

1 AN ACT relating to the construction of educational facilities.

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

3 ➔Section 1. KRS 198B.060 is amended to read as follows:

4 (1) Each local government shall employ a building official or inspector and other code  
5 enforcement personnel as necessary, or shall contract for inspection and code  
6 enforcement services in accordance with subsections (8) and (11) of this section to  
7 enforce the Uniform State Building Code within the boundaries of its jurisdiction,  
8 except that permits, inspections, and certificates of occupancy shall not be  
9 mandatory for single-family residences unless a local government passes an  
10 ordinance requiring inspections of single-family residences.

11 (2) (a) Local governments shall be responsible for the examination and approval or  
12 disapproval of plans and specifications for churches having a capacity of four  
13 hundred (400) or less persons, and six thousand (6,000) or less square feet of  
14 total floor area, and buildings of no more than three (3) stories in height,  
15 exclusive of attic and basement, which do not contain more than twenty  
16 thousand (20,000) square feet of floor area, and are not intended for  
17 educational, institutional, or high hazard occupancy; or assembly, business, or  
18 industrial occupancy in excess of one hundred (100) persons, except churches  
19 as stated in this subsection, or for use as a frozen food locker plant as defined  
20 in KRS 221.010.

21 (b) Local governments shall be responsible for the issuance and revocation of  
22 building permits, licenses, certificates, and similar documents which cover  
23 activities within their area of responsibility, and the inspection of all buildings  
24 pursuant to this chapter and the Uniform State Building Code. Each local  
25 government issuing a building or demolition permit or an initial certificate of  
26 occupancy on a new structure shall send a copy of the permit or certificate to  
27 the commissioner for his or her use in maintaining an accurate housing

1 inventory for Kentucky.

2 (c) Notwithstanding the provisions of paragraph (a) of this subsection, local  
3 governments may have jurisdiction for plan review, inspection, and  
4 enforcement responsibility over buildings intended for educational  
5 purposes, other than licensed day-care centers, but only when agreed to in  
6 writing by the local government and the department. Any agreements  
7 relating to expanded jurisdiction in effect on the effective date of this Act  
8 may be amended accordingly.

9 (3) Urban-county governments may determine service districts within their boundaries  
10 within which farm dwellings and other farm buildings, not used in the business of  
11 retail trade or as a place of regular employment for ten (10) or more people, shall be  
12 exempt from the requirements of the Uniform State Building Code. The  
13 determination may be reviewed and altered by the department.

14 (4) (a) With the exception of single-family dwellings, the department shall be  
15 responsible for the examination and approval or disapproval of plans and  
16 specifications for all buildings which are not the responsibility of local  
17 governments. The department may issue and revoke permits, licenses,  
18 certificates, and similar documents within its area of responsibility, and shall  
19 have concurrent jurisdiction with local governments for the inspection of all  
20 buildings pursuant to this chapter and the Uniform State Building Code.

21 (b) If the commissioner determines that the local jurisdiction is not adequately  
22 performing any portion of its program, the department may preempt that  
23 portion of a local program, except that the department shall not preempt or  
24 assert jurisdiction for the enforcement of the code on single-family dwellings.  
25 The commissioner shall explain his or her reasons for preemption in writing  
26 and provide a copy to the local jurisdiction.

27 (c) The local jurisdiction may appeal the preemption directly to the

1 commissioner, and the department shall review the appeal according to the  
2 procedures found in subsections (8) to (10) of KRS 198B.070. No preemption  
3 by the commissioner shall take place until a final decision has been issued in  
4 an appeal under this subsection.

5 (d) If the department preempts any portion of a local program, it shall collect the  
6 fees applicable to that portion of the program.

7 (5) (a) Any local government may petition the commissioner requesting that  
8 additional plan review functions be allocated to that local government. The  
9 petition shall include evidence of the local government's capability to perform  
10 additional plan review functions.

11 (b) The commissioner, after review of the petition and supporting evidence, may  
12 grant or deny to the local government any part of a request for additional  
13 responsibility. If the commissioner denies any part of a petition, he or she  
14 shall explain his or her reasons for denial in writing, and provide a copy to the  
15 local government.

16 (c) A local government may appeal the denial directly to the commissioner, and  
17 the department shall review the appeal according to the procedures found in  
18 subsections (8) to (10) of KRS 198B.070.

19 (d) If the local government is granted additional responsibility by the  
20 commissioner, the department shall hold concurrent jurisdiction over the  
21 additional responsibility, but the local government shall collect any fees for  
22 functions it performs pursuant to the additional responsibility.

23 (6) Any local government may also petition the commissioner requesting that plans and  
24 specifications inspection, building inspection, and approval responsibility relating to  
25 the application of local plumbing permits for local installations be allocated to the  
26 local government. The petition shall not be granted unless the local government has  
27 demonstrated to the commissioner that it can perform these functions in accordance

1 with KRS 198B.050 to 198B.090.

2 (7) The commissioner shall expedite the review of plans and specifications by assigning  
3 responsibilities and coordinating review activities among the department's various  
4 functional divisions so as to prevent unnecessary duplication in the review of plans  
5 and specifications.

6 (8) No building shall be constructed in this state until a local building official and an  
7 official representing the department, if the department has jurisdiction, issue a  
8 permit for the construction. Nothing in this subsection shall require a single-family  
9 dwelling to be permitted or inspected unless a local government has established a  
10 building inspection program as set out in this section.

11 (9) The local building official or the representative of the department shall issue a  
12 permit if the proposed building satisfies the requirements of the Uniform State  
13 Building Code and if the party desiring to construct the building has complied with  
14 all other legal requirements concerning the location and construction of the  
15 building. The applicant for a building permit, by the act of applying for the permit,  
16 shall be deemed to have consented to inspection by the local government or the  
17 department, of the building during construction and upon the completion of  
18 construction for the purpose of determining that the building is constructed in  
19 compliance with the Uniform State Building Code.

20 (10) (a) No permit for building, construction, reconstruction, renovation, demolition,  
21 or maintenance or for any activity related to building, construction,  
22 reconstruction, renovation, demolition, or maintenance shall be issued by any  
23 building department or by any political subdivision of the Commonwealth of  
24 Kentucky to any person seeking the permit unless the person shall assure, by  
25 affidavit, that all contractors and subcontractors employed, or that will be  
26 employed, on activity covered by the permit shall be in compliance with  
27 Kentucky requirements for workers' compensation insurance according to

1 KRS Chapter 342 and unemployment insurance according to KRS Chapter  
2 341.

3 (b) Any person who fails to comply with the assurances required under paragraph  
4 (a) of this subsection upon such finding by a court of competent jurisdiction,  
5 shall be fined an amount not to exceed four thousand dollars (\$4,000) or an  
6 amount equal to the sum of all uninsured and unsatisfied claims brought under  
7 the provisions of KRS Chapter 342 and unemployment insurance claims for  
8 which no wages were reported as required by KRS Chapter 341, whichever is  
9 greater.

10 (c) The penalty imposed in paragraph (b) of this subsection shall be enforced by  
11 the county attorney for the county in which the violation occurred.

12 (11) A certified electrical inspector shall be employed by, or contracted for, or contracted  
13 with a local government having responsibility over buildings described in this  
14 section as part of its building inspection program. After a certified electrical  
15 inspector has been provided for by the local government or the department, no  
16 utility shall initiate permanent electrical service to any new building, or any building  
17 which has been moved, until a final certificate of approval has been issued by a  
18 certified electrical inspector. Unless the department shall notify the utility in writing  
19 as to which buildings are subject to department approval, it shall be presumed by  
20 the utility that the building is subject to the jurisdiction of the local government.  
21 However, nothing in this section shall prohibit the supply or use of necessary  
22 electrical services during the construction and testing process.

23 (12) This section shall apply to industrialized building systems, but destructive  
24 disassembly of industrialized building systems which carry a seal of approval  
25 pursuant to a manufactured building law in the state in which they were  
26 manufactured, which seal of approval is accepted by the department, shall not be  
27 performed in order to conduct the tests or inspections.

1 (13) No building on which construction was begun nor any industrialized building  
2 system on which site preparation and assembly were begun after the Uniform State  
3 Building Code became effective shall be occupied until the local building official or  
4 a representative of the department issues a certificate of occupancy certifying that  
5 the building was constructed in conformance with the standards of the Uniform  
6 State Building Code, or assembled or installed in conformance with applicable  
7 instructions. Nothing in this subsection shall be construed to require a certificate of  
8 occupancy to be issued for any single-family dwelling unless a local government  
9 has established jurisdiction for the enforcement of the Uniform State Building Code  
10 under this section.

11 (14) A local government may associate with other local governments, and may seek the  
12 technical assistance of other agencies or area development districts in order to  
13 provide for the local enforcement of the Uniform State Building Code.

14 (15) Local governments or associations of local governments may contract with a  
15 person, firm, or company to perform the plans and specifications inspection or  
16 building inspection functions required of the local government by the provisions of  
17 this section if:

18 (a) The person performing the plans and specifications inspection is certified by  
19 the department as having successfully completed the test requirements  
20 provided by KRS 198B.090 to practice as a certified plans and specifications  
21 inspector;

22 (b) The person performing the building inspection is certified by the department  
23 as having successfully completed the test requirements provided in KRS  
24 198B.090 to practice as a certified building inspector;

25 (c) The person, firm, or company does not have a conflict of interest between its  
26 plan review or inspection functions and any other employment or business  
27 activities;

- 1 (d) The person performing the plumbing inspection is certified by the department  
2 as having successfully completed the requirements provided in KRS 318.140  
3 to practice as a certified plumbing inspector; and
- 4 (e) The person, firm, or company does not have a conflict of interest between its  
5 plan review or inspection functions and any other employment or business  
6 activities.
- 7 (16) If the department has reason to believe that an inspector is not enforcing, or is  
8 improperly enforcing, the provisions of the Kentucky building codes, it shall  
9 conduct an informal hearing to review the inspector's procedures and return in  
10 written form the required corrections resulting from the hearing to the inspector, or  
11 may take action to suspend or revoke the inspector's certificate.
- 12 (17) If the inspector fails to comply within sixty (60) days of a written notification from  
13 the department that specifies the required corrections, the department shall suspend  
14 the inspector's certification until the inspector complies. Any action to suspend or  
15 revoke an inspector's certificate may be appealed to the department, and upon  
16 appeal an administrative hearing shall be conducted in accordance with KRS  
17 Chapter 13B.
- 18 (18) Each local government and the department may establish a schedule of fees for the  
19 functions performed under this chapter. The fees shall be designed to fully cover,  
20 but shall not exceed, the cost of the service performed. Fees payable to the  
21 department shall be paid into the State Treasury and credited to a trust and agency  
22 fund to be used by the department in carrying out this chapter. No part of this fund  
23 shall revert to the general fund of the Commonwealth.