

1 AN ACT relating to boards of adjustment.

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

3 ➔Section 1. KRS 100.217 is amended to read as follows:

- 4 (1) (a) Before any zoning regulation may have legal effect within the planning unit, a  
5 board or boards of adjustment shall be appointed for the planning unit as  
6 stated in the agreement under which the unit operates. ***The agreement may***  
7 ***provide for a joint board of adjustment.*** The agreement may provide for  
8 additional boards of adjustment with jurisdiction of a particular city or area  
9 within the planning unit. Provided, that the jurisdiction of the boards of  
10 adjustment so established shall be clearly defined as to territorial limits, that  
11 all territory within the planning unit is within the jurisdiction of some board of  
12 adjustment so established and, that no territory is subject to the jurisdiction of  
13 more than one (1) board of adjustment, except as provided in KRS  
14 100.203(5).
- 15 (b) Except as provided by paragraph (c) of this subsection, in a county containing  
16 a consolidated local government where a planning agreement is not required,  
17 there shall be one (1) board of adjustment which shall be established by  
18 ordinance of the consolidated local government. Until such time as the  
19 consolidated local government establishes and appoints a board of adjustment  
20 pursuant to this subsection, the existing board of adjustment for the county  
21 shall serve as the board of adjustment for the entire planning unit.
- 22 (c) A city with a population equal to or greater than twenty thousand (20,000)  
23 based upon the most recent federal decennial census within a county  
24 containing a consolidated local government where a planning agreement is not  
25 required may establish, by ordinance, a board of zoning adjustment under the  
26 provisions of this section. If such a city creates a board of zoning adjustment,  
27 then that board of zoning adjustment shall have exclusive jurisdiction within

1 that city's territorial boundaries.

2 (2) (a) A board of adjustment shall consist of either three (3), five (5), or seven (7)  
3 members, all of whom must be citizen members, and not more than two (2) of  
4 whom may be citizen members of the planning commission.

5 (b) A joint board of adjustment shall consist of no fewer than three (3)  
6 members, all of whom must be citizen members, and no more than two (2)  
7 of whom may be citizen members of the planning commission. Each  
8 appointing authority whose jurisdiction is represented by the joint board  
9 shall be entitled to appoint one (1) member to represent that jurisdiction.

10 (3) The mayor shall be the appointing authority for cities, and the county  
11 judge/executive shall be the appointing authority for counties, subject to the  
12 approval of their respective legislative bodies. The mayor shall be the appointing  
13 authority for a consolidated local government pursuant to the provisions of KRS  
14 67C.139.

15 (4) The term of office for the board of adjustment shall be four (4) years, but the term  
16 of office of members first appointed shall be staggered so that a proportionate  
17 number serve one (1), two (2), three (3), and four (4) years respectively.

18 (5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the  
19 appropriate appointing authority. If the authority fails to act within that time, the  
20 planning commission shall fill the vacancy. When a vacancy occurs other than  
21 through expiration of the term of office, it shall be filled for the remainder of that  
22 term.

23 (6) All members of boards of adjustment shall, before entering upon their duties,  
24 qualify by taking the oath of office prescribed by Section 228 of the Constitution of  
25 the Commonwealth of Kentucky before any judge, county judge/executive, notary  
26 public, clerk of a court, or justice of the peace within the district or county in which  
27 he resides.

- 1 (7) Reimbursement for expenses or compensation or both may be authorized for  
2 members on a board of adjustment.
- 3 (8) Any member of a board of adjustment may be removed by the appropriate  
4 appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of  
5 interest. Any appointing authority who exercises the power to remove a member of  
6 the board of adjustment shall submit a written statement to the commission setting  
7 forth the reasons for removal, and the statement shall be read at the next meeting of  
8 the board of adjustment, which shall be open to the general public. The member so  
9 removed shall have the right of appeal from the removal to the Circuit Court of the  
10 county in which he resides.
- 11 (9) Notwithstanding subsection (4) of this section, when a city of the first class and a  
12 county containing such city have in effect a compact pursuant to KRS 79.310 to  
13 79.330, the terms of the members on the board shall be for three (3) years and until  
14 their successors are appointed and qualified. Upon the effective date of the compact,  
15 if the board is not reorganized pursuant to subsection (1) of this section, the mayor,  
16 and county judge/executive with approval of the fiscal court, shall adjust the terms  
17 of the sitting members to provide that the terms of one-third (1/3) plus one (1) of  
18 the members expire in one (1) year, the terms of one-third (1/3) of the members in  
19 two (2) years, and the terms of one-third (1/3) of the members expire in three (3)  
20 years. Upon expiration of these staggered terms, successors shall be appointed for a  
21 term of three (3) years. Notwithstanding subsection (4) of this section, upon the  
22 establishment of a consolidated local government in a county where a city of the  
23 first class and a county containing such city have had in effect a cooperative  
24 compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board  
25 shall be for three (3) years and until their successors are appointed and qualified.  
26 Upon expiration of the terms of incumbent members, their successors shall be  
27 appointed to three (3) year terms which are staggered.

- 1 (10) Each board of adjustment annually shall elect a chairman, vice chairman, and
- 2 secretary and any other officers it deems necessary, and any officer shall be eligible
- 3 for reelection at the expiration of his term.