

1 AN ACT relating to civil rights.

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

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

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

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

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

2 Persons with current or past controlled substances abuse or alcohol abuse problems
3 and persons excluded from coverage by the Americans with Disabilities Act of
4 1990, Pub. L. No. [(P.L.] 101-336, *as amended,*] shall ***not*** be ***considered***
5 ***individuals with a disability;*** ~~excluded from this section.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (15)~~(14)~~ "Real estate broker" or "real estate salesperson" means any individual,
15 whether licensed or not, who:

16 (a) On behalf of others, for a fee, commission, salary, or other valuable
17 consideration, or who with the intention or expectation of receiving or
18 collecting the same, lists, sells, purchases, exchanges, rents, or leases real
19 estate, or the improvements thereon, including options;

20 (b) Negotiates or attempts to negotiate on behalf of others an activity described
21 in paragraph (a) of this subsection;

22 (c) Advertises or holds oneself out as engaged in activities described in
23 paragraph (a) of this subsection;

24 (d) Negotiates or attempts to negotiate on behalf of others a loan secured by a
25 mortgage or other encumbrance upon a transfer of real estate;

26 (e) Is engaged in the business of charging an advance fee or contracting for
27 collection of a fee in connection with a contract whereby the individual

1 undertakes to promote the sale, purchase, exchange, rental, or lease of real
2 estate through its listing in a publication issued primarily for this purpose;

3 or

4 (f) Is employed by or acting on behalf of any person described in paragraphs
5 (a) to (e) of this subsection;~~[Family" includes a single individual.]~~

6 ~~(16)~~~~[(15) —(a)]~~ "Real estate operator" means:

7 (a) Any individual or combination of individuals, labor organizations, joint
8 apprenticeship committees, partnerships, associations, corporations, legal
9 representatives, mutual companies, joint stock companies, limited liability
10 companies, trusts, unincorporated organizations, trustees in bankruptcy,
11 receivers, or other legal or commercial entities, the county, or any of its
12 agencies, that:

13 1. Is engaged in the business of selling, purchasing, exchanging, renting,
14 or leasing real estate, or the improvements thereon, including options;

15 or

16 2. Derives income, in whole or in part, from the sale, purchase,
17 exchange, rental, or lease of real estate; or

18 (b) An individual employed by or acting on behalf of any individual or entity
19 described in paragraph (a) of this subsection;~~["Familial status" means one~~

20 ~~(1) or more individuals who have not attained the age of eighteen (18) years~~
21 ~~and are domiciled with:~~

22 ~~1. A parent or another person having legal custody of the individual or~~
23 ~~individuals; or~~

24 ~~2. The designee of a parent or other person having custody, with the~~
25 ~~written permission of the parent or other person.~~

26 ~~(b) The protection afforded against discrimination on the basis of familial status~~
27 ~~shall apply to any person who is pregnant or is in the process of securing legal~~

1 ~~custody of any individual who has not attained the age of eighteen (18) years.]~~

2 ~~(17)~~~~(16)~~ **"Real estate-related transaction" means:**

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

4 **1. For purchasing, constructing, improving, repairing, or maintaining a**
5 **housing accommodation; or**

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

7 **(b) The selling, brokering, or appraising of real property, except that a person**

8 **engaged in the business of furnishing appraisals of real property may take**

9 **into consideration factors other than race, color, religion, national origin,**

10 **sex, sexual orientation, gender identity, disability, or familial**

11 **status;**~~Discriminatory housing practice" means an act that is unlawful under~~

12 ~~KRS 344.360, 344.367, 344.370, 344.380, or 344.680.]~~

13 **(18) "Real property" includes buildings, structures, real estate, lands, tenements,**

14 **leaseholds, cooperatives, condominiums, and hereditaments, corporeal and**

15 **incorporeal, or any interest in them;**

16 **(19) "Sexual orientation" means an individual's actual or imputed heterosexuality,**

17 **homosexuality, or bisexuality; and**

18 **(20) "To rent" means to lease, to sublease, to let, or otherwise to grant for a**

19 **consideration the right to occupy premises not owned by the occupant.**

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

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

22 (a) To provide for execution within the Commonwealth~~[state]~~ of the policies

23 embodied in the~~[Federal]~~ Civil Rights Act of 1964, Pub. L. No. 88-352, as

24 amended~~[(78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968~~

25 ~~(82 Stat. 81)]~~, the Fair Housing Act, Pub. L. No. 90-284, as amended~~[(42~~

26 ~~U.S.C. 360)]~~, the~~[Federal]~~ Age Discrimination in Employment Act of 1967,

27 Pub. L. No. 90-202, as amended~~[(81 Stat. 602)]~~, the Americans with

- 1 Disabilities Act of 1990, Pub. L. No.~~[(P.L.] 101-336~~], as amended, and the
2 Civil Rights Act of 1991, Pub. L. No. 102-166, as amended~~[(P.L. 102-166,~~
3 ~~amended by P.L. 102-392)]~~;
- 4 (b) To safeguard all individuals within the Commonwealth~~[state]~~ from
5 discrimination because of familial status, race, color, religion, national origin,
6 sex, sexual orientation, gender identity, age forty (40) and over, or because
7 of the person's status as a qualified individual with a disability as defined in~~[~~
8 ~~KRS 344.010 and]~~ KRS 344.030; thereby to protect their interest in personal
9 dignity and freedom from humiliation, to make available to the
10 Commonwealth~~[state]~~ their full productive capacities, to secure the
11 Commonwealth~~[state]~~ against domestic strife and unrest which would menace
12 its democratic institutions, to preserve the public safety, health, and general
13 welfare, and to further the interest, rights, and privileges of individuals within
14 the Commonwealth~~[state]~~; and
- 15 (c) To establish as the policy of the Commonwealth the safeguarding of the rights
16 of an individual selling or leasing the individual's~~[his]~~ primary residence
17 through private sale without the aid of any real estate operator, broker, or
18 salesperson~~[salesman]~~ and without advertising or public display.
- 19 (2) This chapter shall be construed to further the general purposes stated in this section
20 and the special purposes of the particular provision involved.
- 21 (3) Nothing in this chapter shall be construed as indicating an intent to exclude local
22 laws on the same subject matter not inconsistent with this chapter.
- 23 (4) Nothing contained in this chapter shall be deemed to repeal any other law of this
24 Commonwealth~~[state]~~ relating to discrimination because of familial status, race,
25 color, religion, national origin, sex, sexual orientation, gender identity, age forty
26 (40) and over, or because of the person's status as a qualified individual with a
27 disability as defined in KRS 344.030.

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

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

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

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

- 10 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to
11 discriminate against an individual with respect to compensation, terms,
12 conditions, or privileges of employment, because of the individual's race,
13 color, religion, national origin, sex, sexual orientation, gender identity, age
14 forty (40) and over, because the person is a qualified individual with a
15 disability, or because the individual is a smoker or nonsmoker, as long as the
16 individual~~[person]~~ complies with any workplace policy concerning smoking;
- 17 (b) To limit, segregate, or classify employees in any way which would deprive or
18 tend to deprive an individual of employment opportunities or otherwise
19 adversely affect status as an employee, because of the individual's race, color,
20 religion, national origin, sex, sexual orientation, gender identity,~~[or]~~ age
21 forty (40) and over, because the person is a qualified individual with a
22 disability, or because the individual is a smoker or nonsmoker, as long as the
23 individual~~[person]~~ complies with any workplace policy concerning smoking;
- 24 (c) To fail to make reasonable accommodations for any employee with
25 limitations related to pregnancy, childbirth, or a related medical condition
26 who requests an accommodation, including but not limited to the need to
27 express breast milk, unless the employer can demonstrate the accommodation

- 1 would impose an undue hardship on the employer's program, enterprise, or
2 business. The following shall be required as to reasonable accommodations:
- 3 1. An employee shall not be required to take leave from work if another
4 reasonable accommodation can be provided;
 - 5 2. The employer and employee shall engage in a timely, good faith, and
6 interactive process to determine effective reasonable accommodations;
7 and
 - 8 3. If the employer has a policy to provide, would be required to provide, is
9 currently providing, or has provided a similar accommodation to other
10 classes of employees, then a rebuttable presumption is created that the
11 accommodation does not impose an undue hardship on the employer; or
- 12 (d) To require as a condition of employment that any employee or applicant for
13 employment abstain from smoking or using tobacco products outside the
14 course of employment, as long as the individual~~person~~ complies with any
15 workplace policy concerning smoking.
- 16 (2) (a) A difference in employee contribution rates for smokers and nonsmokers in
17 relation to an employer-sponsored health plan shall not be deemed to be an
18 unlawful practice in violation of this section.
- 19 (b) The offering of incentives or benefits offered by an employer to employees
20 who participate in a smoking cessation program shall not be deemed to be an
21 unlawful practice in violation of this section.
- 22 (3) (a) An employer shall provide written notice of the right to be free from
23 discrimination in relation to pregnancy, childbirth, and related medical
24 conditions, including the right to reasonable accommodations, to:
- 25 1. New employees at the commencement of employment; and
 - 26 2. Existing employees not later than thirty (30) days after June 27, 2019.
- 27 (b) An employer shall conspicuously post a written notice of the right to be free

1 from discrimination in relation to pregnancy, childbirth, and related medical
 2 conditions, including the right to reasonable accommodations, at the
 3 employer's place of business in an area accessible to employees.

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

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

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

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

18 It is an unlawful practice for a labor organization:

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

23 (2) To limit, segregate, or classify its membership, or to classify or fail to refer to
 24 refer for employment an individual, in any way which would deprive or tend to
 25 deprive an individual of employment opportunities, or would limit such
 26 employment opportunities or otherwise adversely affect the status as an employee
 27 or as an applicant for employment, because of race, color, religion, national origin,

1 sex, **sexual orientation, gender identity,**~~[or]~~ age forty (40) and over, or because the
2 person is a qualified individual with a disability.

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

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

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

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

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

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

27 ~~[Notwithstanding] Any [other]~~ provision of this chapter **to the contrary notwithstanding,**

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

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

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

1 forty (40) and over, or because the person is a qualified individual with a disability,
 2 in the Commonwealth~~[state]~~ or a community, section, or other area, or in the
 3 available workforce in the Commonwealth~~[state]~~ or a community, section, or other
 4 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 or~~[]~~

14 (e) An employer, labor organization, or employment agency from observing the
 15 terms of a bona fide seniority system or any bona fide employee benefit plan
 16 such as a retirement, pension, or insurance plan which is not a subterfuge to
 17 evade the purposes of this chapter, except that no such employee benefit plan
 18 shall excuse the failure to hire any individual.

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

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

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

27 It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue,

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

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

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

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

16 The powers and duties of the commission shall be:

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

1 and over~~[national ancestry]~~; and

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

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

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

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

9 (2) To meet and exercise its powers at any place within the Commonwealth;~~[.]~~

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

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

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

26 (6) To accept gifts or bequests, grants, or other payments, public or private, to help
27 finance its activities;~~[.]~~

- 1 (7) To accept reimbursement pursuant to Section 709(b) of the Civil Rights Act of
2 1964, Pub. L. No. 88-352, [~~(78 Stat. 241)~~] for services rendered to assist the
3 ~~Federal~~ Equal Employment Opportunity Commission; ~~[]~~
- 4 (8) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon
5 complaints alleging violations of this chapter; ~~[]~~
- 6 (9) At any time after a complaint is filed, to require answers to interrogatories, compel
7 the attendance of witnesses, examine witnesses under oath or affirmation in person
8 or by deposition, and require the production of documents relevant to the complaint.
9 The commission may make rules authorizing any member or individual designated
10 to exercise these powers in the performance of official duties; ~~[]~~
- 11 (10) To furnish technical assistance requested by persons subject to this chapter to
12 further their compliance with this chapter or an order issued thereunder; ~~[]~~
- 13 (11) To make studies appropriate to effectuate the purposes and policies of this chapter
14 and to make the results thereof available to the public; ~~[]~~
- 15 (12) To render annual written reports to the Governor and the General
16 Assembly [~~Legislature~~]. The reports may contain recommendations of the
17 commission for legislative or other action to effectuate the purposes and policies of
18 this chapter; ~~[]~~
- 19 (13) To create local or statewide advisory agencies that in its judgment will aid in
20 effectuating the purpose of this chapter. The commission may empower these
21 agencies:
- 22 (a) To study and report on problems of discrimination because of disability, race,
23 color, religion, [~~or~~] national origin, sex, sexual orientation, gender identity,
24 or age forty (40) and over; ~~[]~~
- 25 (b) To foster, through community effort or otherwise, goodwill among the groups
26 and elements of the population of the Commonwealth; [~~state,~~] and
- 27 (c) To make recommendations to the commission for the development of policies

1 and practices that will aid in carrying out the purposes of this chapter.
 2 Members of these agencies~~[such committees]~~ shall serve without pay but
 3 shall be reimbursed for expenses incurred in such service. The commission
 4 may make provision for technical and clerical assistance to the
 5 agencies;~~[committees.]~~

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

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

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

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

22 (2) City, county, urban-county, consolidated local, unified local, and charter county
 23 governments~~[Cities and counties]~~ may adopt and enforce ordinances, orders, and
 24 resolutions prohibiting discrimination; no ordinance, order, or resolution shall
 25 attempt to exempt more transactions from its coverage than are exempted by KRS
 26 344.362 and 344.365.

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

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

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

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

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

12 **(1)** It is an unlawful housing practice for a real estate operator, or for a real estate
 13 broker, real estate **salesperson**~~[salesman]~~, or any person employed by or acting on
 14 behalf of any of these:

15 **(a)**~~[(1)]~~ To refuse to sell, exchange, rent, or lease, or otherwise deny to or
 16 withhold, real property from any person because of race, color, religion, sex,
 17 **sexual orientation, gender identity**, familial status, disability, or national
 18 origin;

19 **(b)**~~[(2)]~~ To discriminate against any person because of race, color, religion, sex,
 20 **sexual orientation, gender identity**, familial status, disability, or national
 21 origin in the terms, conditions, or privileges of the sale, exchange, rental, or
 22 lease of real property or in the furnishing of facilities or services in connection
 23 therewith;

24 **(c)**~~[(3)]~~ To refuse to receive or transmit a bona fide offer to purchase, rent, or
 25 lease real property from any person because of race, color, religion, sex,
 26 **sexual orientation, gender identity**, familial status, disability, or national
 27 origin;

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

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

9 ~~(f)~~~~(6)~~ To make, print, circulate, post, or mail or cause to be printed, circulated,
10 posted, or mailed an advertisement or sign, or to use a form of application for
11 the purchase, rental, or lease of real property, or to make a record of inquiry in
12 connection with the prospective purchase, rental, or lease of real property,
13 which indicates, directly or indirectly, a limitation, specification, or
14 discrimination as to race, color, religion, sex, *sexual orientation, gender*
15 *identity*, familial status, disability, or national origin or an intent to make such
16 a limitation, specification, or discrimination;

17 ~~(g)~~~~(7)~~ To offer, solicit, accept, use, or retain a listing of real property for sale,
18 rental, or lease with the understanding that any person may be discriminated
19 against in the sale, rental, or lease of that real property or in the furnishing of
20 facilities or services in connection therewith because of ~~his~~ race, color,
21 religion, sex, *sexual orientation, gender identity*, familial status, disability, or
22 national origin;

23 ~~(h)~~~~(8)~~ To otherwise deny to or withhold real property from any person because
24 of ~~his~~ race, color, religion, sex, *sexual orientation, gender identity*, familial
25 status, disability, or national origin;

26 ~~(i)~~~~(9)~~ To discriminate in the sale or rental, or to otherwise make unavailable or
27 deny, a housing accommodation to any buyer or renter because of a disability

1 of:

2 1. ~~[(a)]~~ That buyer or renter;

3 2. ~~[(b)]~~ A person residing in or intending to reside in that housing
4 accommodation after it is so sold, rented, or made available; or

5 3. ~~[(c)]~~ Any person associated with that buyer or renter; or

6 (j)~~[(10)]~~ To discriminate against any person in the terms, conditions, or privileges
7 of sale or rental of a dwelling, or in the provision of services or facilities in
8 connection with such housing accommodation, because of a disability of:

9 1. ~~[(a)]~~ That person;~~[-or]~~

10 2. ~~[(b)]~~ A person residing in or intending to reside in that housing
11 accommodation after it is sold, rented, or made available; or

12 3. ~~[(c)]~~ Any person associated with that person.

13 (2)~~[(11)]~~ For purposes of this section, discrimination includes:

14 (a) A refusal to permit, at the expense of the disabled person, reasonable
15 modifications of existing premises occupied or to be occupied by a person, if
16 the modifications may be necessary to afford the person full enjoyment of the
17 premises; except that, in the case of a rental, the landlord may, where it is
18 reasonable to do so, condition permission for a modification on the renter
19 agreeing to restore the interior of the premises to the condition that existed
20 before the modification, reasonable wear and tear excepted;~~[-]~~

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

24 (c) In connection with the design and construction of covered multifamily
25 housing accommodations for first occupancy after January 1, 1993, a failure
26 to design and construct those housing accommodations in a manner ensuring
27 that they have at least one (1) entrance on an accessible route unless

1 impractical to do so because of the terrain or unusual characteristics of the
2 site. Housing accommodations with a building entrance on an accessible route
3 shall comply with the following requirements:

- 4 1. The public use and common use portions of the housing
5 accommodations shall be readily accessible to and usable by disabled
6 persons;
- 7 2. All the doors designed to allow passage into and within all premises
8 within the housing accommodations shall be sufficiently wide to allow
9 passage by disabled persons in wheelchairs; and
- 10 3. All premises within the housing accommodations shall contain the
11 following features of adaptive design:
 - 12 a. An accessible route into and through the housing accommodation;
 - 13 b. Light switches, electrical outlets, thermostats, and other
14 environmental controls in accessible locations;
 - 15 c. Reinforcements in bathroom walls to allow later installation of
16 grab bars; and
 - 17 d. Usable kitchens and bathrooms so that an individual in a
18 wheelchair can maneuver about the space.

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

23 ~~(4)~~⁽¹³⁾ As used in subsection ~~(2)~~⁽¹¹⁾ of this section, the term "covered multifamily
24 housing accommodation" means:

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

1 ~~(5)~~~~(14)~~ Nothing in this section requires that a housing accommodation be made
 2 available to an individual whose tenancy would constitute a direct threat to the
 3 health or safety of other individuals or whose tenancy would result in substantial
 4 physical damage to the property of others.

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

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

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

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

14 (1) To discriminate against an individual because of the race, color, religion,~~[-or]~~
 15 national origin, familial status, disability, sex, **sexual orientation, gender identity,**
 16 or age of the individual or the present or prospective owner, tenant, or occupant of
 17 the real property or of a member, stockholder, director, officer, employee, or
 18 representative of any of these, in the granting, withholding, extending, modifying,
 19 or renewing the rates, terms, conditions, privileges, or other provisions of financial
 20 assistance or in the extension of services in connection therewith;

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

27 (3) To discriminate by refusing to give full recognition, because of sex, to the income

1 of each spouse or the total income and expenses of both spouses where both
2 spouses become or are prepared to become joint or several obligors in real estate
3 transactions~~]; or~~

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

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

7 ~~1. For purchasing, constructing, improving, repairing, or maintaining a~~
8 ~~housing accommodation; or~~

9 ~~2. Secured by real estate.~~

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

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

15 It is an unlawful practice for a real estate operator, a real estate broker, a real estate
16 salesperson~~salesman~~, a financial institution, an employee of any of these, or any other
17 person, for the purpose of inducing a real estate transaction from which a person may
18 benefit financially:

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

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

26 (3) To induce or attempt to induce any person to sell or rent any dwelling by
27 representations regarding the entry or prospective entry into the neighborhood of a

1 person or persons of a particular race, color, religion, sex, sexual orientation,
2 gender identity, disability, familial status, or national origin.

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

4 (1) It shall be an unlawful practice for any person, whether acting on behalf of
5 oneself~~for himself~~ or another, in connection with any credit transaction because of
6 race, color, religion, national origin, ~~or~~ sex, sexual orientation, or gender identity

7 to:

- 8 (a) Deny credit to any person;
- 9 (b) Increase the charges or fees for or collateral required to secure any credit
10 extended to any person;
- 11 (c) Restrict the amount or use of credit extended or impose different terms or
12 conditions with respect to the credit extended to any person or any item or
13 service related thereto; or
- 14 (d) Attempt to do any of the unlawful practices defined in this section.

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

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

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

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

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

- 2 (1) A classified employee with status shall not be dismissed, demoted, suspended
3 without pay, ~~for~~ involuntarily transferred, **or otherwise penalized** except for cause.
- 4 (2) Prior to dismissal, a classified employee with status shall be notified in writing of
5 the intent to dismiss **the individual**~~[him or her]~~. The notice shall also state:
- 6 (a) The specific reasons for dismissal including:
- 7 1. The statutory, regulatory, or policy violation;
- 8 2. The specific action or activity on which the intent to dismiss is based;
- 9 3. The date, **time**, and place of such action or activity; and
- 10 4. The names of the parties involved;
- 11 (b) That the employee has the right to appear personally, or with counsel if **the**
12 **employee**~~[he or she]~~ has retained counsel, to reply to the appointing authority
13 or **the cabinet's or agency's**~~[his or her]~~ designee; and
- 14 (c) Whether the employee is placed on administrative leave by the appointing
15 authority with pay upon receiving the intent to dismiss letter prior to the
16 agency's final action.
- 17 (3) The Personnel Cabinet shall prescribe and distribute a pretermination form to be
18 completed and forwarded by an employee who wishes to appear before the
19 appointing authority or **the cabinet's or agency's**~~[his or her]~~ designee. The form
20 shall be attached to every notice of intent to dismiss and shall contain written
21 instructions explaining:
- 22 (a) The right granted an employee under the provisions of this section relating to
23 pretermination hearings; and
- 24 (b) The time limits and procedures to be followed by all parties in pretermination
25 hearings.
- 26 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,
27 excluding the day **the employee**~~[he or she]~~ receives the notice, the employee may

1 request to appear, personally or with counsel if the employee~~[he or she]~~ has retained
2 counsel, to reply to the appointing authority or the cabinet's or agency's~~[his or her]~~
3 designee.

4 (5) Unless agreed to by the appointing authority or the cabinet's or agency's~~[his or her]~~
5 designee and the employee, the appearance shall be scheduled within six (6)
6 working days after receipt of an employee's request to appear before the appointing
7 authority or the cabinet's or agency's~~[his or her]~~ designee, excluding the day the
8 employee's~~[his or her]~~ request is received.

9 (6) No later than five (5) working days after the employee appears before the
10 appointing authority or the cabinet's or agency's~~[his or her]~~ designee, excluding the
11 day of the appearance, the cabinet head or agency or the cabinet's or agency's~~[his~~
12 ~~or her]~~ designee shall:

13 (a) Determine whether to dismiss the employee or to modify or rescind the intent
14 to dismiss; and

15 (b) Notify the employee in writing of the decision.

16 (7) If the appointing authority or the cabinet's or agency's~~[his or her]~~ designee
17 determines that the employee shall be dismissed, the employee shall be notified in
18 writing of:

19 (a) The effective date of the employee's~~[his or her]~~ dismissal;

20 (b) The specific reason for the dismissal, including:

21 1. The statutory, regulatory, or policy violation;

22 2. The specific action or activity on which the dismissal is based;

23 3. The date and place of the action or activity; and

24 4. The names of the parties involved; and

25 (c) That the employee~~[he or she]~~ may appeal the dismissal to the board within
26 thirty (30) calendar days after receipt of this notification, excluding the day
27 the employee~~[he or she]~~ receives notice.

- 1 (8) A classified employee with status who is demoted, suspended without pay, or
2 involuntarily transferred shall be notified in writing of:
- 3 (a) The demotion, suspension, or involuntary transfer;
- 4 (b) The effective date of the demotion, suspension, or involuntary transfer;
- 5 (c) The specific reason for the demotion, suspension, or involuntary transfer,
6 including:
- 7 1. The statutory, regulatory, or policy violation;
- 8 2. The specific action or activity on which the demotion, suspension, or
9 involuntary transfer is based;
- 10 3. The date and place of the action or activity; and
- 11 4. The names of the parties involved; and
- 12 (d) That the employee~~[he or she]~~ has the right to appeal to the board within sixty
13 (60)~~[thirty (30)]~~ calendar days, excluding the day that the employee~~[he or she]~~
14 received notification of the personnel action.
- 15 (9) Any unclassified employee who is dismissed, demoted, suspended without pay, or
16 involuntarily transferred for cause may, within sixty (60)~~[thirty (30)]~~ calendar days
17 after the dismissal, demotion, suspension, or involuntary transfer, appeal to the
18 board for review thereof.
- 19 (10) (a) An employee whose position is reallocated shall be notified in writing by the
20 appointing authority of:
- 21 1. The reallocation or reclassification; and
- 22 2. If the reallocation or reclassification is to a lower grade, the
23 employee's~~[his or her]~~ right to request reconsideration by the secretary
24 within ten (10) working days of receipt of the notice, excluding the day
25 the employee~~[he or she]~~ receives notification.
- 26 (b) The employee shall file a written request for reconsideration of the
27 reallocation or reclassification to a lower grade with the secretary in a manner

1 and form prescribed by the secretary and shall be given a reasonable
2 opportunity to be heard by the secretary. The secretary shall make a
3 determination within sixty (60) calendar days after the request has been filed
4 by an employee. The secretary's determination shall be final and shall not be
5 appealable to the Personnel Board.

6 (11) (a) Any applicant, classified employee, or federally funded time-limited
7 employee may appeal to the board an action alleged to be based on
8 discrimination due to race, color, religion, national origin, sex, sexual
9 orientation, gender identity, disability, age forty (40) and above, or any other
10 category protected under state or federal civil rights laws. Nothing in this
11 section shall be construed to preclude any applicant, classified employee, or
12 unclassified employee from filing with the Kentucky Commission on Human
13 Rights a complaint alleging discrimination on the basis of race, color, religion,
14 national origin, sex, sexual orientation, gender identity, disability, or age in
15 accordance with KRS Chapter 344.

16 (b) Appeals alleging discrimination shall be filed within sixty (60)~~[thirty (30)]~~
17 calendar days after the alleged discriminatory action occurred.

18 (12) (a) Any applicant for classified employment under KRS Chapter 18A who has
19 been notified by the Personnel Cabinet that the applicant~~[he or she]~~ did not
20 meet the minimum qualifications for a position may request reconsideration
21 from the secretary not more than ten (10) calendar days after the notification
22 was sent. The secretary's review and determination of the reconsideration
23 shall be completed within ten (10) calendar days from the receipt of the
24 request for reconsideration. The secretary's determination shall be final and
25 shall not be appealable to the Personnel Board.

26 (b) Any applicant for employment in a classified position under KRS Chapter
27 18A may appeal the hiring agency's nonselection based on an alleged

1 violation of appointment and promotion provisions contained in this chapter
 2 or administrative regulations promulgated under this chapter to the board. The
 3 appeal shall be filed not later than thirty (30) calendar days after the notice of
 4 nonselection was mailed or sent electronically.

5 (13) When ***the name of*** an employee who qualifies for a position ~~is~~~~[has his or her name]~~
 6 removed from the register, the employee may petition the secretary for the
 7 opportunity to be heard by the secretary or ***the secretary's***~~[his or her]~~ designee. The
 8 petition shall be delivered to the secretary in writing or electronically no later than
 9 ten (10) calendar days after the removal notification has been sent. The secretary's
 10 decision shall be final and not appealable to the Personnel Board.

11 (14) (a) Appeals to the board shall be in writing on an appeal form prescribed by the
 12 board. The Personnel Board shall be responsible for the distribution of these
 13 forms.

14 (b) The appeal form shall be attached to any notice of dismissal, demotion,
 15 suspension, or involuntary transfer. The appeal form shall instruct the
 16 employee to state:

17 **1.** Whether ***the employee***~~[he or she]~~ is a classified or unclassified
 18 employee;[;]

19 **2.** ***The employee's***~~[his or her]~~ full name;[;]

20 **3.** ***The employee's***~~[his or her]~~ appointing authority;[;]

21 **4.** ***The employee's*** work station address and telephone number;[;]

22 **5.** ***The employee's*** home address and personal telephone number, personal
 23 email address;[;] and,

24 **6.** If ***the employee***~~[he or she]~~ has retained counsel at the time~~[he or she~~
 25 ~~files]~~ an appeal ***is filed***, the name, address, and telephone number of ***the***
 26 ***employee's***~~[his or her]~~ attorney.

27 (c) The form shall also instruct a classified employee to state the action ***being***

1 appealed~~he or she is appealing~~ in a short, plain, concise statement of the
2 facts. The form shall instruct an unclassified employee to make a short, plain,
3 concise statement of the reason for the appeal and the cause given for the
4 employee's~~his or her~~ dismissal, demotion, suspension, or involuntary
5 transfer.

6 (d) Any appeal form filed by a classified or unclassified employee shall identify
7 the statute, administrative regulation, or policy that was allegedly violated.

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

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

12 (16) (a) The board shall deny a hearing to an employee who has failed to file an
13 appeal within the time prescribed by this section; and to an unclassified
14 employee who has failed to state the reasons for the appeal and the cause for
15 which the employee~~he or she~~ has been dismissed, demoted, suspended
16 without pay, or involuntarily transferred. The board shall deny any appeal
17 after a preliminary hearing if it lacks jurisdiction to grant relief. The board
18 shall notify the employee of its denial in writing and shall inform the
19 employee of the~~his or her~~ right to appeal the denial under the provisions of
20 KRS 18A.100.

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

26 (17) Each appeal shall be decided individually, unless otherwise agreed by the parties
27 and the board. The board shall not:

- 1 (a) Employ class action procedures; or
- 2 (b) Conduct test representative cases.
- 3 (18) Board members shall abstain from public comment about a pending or impending
4 proceeding before the board. This shall not prohibit board members from making
5 public statements in the course of their official duties or from explaining for public
6 information the procedures of the board.
- 7 (19) An appeal to the board may be heard by the full board or one (1) or more of the
8 following: Its executive director, its general counsel, any nonelected member of the
9 board, or any hearing officer secured by the board pursuant to KRS 13B.030.
- 10 (20) (a) If the board finds that the action complained of was taken by the appointing
11 authority in violation of laws prohibiting favor for, or discrimination against,
12 or bias with respect to, the employee's~~his or her~~ political or religious
13 opinions or affiliations or ethnic origin, or in violation of laws prohibiting
14 discrimination because of such individual's sex or age or disability, the
15 appointing authority shall immediately reinstate the employee to the
16 employee's~~his or her~~ former position or a position of like status and pay,
17 without loss of pay for the period of time at issue, or otherwise make the
18 employee whole unless the order is stayed by the board or the court on appeal.
- 19 (b) If the board finds that the action complained of was taken without just cause,
20 the board shall order the immediate reinstatement of the employee to the
21 employee's~~his or her~~ former position or a position of like status and pay,
22 without loss of pay for the period of time at issue, or otherwise make the
23 employee whole unless the order is stayed by the board or the court on appeal.
- 24 (c) If the board finds that the action taken by the appointing authority was
25 excessive or erroneous in view of all the surrounding circumstances, the board
26 shall direct the appointing authority to modify or rescind the action at issue.
- 27 (d) In all other cases, the board shall direct the appointing authority to rescind the

- 1 action taken or otherwise grant specific relief or dismiss the appeal.
- 2 (21) If a final order of the board is appealed, a court may award reasonable attorney fees
3 to an employee who prevails by a final adjudication on the merits as provided by
4 KRS 453.260. This award shall not include attorney fees attributable to the hearing
5 before the board.
- 6 (22) When any employee is dismissed and not ordered reinstated after the appeal, the
7 board in its discretion may direct that the employee's~~[his or her]~~ name be placed on
8 an appropriate reemployment list for employment in any similar position other than
9 the one from which the employee~~[he or she]~~ had been removed.
- 10 (23) After a final decision has been rendered by the board or court, an employee who
11 prevails in an~~[his or her]~~ appeal may be credited with the amount of leave time
12 used for time spent at the~~[his or her]~~ hearing before the board or court. Employees
13 who had an insufficient amount of leave time shall be credited with leave time
14 equal to the amount of time spent at their hearings before the board or court.
- 15 (24) If the appointing authority appeals the final order of the board, unless the board
16 rules otherwise, the reinstated employee shall remain in the employee's~~[his or her]~~
17 former position, or a position of like status or pay, until the conclusion of the
18 appeals process, at which time the appointing authority shall take action in
19 accordance with the court order.
- 20 (25) After a final decision in a contested case has been rendered by the last
21 administrative or judicial body to which the case has been appealed, the board shall
22 make the decision available to the public in electronic format on its website and
23 shall organize the decisions according to the statutory basis for which the appeal
24 was based.
- 25 (26) Appeals concerning dismissals of classified employees with status shall take
26 precedence for hearings before the board over all other appeals.
- 27 (27) Any classified or unclassified employee as defined in KRS 18A.005 who is not

1 restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed
2 without cause within one (1) year after reinstatement, may appeal to the Personnel
3 Board. The appeal shall be filed in writing with the executive director of the board
4 not later than thirty (30) days after the notification of the action in question has
5 been mailed or sent electronically.

6 (28) If an individual received a notice that does not comply with subsection (7)(c),
7 (8)(d), or (14)(b) of this section, or received no written or electronic notification of
8 his or her dismissal, demotion, suspension, or involuntary transfer pursuant to
9 subsection (7) or (8) of this section, the individual~~he or she~~ shall file an~~this or~~
10 ~~her~~ appeal to the board within one hundred eighty (180) days of:

11 (a) Receipt of the written notice, if the individual~~he or she~~ received a written
12 notice that does not comply with subsection (7)(c), (8)(d), or (14)(b) of this
13 section; or

14 (b) The alleged act, if the individual~~he or she~~ did not receive written or
15 electronic notification of the alleged act in question.

16 (29) If a classified or unclassified employee refuses or fails to cooperate as a witness in
17 an agency, Personnel Cabinet, or board investigation, hearing, proceeding, or
18 inquiry, the employee may be subject to disciplinary action.

19 (30) Unless otherwise provided by this chapter, the board shall not have jurisdiction over
20 any appeal except as authorized by this section.