 penalization, reallocation, or notice of any other action an employee may
25 appeal under the provisions of this section. The appeal form shall instruct the
26 employee to state whether he is a classified or unclassified employee, his full
27 name, his appointing authority, work station address and telephone number,

1 and, if he has retained counsel at the time he files an appeal, the name,
2 address, and telephone number of his attorney.

3 (c) The form shall also instruct a classified employee to state the action he is
4 appealing in a short, plain, concise statement of the facts. The form shall
5 instruct an unclassified employee to make a short, plain, concise statement of
6 the reason for the appeal and the cause given for his dismissal.

7 (d) Upon receipt of the appeal by the board, the appointing authority and the
8 Personnel Cabinet shall be notified and the board shall schedule a hearing.

9 (17) All administrative hearings conducted by the board shall be conducted in
10 accordance with KRS Chapter 13B.

11 (18) (a) The board may deny a hearing to an employee who has failed to file an appeal
12 within the time prescribed by this section; and to an unclassified employee
13 who has failed to state the reasons for the appeal and the cause for which he
14 has been dismissed. The board may deny any appeal after a preliminary
15 hearing if it lacks jurisdiction to grant relief. The board shall notify the
16 employee of its denial in writing and shall inform the employee of his right to
17 appeal the denial under the provisions of KRS 18A.100.

18 (b) Any investigation by the board of any matter related to an appeal filed by an
19 employee shall be conducted only upon notice to the employee, the
20 employee's counsel, and the appointing authority. All parties to the appeal
21 shall have access to information produced by the investigations and the
22 information shall be presented at the hearing.

23 (19) Each appeal shall be decided individually, unless otherwise agreed by the parties
24 and the board. The board shall not:

25 (a) Employ class action procedures; or

26 (b) Conduct test representative cases.

27 (20) Board members shall abstain from public comment about a pending or impending

1 proceeding before the board. This shall not prohibit board members from making
2 public statements in the course of their official duties or from explaining for public
3 information the procedures of the board.

4 (21) An appeal to the board may be heard by the full board or one (1) or more of the
5 following: Its executive director, its general counsel, any nonelected member of the
6 board, or any hearing officer secured by the board pursuant to KRS 13B.030.

7 (22) (a) If the board finds that the action complained of was taken by the appointing
8 authority in violation of laws prohibiting favor for, or discrimination against,
9 or bias with respect to, his political or religious opinions or affiliations or
10 ethnic origin, or in violation of laws prohibiting discrimination because of
11 such individual's sex, sexual orientation, gender identity, or age or disability,
12 the appointing authority shall immediately reinstate the employee to his
13 former position or a position of like status and pay, without loss of pay for the
14 period of his penalization, or otherwise make the employee whole unless the
15 order is stayed by the board or the court on appeal.

16 (b) If the board finds that the action complained of was taken without just cause,
17 the board shall order the immediate reinstatement of the employee to his
18 former position or a position of like status and pay, without loss of pay for the
19 period of his penalization, or otherwise make the employee whole unless the
20 order is stayed by the board or the court on appeal.

21 (c) If the board finds that the action taken by the appointing authority was
22 excessive or erroneous in view of all the surrounding circumstances, the board
23 shall direct the appointing authority to alter, modify, or rescind the
24 disciplinary action.

25 (d) In all other cases, the board shall direct the appointing authority to rescind the
26 action taken or otherwise grant specific relief or dismiss the appeal.

27 (23) If a final order of the board is appealed, a court shall award reasonable attorney fees

1 to an employee who prevails by a final adjudication on the merits as provided by
2 KRS 453.260. This award shall not include attorney fees attributable to the hearing
3 before the board.

4 (24) When any employee is dismissed and not ordered reinstated after the appeal, the
5 board in its discretion may direct that his name be placed on an appropriate
6 reemployment list for employment in any similar position other than the one from
7 which he had been removed.

8 (25) After a final decision has been rendered by the board or court, an employee who
9 prevails in his appeal shall be credited with the amount of leave time used for time
10 spent at his hearing before the board or court. Employees who had an insufficient
11 amount of leave time shall be credited with leave time equal to the amount of time
12 spent at their hearings before the board or court.

13 (26) If the appointing authority appeals the final order of the board, unless the board
14 rules otherwise, the reinstated employee shall remain in his former position, or a
15 position of like status or pay, until the conclusion of the appeals process, at which
16 time the appointing authority shall take action in accordance with the court order.

17 (27) After a final decision in a contested case has been rendered by the last
18 administrative or judicial body to which the case has been appealed, the board shall
19 make the decision available to the public in electronic format on its Web site and
20 shall organize the decisions according to the statutory basis for which the appeal
21 was based.

22 (28) For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the
23 word "agency" means any agency not assigned to a cabinet for organizational
24 purposes.

25 (29) Notwithstanding any other prescribed limitation of action, an employee that has
26 been penalized, but has not received a written notice of his or her right to appeal as
27 provided in this section, shall file his or her appeal with the Personnel Board within

- 1 one (1) year from the date of the penalization or from the date that the employee
- 2 reasonably should have known of the penalization.