

1 AN ACT relating to real property appraisers.

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

3 ➔Section 1. KRS 324A.010 is amended to read as follows:

4 As used in KRS 324A.010 to 324A.100~~324A.090~~, unless the context requires
5 otherwise:

6 (1) "Appraisal" means an oral, written, or electronic communication of any type or
7 nature which is independently and impartially prepared by a licensed or certified
8 appraiser setting forth an analysis, opinion, or conclusion relating to the nature,
9 quality, value, or utility of specified interests in, or aspects of, identified real
10 property~~estate~~, as of a specified date, for or in expectation of compensation;

11 (2) "Appraisal assignment" means an engagement for which an appraiser is employed
12 or retained to act, or would be perceived by other parties or the public as acting, as
13 a third party in rendering an unbiased real property~~estate~~ appraisal;

14 (3) "Appraisal management company" has the same meaning as in Section 21 of
15 this Act:

16 (4) "Appraisal report" means any communication, written, oral, or electronic conveying
17 a real property~~estate~~ appraisal, and all other reports communicating an appraisal
18 analysis, opinion, or conclusion;

19 (5)~~(4)~~ "Board" means the Real Property~~Estate~~ Appraisers Board created in~~under~~
20 KRS 324A.015;

21 (6)~~(5)~~ "Certificate holder or licensee" means a person certified or licensed by the
22 board under this chapter;

23 (7) "Evaluation" means an estimate of the market value of real property provided to
24 a financial institution in accordance with the federal interagency appraisal and
25 evaluation guidelines published by the federal financial institutions regulatory
26 agencies for use in a real property-related financial transaction for which an
27 appraisal by a licensed or certified appraiser is not required by federal law;

1 (8) "Federally related transaction" means any real property-related financial
2 transaction that:

3 (a) A federal financial institution's regulatory agency engages in, contracts for,
4 or regulates; and

5 **(b) Requires the services of an appraiser;**

6 (9)(6) "Real estate" or "real property" means real estate in its ordinary meaning
7 and includes any leasehold or other estate or interest in, over, or under land,
8 including leaseholds, all appurtenances and improvements thereto, and may include
9 personal property which is integral to the use of the real property as appraised;

10 (10) "Real property-related financial transaction" means any transaction involving:

11 (a) The sale, lease, purchase, or exchange of or investment in real property,
12 *including interests in real property, or the financing of real property;*

13 (b) The refinancing of real property or interests in real property; or

14 (c) The use of real property or interests in property as security for a loan or
15 *investment, including mortgage-backed securities; and*

16 **(11)** "Uniform Standards of Professional Appraisal Practice" **or "USPAP"** means
17 the standards of practice promulgated by the Appraisal Standards Board of the
18 Appraisal Foundation; and

19 (8) "Federally related transaction" means any real estate related financial transaction
20 that:

21 (a) ~~A federal financial institution's regulatory agency engages in, contracts for, or~~
22 ~~regulates; and~~

23 (b) Requires the services of an appraiser].

24 ➔ SECTION 2. A NEW SECTION OF KRS 324A.010 TO 324A.100 IS

25 CREATED TO READ AS FOLLOWS:

26 Notwithstanding any statutory provision to the contrary:

27 (1) An action for damages, whether brought in contract or tort, or on any other basis,

1 against a certified or licensed real property appraiser or appraisal management
2 company shall be brought within one (1) year after the date the appraisal report
3 has been completed and transmitted to the client;

4 (2) An action for fraud or knowing and intentional misrepresentation brought
5 against a certified or licensed real property appraiser or appraisal management
6 company shall be brought within five (5) years; and

7 (3) An action for a discriminatory housing practice brought against a certified or
8 licensed real property appraiser or appraisal management company shall be
9 brought no later than one (1) year after occurrence or within the time provided by
10 federal law.

11 ➔ Section 3. KRS 324A.015 is amended to read as follows:

12 (1) There is hereby created an independent agency of state government to be known
13 as the~~a~~ Real Property~~Estate~~ Appraisers Board, which shall be attached to the
14 Department of Professional Licensing for administrative purposes. The board
15 shall consist ~~[eonsisting]~~ of seven (7)~~(5)~~ members, two (2) of whom shall be
16 certified general real property~~estate~~ appraisers, two (2) of whom shall be certified
17 residential real property appraisers, one (1) of whom shall represent the public and
18 shall not be associated with or financially interested in the practice of real
19 property~~estate~~ appraisals, and two (2) of whom shall be employed in the lending
20 industry. The board shall administer~~the provisions of~~ this chapter and may
21 promulgate administrative regulations necessary to effectuate~~the provisions of~~
22 KRS 324A.010 to 324A.100~~(324A.090)~~.

23 (2) (a) The board members shall be appointed by the Governor. Not more than one
24 (1) board member shall be from any one (1) county within Kentucky.
25 Members shall be appointed by the Governor for staggered terms of three (3)
26 years. No person shall serve more than two (2) full consecutive terms.
27 (b) Any member appointed to fill a vacancy occurring other than by expiration of

1 a term shall be appointed for the remainder of the unexpired term.

2 (c) No more than four (4)~~(three (3))~~ members of the same political party shall
3 serve on the board at the same time.

4 (3) The appraiser appointees to the board shall be certified and shall have engaged in
5 the appraisal of real property~~estate~~ in Kentucky on a continuing basis for at least
6 ten (10) years.

7 (4) A board member shall be automatically removed from the board and a vacancy
8 shall occur when:

9 (a) An appraiser member of the board ceases to be certified;

10 (b) A consumer member of the board acquires a certification as an appraiser;

11 (c) A lending industry member ceases to be employed in the lending industry;

12 (d) A board member enters a plea of guilty to, or has been found guilty of, a
13 felony and the time for appeal has passed or the judgment of conviction has
14 been finally affirmed on appeal;

15 (e) A board member ceases to be a bona fide resident of the Commonwealth of
16 Kentucky;

17 (f) A board member displays incompetence, neglect of duty, or unprofessional
18 conduct;

19 (g) A board member fails to adhere to a duly adopted code of ethics of the board.
20 Failure to adhere to this code shall be determined by official action of the
21 board; or

22 (h) A board member misses three (3) consecutive meetings or misses more than
23 twenty-five percent (25%) of the meetings held over the previous twelve (12)
24 month period.

25 (5) The board shall adopt a seal with the design it prescribes, by which it shall
26 authenticate its proceedings. Copies of all records and papers in the office of the
27 board, duly certified and authenticated by the seal of the board, shall be received in

1 evidence in all courts equally and with like effect as the original. All records kept in
2 the office of the board under the authority of this chapter shall be open to public
3 inspection in accordance with KRS 61.820 to 61.884 and consistent with
4 administrative regulations promulgated~~[prescribed]~~ by the board.

5 (6) The Governor shall set the compensation of the members of the board, but voting
6 members of the board shall be compensated no more than three hundred dollars
7 (\$300) per day for official business, subject to an annual maximum of six thousand
8 dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in
9 the discharge of official business consistent with the reimbursement policy for state
10 employees~~[. With the approval of the director of the Division of Real Property~~
11 ~~Boards within the Department of Professional Licensing, board members and board~~
12 ~~staff may attend and travel to and from meetings and events relevant to the board or~~
13 ~~the industry the board represents]~~.

14 (7) (a) The board shall ensure that those employed to investigate grievances filed
15 with the board or to conduct an appraisal review are state-certified ~~[general~~
16 ~~appraisers with:~~

17 1. A minimum of ten (10)~~[five (5)]~~ years of experience;
18 2. A credential that is equal to or exceeds the credential held by the
19 appraiser under investigation or appraisal review; and
20 3. Demonstrated experience in appraising the type of property relevant to
21 the investigation or appraisal review.

22 (b) Any investigation or appraisal review conducted without the experience
23 required in paragraph (a)2. and 3. of this subsection may be challenged to
24 the board by the appraiser under investigation or review.

25 ➔Section 4. KRS 324A.020 is amended to read as follows:

26 (1) The board shall have authority to promulgate administrative regulations in
27 accordance with KRS Chapter 13A~~[and following review of the director of the~~

1 Division of Real Property Boards}, have subpoena power, hold disciplinary
2 hearings, conduct examinations, conduct educational seminars that are not
3 applicable to continuing education hours, investigate allegations of wrongdoing
4 under this chapter, seek and obtain injunctive relief to enforce the provisions of
5 KRS 324A.010 to 324A.100[324A.090], provide a list of certified appraisers to the
6 Appraisal Subcommittee of the Federal Financial Institutions Examination Council,
7 and perform[such] other functions and duties as may be necessary in carrying out[
8 the provisions of] KRS 324A.010 to 324A.100[324A.090].

9 (2) (a) The board shall investigate every alleged violation of this chapter coming to
10 its notice by the complaint procedure in Section 9 of this Act and shall take
11 action as it deems appropriate within its authority under this chapter.

12 (b) 1. The Attorney General, Commonwealth's attorneys, and county
13 attorneys shall assist the board in all actions relating to violations of
14 this chapter as requested by the board.

15 2. The board may refer violations of this chapter to the Attorney General,
16 Commonwealth's attorneys, and county attorneys to institute criminal
17 or civil proceedings in the name of the Commonwealth for a violation
18 of this chapter.

19 (3) (a) The board may:
20 1. Employ an executive director and any other persons it deems
21 necessary to carry on the work of the board, and shall prescribe their
22 duties and fix their salaries; and
23 2. Obtain office space, utilities, furniture, supplies, and other goods and
24 services as it deems necessary to carry on the work of the board.

25 (b) Each executive director assuming office on or after the effective date of this
26 Act, shall be a certified general or residential real property appraiser and
27 shall not have less than ten (10) years of experience as an appraiser within

1 the Commonwealth.

2 (4) The board may utilize hearing officers provided by the Attorney General's Office
3 in accordance with KRS 13B.030.

4 (5) (a) The board or its authorized agents may give a licensed or certified appraiser
5 advice on best practices management.

6 (b) Notwithstanding any other provision of law to the contrary, legal action
7 shall not arise from any advice given relating to best practices management
8 by the board or its authorized agents.

9 ➔ Section 5. KRS 324A.025 is amended to read as follows:

10 (1) The board shall elect a chair[chairman] each year at the first meeting called after
11 appointment of new members. A majority of the board shall constitute a quorum
12 and may exercise all powers and duties established in[by the provisions of] KRS
13 324A.020.

14 (2) The board shall meet at least once each calendar quarter. Additional meetings may
15 be held upon call of the chair or upon the written request of two (2) members of
16 the board.

17 ➔ Section 6. KRS 324A.030 is amended to read as follows:

18 (1) It shall be unlawful, unless certified or licensed by the board, for any person to:
19 (a) Assume or use any title, designation, or abbreviation likely to create the
20 impression that he or she holds a license or certificate issued by the board;
21 (b) Describe or refer to any appraisal or evaluation of real property[estate] by the
22 term, "state certified," "state licensed," or words of substantially similar
23 meaning;[or]
24 (c) Assume or use any title, designation, or abbreviation likely to create the
25 impression of certification or licensure by the state as a real property[estate]
26 appraiser firm, partnership, or corporation; or

27 (d) Use the title "real property appraiser," "real estate appraiser," "real

property damage appraiser," or "appraiser" in relation to real property or federally related transactions.

3 (2) A certificate holder or licensee shall not assume or use any title, designation, or
4 abbreviation likely to create the impression of certification or licensure by the board
5 other than the correct type of certification or licensure.

6 (3) Each certificate holder or licensee who is a resident of Kentucky shall have and
7 maintain a definite place of business in this state, a current email[e-mail] address,
8 and a current telephone number. A nonresident is not required to maintain an active
9 place of business in this state if a definite place of business is maintained in the
10 state where the nonresident resides. A nonresident shall maintain a current email[e-
11 mail] address and a current telephone number.

12 (4) Failure by a certificate holder or licensee to notify the board of any change of
13 business address, change of company name, change of surname, change of phone
14 number, or change of email[e-mail] address within thirty (30) days of the change
15 shall result in a penalty not to exceed two hundred dollars (\$200).

16 (5) In the case of the death of a certificate holder or licensee, the board may[~~in its~~
17 ~~sound discretion,~~] permit a suitable individual to complete the affairs and appraisal
18 assignments of the deceased.

19 (6) For any employee of the Transportation Cabinet whose job description includes real
20 property[estate] appraisals which require certification, the Transportation Cabinet
21 shall bear the costs of initial application, examination, continued education, and
22 biennial[annual] renewal.

23 (7) (a) Those Transportation Cabinet employees serving as right-of-way agents or
24 supervisors, who actually perform on-site appraisals as part of their job
25 descriptions and who have obtained an appraiser certification under[~~the~~
26 ~~provisions of~~] KRS 324A.010 to 324A.100[324A.090], shall receive a five
27 percent (5%) salary increase effective January 1 following certification[

1 Those right of way agents or supervisors who received certification prior to
2 January 1, 1991, shall receive the salary increase effective January 1, 1991].

3 (b) The salary increase[increases] provided [for] in paragraph[subsection] (a) of
4 this subsection[section] shall be made within existing Transportation Cabinet
5 appropriations.

6 (8) A person shall not provide appraisal, appraisal review, or appraisal consulting
7 assignments or perform any of the duties usually performed by a licensed or
8 certified real property appraiser for a federally related transaction unless the person
9 at the time holds a license or certification of real property appraiser issued and
10 validly existing under the laws of the Commonwealth of Kentucky, as provided in
11 this chapter.

12 (9) (a) It shall be unlawful for any person not licensed or certified as a real
13 property appraiser by the board to provide any type of appraisal, appraisal
14 review, or appraisal consulting assignment or perform any of the duties
15 usually performed by a licensed or certified real property appraiser in the
16 Commonwealth of Kentucky.

17 (b) Paragraph (a) of this subsection shall not apply to:

18 1. Individuals who render professional assistance in arriving at a real
19 property analysis, opinion, or conclusion;

20 2. Mass appraisals for tax purposes;

21 3. A court appraisal directive; and

22 4. Transportation Cabinet employees in their professional capacity,
23 except for any employee of the Transportation Cabinet whose job
24 description requires certification.

25 (10) This chapter shall not prohibit a licensed or certified real property appraiser from
26 providing an evaluation. When providing an evaluation, a licensed or certified
27 real property appraiser shall:

1 (a) Not indicate his or her status as a licensed or certified real property
2 appraiser; and

3 (b) Include the following disclaimer on the first page of the evaluation:
4 "This evaluation is not subject to compliance with the Uniform Standards
5 of Professional Appraisal Practice."

6 (11) This chapter shall not prohibit any person who is licensed to practice in this state
7 under any other law from engaging in the practice for which the person is
8 licensed.

9 (12) Except as otherwise provided by federal law, this chapter shall not prohibit a
10 bank or banker from providing or conducting an appraisal or appraisal review in
11 the normal course of business.

12 (13) This chapter shall not apply to chattel, including but not limited to furniture,
13 livestock, vehicles, and jewelry.

14 (14) This chapter shall not apply to any of the following in the settlement of an
15 insurance claim:

16 (a) A staff adjuster, or an independent adjuster, licensed under KRS Chapter
17 304; or

18 (b) Any other representative of an insurance company.

19 (15) (a) An appraiser shall not negotiate, or advertise to negotiate, on behalf of any
20 insured on any insurance claim relating to real property.

21 (b) An appraiser may advocate for his or her appraisal report and the accuracy
22 of it.

23 ➔ Section 7. KRS 324A.045 is amended to read as follows:

24 (1) The board shall issue to each qualified applicant a certificate or license in form and
25 size as shall be prescribed by the board.

26 (2) Every certificate and license shall be subject to biennial[annual] renewal on the
27 date or dates determined by the board by administrative regulation. Each certificate

1 and license holder shall submit proof of compliance with the biennial continuing
2 education requirements when appropriate and the biennial[annual] renewal fee to
3 the board on or before the last day of the designated month. Failure to receive a
4 renewal form shall not constitute an adequate excuse for failure to renew on time.

5 (3) If the certificate or license holder fails to renew in a timely manner, the certificate
6 or license shall expire. Within six (6) months after the renewal date, the former
7 certificate or license holder[] shall be reinstated by complying with all appropriate
8 renewal requirements and paying a late fee in an amount to be determined by the
9 board through an administrative regulation promulgated in accordance with KRS
10 Chapter 13A[not to exceed two hundred dollars (\$200)].

11 (4) If six (6) months or more elapse after the renewal date, the former certificate or
12 license holder shall be required to meet all current requirements as if applying for
13 initial certification or licensure.

14 (5) (a) A licensee who has initiated continuing education courses prior to the date
15 established through an administrative regulation promulgated by the board in
16 accordance with KRS Chapter 13A shall have five (5) days after the
17 established date to complete them.

18 (b) The board may not cancel a license for failure to complete continuing
19 education courses until ten (10) days after the date established by the board.

20 (6) (a) A certificate or license holder shall successfully complete at least twenty-
21 eight (28) continuing education hours for the biennial license period.

22 (b) 1. The hours completed for one (1) USPAP update course shall apply
23 toward the continuing education requirement each biennial license
24 period.

25 2. a. The most recent USPAP update course shall be completed within
26 the first six (6) months of a biennial license period or if it is not
27 available within the first six (6) months, upon immediate

availability.

b. If a second USPAP update course becomes available within the same biennial license period, the second may be completed upon immediate availability but the hours completed shall apply to the succeeding biennial license period.

➔ Section 8. KRS 324A.047 is amended to read as follows:

7 (1) (a) Upon written request, any certificate holder or licensee may request to place
8 his or her certificate or license in inactive status for a period not to exceed
9 three (3) years.

10 (b) The written request shall be made by completing a signed and sworn affidavit
11 on a form approved by the board.

12 (c) The board may require a fee in an amount to be determined by the board
13 through an administrative regulation promulgated in accordance with KRS
14 Chapter 13A~~of fifty dollars (\$50)}~~ for each change in status of the certificate
15 holder or licensee.

16 (d) A license issued to an individual as an associate real property appraiser shall
17 not be eligible for inactive status.

18 (2) No inactive status certificate holder or licensee shall:

19 (a) Assume or use any title, designation, or abbreviation likely to create the
20 impression that he or she holds a certificate or license issued by the board;

21 (b) Describe or refer to any appraisal or evaluation of real property~~estate~~ by the
22 term, "state certified," "state licensed," or words of substantially similar
23 meaning; or

24 (c) Prepare real property~~estate~~ appraisals for federally related transactions
25 which, under Title XI of the Financial Institutions Reform, Recovery, and
26 Enforcement Act of 1989, require the services of a state-certified or state-
27 licensed appraiser.

1 (3) To return to active status, a certificate holder or licensee shall:

2 (a) Petition the board for reactivation of the certificate or license;

3 (b) Pay the applicable renewal fee and roster fee required by this chapter; and

4 (c) I Provide evidence of completion of the biennially~~annually~~ required

5 continuing education hours, as established by the board and promulgated

6 in administrative regulations, if in inactive status for two (2) or more

7 years; or~~for each year of inactive status}~~

8 2. a. Provide evidence of completion of at least half of the required

9 continuing education hours, as established by the board and

10 promulgated in administrative regulations, if in inactive status

11 for less than two (2) years.

12 b. If providing evidence of half of the required continuing

13 education hours, once the certificate holder or licensee returns

14 to active status the remaining continuing education hours shall

15 be completed within six (6) months.

16 (4) A certificate holder or licensee who petitions to return to active status after an

17 inactive period exceeding three (3) years shall be required to meet all the

18 requirements for original issuance of a license or certificate under this chapter.

19 (5) Violation of subsection (2) of this section shall be grounds for disciplinary action

20 under this chapter.

21 ➔Section 9. KRS 324A.052 is amended to read as follows:

22 (1) Any person or organization, including the board upon its own volition, may file

23 with the board a written complaint alleging a violation of any provision of this

24 chapter. Complaints shall be filed with the board within ~~from~~:

25 (a) one (1) year~~Five (5) years~~ after the date of transmittal of the appraisal report or

26 appraisal review assignment~~;~~ or

27 (b) ~~Two (2) years after the final disposition of any judicial proceeding in which the~~

1 ~~appraiser provided testimony related to the assignment, whichever expires last.~~

2 ~~Paragraphs (a) and (b) of]~~ This subsection shall not apply to complaints involving

3 the actions outlined in KRS 324A.050(1)(c), (d), (g), and (k). The board shall

4 investigate each complaint.

5 (2) If the investigation reveals evidence supporting the complaint, the board shall set

6 the matter for hearing in accordance with the provisions of KRS Chapter 13B

7 before fining, reprimanding, suspending, revoking, refusing to renew, or any

8 combination thereof.

9 (3) If the investigation reveals that the alleged violation did occur but was not of a

10 serious nature, the board may issue a written admonishment to the certificate holder

11 or licensee. A copy of the admonishment shall be placed in the recipient's file with

12 the board. The recipient shall have the right to file a response to the admonishment

13 within thirty (30) days of its receipt and have the response placed in the file. The

14 recipient may, alternatively, within thirty (30) days of the receipt, file a request for

15 hearing with the board. Upon receipt of this request, the board shall set aside the

16 written admonishment and set the matter for hearing in accordance with ~~the~~

17 ~~provisions of~~ KRS Chapter 13B.

18 (4) After denying an application for a certificate or license or issuing an admonishment,

19 the board shall grant an administrative hearing in accordance with KRS Chapter

20 13B only upon written request of the applicant made within thirty (30) days of the

21 mailing of the letter of denial or admonishment~~l~~.

22 (5) Pursuant to KRS 13B.120(7), the director of the Division of Real Property Boards

23 ~~within the Department of Professional Licensing shall hear and issue a final order~~

24 ~~regarding a decision of the board. An aggrieved party may appeal a final order of~~

25 ~~the director pursuant to KRS Chapter 13B within thirty (30) days after the issuance~~

26 ~~of the order to the Circuit Court of the county where the licensee has his or her~~

27 ~~principal place of business or where the license applicant resides~~].

1 ➔Section 10. KRS 324A.065 is amended to read as follows:

2 (1) The board shall establish by administrative regulation the fee amounts for all fees
3 required by this section and the fees for services provided by the board, which
4 shall not exceed amounts necessary to generate sufficient funds to effectively
5 carry out and enforce this chapter. The board shall establish and collect the
6 following fees for certification or licensure as an appraiser for:

7 (a) Federally related transactions:

8 1. Initial application fee[~~in an amount not to exceed two hundred dollars~~
9 ~~(\$200)~~];

10 2. Examination fee[~~in an amount not to exceed two hundred dollars~~
11 ~~(\$200)~~];

12 3. a. A biennial[~~An annual~~] certificate or licensure fee[~~in an amount~~
13 ~~not to exceed two hundred dollars (\$200)~~];

14 b. Duplicate certificate fee[~~in an amount not to exceed ten dollars~~
15 ~~(\$10)~~]; and

16 c. Certificate correction fee[~~in an amount not to exceed ten dollars~~
17 ~~(\$10)~~];

18 4. Roster fee[~~not to exceed fifty dollars (\$50)~~]; and

19 5. Returned check fee[~~not to exceed fifty dollars (\$50)~~]; and

20 (b) Nonfederally related transactions:

21 1. A biennial[~~An annual~~] certificate or licensure renewal fee[~~in an amount~~
22 ~~not to exceed one hundred dollars (\$100)~~]; and

23 2. Certificate correction fee[~~in an amount not to exceed five dollars (\$5)~~].

24 (2) The board shall, through the promulgation of an administrative regulation, establish
25 and collect the following fees from education providers for review and approval of
26 prelicensure and continuing education courses offered by education providers for
27 licensure as an appraiser:

14 ➔ Section 11. KRS 324A.154 is amended to read as follows:

15 The board shall promulgate administrative regulations[,] in accordance with KRS
16 Chapter 13A to establish~~and following review of the director of the Division of Real
17 Property Boards, establishing~~ a reasonable filing fee to be paid by each appraisal
18 management company seeking registration under KRS 324A.152. The filing fee shall
19 include the annual fee for inclusion in the national registry maintained by the Appraisal
20 Subcommittee of the Federal Financial Institutions Examination Council.

21 ➔ Section 12. KRS 324B.045 is amended to read as follows:

22 (1) (a) The Division of Real Property Boards is hereby created within the
23 Department of Professional Licensing and shall include the:

24 1. Kentucky Board of Home Inspectors, established under KRS 198B.704;

25 and

26 2. ~~Real Estate Appraisers Board, established under KRS 324A.015; and~~

27 3. ~~Board of Auctioneers, established under KRS 330.050.~~

1 (b) The Division of Real Property Boards shall be managed by a director, who
2 shall be appointed by the secretary of the Public Protection Cabinet with prior
3 written approval of the Governor. The director shall be exempted from the
4 classified service.

5 (c) The Division of Real Property Boards may:

6 1. Provide appropriate attorneys, personnel staffing, and administrative
7 support to the real property boards identified in paragraph (a) of this
8 subsection;

9 2. Establish and maintain an office, meeting space, office supplies,
10 furniture, storage space, and any other supplies that are necessary to
11 carry out the duties of the Division of Real Property Boards and the real
12 property boards identified in paragraph (a) of this subsection;

13 3. Make available for public inspection all decisions, opinions, and
14 interpretations formulated or used by the division and the real property
15 boards identified in paragraph (a) of this subsection in discharging their
16 functions;

17 4. Publicize the functions and purposes of the Division of Real Property
18 Boards and the real property boards identified in paragraph (a) of this
19 subsection;

20 5. Employ administrative coordinators who shall carry out the
21 administrative functions and day-to-day operations of the real property
22 boards identified in paragraph (a) of this subsection. The maximum
23 number of administrative coordinators shall be one (1) for each real
24 property board. These administrative coordinators shall be exempted
25 from the classified service; and

26 6. Enter into agreements with any state agency, political subdivision of the
27 state, postsecondary education institution, or other person or entity to

1 assist with implementation of the duties and responsibilities of the
2 Division of Real Property Boards or, upon request, the real property
3 boards identified in paragraph (a) of this subsection.

4 (2) The director of the Division of Real Property Boards shall:

5 (a) Provide oversight of the Division of Real Property Boards;

6 (b) Review and provide feedback on any administrative regulation proposed by

7 any of the boards within the Division of Real Property Boards prior to the

8 promulgation of the administrative regulation;

9 (c) Review and provide feedback on the budgets and expenditures of the boards

10 within the Division of Real Property Boards;

11 (d) Submit written recommendations to the secretary of the Public Protection

12 Cabinet concerning sufficient staffing needs and relevant experience

13 necessary to assist in carrying out the mission and function of the Division of

14 Real Property Boards;

15 (e) Pursuant to KRS 13B.120(7), automatically hear and issue a final order

16 regarding any decision of a real property board that would otherwise be

17 subject to appeal. An aggrieved party may appeal a final order of the director

18 pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the

19 order to the Circuit Court of the county where the party has his or her

20 principal place of business or where the party resides;

21 (f) Make available for public inspection all decisions, opinions, and

22 interpretations formulated or used by the director in discharging his or her

23 functions;

24 (g) Carry out the applicable policy and program directives of the department;

25 (h) Prepare annual reports on the director's activities;

26 (i) Delegate any power to employees and contractors as needed;

27 (j) Have a minimum of seven (7) years of experience in the real estate industry

1 within the last fifteen (15) years; and

2 (k) Perform all other duties assigned by law.

3 (3) The secretary of the Public Protection Cabinet shall:

4 (a) Consider the staffing recommendations and requests submitted by the director
5 of the Division of Real Property Boards; and

6 (b) Provide the Division of Real Property Boards with documentation showing
7 the income and expenditures of all license fees.

8 ➔Section 13. KRS 133.120 is amended to read as follows:

9 (1) (a) Any taxpayer desiring to appeal an assessment on real property made by the
10 property valuation administrator shall first request a conference with the
11 property valuation administrator or his or her designated deputy. The
12 conference shall be held prior to or during the inspection period provided for
13 in KRS 133.045, or during an extension granted under subsection (2)(d) of
14 this section.

15 (b) 1. Any person receiving compensation to represent a property owner at a
16 conference with the property valuation administrator for a real property
17 assessment shall be:

18 a. An attorney;

19 b. A certified public accountant;

20 c. A tax consultant[certified real estate broker];

21 d. A Kentucky licensed real estate broker or sales associate;

22 e. An employee of the property owner;

23 f. A licensed or certified Kentucky real property[estate] appraiser;

24 g. An appraiser who possesses a temporary practice permit or
25 reciprocal license or certification in Kentucky to perform
26 appraisals and whose license or certification requires him or her to
27 conform to the Uniform Standards of Professional Appraisal

Practice; or

h. Any other individual possessing a professional appraisal designation recognized by the department.

2. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the property valuation administrator any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

(c) During this conference, the property valuation administrator or his or her deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property.

(d) The property valuation administrator or his or her deputy shall keep a record of each conference which shall include but not be limited to the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference.

(e) At the request of the taxpayer, the conference may be held by telephone.

22 (2) (a) Any taxpayer still aggrieved by an assessment on real property made by the
23 property valuation administrator after complying with the provisions of
24 subsection (1) of this section may appeal to the board of assessment appeals

(b) The taxpayer shall appeal his or her assessment by filing in person or sending a letter or other written petition to the county clerk stating the reasons for appeal, identifying the property for which the appeal is filed, and stating the

taxpayer's opinion of the fair cash value of the property.

- (c) The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045 or no later than the last day of an extension granted under paragraph (d) of this subsection.
- (d) A property valuation administrator may make a written request to the department to extend the deadline in his or her county of jurisdiction to allow the completion of the conferences requested during the inspection period required by subsection (1)(a) of this section and to extend the filing deadline for appeals to the board of assessment appeals. If approved by the department, the deadline for the completion of the conferences requested during the inspection period and filing appeals shall be extended for a period not to exceed twenty-five (25) days from the date of the original filing deadline.
- (e) The county clerk shall notify the department of all assessment appeals and of the date and times of the hearings.
- (f) The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045, or no later than the last day of an extension granted under paragraph (d) of this subsection, or upon the written recommendation of the department. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by [subsection (4) of] KRS 132.450(4), specifying a date when the board will hear

1 the taxpayer, if he or she so desires, in protest of an increase.

2 (g) Any real property owner who has listed his or her property with the property
3 valuation administrator at its fair cash value may ask the county board of
4 assessment appeals to review the assessments of real properties he or she
5 believes to be assessed at less than fair cash value, if he or she specifies in
6 writing the individual properties for which the review is sought and factual
7 information upon which his or her request is based, such as comparable sales
8 or cost data and if the request is made no later than one (1) work day
9 following the conclusion of the inspection period provided for in KRS
10 133.045, or no later than the last day of an extension granted under paragraph
11 (d) of this subsection.

12 (h) Nothing in this section shall be construed as granting any property owner the
13 right to request a blanket review of properties or the board the power to
14 conduct such a review.

15 (3) (a) The board of assessment appeals shall hold a public hearing for each
16 individual taxpayer appeal in protest of the assessment by the property
17 valuation administrator filed in accordance with the provisions of subsection
18 (2) of this section, and after hearing all the evidence, shall fix the assessment
19 of the property at its fair cash value.

20 (b) The department may be present at the hearing and present any pertinent
21 evidence as it pertains to the appeal.

22 (c) The taxpayer shall provide factual evidence to support his or her appeal. If the
23 taxpayer fails to provide reasonable information pertaining to the value of the
24 property requested by the property valuation administrator, the department, or
25 any member of the board, his or her appeal shall be denied.

26 (d) This information shall include but not be limited to the physical
27 characteristics of land and improvements, insurance policies, cost of

1 construction, real estate sales listings and contracts, income and expense
2 statements for commercial property, and loans or mortgages.

3 (e) The board of assessment appeals shall only hear and consider evidence which
4 has been submitted to it in the presence of both the property valuation
5 administrator or his or her designated deputy and the taxpayer or his or her
6 authorized representative.

7 (4) (a) Any person receiving compensation to represent a property owner in an
8 appeal before the board shall be:

9 1. An attorney;

10 2. A certified public accountant;

11 3. A **tax consultant**~~certified real estate broker~~;

12 4. A Kentucky licensed real estate broker **or sales associate**;

13 5. An employee of the taxpayer;

14 6. A licensed or certified Kentucky real **property**~~estate~~ appraiser;

15 7. An appraiser who possesses a temporary practice permit or reciprocal
16 license or certification in Kentucky to perform appraisals and whose
17 license or certification requires him or her to conform to the Uniform
18 Standards of Professional Appraisal Practice; or

19 8. Any other individual possessing a professional appraisal designation
20 recognized by the department.

21 (b) A person representing a property owner before the county board of
22 assessment appeals shall present a written authorization from the property
23 owner which sets forth his or her professional capacity and shall disclose to
24 the county board of assessment appeals any personal or private interests he or
25 she may have in the matter~~, including any contingency fee arrangements,~~
26 ~~except that attorneys shall not be required to disclose the terms and conditions~~
27 ~~of any contingency fee arrangement~~.

- 1 (5) The board shall provide a written opinion justifying its action for each assessment
- 2 either decreased or increased in the record of its proceedings and orders required in
- 3 KRS 133.125 on forms or in a format provided or approved by the department.
- 4 (6) The board shall report to the property valuation administrator any real property
- 5 omitted from the tax roll. The property valuation administrator shall assess the
- 6 property and immediately give notice to the taxpayer in the manner required by
- 7 KRS 132.450(4), specifying a date when the board of assessment appeals will hear
- 8 the taxpayer, if he or she so desires, in protest of the action of the property valuation
- 9 administrator.
- 10 (7) The board of assessment appeals shall have power to issue subpoenas, compel the
- 11 attendance of witnesses, and adopt rules and regulations concerning the conduct of
- 12 its business. Any member of the board shall have power to administer oaths to any
- 13 witness in proceedings before the board.
- 14 (8) The powers of the board of assessment appeals shall be limited to those specifically
- 15 granted by this section.
- 16 (9) No appeal shall delay the collection or payment of any taxes based upon the
- 17 assessment in controversy. The taxpayer shall pay all state, county, and district
- 18 taxes due on the valuation which he or she claims as true value and stated in the
- 19 petition of appeal filed in accordance with the provisions of subsection (1) of this
- 20 section. When the valuation is finally determined upon appeal, the taxpayer shall be
- 21 billed for any additional tax and interest at the tax interest rate as defined in KRS
- 22 131.010[6] from the date when the tax would have become due if no appeal had
- 23 been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- 24 (10) Any member of the county board of assessment appeals may be required to give
- 25 evidence in support of the board's findings in any appeal from its actions to the
- 26 Board of Tax Appeals pursuant to KRS 49.220. Any persons aggrieved by a
- 27 decision of the board, including the property valuation administrator, taxpayer, and

1 department, may appeal the decision to the Board of Tax Appeals pursuant to KRS
2 49.220. Any taxpayer failing to appeal to the county board of assessment appeals,
3 or failing to appear before the board, either in person or by designated
4 representative, shall not be eligible to appeal directly to the Board of Tax Appeals.

5 (11) The county attorney shall represent the interest of the state and county in all
6 hearings before the board of assessment appeals and on all appeals prosecuted from
7 its decision. If the county attorney is unable to represent the state and county, he or
8 she or the fiscal court shall arrange for substitute representation.

9 (12) Taxpayers shall have the right to make audio recordings of the hearing before the
10 county board of assessment appeals. The property valuation administrator may
11 make similar audio recordings only if prior written notice is given to the taxpayer.
12 The taxpayer shall be entitled to a copy of the department's recording as provided in
13 KRS 61.874.

14 (13) The county board of assessment appeals shall physically inspect a property upon the
15 request of the property owner or property valuation administrator.

16 ➔Section 14. KRS 154.60-040 is amended to read as follows:

17 (1) As used in this section:

18 (a) "Actively engaged farmer" means a person who makes a significant
19 contribution of:

20 1. Land, capital, and equipment to a farming operation; and
21 2. Active personal labor or management to a farming operation;

22 (b) 1. "Agricultural assets" means:

23 a. Agricultural land which has been appraised by an individual
24 certified by the Real Property[Estate] Appraisers Board created
25 under KRS 324A.015; and

26 b. Buildings, facilities, machinery, equipment, agricultural products,
27 or horticultural products, if:

1 authority;

- (e) "Aquaculture" means the farming of fish, crustaceans, mollusks, aquatic plants, algae, or other similar organisms;
- (f) "Beginning farmer" means an actively engaged farmer who has not previously held an ownership interest in agricultural land used for a farming operation for a period exceeding twenty (20) years prior to entering into an agreement to purchase agricultural assets from a seller;
- (g) "Buyer" means an actively engaged farmer or beginning farmer who purchases agricultural assets from a seller;
- (h) "Department" means the Department of Revenue~~organized under KRS 131.020};~~
- (i) "Farm product" means aquaculture, agricultural products, or horticultural products;
- (j) 1. "Farming operation" means the management and operation of agricultural assets for the purpose of pursuing a profitable commercial business venture to produce agricultural products, horticultural products, or both for sale.
2. "Farming operation" does not mean any:
 - a. Nonprofit venture;
 - b. Farm used primarily for storing agricultural products or horticultural products; or
 - c. Farm used to grow or raise agricultural products or horticultural products primarily for use by the immediate family members or owners of the agricultural assets;
- (k) "Horticultural products" means orchards, fruits, vegetables, nuts, flowers, or ornamental plants;
- (l) "Immediate family member" means any of the following in relation to any

1 owner or spouse of the owner of the agricultural assets:

2 1. Parent or grandparent;

3 2. Children or their spouses; or

4 3. Siblings or their spouses;

5 (m) "Seller" means any individual or entity subject to the tax imposed by KRS

6 141.020 or 141.040 and 141.0401; and

7 (n) "Significant contribution" has the same meaning as in 7 C.F.R. sec. 1400.3.

8 (2) Any incentive offered to an eligible company under the Selling Farmer Tax Credit

9 Program shall be negotiated by Cabinet for Economic Development officials and

10 shall be subject to approval by the authority.

11 (3) The purpose of the Selling Farmer Tax Credit Program is to promote the continued

12 use of agricultural land in Kentucky for farming purposes by granting a tax credit to

13 a seller who agrees to sell agricultural assets to an actively engaged farmer or a

14 beginning farmer.

15 (4) A seller wanting to sell agricultural assets may be eligible for a tax credit up to five

16 percent (5%) of the selling price of qualifying agricultural assets, subject to:

17 (a) A twenty-five thousand dollar (\$25,000) cap for each taxable year of the seller

18 when agricultural assets are sold to an actively engaged farmer who does not

19 meet the definition of a beginning farmer;

20 (b) A fifty thousand dollar (\$50,000) cap for each taxable year of the seller when

21 agricultural assets are sold to a beginning farmer;

22 (c) A one hundred thousand dollar (\$100,000) lifetime cap for each seller selling

23 to an actively engaged farmer;

24 (d) A two hundred thousand dollar (\$200,000) lifetime cap for each seller selling

25 to a beginning farmer; and

26 (e) A proration by the authority based on the overall cap shared between the

1 Program cap of three million dollars (\$3,000,000) under KRS 154.60-020.

2 (5) The tax credit allowed in subsection (4) of this section may be claimed under KRS
3 141.3841.

4 (6) In order to be eligible to receive approval for a tax credit, the seller shall, at a
5 minimum:

10 (b) Prior to a sale of agricultural assets, be a small business with fifty (50) or
11 fewer full-time employees and be the sole legal owner of agricultural assets
12 sold to an actively engaged farmer or a beginning farmer;

13 (c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily
14 engaged in the business of selling agricultural assets for profit and not
15 engaged in farming as a primary business activity;

16 (d) Not be a bank or any other similar lending or financial institution;

17 (e) Not be:

18 1. An owner, partner, member, shareholder, or trustee;

19 2. A spouse of an owner, partner, member, shareholder, or trustee; or

22 of the actively engaged farmer or beginning farmer to whom the seller is
23 seeking to sell agricultural assets:

24 (f) 1. Demonstrate management and operation of real and personal property
25 for the production of a farm product; and

1 evidenced by an appraisal; and

2 (g) Sell, convey, and transfer ownership of related agricultural assets to an
3 actively engaged farmer or a beginning farmer.

4 (7) In order for the seller to qualify for the tax credit, an actively engaged farmer or a
5 beginning farmer shall, at a minimum:

10 (b) Possess all licenses, registrations, and experience needed to legally operate a
11 farming operation within the jurisdiction for the agricultural land purchased
12 from a the seller;

13 (c) Not have an ownership interest in any of the agricultural assets included in the
14 transaction with the seller; and

15 (d) Provide a majority of the management, and materially participate in the
16 operation of a for-profit farming operation located in Kentucky and purchased
17 from a seller, with the intent to continue a for-profit farming operation on the
18 purchased agricultural land for a minimum of ten (10) years after the sale
19 date.

20 (8) The seller shall submit an application with all information necessary for the
21 authority to determine eligibility for the tax credit.

22 (9) The authority may consider applications prior to the consummation of the sale,
23 transfer of title, and conveyance of agricultural assets.

24 (10) An application for the selling farmer tax credit shall contain, at a minimum,
25 information about the:

26 (a) Seller and buyer:

27 (b) Purchase contract and closing statement:

1 licensed:

2 (a) Architect under KRS Chapter 323;

3 (b) Professional engineer under KRS Chapter 322;

4 (c) Plumbing contractor or journeyman plumber under KRS Chapter 318;

5 (d) Electrician, master electrician, or electrical contractor under KRS Chapter

6 227A;

7 (e) Liquefied petroleum gas dealers under KRS Chapter 234;

8 (f) Master heating, ventilation, and air conditioning contractor, journeyman

9 heating, ventilation, and air conditioning mechanic, or an apprentice heating,

10 ventilation, and air conditioning mechanic under this chapter; or

11 (g) Fire protection sprinkler contractor, fire protection system certificate holder,

12 or certified fire sprinkler inspector under this chapter;

13 (3) An individual licensed under KRS Chapter 324 as a real estate broker, broker-

14 salesperson, or salesperson and is acting within the scope of the individual's license;

15 (4) An individual who is licensed under KRS Chapter 324A as a real property[estate]

16 appraiser and is acting within the scope of the individual's license;

17 (5) An individual who holds a license under KRS Chapter 304 as an insurance adjuster

18 and is acting within the scope of the individual's license;

19 (6) An individual who holds a permit, certificate, or license to:

20 (a) Use and apply pesticides; or

21 (b) Make diagnostic inspections and reports for wood destroying pests and fungi

22 under KRS Chapter 217B and is acting within the scope of the individual's

23 certificate or license;

24 (7) An individual who holds a license from a political subdivision as a tradesperson or

25 home builder and is acting within the scope of the individual's license;

26 (8) An individual who holds a current and valid license, certificate, or permit under

27 KRS 227.550 to 227.660 and is acting within the scope of the individual's license,

1 certificate, or permit as a:

2 (a) Manufactured home retailer;

3 (b) Manufactured home certified retailer; or

4 (c) Manufactured home certified installer; or

5 (9) A person not subject to licensure by the Commonwealth who is engaged in

6 providing estimates for remodeling or repair to a residential dwelling.

7 ➔Section 16. KRS 324.085 is amended to read as follows:

8 (1) (a) All actively licensed agents, except those licensees exempt under KRS

9 324.046(5) and those licensees satisfying the educational requirement in

10 subsection (2) of this section, shall successfully complete twelve (12)

11 classroom or online hours of continuing education for the biennial license

12 period. Six (6) of the twelve (12) hours shall be completed in the first year of

13 the biennial license period or the license shall be automatically cancelled.

14 (b) Six (6) of the twelve (12) hours of continuing education shall be in real estate

15 law.

16 (c) A licensee may accumulate additional continuing education hours for the

17 biennial period in the first year of the biennial term.

18 (d) Six (6) of the twelve (12) hours of continuing education may be in real estate-

19 related courses approved by the commission and other ~~real property~~ boards

20 pursuant to KRS Chapters 324A and 330 and KRS 198B.700 to 198B.738.

21 (2) A licensee who is issued an initial sales associate license after January 1, 2016,

22 shall complete forty-eight (48) classroom or online hours of commission-approved

23 post-license education:

24 (a) Provided by one (1) or a combination of the following:

25 1. An accredited institution; or

26 2. A commission-approved:

27 a. Real estate school; or

1 to} KRS Chapter 13A for certification or licensure of appraisers of real property in
2 nonfederally related transactions. Appraisers who wish to be limited to appraisals of
3 nonfederally related transactions, and who have engaged in the appraisal of real
4 property[estate] for at least ten (10) years prior to April 7, 1992, shall be certified or
5 licensed as appraisers of nonfederally related transactions.

6 (3) The board shall establish by administrative regulations requirements for:
7 (a) Classifications of appraisers;
8 (b) Certification and licensure;
9 (c) Renewal, suspension, or revocation of certification or licensure;
10 (d) Standards of professional appraisal practice, including experience, education,
11 and ethics;
12 (e) Examination of applicants for certification or licensure; and
13 (f) Continuing education of appraisers.

14 ➔Section 18. KRS 324A.050 is amended to read as follows:

15 (1) The board may refuse to issue, refuse to renew, suspend, or revoke a certificate or
16 license, reprimand, admonish, place on probation, or impose a fine up to two
17 thousand dollars (\$2,000)~~[\$2000]}~~ per each violation determined by the board, not
18 to exceed five thousand dollars (\$5,000)~~[\$5000]}~~, on a certificate holder or
19 licensee, or any combination thereof, for any of the following reasons:
20 (a) Procuring or attempting to procure a certificate or license by knowingly
21 making a false statement or submitting false information, or through any form
22 of fraud or misrepresentation;
23 (b) Refusing to provide complete information in response to a question in an
24 application to the board or failing to meet the minimum qualifications
25 established by the board;
26 (c) Being convicted of a felony or misdemeanor, if in accordance with KRS
27 Chapter 335B;

- (d) Committing an act involving dishonesty, fraud, or misrepresentation;
- (e) Violating any of the provisions of KRS 324A.010 to 324A.100~~324A.090~~, the administrative regulations of the board, or any lawful order of the board;
- (f) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;
- (g) Committing any other conduct which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, or dishonesty;
- (h) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;
- (i) Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;
- (j) Failing to observe one (1) or more of the Uniform Standards of Professional Appraisal Practice in effect at the time of the appraisal report transmittal letter date; or
- (k) Having a license or registration certificate to practice as a licensed or certified real property appraiser denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state.

(2) Notwithstanding any other provision of this chapter to the contrary, the requirements of KRS Chapter 324A, the board's administrative regulations, and the current edition of the Uniform Standards of Professional Appraisal Practice shall constitute the minimum standard of conduct and performance for a licensee or credential holder in any work or service performed that is addressed by those standards.

(3) In any proceeding in which a suspension of thirty (30) days or more, or revocation is imposed, the board may require the respondent to pay the actual costs of the

1 investigation and all proceedings not to exceed ten thousand dollars (\$10,000).
2 (4) Three (3) years from the date of a revocation, any certificate holder or licensee
3 whose certificate or license has been revoked may petition the board for
4 reinstatement. The board shall investigate the petition and may reinstate, upon a
5 finding that the petitioner has complied with any and all terms prescribed by the
6 board and is able to engage in the practice of real **property**~~estate~~ appraisal within
7 the requirements of this chapter and the administrative regulations. The board may,
8 in its discretion, require the petitioner to successfully pass the examination required
9 for the applicable certificate or license.

10 ➔Section 19. KRS 324A.088 is amended to read as follows:

11 KRS 324A.010 to 324A.100~~[324A.090]~~ may be cited as the Real **Property**~~Estate~~
12 Appraisal Voluntary Certification Act.

13 ➔Section 20. KRS 324A.100 is amended to read as follows:

14 (1) The Kentucky Real **Property**~~Estate~~ Appraisers Board shall require a national and
15 state criminal background check for each initial application to be a licensed or
16 certified real property appraiser under the following requirements:

17 (a) The applicant shall provide his or her fingerprints to the Department of
18 Kentucky State Police for submission to the Federal Bureau of Investigation
19 after a state criminal background check is conducted;

20 (b) The results of the national and state criminal background check shall be sent
21 to the board; and

22 (c) Any fee charged by the Department of Kentucky State Police and the Federal
23 Bureau of Investigation shall be an amount no greater than the actual cost of
24 processing the request and conducting the check.

25 (2) The board shall issue a license or certification to an applicant authorizing the
26 applicant to act or offer to act as a licensed or certified real property appraiser in
27 this state upon:

- 1 (a) Receipt of a properly completed application;
- 2 (b) Successful completion of all applicable education, experience, and
- 3 examination;
- 4 (c) Successful completion of all statutory and administrative regulation
- 5 requirements for licensing and certification of a real property appraiser; and
- 6 (d) Payment of the required application fee.

7 ➔Section 21. KRS 324A.150 is amended to read as follows:

8 As used in KRS 324A.150 to 324A.164, unless the context otherwise requires:

9 (1) "Appraisal management company" means a person who performs the actions
10 necessary to administer a network of state-licensed appraisers to fulfill requests for
11 appraisal management services on behalf of a client, whether directly or through the
12 use of software products or online, including but not limited to any of the following
13 actions:

- 14 (a) Recruiting appraisers;
- 15 (b) Contracting with appraisers to perform appraisal services;
- 16 (c) Collecting fees from clients;
- 17 (d) Negotiating fees with appraisers or reimbursing appraisers for appraisal services;
- 18 (e) Receiving appraisal orders and appraisal reports;
- 19 (f) Submitting appraisal reports received from appraisers to the company's clients;
- 20 (g) Reviewing or verifying appraisal reports; or
- 21 (h) Managing the process of having an appraisal performed, including providing

25 (2) "Appraisal management services" means conducting business by telephone, by
26 electronic means, by mail, or in person, directly or indirectly for compensation or
27 other pecuniary gain or in the expectation of compensation or other pecuniary gain

1 to:

2 (a) Solicit, accept, or offer to accept a request for appraisal services; or

3 (b) Employ or contract with a licensed or certified appraiser to perform appraisal

4 services;

5 (3) "Appraisal services" means the practice of developing an opinion of the value of

6 real property[estate] in conformity with the minimum USPAP standards;

7 (4) "Appraiser" means an individual licensed by the board who{, for a fee or other

8 consideration,} develops and communicates a real property[estate] appraisal or

9 otherwise gives an opinion of the value of real property[estate] or any interest in

10 real property[estate] in conformity with the minimum USPAP standards;

11 (5) "Appraiser panel" means a network, list, or roster of licensed or certified appraisers

12 approved by an appraisal management company to perform appraisals as

13 independent contractors for the appraisal management company;

14 (6) "Board" means the Kentucky Real Property[Estate] Appraisers Board established

15 by KRS 324A.015;

16 (7) "Client" means a person that contracts with or otherwise enters into an agreement

17 with an appraisal management company for the performance of appraisal services;

18 (8) "Controlling person" means an individual employed, appointed, or authorized by an

19 appraisal management company to contract with clients or independent appraisers

20 for the performance of appraisal services;

21 (9) "Managing principal" has the same meaning as "controlling person";

22 (10) "Registrant" means an appraisal management company or person that is registered

23 or seeking registration under KRS 324A.152; and

24 (11) {"USPAP" means the }"Uniform Standards of Professional Appraisal Practice"" or

25 "USPAP" **has the same meaning as in Section 1 of this Act.**

26 ➔Section 22. KRS 324A.152 is amended to read as follows:

27 (1) A person shall not act or offer to act as an appraisal management company or

1 perform appraisal management services within the Commonwealth unless
2 registered by the board.

3 (2) To be registered by the board, a person shall make written application to the board,
4 submit to a criminal background check as provided in subsection (3) of this section,
5 pay a filing fee established by the board, and pay the fee required to be included in
6 the appraisal management company recovery fund created in KRS 324A.155. The
7 written application shall include the following information:

8 (a) The name, street address, and telephone contact information of the person
9 seeking registration;

10 (b) 1. If the registrant is a domestic organization, the designation of an agent
11 for service of process; or

12 2. If the registrant is a foreign organization, documentation that the foreign
13 organization is authorized to transact business in the Commonwealth
14 and has appointed an agent for service of process by submitting a copy
15 of:

16 a. The registrant's filing with the Secretary of State appointing an
17 agent for service of process; and

18 b. A certificate of authority issued by the Secretary of State.

19 A foreign organization's failure to comply with this subparagraph may
20 result in rejection of the application;

21 (c) The name, residential street address, and contact information of any person
22 who owns ten percent (10%) or more of the appraisal management company
23 for which registration is being requested;

24 (d) The name, residential street address, and contact information of a controlling
25 person or managing principal;

26 (e) A certification that the registrant:

27 1. Has a system and process in place to verify that any person being added

1 to the appraiser panel of the appraisal management company, or who
2 may be used by the appraisal management company to otherwise
3 perform appraisals, holds a license in good standing in this state under
4 this chapter;

5 2. Has a system and process in place to review the work of all appraisers
6 that are performing appraisal services for the appraisal management
7 company on a periodic basis to ensure that all~~the~~ appraisal
8 reports~~services~~ meet the minimum reporting requirements~~are being~~
9 ~~conducted~~ in accordance with the~~minimum~~ most recent edition of
10 the USPAP~~standards~~; and

11 3. Maintains a detailed record of each request for appraisal services that it
12 receives and the appraiser that performs the appraisal services for the
13 appraisal management company;

14 (f) A certification from the registrant and any partner, member, manager, officer,
15 director, managing principal, controlling person, or person occupying a
16 similar status or performing similar functions, or person directly or indirectly
17 controlling the registrant that:

18 1. The application for registration when filed or after filing contains no
19 statement that, in light of the circumstances under which it was made, is
20 false or misleading with respect to a material fact;

21 2. The person certifying has not violated or failed to comply with KRS
22 324A.154, 324A.156, or 324A.158;

23 3. The person certifying and each person who owns ten percent (10%) or
24 more of the registrant has not pled guilty or nolo contendere to or been
25 found guilty of:

26 a. A felony; or

27 b. Within the past ten (10) years, a misdemeanor involving mortgage

lending or real property[estate] appraising, or an offense involving
breach of trust or fraudulent or dishonest dealing;

4. The person certifying is not permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company;
5. The person certifying is not the subject of an order of the board or any other state's appraisal management company regulatory agency denying, suspending, or revoking the person's privilege to operate as an appraisal management company;
6. The person certifying has not acted as an appraisal management company while not properly registered by the board; and
7. The appraisal management company is not owned, in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state for a cause other than expiration, as determined by the relevant state appraiser regulatory program; and

Any other information required by the board.

(g) Any other information required by the board.

19 (3) The board shall require a national and state criminal background check on the
20 person certifying under subsection (2)(f) of this section and each person who owns
21 ten percent (10%) or more of the registrant under the following requirements:
22 (a) The person certifying and each person who owns ten percent (10%) or more
23 of the registrant shall provide his or her fingerprints to the Department of
24 Kentucky State Police for submission to the Federal Bureau of Investigation
25 after a state criminal background check is conducted;
26 (b) The results of the national and state criminal background check shall be sent
27 to the board; and

1 (c) Any fee charged by the Department of Kentucky State Police and the Federal
2 Bureau of Investigation shall be an amount no greater than the actual cost of
3 processing the request and conducting the check.

4 (4) The board shall issue a certificate of registration to a registrant authorizing the
5 registrant to act or offer to act as an appraisal management company in this state
6 upon:

7 (a) Receipt of a properly completed application;

8 (b) Payment of the required filing fee;

9 (c) Payment of the fee required to be included in the appraisal management
10 company recovery fund; and

11 (d) A determination by the board that:

12 1. The registrant has not had a previous registration suspended or revoked;
13 and

14 2. The activities of the applicant shall be directed and conducted by
15 persons who:

16 a. Have not had a previous registration suspended or revoked;

17 b. Have not pled guilty or nolo contendere to or been found guilty of
18 a felony; or

19 c. Within the past ten (10) years have not pled guilty, pled nolo
20 contendere to, or been found guilty of a misdemeanor involving
21 mortgage lending or real property[estate] appraising or an offense
22 involving a breach of trust or fraudulent or dishonest dealing.

23 (5) (a) If the board finds that there is substantial reason to deny the application for
24 registration, the board shall notify the registrant that the application has been
25 denied and shall afford the registrant an opportunity for a hearing before the
26 board to show cause why the registration should not be denied.

27 (b) All proceedings concerning the denial of a certificate of registration shall be

conducted in accordance with KRS Chapter 13B.

2 (c) The acceptance by the board of an application for registration does not
3 constitute the approval of its contents or waive the authority of the board to
4 take disciplinary action under KRS 324A.162.

5 (6) (a) Registrations issued under this section shall be renewed annually.
6 (b) Renewal shall occur on October 31 of each year.
7 (c) If the initial registration occurs less than six (6) months before October 31, the
8 renewal shall not be required until October 31 of the following year, and shall
9 then be renewed on October 31 of each year thereafter.

10 (7) (a) Failure to renew a registration in a timely manner shall result in a loss of
11 authority to operate.
12 (b) A request to reinstate a certificate of registration shall be accompanied by
13 payment of a penalty of fifty dollars (\$50) for each month of delinquency, up
14 to six (6) months after expiration.
15 (c) After six (6) months' delinquency, a new application for registration shall be
16 required.

17 (8) The board shall promulgate administrative regulations in accordance with KRS
18 Chapter 13A to establish standards for the operation of appraisal management
19 companies and for the implementation and enforcement of KRS 324A.150 to
20 324A.164.

21 ➔Section 23. KRS 324A.158 is amended to read as follows:

22 (1) An employee, director, officer, or agent of an appraisal management company or
23 any other third party acting as a joint venture partner with or as an independent
24 contractor for an appraisal management company shall not improperly influence or
25 attempt to improperly influence the development, reporting, result, or review of a
26 real property[estate] appraisal, including but not limited to the use of intimidation,
27 coercion, extortion, bribery, blackmail, threat of nonpayment or withholding

1 payment for appraisal services, or threat of exclusion from future appraisal work.

2 (2) The registrant shall not:

3 (a) Request, allow, or require an appraiser to collect any portion of the fee
4 charged by the appraisal management company, including the appraisal fee,
5 from a borrower, homeowner, or other third party;

6 (b) Require an appraiser to provide the registrant with the appraiser's digital
7 signature or seal;

8 (c) Alter, amend, or change an appraisal report submitted by a licensed or
9 certified appraiser, by the following or any other actions:

10 1. Removing the appraiser's signature;

11 2. Adding or removing information to or from the appraisal report; or

12 3. Altering the final value opinion reported by an appraiser;

13 (d) Remove an appraiser from an appraiser panel without prior written notice to
14 the appraiser. An appraiser may only be removed from an appraiser panel
15 with written notice for:

16 1. A violation of the minimum USPAP standards or other applicable
17 statutes or administrative regulations resulting in a suspension or
18 revocation of the appraiser's license in Kentucky; or

19 2. Other substandard or otherwise improper performance as may be
20 determined by administrative regulations promulgated by the board;

21 (e) Enter into contracts or agreements with an appraiser for the performance of
22 appraisal services unless the appraiser is licensed or certified in good standing
23 with the board;

24 (f) Request that an appraiser provide an estimated, predetermined, or desired
25 valuation in an appraisal report or provide estimated values or comparable
26 sales at any time before the appraiser completes an appraisal report;

27 (g) Provide to an appraiser an anticipated, estimated, encouraged, or desired value

1 for a property or a proposed or target amount to be loaned or borrowed,
2 except that a copy of the sales contract for purchase transactions may be
3 provided;

4 (h) Commit an act or practice that impairs or attempts to impair an appraiser's
5 independence, objectivity, or impartiality; or
6 (i) Have a direct or indirect interest, financial or otherwise, in the property or
7 transaction involving the appraisal.

8 (3) Subsection (1) of this section shall not prohibit an appraisal management company
9 from requesting that an appraiser:

14 ➔ Section 24. KRS 324A.162 is amended to read as follows:

15 (1) The board may deny, suspend, revoke, or refuse to issue or renew the registration of
16 an appraisal management company, or may restrict or limit the activities of an
17 appraisal management company or of a person who owns an interest in or
18 participates in the business of an appraisal management company if the board finds
19 that any of the following circumstances apply to the applicant, a registrant, a person
20 owning ten percent (10%) or more of the applicant or registrant, a partner, member,
21 manager, officer, director, managing principal, controlling person, a person
22 occupying a similar status or performing similar functions, or a person directly or
23 indirectly controlling the applicant or registrant:

24 (a) The application for registration contained a statement that in light of the
25 circumstances under which it was made is false or misleading with respect to
26 a material fact;

27 (b) The person has violated or failed to comply with KRS 324A.152, 324A.154,

1 324A.156, or 324A.158 or failed to comply with administrative regulations
2 promulgated by the board for the implementation and enforcement of KRS
3 324A.150 to 324A.164;

4 (c) The person has pled guilty or nolo contendere to, or has been found guilty of,
5 a felony or, within the past ten (10) years, a misdemeanor involving mortgage
6 lending or real property[estate] appraising or an offense involving a breach of
7 trust or fraudulent or dishonest dealing;

8 (d) The person is permanently or temporarily enjoined by a court of competent
9 jurisdiction from engaging in or continuing any conduct or practice involving
10 appraisal management services or operating an appraisal management
11 company;

12 (e) The person is the subject of an order of the board or any other state's appraisal
13 management company regulatory agency denying, suspending, or revoking
14 the person's privilege to operate as an appraisal management company;

15 (f) The person acted as an appraisal management company while not properly
16 registered by the board; or

17 (g) The person failed to pay the proper filing or renewal fee as provided under
18 KRS 324A.152 and 324A.154.

19 (2) Upon its own motion or the written complaint of a person reporting a violation of
20 subsection (1) of this section, and after notice and the opportunity for a hearing in
21 accordance with KRS Chapter 13B, the board may:

22 (a) Suspend or revoke the registration of a registrant;

23 (b) Impose a fine not to exceed five thousand dollars (\$5,000) per violation; or

24 (c) Take other appropriate disciplinary actions as established by the board
25 through promulgation of administrative regulations.

26 (3) The board may appear in its own name in Franklin Circuit Court, or the Circuit
27 Court of the county where the alleged violation occurred, to obtain injunctive relief

1 to prevent a person from violating this section or KRS 324A.154, 324A.156, or
2 324A.158. The Circuit Court may grant a temporary or permanent injunction
3 regardless of whether:

4 (a) Criminal prosecution has been or may be instituted as a result of the violation;
5 or
6 (b) The person is the holder of a registration issued by the board.

7 ➔Section 25. KRS 324A.164 is amended to read as follows:

8 Unless otherwise required to be registered as an appraisal management company by state
9 or federal law, KRS 324A.150 to 324A.164 shall not apply to:

10 (1) The federal government, state government, any county or municipal government, or
11 any agency or instrumentality thereof;

12 (2) A person authorized to engage in business as a bank, credit union, or savings and
13 loan association under the laws of the United States, the Commonwealth of
14 Kentucky, or any other state;

15 (3) A real estate broker or real estate agent properly licensed or otherwise authorized to
16 do business in the Commonwealth of Kentucky listing or selling real estate;

17 (4) An officer or employee of any entity listed in subsection (1), (2), or (3) of this
18 section when acting within the scope of his or her employment;

19 (5) An entity that is responsible for ensuring that the real property[estate] appraisal
20 activity being performed by an employee is performed in accordance with
21 applicable appraisal standards;

22 (6) An individual who:
23 (a) Is an appraiser; and
24 (b) In the normal course of business enters into an agreement, whether written or
25 otherwise, with another appraiser for the performance of a real
26 property[estate] appraisal activity that the individual cannot complete for any
27 reason, including:

- 1 1. Competency;
- 2 2. Workload;
- 3 3. Schedule; or
- 4 4. Geographic location;

5 (7) An individual who:

- 6 (a) In the normal course of business enters into an agreement, whether written or
7 otherwise, with an appraiser for the performance of real property[estate]
8 appraisal activity; and
- 9 (b) Under the agreement cosigns the report of the appraiser performing the real
10 property[estate] appraisal upon completion of the real property[estate]
11 appraisal activity;

12 (8) An appraisal management company that contracts with one (1) or more appraisers
13 for the performance of fewer than ten (10) appraisals in this state in a calendar year;
14 or

15 (9) A federally regulated appraisal management company as defined in 12 C.F.R. sec.
16 34.211(k).

17 ➔Section 26. KRS 324B.030 is amended to read as follows:

18 (1) The Department of Professional Licensing in the Public Protection Cabinet shall
19 provide administrative services, technical assistance, and advice to the following
20 boards and commissions at the request of the individual boards or commissions, all
21 of which maintain their identity and their full authority for making policy decisions
22 in the fields that they regulate: the State Board of Accountancy, the Kentucky
23 Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of
24 Cosmetology, the State Board of Podiatry, the Kentucky State Board of
25 Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of
26 Embalmers and Funeral Directors, the State Board of Registration for Professional
27 Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky

1 Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners,
2 the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State
3 Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the
4 Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the Real
5 Property~~Estate~~ Appraisers Board, the Kentucky Board of Home Inspectors, the
6 Kentucky Board of Landscape Architects, the State Board of Medical Licensure,
7 the Board of Speech-Language Pathology and Audiology, the Kentucky Board of
8 Licensure for Nursing Home Administrators, the Kentucky Licensing Board for
9 Specialists in Hearing Instruments, the Kentucky Board of Social Work, the
10 Kentucky Board of Emergency Medical Services, and any other boards and
11 commissions that are created to license, certify, register, or otherwise regulate any
12 occupational or professional category.

13 (2) The department may also provide administrative services to a board or commission
14 that is created to license, certify, register, or otherwise regulate any occupational or
15 professional category if these administrative services are deemed to be preferable or
16 required after the review process conducted under KRS 324B.040.

17 (3) To the extent that the department provides administrative services, the respective
18 boards and commissions are relieved of the power and duty to provide the services
19 for themselves. The department shall charge each board or commission a reasonable
20 amount for administrative services provided pursuant to subsection (1) of this
21 section. The department may employ persons previously employed by boards or
22 commissions.

23 (4) The department may receive complaints against the conduct of licensees granted
24 licensure by the boards and commissions assigned to the department for
25 administrative purposes. The department shall cause these complaints to be reduced
26 to writing and forwarded to the appropriate board or commission for investigation
27 and a determination of the validity of the complaint. The department shall keep a

1 record of all complaints received by it and forwarded to a board or commission.

2 (5) Any board or commission listed in subsection (1) of this section~~;~~ shall accept

3 personal checks in payment of license renewal fees.

4 ➔Section 27. KRS 350.280 is amended to read as follows:

5 (1) (a) As used in this section, "he or she" includes "person" as defined in KRS

6 350.010.

7 (b) If a permittee or operator has been issued a notice or order directing

8 abatement of a violation on the basis of an imminent danger to health and

9 safety of the public or significant imminent environmental harm, and the

10 notice or order requires access to property for which the permittee or operator

11 does not have the legal right of entry necessary in order to abate that violation,

12 and the owner or legal occupant of that property has refused access, an

13 easement of necessity is recognized on behalf of the permittee or operator for

14 the limited purpose of abating that violation. The easement of necessity

15 becomes effective, and the permittee or operator is authorized to enter the

16 property to undertake immediate action to abate the violation if he or she

17 concurrently:

18 1. Provides to the property owner or legal occupant a copy of the cabinet's

19 order and a plan of action reasonably calculated to result in abatement of

20 the violation, repair of the damage, and restoration of the property, and

21 provides proof of liability insurance and workers' compensation

22 insurance covering any accidents or injuries occurring on the property

23 during the remedial work;

24 2. Provides to the property owner or legal occupant and cabinet an

25 affidavit that he or she has been denied access to the property; and

26 3. Provides to the property owner or legal occupant a statement that he or

27 she, the permittee or operator, will diligently pursue abatement of the

1 violation, and will obtain an appraisal completed by a real
2 property[estate] appraiser certified under KRS Chapter 324A of the
3 damages to the property, including loss of use, that have resulted from
4 the violation, that the appraisal will be completed and provided to the
5 property owner or legal occupant within three (3) days of abatement of
6 the violation by the operator or permittee, and that he or she will pay the
7 property owner or legal occupant the amount of the damages in the
8 permittee or operator's appraisal at that time.

9 (c) Following the effective date of the easement of necessity, the following
10 procedure shall be followed with respect to the appraisal of the damages:

11 1. The permittee or operator shall have a certified appraiser on the site and
12 have his or her appraisal completed and submitted to the property owner
13 or legal occupant within three (3) days of abatement of the violation by
14 the operator or permittee;

15 2. The property owner or legal occupant shall accept or reject this appraisal
16 in writing within seven (7) days of receipt of the completed appraisal;

17 3. If the property owner or legal occupant rejects this appraisal, he or she
18 may hire a real property[estate] appraiser certified under KRS Chapter
19 324A to appraise the damages, including loss of use, that have resulted
20 from the violation, and this such appraisal shall be completed and
21 provided to the permittee or operator within thirty (30) days of receipt of
22 the permittee's or operator's completed appraisal. Upon receipt of the
23 invoice the permittee or operator shall pay for the property owner or
24 legal occupant's appraisal up to the amount he or she paid for his or her
25 own appraisal; and

26 4. If the property owner or legal occupant accepts the permittee's or
27 operator's appraisal, the permittee or operator shall promptly pay the

1 property owner or legal occupant the amount of the damages reflected
2 therein.

3 (d) If the property owner or legal occupant has an appraisal done, and if, based on
4 his or her appraisal and the permittee's or operator's appraisal, an agreement is
5 not reached on the appraised damages, the permittee or operator shall pay the
6 property owner or legal occupant the amount of the permittee's or operator's
7 appraisal damages, and if the property owner or legal occupant's appraisal
8 damages are for more than the permittee's or operator's, the permittee or
9 operator shall pay the difference to the circuit clerk, in the county in which the
10 majority of the property lies, to be placed in an interest-bearing account in a
11 bank until final resolution of the matter by agreement or court or jury
12 judgment. If the property owner or legal occupant is granted award of some or
13 all of the difference, he or she shall also receive the interest on that portion of
14 the difference.

15 (e) If the property owner or legal occupant does not accept or reject the
16 permittee's or operator's appraisal and offer of funds for damages within the
17 time specified in ~~subparagraph 2. of~~ paragraph (c)2. of this subsection, the
18 appraisal and offer shall be deemed accepted.

19 (f) The appraiser shall calculate the damages to the property, including loss of
20 use, that have resulted from the violation which the owner or the legal
21 occupant shall be entitled to under this subsection as the difference between
22 the fair market value of the property before the violation and after the
23 abatement of the violation, plus the reasonable rental value of the property
24 during the period of time between the effective date of the easement of
25 necessity and the date of the abatement of the violation.

26 (2) If a permittee or operator has been issued a notice or order directing abatement of a
27 violation other than one described in subsection (1) of this section, and the notice or

1 order requires access to property for which the permittee or operator does not have
2 the legal right of entry necessary in order to abate that violation, and the owner or
3 legal occupant of that property has refused access, an easement of necessity is
4 recognized on behalf of the permittee or operator, for the limited purpose of
5 allowing a real property[estate] appraiser certified under KRS Chapter 324A,
6 chosen by the permittee or operator, to enter upon the property to which the owner
7 or legal occupant has refused access in order for the appraiser to appraise the
8 damages, including loss of use, that likely will result from the violation.

9 (3) (a) The easement for the limited purpose of allowing the appraisal under
10 subsection (2) of this section shall be recognized and take effect when the
11 operator or permittee:

- 12 1. Provides to the property owner or legal occupant a copy of the cabinet's
13 order;
- 14 2. Provides to the property owner or legal occupant and cabinet a plan of
15 remedial measures to abate the violation;
- 16 3. Provides to the property owner or legal occupant and cabinet an
17 affidavit that he or she has been denied access to the property; and
- 18 4. Provides to the property owner or legal occupant a statement that he or
19 she, the permittee or operator, will within seven (7) days of entry of the
20 appraiser obtain an appraisal of the damages to the property including
21 loss of use, that likely will result from the violation, and that upon
22 completion of the appraisal he or she will provide the appraisal to the
23 property owner or legal occupant and pay the property owner or legal
24 occupant an entry fee. The entry fee shall be calculated as one-half (1/2)
25 of the amount of the appraisal or the sum of five hundred dollars (\$500),
26 whichever is greater, for the privilege to enter the property and conduct
27 the appraisal.

1 (b) Upon payment of the entry fee by the permittee or operator, an easement of
2 necessity shall be recognized on behalf of the permittee or operator for the
3 limited purposes of abating the violation and the operator or permittee shall be
4 authorized to enter the property to undertake immediate action to abate the
5 violation, provided that the landowner has been provided a plan of action
6 reasonably calculated to result in abatement of the violation, repair of the
7 damage, and restoration of the property, and the permittee or operator
8 provides proof of liability insurance and workers' compensation insurance
9 covering any accidents or injuries occurring on the property during the
10 remedial work.

11 (c) Following the effective date of the easement of necessity to abate the
12 violation, the procedures set forth in subsection (1)(c) to (f) of this section
13 shall apply. The entry fee shall be deducted from any subsequent payment
14 deemed due the property owner or legal occupant as a result of the post-
15 abatement appraisal or appraisals. If the entry fee exceeds the amount of all
16 appraisals, the property owner or legal occupant shall be entitled to retain the
17 entry fee in its entirety.

18 (4) Nothing contained in this section shall affect any person's right to bring a civil
19 action for damages, including punitive and compensatory damages, or other
20 appropriate relief.

21 ➔Section 28. KRS 413.140 is amended to read as follows:

22 (1) The following actions shall be commenced within one (1) year after the cause of
23 action accrued:

24 (a) An action for an injury to the person of the plaintiff, or of her husband, his
25 wife, child, ward, apprentice, or servant;

26 (b) An action for injuries to persons, cattle, or other livestock by railroads or
27 other corporations, with the exception of hospitals licensed pursuant to KRS

1 section, the cause of action shall be deemed to accrue at the time the injury is first
2 discovered or in the exercise of reasonable care should have been discovered;
3 provided that such action shall be commenced within five (5) years from the date on
4 which the alleged negligent act or omission is said to have occurred.

5 (3) In respect to the action referred to in ~~paragraph (f) or (l) of~~ subsection (1)**(f) or (l)**
6 of this section, the cause of action shall be deemed to accrue within one (1) year
7 from the date of the occurrence or from the date when the cause of action was, or
8 reasonably should have been, discovered by the party injured.

9 (4) In respect to the action referred to in ~~paragraph (h) of~~ subsection (1)**(h)** of this
10 section, the cause of action shall be deemed to accrue at the time of payment. This
11 limitation shall apply to all payments made on all demands, whether evidenced by
12 writing or existing only in parol.

13 (5) In respect to the action referred to in ~~paragraph (i) of~~ subsection (1)**(i)** of this
14 section, the cause of action shall be deemed to accrue at the time the property is
15 found by its owner.

16 (6) In respect to the action referred to in ~~paragraph (j) of~~ subsection (1)**(j)** of this
17 section, the cause of action shall be deemed to accrue at the time of discovery of the
18 liability.

19 (7) In respect to the action referred to in ~~paragraph (k) of~~ subsection (1)**(k)** of this
20 section, the cause of action shall be deemed to accrue on the date an appeal of the
21 disciplinary proceeding is decided by the institutional warden.

22 (8) In respect to the action referred to in subsection (1)(m) **or**~~and~~ (n) of this section,
23 the cause of action shall be deemed to accrue after the performance or inducement
24 or attempt to perform or induce the abortion.

25 ➔Section 29. KRS 56.806 is amended to read as follows:

26 (1) Except when another lease term is approved by the secretary of the Finance and
27 Administration Cabinet, the terms of all leases entered into pursuant to KRS 56.803

1 or 56.805 may provide for an initial lease term beginning on a date stated and
2 ending on June 30 in each year in which the General Assembly has convened in an
3 even-numbered-year regular session and appropriated funds for the operation of the
4 state government during the next ensuing biennium. The leases may grant the state
5 successive options for the automatic renewal of the lease upon the same terms and
6 conditions for additional renewal periods of twenty-four (24) months each, not to
7 exceed three (3) automatic renewal periods. Any lease containing provision for the
8 automatic renewal of the lease after the expiration of the initial lease term shall also
9 provide that the state may, upon written notice given to the lessor on or before April
10 15 of the year in which the initial or any automatic renewal term expires, elect not
11 to exercise its option for the automatic renewal of the lease term. Subject to the
12 agreement of the lessor, a lease in which the final automatic renewal period has
13 expired, or will expire as of the end of the then current term, may be renewed upon
14 the same terms and conditions, provisions of KRS 56.803 to the contrary
15 notwithstanding.

16 (2) The Department for Facilities Management shall comply with the provisions of this
17 subsection when calculating rentable area for the purposes of a lease.

18 (a) If the Commonwealth is the only tenant on a single floor of a multistory
19 building, the rentable area shall be the entire area described by measuring to
20 the inside finished surface of the dominant portion of the permanent outer
21 building walls, excluding any major vertical penetrations of the floor which
22 shall include[.] but not be limited to[.] stairways, elevator shafts, pipe chases,
23 vertical air ducts, and the enclosing wall of all such excluded areas.
24 Restrooms, corridors, and utility rooms which exclusively serve the floor
25 occupied by the Commonwealth shall be included as part of the rentable area.

26 (b) If the Commonwealth is the only tenant in a one (1) story or multistory
27 building, rentable area shall be calculated pursuant to~~the provisions of~~

1 paragraph (a) of this subsection except that those areas excluded pursuant to
2 paragraph (a) of this subsection shall be included as part of the rentable area.

3 (c) If the Commonwealth shares a floor with one (1) or more other tenants, the
4 rentable area shall be calculated by measuring from the inside finished surface
5 of the dominant portion of the permanent outer building walls to the office
6 side of every corridor wall or other wall separating the Commonwealth's
7 leased space from other adjacent rentable areas which shall include, but not be
8 limited to, space under the control of another tenant, public corridors,
9 restrooms, all common service and utility areas, stairways, elevator shafts,
10 vertical pipe chases, and air ducts.

11 (d) The Commonwealth's rentable area determined pursuant to paragraphs (a),
12 (b), and (c) of this subsection shall include columns and projections necessary
13 to the building.

14 (3) The Finance and Administration Cabinet may include in a lease an option to
15 purchase the leased property or a lease-purchase of the leased property.

16 (4) If the Finance and Administration Cabinet exercises an option to purchase leased
17 property, the option price shall not exceed the fair market value of the leased
18 property as of the time the lessor and the Commonwealth enter into the option. Two
19 (2) competent and qualified real property[estate] appraisers shall each determine the
20 fair market value. Each real property[estate] appraiser shall be selected by the
21 Finance and Administration Cabinet and shall employ an accepted appraisal
22 technique.

23 (5) (a) Except as provided in paragraph (b) of this subsection, if the Finance and
24 Administration Cabinet includes in a lease the lease-purchase of the leased
25 property, two (2) competent and qualified real property[estate] appraisers
26 shall each determine the fair market value of the leased property as of the time
27 the lessor and the Commonwealth enter into the lease. Each appraiser shall be

1 selected by the Finance and Administration Cabinet and shall employ an
2 accepted appraisal technique. The lease shall provide for an initial lease term
3 ending June 30 of the second year of the then current fiscal biennium of the
4 Commonwealth, with the option of the Commonwealth, as lessee, to extend
5 the term of the lease for a term of two (2) years from the expiration of each
6 extended term of the lease, until the original term of the lease has been
7 extended for a total number of years agreed upon by the parties. The agreed
8 rental paid for the original term and for each of the full number of years for
9 which the term of the lease may be extended shall amortize the fair market
10 value of the leased property as of the time the lessor and the Commonwealth
11 entered into the lease. The lease shall provide that the Commonwealth may, at
12 the expiration of the original or any extended term, purchase the leased
13 property at a stated price, which shall be the balance of the fair market value
14 of the leased property as of the time the lease was entered into which has not
15 been amortized by the payments of rent previously made by the
16 Commonwealth.

17 (b) If the Finance and Administration Cabinet includes lease-purchase of the
18 leased property in a lease with the federal government, the terms of the lease-
19 purchase shall be determined through negotiations between the
20 Commonwealth and the federal government.

21 (6) Except when a lease incorporates a lease-purchase pursuant to subsection (5) of this
22 section, the Commonwealth shall reserve the right to cancel a lease upon written
23 notice within thirty (30) days.

24 ➔Section 30. KRS 56.8175 is amended to read as follows:

25 When a built-to-suit lease is awarded to a firm that owns the land upon which the
26 building shall be built, the Commonwealth shall be granted an option to purchase the
27 leased buildings, land, and any appurtenant facilities. The option price to be paid shall not

1 exceed its fair market value as of the time the option is exercised as determined by a
2 competent and qualified real property~~estate~~ appraiser, selected by mutual agreement of
3 the parties, employing the reproduction cost new or other accepted appraisal techniques;
4 provided, however, that in no event shall the option price be less than a sum equal to the
5 remaining balance of any mortgage lien encumbering the property and securing the
6 repayment of moneys advanced to the owner for the original construction of the building,
7 plus an amount not to exceed ten percent (10%) of such mortgage balance.

8 ➔Section 31. KRS 56.823 is amended to read as follows:

9 (1) The Finance and Administration Cabinet shall report information on leases and
10 lease modifications awarded pursuant to KRS 43.050, 48.111, and 56.800 to 56.823
11 to the Capital Projects and Bond Oversight Committee as required by this section.

12 (2) Any lease awarded pursuant to KRS 56.803, including all lease renewals except
13 automatic renewals permitted under KRS 56.806(1), for which the annual rental
14 cost will exceed one hundred thousand dollars (\$100,000) shall be reported to the
15 Capital Projects and Bond Oversight Committee after a proposed lease is arrived at
16 but before execution. The report shall include:

17 (a) The name of the agency that will occupy the premises;

18 (b) The name of the lessor;

19 (c) The terms of the lease;

20 (d) The reason for the lease;

21 (e) A copy of the writing required by KRS 56.803(17);

22 (f) A statement as to whether the Finance and Administration Cabinet complied
23 with the requirements established in KRS 43.050, 48.111, and 56.800 to
24 56.823. If the cabinet has not complied with any requirement, the cabinet shall
25 explain why;

26 (g) An explanation of why the Finance and Administration Cabinet chose this
27 lessor over his competition; and

1 (h) A cost comparison between the cost per square foot of the leased space and
2 the average cost per square foot of comparable space the state leases in the
3 same county. If there are factors which make the comparison misleading, the
4 cabinet shall inform the committee of these factors.

5 (3) Any lease that incorporates a lease-purchase pursuant to KRS 56.806(5) shall be
6 reported to the Capital Projects and Bond Oversight Committee after a proposed
7 lease is arrived at but before execution.

8 (a) If a lease is awarded pursuant to KRS 56.803, the report shall include the:

9 1. Fair market value of the property as of the time the lessor and the
10 Commonwealth entered into the lease;

11 2. Name and qualifications of each of the two (2) real property[estate]
12 appraisers who determined the fair market value;

13 3. Appraisal technique each appraiser employed; and

14 4. Information required by subsection (2) of this section.

15 (b) 1. Except as provided in subparagraph 2. of this paragraph, if a lease is
16 awarded pursuant to KRS 56.805(2), the report shall include the:

17 a. Fair market value of the property at the time the lessor and the
18 Commonwealth entered into the lease;

19 b. Name and qualifications of each of the two (2) real
20 property[estate] appraisers who determined the fair market value;

21 c. Appraisal technique each appraiser employed;

22 d. Information required by[paragraphs] subsection (2)(a), (b), (c),
23 (d), (f), (g), and (h)[of subsection (2)] of this section; and

24 e. Procedure the department followed to obtain the lease.

25 2. If the federal government is the lessor, the report shall include the
26 substance of the lease-purchase.

27 (4) Any lease awarded pursuant to KRS 56.805(2), including all lease renewals except

1 automatic renewals permitted under KRS 56.806(1), for which the annual rental
2 cost will exceed one hundred thousand dollars (\$100,000) shall be reported to the
3 Capital Projects and Bond Oversight Committee after a proposed lease is arrived at
4 but before execution. The report shall state the information required by ~~{ paragraphs }~~
5 subsection (2)(a), (b), (c), (d), (f), (g), and (h)}~~{ of subsection (2) }~~ of this section and
6 the procedure the department followed to obtain the lease. The report shall also
7 include a copy of the writing required by KRS 56.805(2).

8 (5) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall
9 be reported to the Capital Projects and Bond Oversight Committee within thirty
10 (30) days after execution. The report shall include a copy of the certificate or the
11 certificate and the Governor's authorization, as appropriate, kept on file pursuant to
12 KRS 56.805(4) and shall further state:
13 (a) The information required by ~~{ paragraphs }~~ subsection (2)(a), (b), (f), (g), and
14 ~~(h)}~~~~{ of subsection (2) }~~ of this section;
15 (b) The terms of lease before and after the emergency; and
16 (c) The procedure the department followed after the emergency to obtain a lease.

17 (6) Any built-to-suit lease awarded pursuant to KRS 56.8169 shall be reported to the
18 Capital Projects and Bond Oversight Committee after a proposed lease is arrived at
19 but before execution. The report shall state the information required by ~~{ paragraphs }~~
20 subsection (2)(a), (b), (c), (d), (f), (g), and (h)}~~{ of subsection (2) }~~ of this section.
21 The report shall also include:
22 (a) The written finding and Governor's approval required by KRS 56.8161;
23 (b) The selection committee's ranking of firms required by KRS 56.8169(15)(a);
24 (c) The written reason for requesting best-and-final offers, if best-and-final offers
25 are requested, made pursuant to KRS 56.8169(16)(b);
26 (d) The selection committee's selection of the best best-and-final offer, if best-
27 and-final offers are requested, made pursuant to KRS 56.8169(16)(d);

1 (e) The certificates signed pursuant to KRS 56.8171(2); and

2 (f) The report prepared by the employee of the Auditor of Public Accounts

3 pursuant to KRS 56.8171(3).

4 (7) If the Finance and Administration Cabinet decides to exercise an option to purchase

5 pursuant to KRS 56.806(4), the cabinet shall report to the Capital Projects and Bond

6 Oversight Committee after the decision is reached but before the purchase occurs.

7 The report shall include the:

8 (a) Fair market value of the property;

9 (b) Option price;

10 (c) Name and qualifications of each of the two (2) real property[estate] appraisers

11 who set the fair market value;

12 (d) Appraisal technique each appraiser employed; and

13 (e) Rent paid by the Commonwealth prior to the exercise of the option.

14 (8) (a) When, pursuant to KRS 56.806(5)(a), the Finance and Administration Cabinet

15 attempts to complete a lease-purchase through lease payments totally

16 amortizing the fair market value of the leased property as of the time the

17 lessor and the Commonwealth entered into the lease, the cabinet shall report

18 to the Capital Projects and Bond Oversight Committee no more than ninety

19 (90) days before the final lease payment. The report shall include the:

20 1. Fair market value of the property at the time the lessor and the

21 Commonwealth entered into the lease;

22 2. Name and qualifications of each of the two (2) real property[estate]

23 appraisers who set the fair market value;

24 3. Appraisal technique each appraiser employed; and

25 4. Rent paid by the Commonwealth toward the purchase.

26 (b) When, pursuant to KRS 56.806(5)(b), the Finance and Administration Cabinet

27 attempts to complete a lease-purchase, the cabinet shall report to the Capital

1 Projects and Bond Oversight Committee no more than ninety (90) days before
2 the final lease payment. The report shall include the terms of the lease
3 purchase.

4 (9) When, pursuant to KRS 56.806(5), the Finance and Administration Cabinet decides
5 to attempt to complete a lease-purchase prior to the total amortization, through lease
6 payments, of the fair market value of the leased property as of the time the lessor
7 and the Commonwealth entered into the lease, the cabinet shall report to the Capital
8 Projects and Bond Oversight Committee after the decision is reached but before the
9 purchase occurs. The report shall state the information required by ~~paragraph (a) or~~
10 ~~(b) of~~ subsection ~~(8)(a) or (b)~~ of this section as appropriate. The report shall also
11 include the sum of money that must be paid in addition to rent paid, in order to
12 complete the purchase.

13 (10) If the Finance and Administration Cabinet, pursuant to KRS 56.806(5), includes in
14 a lease the lease-purchase of the leased property and thereafter becomes aware that
15 a purchase will not be achieved, within thirty (30) days after the cabinet becomes
16 aware, it shall notify the Capital Projects and Bond Oversight Committee of the
17 circumstances preventing the purchase.

18 (11) (a) Except in the case of an emergency as provided in paragraph (b) of this
19 subsection, any modification to an existing lease, made pursuant to KRS
20 56.813, that is less than fifty thousand dollars (\$50,000) shall be reported to
21 the Capital Projects and Bond Oversight Committee within thirty (30) days
22 after execution, and any modification to an existing lease, made pursuant to
23 KRS 56.813, that is fifty thousand dollars (\$50,000) or more shall be reported
24 to the Capital Projects and Bond Oversight Committee before execution. In
25 either case, the report shall consist of:

26 1. The terms of the lease before and after modification;
27 2. The reason for the modification;

- 1 3. The name of the lessor;
- 2 4. Any comments received from the public pursuant to KRS 56.813(4);
- 3 and
- 4 5. A statement as to whether the Finance and Administration Cabinet
- 5 complied with the requirements in KRS 56.813. If the cabinet has not
- 6 complied with any requirement, the cabinet shall explain why.
- 7 (b) Any modification to an existing lease which is required because of an
- 8 emergency as described at KRS 56.805(3) shall be reported to the Capital
- 9 Projects and Bond Oversight Committee within thirty (30) days after
- 10 execution. The report shall include a copy of the certificate or the certificate
- 11 and the Governor's authorization, as appropriate, kept on file pursuant to KRS
- 12 56.805(4) and shall further state:
 - 13 1. The terms of the lease before and after modification;
 - 14 2. The name of the lessor;
 - 15 3. Any comments received from the public pursuant to KRS 56.813(4);
 - 16 and
 - 17 4. A statement that the Finance and Administration Cabinet complied with
 - 18 the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the
 - 19 cabinet has not complied with any requirement, the cabinet shall explain
 - 20 why.
- 21 (12) Before beginning work on any improvements, renovations, or refitting of a leased
- 22 building under the provisions of KRS 56.813(2)(d), the cabinet shall report to the
- 23 Capital Projects and Bond Oversight Committee:
 - 24 (a) A description of the project;
 - 25 (b) Identification of the agency or agencies for which the improvements,
 - 26 renovations, or refitting are being performed;
 - 27 (c) An estimate of the total cost of the project;

1 (d) The source of funds for the project; and
2 (e) All the information required by KRS 45.793.

3 ➔Section 32. KRS 99.830 is amended to read as follows:

4 (1) If no feasible final plan can be developed for rehabilitation of the building in order
5 to bring it into compliance with all applicable housing, building, and nuisance code
6 requirements at a reasonable cost in relation to the present value of the building
7 without consideration of the value of the land on which the building is located, the
8 conservator may submit a plan for demolition and removal of the building and all
9 debris from the property to the court and all parties in interest.

10 (2) The present value of the building in relation to the estimate for costs of
11 rehabilitation of the building in order to bring it into compliance with all applicable
12 housing, building, and nuisance code requirements may be established by evidence
13 of three (3) affidavits prepared by real property[estate] appraisers, qualified
14 building contractors, or qualified building inspectors.

15 (3) A plan for demolition shall require a reasonable effort to be made to salvage
16 reusable materials for credit against the cost of demolition. The proceeds of any
17 moneys received from the sale of salvaged materials shall be used or applied
18 against the cost of demolition and removal of the building and all debris from the
19 property. Proper records shall be kept showing application of sales proceeds. Any
20 sale of salvaged materials may be made without the necessity of public
21 advertisement.

22 (4) Any party in interest shall be allowed to comment on or request a hearing on a plan
23 for demolition within thirty (30) days of receipt of the plan for demolition by
24 certified or registered mail.

25 (5) Upon demolition and removal of the building and all debris from the property, the
26 conservator shall submit to the court and all parties in interest a full accounting of
27 all actions taken, all income and expenditures received or incurred, and an estimate

1 of the conservator's fee.

2 (6) The conservator may then petition the court for authorization to terminate the
3 conservatorship through either a public or private sale.

4 ➔Section 33. KRS 99.835 is amended to read as follows:

5 (1) Upon application of the conservator, the court may order the sale of the property
6 free and clear of all existing liens, claims, and encumbrances subject to the approval
7 and supervision of the court by private sale pursuant to a written contract of sale
8 between the conservator and prospective purchaser, by public auction, or by any
9 other method that the court determines is fair to the owner of the property and all
10 parties in interest, is reasonable under the circumstances, and will maximize the
11 return from the property to the conservatorship estate.

12 (2) Before entering an order authorizing the sale of the property by the conservator, the
13 court may require that the conservator provide evidence of the value of the property
14 by affidavit of three (3) real property[estate] appraisers or by any other evidence
15 that the court determines is appropriate.

16 (3) If the conservator has received a specific offer for sale that the conservator desires
17 to accept, the conservator shall provide to the court the identity of the buyer and the
18 proposed terms of the sale. If the conservator has not received a specific offer for
19 sale that the conservator desires to accept, the conservator shall provide to the court
20 the proposed procedures for conduct of the sale.

21 (4) Any sale of the property shall be made subject to the approval and supervision of
22 the court only after all of the following occur:

23 (a) The court finds the conditions that were the grounds for the petition have been
24 abated or corrected by the conservator and the owner has not successfully
25 petitioned to terminate the conservatorship as set out in KRS 99.845;

26 (b) Notice of the proposed sale and an opportunity for a hearing at which all
27 parties in interest may be heard is given in accordance with the Kentucky

1 Rules of Civil Procedure, provided that if no party objects to the proposed sale
2 or requests a hearing within thirty (30) days, the court may proceed without a
3 hearing; and

4 (c) The court issues an order of sale that sets forth the required procedures for or
5 terms of the sale.

6 (5) If the proposed sale is by public auction or any other method other than a private
7 sale approved by the court, the conservator shall conduct and promote the sale in a
8 manner anticipated to raise the highest and best sale price.

9 (6) If the proposed sale is pursuant to a specific offer the conservator desires to accept,
10 the court may finally approve the sale and no separate confirmation order is
11 required. If the proposed sale is by public auction or any method other than a
12 private sale approved by the court, the conservator shall seek an order approving the
13 sale process and confirming the sale within ten (10) days of the date of the sale.

14 (7) Notwithstanding any provision ~~of~~^{to} KRS Chapter 134 to the contrary, any holder
15 of a local government lien may by written agreement waive or release all or a
16 portion of its lien priority upon sale of a property subject to the lien in accordance
17 with KRS 99.780 to 99.855.