

1 AN ACT relating to civil rights.

2 WHEREAS, there are an estimated 117,000 adults living in the Commonwealth of
3 Kentucky who identify as LGBTQ, according to the Williams Institute at UCLA School
4 of Law; and

5 WHEREAS, Over 80,000 LGBTQ Kentuckians are part of our Commonwealth's
6 workforce; and

7 WHEREAS, in 1999 Louisville and Lexington approved Kentucky's first Fairness
8 Ordinances, protecting local residents from discrimination based on sexual orientation
9 and gender identity in employment, housing, and public accommodations; and

10 WHEREAS, since 1999, a total of twenty-one additional Kentucky cities and
11 counties have approved local Fairness Ordinances, including Covington (2003), Vicco
12 (2013), Frankfort (2013), Morehead (2013), Danville (2014), Midway (2015), Paducah
13 (2018), Maysville (2018), Henderson (2019), Dayton (2019), Georgetown (2019),
14 Versailles (2019), Bellevue (2019), Highland Heights (2019), Fort Thomas (2020),
15 Woodford County (2020), Cold Spring (2020), Newport (2020), Crescent Springs (2021),
16 Augusta (2021), and Fort Mitchell (2021); and

17 WHEREAS, Kentucky communities with local Fairness Ordinances protect just
18 over thirty percent of the Commonwealth's population from discrimination based on
19 sexual orientation and gender identity; and

20 WHEREAS, nearly seventy percent of Kentuckians live in a community where
21 some form of LGBTQ discrimination is still legal; and

22 WHEREAS, more than one in three LGBTQ Americans experience discrimination
23 based on sexual orientation or gender identity, according to the Center for American
24 Progress; and

25 WHEREAS, twenty-one states across the nation have approved a Statewide
26 Fairness Law; and

27 WHEREAS, the United States Supreme Court has affirmed federal workplace

1 discrimination protections for LGBTQ people in *Bostock v. Clayton County*, (2020); and

2 WHEREAS, the Kentucky Commission on Human Rights has called on the
3 Kentucky General Assembly to update the Kentucky Civil Rights Act to protect LGBTQ
4 people from discrimination in employment, housing, and public accommodations based
5 on sexual orientation and gender identity, and has stated that doing so would be budget-
6 neutral for the Commonwealth; and

7 WHEREAS, all of Kentucky's Fortune 1000 companies maintain policies protecting
8 LGBTQ workers from discrimination based on sexual orientation and gender identity;
9 and

10 WHEREAS, hundreds of Kentucky companies support protecting LGBTQ people
11 from discrimination as part of the Kentucky Competes coalition;

12 NOW, THEREFORE,

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

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

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

- 16 (1) **"Commission" means the Kentucky Commission on Human Rights;**~~Person"~~
17 ~~includes one (1) or more individuals, labor organizations, joint apprenticeship~~
18 ~~committees, partnerships, associations, corporations, legal representatives, mutual~~
19 ~~companies, joint stock companies, trusts, unincorporated organizations, trustees,~~
20 ~~trustees in bankruptcy, fiduciaries, receivers, or other legal or commercial entity; the~~
21 ~~state, any of its political or civil subdivisions or agencies.]~~
- 22 (2) **"Commissioner" means a member of the commission;**~~Commission" means the~~
23 ~~Kentucky Commission on Human Rights.]~~
- 24 (3) **"Credit transaction" means any open-end or closed-end credit transaction,**
25 **whether in the nature of a loan, retail installment transaction, credit card issue or**
26 **charge, or otherwise, and whether for personal or for business purposes, in**
27 **which a service, finance, or interest charge is imposed, or which provides for**

1 repayment in scheduled payments, when the credit is extended in the course of
 2 the regular course of any trade or commerce, including but not limited to
 3 transactions by banks, savings and loan associations, or other financial lending
 4 institutions of whatever nature, by stockbrokers, or by a merchant or mercantile
 5 establishment which as part of its ordinary business permits or provides that
 6 payment for purchases of property or services therefrom may be
 7 deferred;~~[Commissioner" means a member of the commission.]~~

- 8 (4) "Disability" means, with respect to an individual:
- 9 (a) A physical or mental impairment that substantially limits one (1) or more of
- 10 the major life activities of the individual;
- 11 (b) A record of such an impairment; or
- 12 (c) Being regarded as having such an impairment.

13 Persons with current or past controlled substances abuse or alcohol abuse problems

14 and persons excluded from coverage by the Americans with Disabilities Act of

15 1990, Pub. L. No.~~[(P.L.)~~ 101-336, as amended,~~(+)]~~ shall be excluded from this

16 section;~~[-]~~

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

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

- 26 (7) (a) "Familial status" means one (1) or more individuals who have not attained
 27 the age of eighteen (18) years and are domiciled with:

1 1. A parent or another person having legal custody of the individual or
 2 individuals; or

3 2. The designee of a parent or other person having custody, with the
 4 written permission of the parent or other person.

5 (b) The protection afforded against discrimination on the basis of familial
 6 status shall apply to any person who is pregnant or is in the process of
 7 securing legal custody of any individual who has not attained the age of
 8 eighteen (18) years;~~["Housing accommodations" includes improved and~~
 9 ~~unimproved property and means any building, structure, lot or portion thereof,~~
 10 ~~which is used or occupied, or is intended, arranged, or designed to be used or~~
 11 ~~occupied as the home or residence of one (1) or more families, and any vacant~~
 12 ~~land which is offered for sale or lease for the construction or location thereon~~
 13 ~~of any such building or structure.]~~

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

23 (9) "Financial institution" means a bank, banking organization, mortgage company,
 24 insurance company, or other lender to whom application is made for financial
 25 assistance for the purchase, lease, acquisition, construction, rehabilitation,
 26 repair, maintenance, or improvement of real property, or an individual employed
 27 by or acting on behalf of any of these;~~["Real estate broker" or "real estate salesman"~~

1 means any individual, whether licensed or not, who, on behalf of others, for a fee,
 2 commission, salary, or other valuable consideration, or who with the intention or
 3 expectation of receiving or collecting the same, lists, sells, purchases, exchanges,
 4 rents, or leases real estate, or the improvements thereon, including options, or who
 5 negotiates or attempts to negotiate on behalf of others such an activity; or who
 6 advertises or holds himself out as engaged in these activities; or who negotiates or
 7 attempts to negotiate on behalf of others a loan secured by mortgage or other
 8 encumbrance upon a transfer of real estate, or who is engaged in the business of
 9 charging an advance fee or contracting for collection of a fee in connection with a
 10 contract whereby he undertakes to promote the sale, purchase, exchange, rental, or
 11 lease of real estate through its listing in a publication issued primarily for this
 12 purpose; or any person employed by or acting on behalf of any of these.]

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

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

26 **(12)** "Licensing agency" means any public or private organization which has as one (1)
 27 of its duties the issuing of licenses or the setting of standards which an individual

1 must hold or must meet as a condition to practicing a particular trade or profession
 2 or to obtaining certain employment within this Commonwealth~~[the state]~~ or as a
 3 condition to competing effectively with an individual who does hold a license or
 4 meet the standards;~~[-]~~

5 ~~[(12) "Credit transaction" shall mean any open or closed-end credit transaction whether in
 6 the nature of a loan, retail installment transaction, credit card issue or charge, or
 7 otherwise, and whether for personal or for business purposes, in which a service,
 8 finance, or interest charge is imposed, or which provides for repayment in scheduled
 9 payments, when such credit is extended in the course of the regular course of any
 10 trade or commerce, including but not limited to transactions by banks, savings and
 11 loan associations, or other financial lending institutions of whatever nature, stock
 12 brokers, or by a merchant or mercantile establishment which as part of its ordinary
 13 business permits or provides that payment for purchases of property or services
 14 therefrom may be deferred.]~~

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

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

25 (15)~~[(14)] "Real estate broker" or "real estate salesman" means any individual,~~

26 whether licensed or not, who, on behalf of others, for a fee, commission, salary,

27 or other valuable consideration, or who with the intention or expectation of

1 receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases
 2 real estate, or the improvements thereon, including options, or who negotiates or
 3 attempts to negotiate on behalf of others such an activity; or who advertises or
 4 holds himself or herself out as engaged in these activities; or who negotiates or
 5 attempts to negotiate on behalf of others a loan secured by mortgage or other
 6 encumbrance upon a transfer of real estate; or who is engaged in the business of
 7 charging an advance fee or contracting for collection of a fee in connection with
 8 a contract whereby he or she undertakes to promote the sale, purchase, exchange,
 9 rental, or lease of real estate through its listing in a publication issued primarily
 10 for this purpose; or any person employed by or acting on behalf of any of
 11 these;~~[Family" includes a single individual.]~~

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

- 24 1. ~~A parent or another person having legal custody of the individual or~~
 25 ~~individuals; or~~
- 26 2. ~~The designee of a parent or other person having custody, with the~~
 27 ~~written permission of the parent or other person.~~

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

4 **(17)[(16)] "Real estate-related transaction" means any of the following:**

5 **(a) The making or purchasing of loans or providing other financial assistance:**

6 **1. For purchasing, constructing, improving, repairing, or maintaining a**
 7 **housing accommodation; or**

8 **2. Secured by real estate; or**

9 **(b) The selling, brokering, or appraising of real property, except that a person**
 10 **engaged in the business of furnishing appraisals of real property may take**
 11 **into consideration factors other than race, color, religion, national origin,**
 12 **sex, sexual orientation, gender identity, disability, or familial**
 13 **status;**~~[Discriminatory housing practice" means an act that is unlawful under~~
 14 ~~KRS 344.360, 344.367, 344.370, 344.380, or 344.680.]~~

15 **(18) "Real property" includes buildings, structures, real estate, lands, tenements,**
 16 **leaseholds, cooperatives, condominiums, and hereditaments, corporeal and**
 17 **incorporeal, or any interest in them;**

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

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

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

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

24 (a) To provide for execution within the Commonwealth~~[state]~~ of the policies
 25 embodied in the~~[Federal]~~ Civil Rights Act of 1964, Pub. L. No. 88-352, as
 26 amended~~[(78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968~~
 27 ~~(82 Stat. 81)]~~, the Fair Housing Act, Pub. L. No. 90-284, as amended~~[(42~~

1 U.S.C. 360)], the~~[Federal]~~ Age Discrimination in Employment Act of 1967,
 2 **Pub. L. No. 90-202, as amended** ~~[(81 Stat. 602)]~~, the Americans with
 3 Disabilities Act of 1990, **Pub. L. No.** ~~[(P.L.] 101-336[)]~~, **as amended**, and the
 4 Civil Rights Act of 1991, **Pub. L. No. 102-166** ~~[as amended (P.L. 102-166,~~
 5 ~~amended by P.L. 102-392)]~~;

6 (b) To safeguard all individuals within the **Commonwealth**~~[state]~~ from
 7 discrimination because of familial status, race, color, religion, national origin,
 8 sex, **sexual orientation, gender identity**, age forty (40) and over, or because of
 9 the person's status as a qualified individual with a disability as defined in~~[~~
 10 ~~KRS 344.010 and]~~ KRS 344.030; thereby to protect their interest in personal
 11 dignity and freedom from humiliation, to make available to the
 12 **Commonwealth**~~[state]~~ their full productive capacities, to secure the
 13 **Commonwealth**~~[state]~~ against domestic strife and unrest which would menace
 14 its democratic institutions, to preserve the public safety, health, and general
 15 welfare, and to further the interest, rights, and privileges of individuals within
 16 the **Commonwealth**~~[state]~~; **and**

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

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

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

25 (4) Nothing contained in this chapter shall be deemed to repeal any other law of this
 26 **Commonwealth**~~[state]~~ relating to discrimination because of familial status, race,
 27 color, religion, national origin, sex, **sexual orientation, gender identity**, age forty

1 (40) and over, or because of the person's status as a qualified individual with a
2 disability as defined in KRS 344.030.

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

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

10 →Section 4. KRS 344.040 is amended to read as follows:

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

12 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to
13 discriminate against an individual with respect to compensation, terms,
14 conditions, or privileges of employment, because of the individual's race,
15 color, religion, national origin, sex, sexual orientation, gender identity, age
16 forty (40) and over, because the person is a qualified individual with a
17 disability, or because the individual is a smoker or nonsmoker, as long as the
18 individual~~[person]~~ complies with any workplace policy concerning smoking;

19 (b) To limit, segregate, or classify employees in any way which would deprive or
20 tend to deprive an individual of employment opportunities or otherwise
21 adversely affect status as an employee, because of the individual's race, color,
22 religion, national origin, sex, sexual orientation, gender identity, or age forty
23 (40) and over, because the person is a qualified individual with a disability, or
24 because the individual is a smoker or nonsmoker, as long as the
25 individual~~[person]~~ complies with any workplace policy concerning smoking;

26 (c) To fail to make reasonable accommodations for any employee with limitations
27 related to pregnancy, childbirth, or a related medical condition who requests

1 an accommodation, including but not limited to the need to express breast
2 milk, unless the employer can demonstrate the accommodation would impose
3 an undue hardship on the employer's program, enterprise, or business. The
4 following shall be required as to reasonable accommodations:

- 5 1. An employee shall not be required to take leave from work if another
6 reasonable accommodation can be provided;
- 7 2. The employer and employee shall engage in a timely, good faith, and
8 interactive process to determine effective reasonable accommodations;
9 and
- 10 3. If the employer has a policy to provide, would be required to provide, is
11 currently providing, or has provided a similar accommodation to other
12 classes of employees, then a rebuttable presumption is created that the
13 accommodation does not impose an undue hardship on the employer; or

14 (d) To require as a condition of employment that any employee or applicant for
15 employment abstain from smoking or using tobacco products outside the
16 course of employment, as long as the individual~~person~~ complies with any
17 workplace policy concerning smoking.

18 (2) (a) A difference in employee contribution rates for smokers and nonsmokers in
19 relation to an employer-sponsored health plan shall not be deemed to be an
20 unlawful practice in violation of this section.

21 (b) The offering of incentives or benefits offered by an employer to employees
22 who participate in a smoking cessation program shall not be deemed to be an
23 unlawful practice in violation of this section.

24 (3) (a) An employer shall provide written notice of the right to be free from
25 discrimination in relation to pregnancy, childbirth, and related medical
26 conditions, including the right to reasonable accommodations, to:

- 27 1. New employees at the commencement of employment; and

1 2. Existing employees not later than thirty (30) days after June 27, 2019.

2 (b) An employer shall conspicuously post a written notice of the right to be free
3 from discrimination in relation to pregnancy, childbirth, and related medical
4 conditions, including the right to reasonable accommodations, at the
5 employer's place of business in an area accessible to employees.

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

7 (1) It is an unlawful practice for an employment agency to fail or refuse to refer for
8 employment~~[,]~~ or **to** otherwise~~[to]~~ discriminate against~~[,]~~ an individual because of~~[~~
9 his~~]~~ race, color, religion, national origin, sex, **sexual orientation, gender identity,** or
10 age forty (40) and over, or because the person is a qualified individual with a
11 disability, or to classify or refer for employment an individual **because of**~~on the~~
12 basis of disability~~],~~ race, color, religion, national origin, sex, **sexual orientation,**
13 **gender identity,** or age~~[between]~~ forty (40) and **over, or because the person is a**
14 **qualified individual with a disability**~~[seventy (70)]~~.

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

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

20 It is an unlawful practice for a labor organization:

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

25 (2) To limit, segregate, or classify its membership, or to classify or fail to refer to
26 refer for employment an individual, in any way which would deprive or tend to deprive
27 an individual of employment opportunities, or would limit such employment

1 opportunities or otherwise adversely affect the status as an employee or as an
2 applicant for employment, because of race, color, religion, national origin, sex,
3 sexual orientation, gender identity, or age forty (40) and over, or because the
4 person is a qualified individual with a disability.

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

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

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

14 ➔Section 8. KRS 344.080 is amended to read as follows:

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

27 ➔Section 9. KRS 344.100 is amended to read as follows:

1 ~~[Notwithstanding]~~ Any ~~[other]~~ provision of this chapter **to the contrary notwithstanding**,
2 it is not an unlawful practice for an employer to apply different standards of
3 compensation, or different terms, conditions, or privileges of employment pursuant to a
4 bona fide seniority or merit system, or a system which measures earnings by quantity or
5 quality of production or to employees who work in different locations, if the differences
6 are not the result of an intention to discriminate because of race, color, religion, national
7 origin, sex, **sexual orientation, gender identity**, or age forty (40) and over, or because the
8 person is a qualified individual with a disability, nor is it an unlawful practice for an
9 employer to give and to act upon the results of any professionally developed ability test
10 provided that the test, its administration, or action upon the results **thereof** is not
11 designed, intended, or used to discriminate because of race, color, religion, national
12 origin, sex, **sexual orientation, gender identity**, or age forty (40) and over, or because the
13 person is a qualified individual with a disability.

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

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

1 color, religion, national origin, sex, **sexual orientation, gender identity,** or age forty
 2 (40) and over, or because the person is a qualified individual with a disability, in the
 3 **Commonwealth**^[state] or a community, section, or other area, or in the available
 4 workforce in the **Commonwealth**^[state] or a community, section, or other area.

- 5 (2) Nothing~~[contained]~~ in this chapter shall prohibit:
- 6 (a) Minimum hiring ages otherwise provided by law.
 - 7 (b) State compliance with federal regulations.
 - 8 (c) Termination of the employment of any person who is unable to perform the
 9 essential functions of the job, with or without reasonable accommodation.
 - 10 (d) Any post-job-offer physical or medical examinations of applicants or
 11 employees which an employer requires to determine their ability to perform
 12 the essential functions of the job, with or without reasonable accommodation.
 - 13 (e) An employer, labor organization, or employment agency from observing the
 14 terms of a bona fide seniority system or any bona fide employee benefit plan
 15 such as a retirement, pension, or insurance plan which is not a subterfuge to
 16 evade the purposes of this chapter, except that no such employee benefit plan
 17 shall excuse the failure to hire any individual.

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

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

25 ➔Section 12. KRS 344.140 is amended to read as follows:

26 It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue,
 27 display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a

1 written, printed, oral, or visual communication, notice, or advertisement, which indicates
 2 that the goods, services, facilities, privileges, advantages, and accommodations of a place
 3 of public accommodation, resort, or amusement will be refused, withheld from, or denied
 4 an individual **because**~~[on account]~~ of disability, race, color, religion,~~[or]~~ national origin,
 5 **sexual orientation, or gender identity**, or that the patronage of, or presence at, a place of
 6 public accommodation, resort, or amusement, of an individual, on account of disability,
 7 race, color, religion,~~[or]~~ national origin, **sexual orientation, or gender identity** is
 8 objectionable, unwelcome, unacceptable, or undesirable.

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

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

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

15 The powers and duties of the commission shall be:

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

1 (7) To make an annual report to the Governor and the General Assembly of its
2 activities under this chapter.

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

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

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

8 (2) To meet and exercise its powers at any place within the Commonwealth.

9 (3) Within the limitations provided by law, to appoint an executive director, attorneys,
10 hearing examiners, clerks, and other employees and agents as it may deem
11 necessary. At the direction of the commission, attorneys appointed under this
12 section may appear for and represent the commission in any court. The commission
13 may, by written order, delegate the authority given by this subsection to its
14 executive director, except as that authority relates to the appointment of its
15 executive director.

16 (4) To promote the creation of local commissions on human rights, to cooperate with
17 state, local, and other agencies, both public and private, and individuals, and to
18 obtain upon request and utilize the services of all governmental departments and
19 agencies.

20 (5) To cooperate with the~~[United States]~~ Equal Employment Opportunity Commission,
21 created by~~[Section 705 of]~~ the Civil Rights Act of 1964, Pub. L. No. 88-352~~[(78~~
22 ~~Stat. 241)]~~, in order to achieve the purposes of that act, and with other federal and
23 local agencies in order to achieve the purposes of that act, and with other federal
24 and local agencies in order to achieve the purposes of this chapter.

25 (6) To accept gifts or bequests, grants, or other payments, public or private, to help
26 finance its activities.

27 (7) To accept reimbursement pursuant to Section 709(b) of the Civil Rights Act of

- 1 1964, Pub. L. No. 88-352, [(78 Stat. 241)] for services rendered to assist the
2 Federal Equal Employment Opportunity Commission.
- 3 (8) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon
4 complaints alleging violations of this chapter.
- 5 (9) At any time after a complaint is filed, to require answers to interrogatories, compel
6 the attendance of witnesses, examine witnesses under oath or affirmation in person
7 or by deposition, and require the production of documents relevant to the complaint.
8 The commission may make rules authorizing any member or individual designated
9 to exercise these powers in the performance of official duties.
- 10 (10) To furnish technical assistance requested by persons subject to this chapter to
11 further their compliance with this chapter or an order issued thereunder.
- 12 (11) To make studies appropriate to effectuate the purposes and policies of this chapter
13 and to make the results thereof available to the public.
- 14 (12) To render annual written reports to the Governor and the General
15 Assembly [Legislature]. The reports may contain recommendations of the
16 commission for legislative or other action to effectuate the purposes and policies of
17 this chapter.
- 18 (13) To create local or statewide advisory agencies that in its judgment will aid in
19 effectuating the purpose of this chapter. The commission may empower these
20 agencies:
- 21 (a) To study and report on problems of discrimination because of disability, race,
22 color, religion, [or] national origin, sex, sexual orientation, or gender
23 identity; [;]
- 24 (b) To foster, through community effort or otherwise, goodwill among the groups
25 and elements of the population of the Commonwealth; [state,] and
- 26 (c) To make recommendations to the commission for the development of policies
27 and practices that will aid in carrying out the purposes of this chapter.

1 Members of such agencies~~[committees]~~ shall serve without pay but shall be
 2 reimbursed for expenses incurred in such service. The commission may make
 3 provision for technical and clerical assistance to the agencies~~[committees]~~.

4 (14) To~~[-adopt,]~~ promulgate administrative~~[-, amend, and rescind]~~ regulations to
 5 effectuate the purposes and provisions of this chapter, including regulations
 6 requiring the posting of notices prepared or approved by the commission.

7 (15) To purchase liability insurance for the protection of all members of the commission
 8 to protect them from liability arising in the course of pursuing their duties as
 9 members of the commission and for all full-time employees to protect them from
 10 liability arising in the course or scope of their employment. This insurance shall be
 11 purchased with money contained in the agency appropriated budget.

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

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

20 (2) City, county, urban-county, consolidated local, charter county, and unified local
 21 governments~~[Cities and counties]~~ may adopt and enforce ordinances, orders, and
 22 resolutions prohibiting discrimination; no ordinance, order, or resolution shall
 23 attempt to exempt more transactions from its coverage than are exempted by KRS
 24 344.362 and 344.365.

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

26 Any city,~~[-or]~~ county, urban-county, consolidated local, charter county, or unified local
 27 government, or one (1) or more of those local governments~~[cities and counties]~~ acting

1 jointly, may create a ***local*** human rights commission ~~(hereinafter a "local commission")~~:

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

5 (2) To safeguard all individuals within its jurisdiction from discrimination because of
6 race, color, religion,~~or~~ national origin, sex, ***sexual orientation, gender identity***, or
7 age.

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

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

11 (1) To refuse to sell, exchange, rent, or lease, or otherwise deny to or withhold, real
12 property from any person because of race, color, religion, sex, ***sexual orientation,***
13 ***gender identity***, familial status, disability, or national origin;

14 (2) To discriminate against any person because of race, color, religion, sex, ***sexual***
15 ***orientation, gender identity***, familial status, disability, or national origin in the
16 terms, conditions, or privileges of the sale, exchange, rental, or lease of real
17 property or in the furnishing of facilities or services in connection therewith;

18 (3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real
19 property from any person because of race, color, religion, sex, ***sexual orientation,***
20 ***gender identity***, familial status, disability, or national origin;

21 (4) To refuse to negotiate for the sale, rental, or lease of real property to any person
22 because of race, color, religion, sex, ***sexual orientation, gender identity***, familial
23 status, disability, or national origin;

24 (5) To represent to any person that real property is not available for inspection, sale,
25 rental, or lease when it is so available, or to refuse to permit any person to inspect
26 real property because of~~his~~ race, color, religion, sex, ***sexual orientation, gender***
27 ***identity***, familial status, disability, or national origin;

- 1 (6) To make, print, circulate, post, or mail or cause to be printed, circulated, posted, or
2 mailed an advertisement or sign, or to use a form of application for the purchase,
3 rental, or lease of real property, or to make a record of inquiry in connection with
4 the prospective purchase, rental, or lease of real property, which indicates, directly
5 or indirectly, a limitation, specification, or discrimination as to race, color, religion,
6 sex, *sexual orientation, gender identity*, familial status, disability, or national
7 origin or an intent to make such a limitation, specification, or discrimination;
- 8 (7) To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or
9 lease with the understanding that any person may be discriminated against in the
10 sale, rental, or lease of that real property or in the furnishing of facilities or services
11 in connection therewith because of ~~his~~ race, color, religion, sex, *sexual*
12 *orientation, gender identity*, familial status, disability, or national origin;
- 13 (8) To otherwise deny to or withhold real property from any person because of ~~his~~
14 race, color, religion, sex, *sexual orientation, gender identity*, familial status,
15 disability, or national origin;
- 16 (9) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a
17 housing accommodation to any buyer or renter because of a disability of:
- 18 (a) That buyer or renter;
- 19 (b) A person residing in or intending to reside in that housing accommodation
20 after it is so sold, rented, or made available; or
- 21 (c) Any person associated with that buyer or renter; or
- 22 (10) To discriminate against any person in the terms, conditions, or privileges of sale or
23 rental of a dwelling, or in the provision of services or facilities in connection with
24 such housing accommodation, because of a disability of:
- 25 (a) That person; or
- 26 (b) A person residing in or intending to reside in that housing accommodation
27 after it is sold, rented, or made available; or

1 (c) Any person associated with that person.

2 (11) For purposes of this section, discrimination includes:

3 (a) A refusal to permit, at the expense of the disabled person, reasonable
4 modifications of existing premises occupied or to be occupied by a person, if
5 the modifications may be necessary to afford the person full enjoyment of the
6 premises; except that, in the case of a rental, the landlord may, where it is
7 reasonable to do so, condition permission for a modification on the renter
8 agreeing to restore the interior of the premises to the condition that existed
9 before the modification, reasonable wear and tear excepted.

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

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

20 1. The public use and common use portions of the housing
21 accommodations shall be readily accessible to and usable by disabled
22 persons;

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

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

- 1 a. An accessible route into and through the housing accommodation;
- 2 b. Light switches, electrical outlets, thermostats, and other
- 3 environmental controls in accessible locations;
- 4 c. Reinforcements in bathroom walls to allow later installation of
- 5 grab bars; and
- 6 d. Usable kitchens and bathrooms so that an individual in a
- 7 wheelchair can maneuver about the space.

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

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

- 14 (a) Buildings consisting of four (4) or more units if the buildings have one (1) or
 15 more elevators; and
- 16 (b) Ground floor units in other buildings consisting of two (2) or more units.

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

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

22 It is an unlawful practice for a person in the business of insuring against hazards to refuse
 23 to enter into, or discriminate in the terms, conditions, or privileges of, a contract of
 24 insurance against hazards to a housing accommodation because of the race, color,
 25 religion, national origin, familial status, disability,~~{or}~~ sex, **sexual orientation, or gender**
 26 **identity** of persons owning, or residing in or near the housing accommodation.

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

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

- 3 (1) To discriminate against an individual because of the race, color, religion,~~[-or]~~
4 national origin, familial status, disability, sex, **sexual orientation, gender identity,**
5 or age of the individual or the present or prospective owner, tenant, or occupant of
6 the real property or of a member, stockholder, director, officer, employee, or
7 representative of any of these, in the granting, withholding, extending, modifying,
8 or renewing the rates, terms, conditions, privileges, or other provisions of financial
9 assistance or in the extension of services in connection therewith;
- 10 (2) To use a form of application for financial assistance or to make or keep a record or
11 inquiry in connection with applications for financial assistance which indicate,
12 directly or indirectly, a limitation, specification, or discrimination as to race, color,
13 religion, **national origin,** familial status, disability, **sex, sexual orientation,** or
14 **gender identity,**~~[national origin]~~ or an intent to make such a limitation,
15 specification, or discrimination; **or**
- 16 (3) To discriminate by refusing to give full recognition, because of sex, to the income
17 of each spouse or the total income and expenses of both spouses where both
18 spouses become or are prepared to become joint or several obligors in real estate
19 transactions~~[-; or~~
- 20 ~~(4) As used in this section, the term "real estate-related transaction" means any of the~~
21 ~~following:~~
- 22 ~~(a) The making or purchasing of loans or providing other financial assistance;~~
- 23 ~~1. For purchasing, constructing, improving, repairing, or maintaining a~~
24 ~~housing accommodation; or~~
- 25 ~~2. Secured by real estate.~~
- 26 ~~(b) The selling, brokering, or appraising of real property except that a person~~
27 ~~engaged in the business of furnishing appraisals of real property may take into~~

1 ~~consideration factors other than race, color, religion, national origin, sex,~~
2 ~~disability, or familial status].~~

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

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

7 (1) To represent that a change has occurred or will or may occur in the composition
8 with respect to race, color, religion, sex, **sexual orientation, gender identity,**
9 disability, familial status, or national origin of the owners or occupants in the block,
10 neighborhood, or area in which the real property is located;

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

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

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

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

22 (a) Deny credit to any person;

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

25 (c) Restrict the amount or use of credit extended or impose different terms or
26 conditions with respect to the credit extended to any person or any item or
27 service related thereto; **or**

- 1 (d) Attempt to do any of the unlawful practices defined in this section.
- 2 (2) The provisions of this section shall not prohibit any party to a credit transaction
3 from considering the credit history of any individual applicant.
- 4 (3) The provisions of this section shall not prohibit any party to a credit transaction
5 from considering the application of Kentucky law on dower and[,] curtesy or[,]
6 descent and distribution to the particular case or from taking reasonable action
7 thereon.

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

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

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

- 16 (1) A classified employee with status shall not be dismissed, demoted, suspended, or
17 otherwise penalized except for cause.
- 18 (2) Prior to dismissal, a classified employee with status shall be notified in writing of
19 the intent to dismiss him. The notice shall also state:
- 20 (a) The specific reasons for dismissal including:
- 21 1. The statutory or regulatory violation;
- 22 2. The specific action or activity on which the intent to dismiss is based;
- 23 3. The date, time, and place of such action or activity; and
- 24 4. The name of the parties involved;
- 25 (b) That the employee has the right to appear personally, or with counsel if he has
26 retained counsel, to reply to the head of the cabinet or agency or his designee;
27 and

- 1 (c) Whether the employee is placed on administrative leave by the appointing
2 authority with pay upon receiving the intent to dismiss letter prior to the
3 agency's final action.
- 4 (3) The Personnel Cabinet shall prescribe and distribute a form to be completed and
5 forwarded by an employee who wishes to appear before the head of the cabinet or
6 agency or his designee, to each appointing authority. The form shall be attached to
7 every notice of intent to dismiss and shall contain written instructions explaining:
- 8 (a) The right granted an employee under the provisions of this section relating to
9 pretermination hearings; and
- 10 (b) The time limits and procedures to be followed by all parties in pretermination
11 hearings.
- 12 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,
13 excluding the day he receives the notice, the employee may request to appear,
14 personally or with counsel if he has retained counsel, to reply to the head of the
15 cabinet or agency or his designee.
- 16 (5) Unless waived by the employee, the appearance shall be scheduled within six (6)
17 working days after receipt of an employee's request to appear before the head of the
18 cabinet or agency or his designee, excluding the day his request is received.
- 19 (6) No later than five (5) working days after the employee appears before the head of
20 the cabinet or agency or his designee, excluding the day of the appearance, the
21 cabinet head or agency or his designee shall:
- 22 (a) Determine whether to dismiss the employee or to alter, modify, or rescind the
23 intent to dismiss; and
- 24 (b) Notify the employee in writing of the decision.
- 25 (7) If the cabinet or agency head or his designee determines that the employee shall be
26 dismissed or otherwise penalized, the employee shall be notified in writing of:
- 27 (a) The effective date of his dismissal or other penalization;

- 1 (b) The specific reason for this action, including:
- 2 1. The statutory or regulatory violation;
- 3 2. The specific action or activity on which the dismissal or other
- 4 penalization is based;
- 5 3. The date, time, and place of the action or activity; and
- 6 4. The name of the parties involved; and
- 7 (c) That he may appeal the dismissal or other penalization to the board within
- 8 sixty (60) days after receipt of this notification, excluding the day he receives
- 9 notice.
- 10 (8) A classified employee with status who is demoted, suspended, or otherwise
- 11 penalized shall be notified in writing of:
- 12 (a) The demotion, suspension, or other penalization;
- 13 (b) The effective date of the demotion, suspension, or other penalization;
- 14 (c) The specific reason for the action including:
- 15 1. The statutory or regulatory violation;
- 16 2. The specific action or activity on which the demotion, suspension, or
- 17 other penalization is based;
- 18 3. The date, time, and place of the action or activity; and
- 19 4. The name of the parties involved; and
- 20 (d) That he or she has the right to appeal to the board within sixty (60) days,
- 21 excluding the day that he or she received notification of the personnel action.
- 22 (9) Any unclassified employee who is dismissed, demoted, suspended, or otherwise
- 23 penalized for cause may, within thirty (30) days after the dismissal, demotion,
- 24 suspension, or other form of penalization, appeal to the board for review thereof.
- 25 (10) (a) An employee whose position is reallocated shall be notified in writing by the
- 26 appointing authority of:
- 27 1. The reallocation; and

- 1 2. His right to request reconsideration by the secretary within ten (10)
2 working days of receipt of the notice, excluding the day he receives
3 notification.
- 4 (b) He shall be provided with a form prescribed by the secretary on which to
5 request reconsideration.
- 6 (c) The employee shall file a written request for reconsideration of the
7 reallocation of his position with the secretary in a manner and form prescribed
8 by the secretary and shall be given a reasonable opportunity to be heard
9 thereon by the secretary. The secretary shall make a determination within sixty
10 (60) days after the request has been filed by an employee. After
11 reconsideration of the request by the secretary, the employee may appeal to the
12 board.
- 13 (11) Any state employee, applicant for employment, or eligible on a register may appeal
14 to the board on the grounds that his right to inspect or copy records, including
15 preliminary and other supporting documentation, relating to him has been denied,
16 abridged, or impeded by a public agency. The board shall conduct a hearing to
17 determine whether the records related to the employee, applicant, or eligible, and
18 whether his right to inspect or copy these records was denied, abridged, or impeded.
19 If the board determines that the records related to the employee and that the right to
20 inspect or copy these records has been denied, abridged, or impeded, the board shall
21 order the public agency to make them available for inspection and copying and shall
22 charge the cost of the hearing to the public agency. A state employee, an applicant
23 for employment, and an eligible on a register shall not have the right to inspect or to
24 copy any examination materials.
- 25 (12) Any classified employee may appeal to the board an action alleged to be based on
26 discrimination due to race, color, religion, national origin, sex, **sexual orientation,**
27 **gender identity,** disability, or age forty (40) and above. Nothing in this section shall

1 be construed to preclude any classified or unclassified employee from filing with
2 the Kentucky Commission on Human Rights a complaint alleging discrimination on
3 the basis of race, color, religion, national origin, sex, sexual orientation, gender
4 identity, disability, or age in accordance with KRS Chapter 344.

5 (13) When an eligible's name is removed from a register, the secretary shall notify the
6 eligible of his action and the reasons therefor, together with his right of appeal. An
7 eligible's name shall be restored to the register upon presentation of reasons
8 satisfactory to the secretary or in accordance with the decision of the board.

9 (14) (a) Any employee, applicant for employment, or eligible on a register, who
10 believes that he has been discriminated against, may appeal to the board.

11 (b) Any applicant whose application for admission to an open-competitive
12 examination has been rejected shall be notified of this rejection and the
13 reasons therefor and may appeal to the board for reconsideration of his
14 qualifications and for admission to the examination. Applicants may be
15 conditionally admitted to an examination by the secretary pending
16 reconsideration by the board.

17 (c) Any applicant who has taken an examination may appeal to the board for a
18 review of his rating in any part of the examination to assure that uniform
19 rating procedures have been applied equally and fairly.

20 (d) An appeal to the board by applicants or eligibles under subsections (11) and
21 (13) of this section and under this subsection shall be filed in writing with the
22 executive director not later than thirty (30) calendar days after the notification
23 of the action in question was mailed.

24 (15) An evaluation may be appealed to the board if an employee has complied with the
25 review procedure established in KRS 18A.110(7)(j).

26 (16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the
27 board. Appeal forms shall be available at the employee's place of work. The

1 Personnel Cabinet shall be responsible for the distribution of these forms.

2 (b) The appeal form shall be attached to any notice, or copy of any notice, of
3 dismissal, demotion, suspension, fine, involuntary transfer, or other
4 penalization, reallocation, or notice of any other action an employee may
5 appeal under the provisions of this section. The appeal form shall instruct the
6 employee to state whether he is a classified or unclassified employee, his full
7 name, his appointing authority, work station address and telephone number,
8 and, if he has retained counsel at the time he files an appeal, the name,
9 address, and telephone number of his attorney.

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

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

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

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

25 (b) Any investigation by the board of any matter related to an appeal filed by an
26 employee shall be conducted only upon notice to the employee, the
27 employee's counsel, and the appointing authority. All parties to the appeal

1 shall have access to information produced by the investigations and the
2 information shall be presented at the hearing.

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

5 (a) Employ class action procedures; or

6 (b) Conduct test representative cases.

7 (20) Board members shall abstain from public comment about a pending or impending
8 proceeding before the board. This shall not prohibit board members from making
9 public statements in the course of their official duties or from explaining for public
10 information the procedures of the board.

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

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

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

- 1 (c) If the board finds that the action taken by the appointing authority was
2 excessive or erroneous in view of all the surrounding circumstances, the board
3 shall direct the appointing authority to alter, modify, or rescind the
4 disciplinary action.
- 5 (d) In all other cases, the board shall direct the appointing authority to rescind the
6 action taken or otherwise grant specific relief or dismiss the appeal.
- 7 (23) If a final order of the board is appealed, a court shall award reasonable attorney fees
8 to an employee who prevails by a final adjudication on the merits as provided by
9 KRS 453.260. This award shall not include attorney fees attributable to the hearing
10 before the board.
- 11 (24) When any employee is dismissed and not ordered reinstated after the appeal, the
12 board in its discretion may direct that his name be placed on an appropriate
13 reemployment list for employment in any similar position other than the one from
14 which he had been removed.
- 15 (25) After a final decision has been rendered by the board or court, an employee who
16 prevails in his appeal shall be credited with the amount of leave time used for time
17 spent at his hearing before the board or court. Employees who had an insufficient
18 amount of leave time shall be credited with leave time equal to the amount of time
19 spent at their hearings before the board or court.
- 20 (26) If the appointing authority appeals the final order of the board, unless the board
21 rules otherwise, the reinstated employee shall remain in his former position, or a
22 position of like status or pay, until the conclusion of the appeals process, at which
23 time the appointing authority shall take action in accordance with the court order.
- 24 (27) After a final decision in a contested case has been rendered by the last
25 administrative or judicial body to which the case has been appealed, the board shall
26 make the decision available to the public in electronic format on its Web site and
27 shall organize the decisions according to the statutory basis for which the appeal

1 was based.

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

5 (29) Notwithstanding any other prescribed limitation of action, an employee that has
6 been penalized, but has not received a written notice of his or her right to appeal as
7 provided in this section, shall file his or her appeal with the Personnel Board within
8 one (1) year from the date of the penalization or from the date that the employee
9 reasonably should have known of the penalization.

10 ➔Section 25. The restrictions of KRS 6.945(1) shall not apply to this Act.

11 ➔Section 26. This Act may be cited as the Kentucky Competes Act.