

1 AN ACT relating to required publications.

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

3 ➔Section 1. KRS 424.145 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Local government" means:

- 6 1. Any urban-county government;
- 7 2. Any consolidated local government;
- 8 3. Any charter county;
- 9 4. Any unified local government; and
- 10 5. In any county containing a population of eighty thousand (80,000) or
11 more based upon the most recent federal decennial census, the county
12 itself or any:
 - 13 a. City within the county;
 - 14 b. Special district within the county;
 - 15 c. School district within the county; or
 - 16 d. Special purpose governmental entity within the county; and

17 (b) "Notice ~~website~~[Web site]" means a website[~~an Internet Web site~~] that is
18 maintained by a local government or a third party under contract with the
19 local government, which contains links to the legal advertisements or notices
20 electronically published by the local government.

21 (2) Local governments may satisfy the requirements of this chapter or any other
22 provision of law requiring the publication of an advertisement in a newspaper by
23 following the alternative procedures established in this section.

24 (3) In lieu of newspaper publication, a local government may post the required
25 advertisement online on a notice ~~website~~[Web site] operated by the local
26 government that is accessible to the public at all times in accordance with
27 subsections (4) to (9) of this section. Publication of an advertisement shall be

1 deemed to have occurred on the date the advertisement is posted on the local
2 government's notice website~~[Web site]~~.

3 (4) (a) In conjunction with an alternative Internet posting, the local government shall
4 publish a newspaper advertisement one (1) time providing notice that the
5 public may view the full advertisement on the notice website~~[Web site]~~. The
6 newspaper advertisement shall:

7 1.~~[(a)]~~ Be not more than six (6) column inches and meet the technical
8 requirements of KRS 424.160(1);

9 2.~~[(b)]~~ Be published within ten (10) days of the alternative posting on the
10 notice website~~[Web site]~~ when the purpose of the posting is to inform
11 the public of a completed act, including those acts specified in KRS
12 424.130(1)(a), or within three (3) days of the posting when the purpose
13 of the posting is to inform the public of the right to take a certain action,
14 including the events specified in KRS 424.130(1)(b) and (d);

15 3.~~[(c)]~~ Inform the public of the subject matter of the alternative posting,
16 inform the public of its right to inspect any documents associated with
17 the Internet posting by contacting the local government, and provide a
18 mailing and a physical address where a copy of the document may be
19 obtained and the Web address if the document is available online; and

20 4.~~[(d)]~~ Provide the full Uniform Resource Locator (URL) of the notice
21 website~~[Web site]~~ address and the full Uniform Resource Locator
22 (URL) of the address where the full advertisement may be directly
23 viewed along with a telephone number for the local government.

24 ***(b) A local government may, alternatively, publish an advertisement one (1)***
25 ***time providing notice that the public may view the full advertisement on the***
26 ***notice website in a digital newspaper that meets the qualifications discussed***
27 ***in Section 2 of this Act, so long as the advertisement complies with***

1 subparagraphs 2., 3., and 4. of paragraph (a) of this subsection.

- 2 (5) In addition to specific legal requirements applicable to a particular type of
3 advertisement:
- 4 (a) The contents of each alternative Internet posting shall meet the minimum
5 requirements of KRS 424.140; and
- 6 (b) The local government shall make the alternative Internet posting in
7 accordance with the times and periods established by KRS 424.130, and shall
8 actively maintain the alternative Internet posting on its public website~~[Web~~
9 ~~site]~~:
- 10 1. Until the deadline passes or the event occurs if the substance of the
11 advertisement is intended to advise the public of a time to take action or
12 the occurrence of a future event;
- 13 2. For at least ninety (90) days if the substance of the advertisement is to
14 inform the public of an action taken by the local government, such as the
15 enactment of an ordinance; or
- 16 3. For one (1) year or until updated or replaced with a more recent version
17 if the substance of the advertisement is intended to inform the public
18 about the financial status of the local government, such as annual audits
19 or the budget.
- 20 (6) The local government shall display access to any and all alternative Internet
21 postings made pursuant to this section prominently on the homepage or first page of
22 the notice website~~[Web site]~~. The section of the notice website~~[Web site]~~ containing
23 any postings and the actual advertisement shall be made in a manner where the
24 public can readily and with minimal effort identify the location of and easily
25 retrieve the advertisements.
- 26 (7) The local government shall provide a conspicuous statement on its notice
27 website~~[Web site]~~ that individuals who have difficulty in accessing the contents of

1 posted advertisements may contact the local government for information regarding
2 alternative methods of accessing advertisements, which shall include the telephone
3 number of the local government.

4 (8) As proof of an alternative Internet posting to satisfy any newspaper publication
5 requirement, the local government shall memorialize the posting by capturing the
6 posting in electronic or paper format and shall complete an affidavit signed by the
7 person responsible for causing publications under KRS 424.150, stating that the
8 local government satisfied the publication requirement by alternative Internet
9 posting. The affidavit shall specify the active dates of the notice website~~[Web site]~~
10 posting, the specific statutory requirements being satisfied by the alternative
11 Internet posting, and the notice website~~[Web site]~~ address where the alternative
12 posting was located, including the full Uniform Resource Locator (URL) used for
13 the posting. The local government shall retain the captured posting and the affidavit
14 by the person responsible for publication for a period of three (3) years. Together,
15 the captured posting and the affidavit shall constitute prima facie evidence that the
16 posting was made and occurred as stated within the affidavit.

17 (9) The failure to cause the newspaper advertisement required in subsection (4) of this
18 section shall not void the action of the local government or negate the enforceability
19 of the matter advertised by alternative Internet posting. Any person who violates the
20 requirements of subsection (4) of this section shall be subject to the penalties
21 provided in KRS 424.990.

22 ➔Section 2. KRS 424.120 is amended to read as follows:

23 (1) Except as provided in subsections~~[subsection]~~ (2) and (4) of this section, if an
24 advertisement for a publication area is required by law to be published in a
25 newspaper, the publication shall be made in a newspaper that meets the following
26 requirements:

27 (a) It shall be published in the publication area. A newspaper shall be deemed to

1 be published in the area if it maintains its principal office in the area for the
2 purpose of gathering news and soliciting advertisements and other general
3 business of newspaper publications, and has a periodicals class mailing permit
4 issued for that office. A newspaper published outside of Kentucky shall not be
5 eligible to carry advertisements for any county or publication area within the
6 county, other than for the city in which its main office is located, if there is a
7 newspaper published in the county that has a substantial general circulation
8 throughout the county and that otherwise meets the requirements of this
9 section; and

10 (b) It shall be of regular issue and have a bona fide circulation in the publication
11 area. A newspaper shall be deemed to be of regular issue if it is published at
12 least once a week, for at least fifty (50) weeks during the calendar year as
13 prescribed by its mailing permit, and has been so published in the area for the
14 immediately preceding two (2) year period. A newspaper meeting all the
15 criteria to be of regular issue, except publication in the area for the
16 immediately preceding two (2) year period, shall be deemed to be of regular
17 issue if it is the only paper in the publication area and has a paid circulation
18 equal to at least ten percent (10%) of the population of the publication area. A
19 newspaper shall be deemed to be of bona fide circulation in the publication
20 area if it is circulated generally in the area, and maintains a definite price or
21 consideration not less than fifty percent (50%) of its published price, and is
22 paid for by not less than fifty percent (50%) of those to whom distribution is
23 made; and

24 (c) It shall bear a title or name, consist of not less than four (4) pages without a
25 cover, and be of a type to which the general public resorts for passing events
26 of a political, religious, commercial, and social nature, and for current
27 happenings, announcements, miscellaneous reading matter, advertisements,

1 and other notices. The news content shall be at least twenty-five percent
2 (25%) of the total column space in more than one-half (1/2) of its issues
3 during any twelve (12) month period.

4 (d) If, in a publication area there is more than one (1) newspaper which meets the
5 above requirements, the newspaper having the largest bona fide paid
6 circulation as shown by the average number of paid copies of each issue as
7 shown in its published statement of ownership as filed on October 1 for the
8 publication area shall be the newspaper where advertisements required by law
9 to be published shall be carried.

10 (e) For the purposes of KRS Chapter 424, publishing shall be considered as the
11 total recurring processes of producing the newspaper, embracing all of the
12 included contents of reading matter, illustrations, and advertising enumerated
13 in paragraphs (a) through (d) of this subsection. A newspaper shall not be
14 excluded from qualifying for the purposes of legal publications as provided in
15 this chapter if its printing or reproduction processes take place outside the
16 publication area.

17 (2) (a) If, in the case of a publication area smaller than the county in which it is
18 located, there is no newspaper published in the area, the publication shall be
19 made in a newspaper published in the county that is qualified under this
20 section to publish advertisements for the county. If the qualified newspaper
21 publishes a zoned edition which is distributed to regular subscribers within the
22 publication area, any advertisement required by law to be published in the
23 publication area may be published in the zoned edition distributed in that area.

24 (b) If, in any county there is no newspaper meeting the requirements of this
25 section for publishing advertisements for that county, any advertisements
26 required to be published for the county or for any publication area within the
27 county shall be published in a newspaper of the largest bona fide circulation

1 in that county published in and qualified to publish advertisements for an
2 adjoining county in Kentucky. This subsection is intended to supersede any
3 statute that provides or contemplates that newspaper publication may be
4 dispensed with if there is no newspaper printed or published or of general
5 circulation in the particular publication area.

6 (3) If a publication area consists of a district, other than a city, which extends into more
7 than one (1) county, the part of the district in each county shall be considered to be
8 a separate publication area for the purposes of this section, and an advertisement for
9 each separate publication area shall be published in a newspaper qualified under
10 this section to publish advertisements for the area.

11 **(4) If an advertisement for a publication area is required by law to be published in a**
12 **newspaper, the publication may, alternatively, be made in a digital newspaper**
13 **that:**

14 **(a) Maintains an active news gathering office in the publication area;**

15 **(b) Has been actively publishing for at least one (1) year, and is updated on at**
16 **least a weekly basis;**

17 **(c) Has as its primary purpose reporting on matters of import to the public, and**
18 **contains regular reporting regarding local and community issues in the**
19 **publication area;**

20 **(d) Is easily accessible to the public through common Internet search engines**
21 **or other internet search means;**

22 **(e) Contains conspicuous links or headings on its landing page that direct**
23 **members of the public to public notices; and**

24 **(f) Distributes, or has ownership interest in another entity that distributes,**
25 **newspapers printed in Kentucky, and is capable of circulating printed**
26 **newspapers throughout the publication area.**

27 **For purposes of satisfying publication requirements of this chapter, an**

1 advertisement is deemed to be published on the date that it is posted on the
2 website of the digital newspaper. Any other statute requiring newspaper
3 publication that contains requirements related to the physical dimensions,
4 typesetting, font, or other aspects particular to a printed newspaper are not
5 applicable where the advertisement is made in a digital newspaper that qualifies
6 under this subsection.