

1 AN ACT relating to housing districts.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 6 of this Act:*

6 *(1) "Developer" means one (1) or more persons or entities that petition a local*
7 *government for the establishment of a district under Section 2 of this Act, and*
8 *that are responsible for the development of residential property within a district;*

9 *(2) "Establishing ordinance" means an ordinance of a local government*
10 *establishing a district under Section 2 of this Act;*

11 *(3) "Infrastructure" means:*

12 *(a) The streets, roads, bridges, sidewalks, water, wastewater, natural gas,*
13 *electric, telecommunications, and storm water facilities required for the*
14 *development of residential property within a district, whether located within*
15 *or without the district, that benefit the properties within the district; and*

16 *(b) The land within the boundaries of the district required to be donated,*
17 *dedicated, or otherwise made available to a local government for public*
18 *purposes;*

19 *(4) "Infrastructure costs" means:*

20 *(a) All costs that may be capitalized under generally accepted accounting*
21 *principles for purchasing, constructing, installing, and equipping*
22 *infrastructure;*

23 *(b) The fees or costs imposed by a municipality or utility service provider:*

24 *1. Related to the construction or installation of infrastructure; or*

25 *2. As a condition to the delivery of utility services to properties within a*
26 *district; and*

27 *(c) The cost of any land required to be donated, dedicated, or otherwise made*

1 available to a governmental entity for public purposes, which land shall be
 2 valued at either the developer's demonstrated cost or, if the value of the land
 3 has subsequently been appraised, its appraised value, whichever is higher;

4 (5) "Initiating petition" means a petition submitted to a local government requesting
 5 the establishment of a district under Section 2 of this Act;

6 (6) "Local government" means a city, county, consolidated local government, urban-
 7 county government, charter county government, or unified local government that
 8 establishes and operates a district under Sections 1 to 6 of this Act;

9 (7) "Owner" means the owner of record of a parcel of property within a district or
 10 the owner's authorized representative;

11 (8) "Residential infrastructure development district" or "district" means an area
 12 containing a residential development that:

13 (a) Is composed of five (5) or more acres of land;

14 (b) Requires a capital cost to complete the development that is equal to or
 15 greater than five million dollars (\$5,000,000);

16 (c) Upon its complete development will have more than one-half (1/2) of its
 17 space dedicated to residential housing; and

18 (d) Is established under Sections 1 to 6 of this Act; and

19 (9) "Special assessment" means a special charge levied by a local government on
 20 property to finance infrastructure costs under Sections 1 to 6 of this Act.

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 22 READ AS FOLLOWS:

23 (1) A residential infrastructure development district shall be established as follows:

24 (a) The developer and each owner of property proposed to be included in a
 25 district shall sign an initiating petition requesting the establishment of a
 26 district, which shall be submitted to a local government. The initiating
 27 petition shall set forth:

- 1 1. The name and address of the developer;
- 2 2. The local government to be responsible for overseeing the district;
- 3 3. A map and description of the area to be included within the district;
- 4 4. A list of each parcel of property to be included within the district that
- 5 contains each parcel's mailing address;
- 6 5. A site development plan for the district showing the area in the district
- 7 that is anticipated to be used for residential housing;
- 8 6. A description of the infrastructure that the developer anticipates will
- 9 be necessary to complete the development and an estimated cost of that
- 10 infrastructure;
- 11 7. The cost that the developer anticipates is necessary to complete the
- 12 development;
- 13 8. The proposed rate of the special assessment to be imposed;
- 14 9. That the developer or owner of property to be included within the
- 15 district has received the approval set out in paragraph (b) of this
- 16 subsection, if applicable; and
- 17 10. A formal request that the local government establish the district;
- 18 (b) If a mortgage or lien encumbers a parcel of property to be included within
- 19 the district, the developer or owner of the property shall obtain a signed
- 20 approval from the mortgage holder or lien holder before the property may
- 21 be included in the district. If the mortgage holder or lien holder does not
- 22 grant the approval, the property shall not be included within the district;
- 23 (c) Upon receipt of the initiating petition a local government shall, within
- 24 ninety (90) days, approve or deny the petition. The decision to approve or
- 25 deny a petition is solely at the discretion of the local government. To
- 26 approve a petition a local government shall:
- 27 1. Determine whether the petition contains the information required in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

paragraph (a) of this subsection;

2. Conduct a public hearing concerning the proposed establishment of the district, notice of which shall be provided in the usual method of providing notice of a public meeting and shall also include mailed, written notices to each property owner whose property is proposed to be included in the district; and

3. Adopt an establishing ordinance that contains:

a. The name and address of the developer;

b. The local government responsible for overseeing the district;

c. A map and description of the area to be included within the district;

d. A list of each parcel of property to be included within the district that contains each parcel's mailing addresses;

e. A statement that the properties in the district may be subject to a special assessment;

f. A description of the infrastructure that the local government has authorized to be financed via a special assessment;

g. A description of the method of assessing and collecting special assessments under Section 4 of this Act;

h. The time and manner in which the special assessment shall be paid; and

i. The portion of the special assessment to be retained by the local government for the payment of administrative expenses under Section 4 of this Act; and

(d) The establishing ordinance may differ from the initiating petition, but the local government shall endeavor to negotiate with the developer and the owners of any property to be included within the district regarding

1 differences between the initiating petition and the establishing ordinance
2 prior to its passage.

3 (2) A property owner that signs a petition pursuant to subsection (1)(a) of this section
4 shall not be permitted to remove the property owner's name from the petition.

5 (3) Each district established under Sections 1 to 6 of this Act shall be dissolved by the
6 local government immediately upon the payment and discharge of all outstanding
7 debt obligations incurred as a result of infrastructure costs for the district.

8 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) A local government shall have the power to issue bonds, notes, or other debt
11 obligations for the purpose of any of the following:

12 (a) Paying for infrastructure costs identified in an establishing ordinance as set
13 out in Section 2 of this Act;

14 (b) Reimbursing a developer for the payment of prior infrastructure costs
15 identified in an establishing ordinance as set out in Section 2 of this Act; or

16 (c) Refinancing those bonds, notes, or obligations consistent with applicable
17 law.

18 (2) A local government shall use revenue collected from special assessments levied
19 under Section 4 of this Act for the payment of any bond, note, or other obligation
20 issued pursuant to this section.

21 (3) The maximum term of any bonds, notes, or other debt obligations issued under
22 this section shall not exceed thirty (30) years from the date of first issuance.

23 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) Upon the adoption of an establishing ordinance, a local government is authorized
26 to levy special assessments against all properties located in a district. The revenue
27 collected from special assessments shall be applied to pay for the infrastructure

1 costs identified in the establishing ordinance which established the specific
2 district and may be applied to administrative costs under subsection (4) of this
3 section.

4 (2) The local government shall determine the total costs and expenses to be paid from
5 special assessments, and apportion those costs and expenses upon the various
6 properties located in the district in accordance with the benefits conferred upon
7 the properties. In determining the benefits to each property, the local government
8 may consider factors regarding the property, including:

9 (a) Frontage to infrastructure;

10 (b) Total area; and

11 (c) Proportion that the assessed value of each property has to the total property
12 in the district.

13 (3) A local government that levies a special assessment under this section shall
14 impose and collect the special assessment annually.

15 (4) A local government may provide that up to five percent (5%) of the revenue
16 collected from a special assessment may be used for its administrative expenses,
17 including overhead costs associated with the collection of the special assessment.

18 (5) A local government shall prepare an assessment roll that lists the address and
19 owner of each property in the district and the assessed value of the property, and
20 shall update the roll whenever property listed on the roll is subdivided or its value
21 is reassessed.

22 (6) If a property owner fails to pay a special assessment on or before the date
23 determined by the local government, interest of one percent (1%) per month and a
24 penalty of one percent (1%) per month shall be added to the assessment.

25 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) A special assessment, any interest accruing on the assessment, and the costs of

1 collection of the assessment under Section 4 of this Act constitute a lien on the
2 property upon which the assessment is levied. The lien shall be superior to a lien
3 of any trust deed, mortgage, mechanic's lien, or other encumbrance, but shall not
4 be superior to any lien for the payment of taxes or a lien established pursuant to
5 KRS 65.8835.

6 (2) Amounts collected by a local government shall not be allocated to the payment of
7 a special assessment until all taxes, penalties, and interest relating to ad valorem
8 taxes imposed by any governmental entity have been paid in full.

9 (3) If any special assessment is or becomes delinquent and the property subject to the
10 assessment has been sold to the local government as a result of the delinquency,
11 redemption of that property is allowed upon payment, not later than one (1) year
12 after the date of sale, of the full amount of assessments due, plus interest and
13 penalties.

14 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) A residential infrastructure development district may be formed by two (2) or
17 more local governments acting jointly.

18 (2) Each local government acting jointly to establish a district shall enter into an
19 interlocal agreement in accordance with KRS 65.210 to 65.300 concerning the
20 district.

21 (3) Each local government acting jointly to establish a district shall follow the
22 procedures set out in Section 2 of this Act, but may satisfy the public hearing
23 requirement set out in subsection (1)(c)2. of Section 2 of this Act by conducting a
24 single joint public hearing.

25 (4) Prior to the completion of establishing ordinances, local governments acting
26 jointly shall determine which local government will be responsible for the
27 specified infrastructure costs and the collection of any special assessments

1 authorized under Section 4 of this Act. This information shall be provided in the
2 establishing ordinance and the interlocal agreement.

3 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Approved project" means a project for which the developer has:

7 1. Filed an application under subsection (6) of this section;

8 2. Negotiated the terms of housing incentive payments with a local
9 government; and

10 3. Commenced a housing development within a district;

11 (b) "Cabinet" means the Cabinet for Economic Development;

12 (c) "Department" means the Department for Local Government;

13 (d) "Housing development district" or "district" means a contiguous
14 geographic area of not more than one thousand (1,000) acres, no more than
15 twenty percent (20%) of which may be land zoned for agricultural use upon
16 the adoption of an establishing ordinance, which may be within one (1) or
17 more cities or counties, defined and created for development or
18 revitalization purposes by an ordinance of a local government in which one
19 (1) or more projects are proposed to be located;

20 (e) "Local government" means a city, county, charter county government,
21 consolidated local government, urban-county government, or unified local
22 government;

23 (f) "New construction" means the planning, design, building, or any
24 combination of these, to erect a completely new structure never before
25 occupied within a district;

26 (g) "Program" means the Housing Incentive Payment Program provided for in
27 this section;

- 1 (h) "Project" means a housing development within a district that:
- 2 1. Contains at least fifteen (15) housing units, including multifamily and
- 3 mixed-use housing; and
- 4 2. Meets the requirements set out in this section and any additional
- 5 requirements adopted by an ordinance of a local government;
- 6 (i) "Revitalization" means the planning or replanning, design or redesign,
- 7 acquisition, clearance, development, disposal, rehabilitation, historic
- 8 preservation, or any combination of these, of a structure within a district
- 9 and the preparation and use of the structure for residential purposes; and
- 10 (j) "Taxing authority" means a school district or a special purpose
- 11 governmental entity having ad valorem taxing authority and operating
- 12 within the jurisdiction of a local government that has established a district.
- 13 (2) (a) A local government may establish a housing development district by:
- 14 1. Adopting an ordinance containing:
- 15 a. A map and description of the area to be included within the
- 16 district;
- 17 b. A description of the process by which a developer may apply to
- 18 construct housing within the district;
- 19 c. A statement regarding whether development within the district
- 20 is:
- 21 i. Exempt from permitting or review by the planning unit; or
- 22 ii. Subject to an alternative process for permitting or review
- 23 except in no instance shall an alternative process be more
- 24 stringent than the procedure utilized outside of the district
- 25 for similar developments; and
- 26 d. Any additional requirements or qualifications that developers
- 27 must meet to be eligible for participation in the program;

- 1 2. Notifying the cabinet and the department that a district has been
2 created and transmitting information as required in subsection (10) of
3 this section; and
- 4 3. Providing notice by certified mail to each owner of record of property
5 proposed to be included within the district that:
- 6 a. The property is proposed to be included within the district; and
7 b. The owner may exclude the property from the district as set out
8 in paragraph (c)1. of this subsection.
- 9 (b) A developer may petition a local government to establish a district.
- 10 (c) A local government shall:
- 11 1. Exclude a parcel of property from a proposed district if the local
12 government receives a written request from a property owner seeking
13 exclusion within thirty (30) days of the adoption of an ordinance
14 under paragraph (a) of this subsection; and
- 15 2. Amend the map and description of the district accordingly.
- 16 (3) (a) If a local government chooses to utilize the exemption to planning and
17 zoning or alternative process under subsection (2)(a)1.c. of this section, the
18 local government shall:
- 19 1. Hold a public hearing regarding the exemption or alternative process;
20 2. Provide written notice setting forth the time, date, and location of the
21 public hearing by certified mail to each owner of record of property
22 proposed to be included within the district at least fourteen (14) days
23 prior to the meeting being held; and
- 24 3. Conduct a separate vote of the legislative body of the local government
25 to adopt the exemption or alternative process for the district.
- 26 (b) The meeting shall be held solely for this purpose, and no other business
27 shall be conducted at the meeting.

1 (4) (a) Local governments may act jointly, via an interlocal agreement in
2 accordance with KRS 65.210 to 65.300, to establish a district.

3 (b) The interlocal agreement shall contain the information set out in subsection
4 (2) of this section, and each participating local government shall be
5 required to adopt an ordinance as set out in subsection (2) of this section.

6 (5) (a) In addition to a local government, any taxing authority may elect to
7 participate in the program by its board enacting a resolution declaring its
8 election to participate.

9 (b) If a taxing authority elects to participate under paragraph (a) of this
10 subsection, the taxing authority shall proceed to negotiate with the
11 developer as described in subsection (6)(c) of this section.

12 (6) (a) Following the creation of a district, a local government may accept
13 applications from developers for a project.

14 (b) A local government shall have the sole discretion to approve or deny an
15 application, but a local government shall not approve a project unless it
16 determines that the project will not commence unless the developer receives
17 the housing incentive payment set out in subsection (7) of this section.

18 (c) If a local government approves an application, it shall:

19 1. Negotiate with the developer to:

20 a. Determine a percentage of the property tax actually paid in any
21 year that will be used to calculate the housing incentive payment
22 described in subsection (7) of this section;

23 b. Set the duration of the housing incentive payments, not to exceed
24 the maximum terms set out in subsection (7) of this section;

25 c. Define when the project shall be considered to have commenced
26 for the purposes set out in subsection (7) of this section; and

27 d. Establish the timing for the housing incentive payments; and

1 2. After agreeing to the terms set out in subparagraph 1. of this
2 paragraph, transmit the application along with a document setting out
3 those terms to the cabinet and the department.

4 (d) An application under this subsection shall not be required for a developer
5 seeking to develop housing within a district if that developer is not seeking
6 to participate in the program. An application shall only be required if a
7 developer is seeking to participate in the program. This section shall not be
8 construed to permit a local government to prohibit a developer from
9 developing housing within the district that would otherwise be permissible
10 outside of the district or in the absence of the existence of a district.

11 (7) A Housing Incentive Payment Program shall be administered as follows:

12 (a) Participating local governments and participating taxing authorities shall
13 each award a housing incentive payment to a developer of an approved
14 project on an annual basis for a period of up to:

15 1. Seven (7) years for a project involving new construction; or

16 2. Fifteen (15) years for a project solely involving revitalization of
17 structures;

18 beginning six (6) months from the commencement of the project as
19 determined under subsection (6)(c)1.c. of this section;

20 (b) The annual housing incentive payment from each participating local
21 government and taxing authority shall be calculated by first determining the
22 total property tax that was actually paid in the preceding year to each
23 participating local government and taxing authority for each parcel of
24 property included in an approved project which has been issued a certificate
25 of occupancy, and applying the percentage agreed to by the participating
26 local governments, other taxing authorities if applicable, and the developer
27 as set out in subparagraph (6)(c)1. of this section; and

1 (c) Any private or nonprofit entity may contribute money to a local government
2 to award as additional housing incentive payment amounts for a project
3 within a district.

4 (8) A local area development district shall, upon the request of a local government,
5 assist with the establishment of a district under this section and with the
6 administration of a program under subsection (7) of this section.

7 (9) (a) The cabinet shall develop and implement strategies and programs to
8 promote awareness of a program operating under this section among
9 businesses and employers it provides services to or conducts business with.

10 (b) When the cabinet engages with a company regarding participation in any
11 incentive or funding program administered by the cabinet, including when
12 it initially communicates with, receives an application from, and approves
13 funding to, any company, it shall provide to the company information
14 regarding:

15 1. The program set out in this section, including a list of local
16 governments that have established districts and implemented programs
17 under this section; and

18 2. The Certified Child Care Community Designation Program under
19 KRS 199.891, including a list of communities that have obtained that
20 designation.

21 (c) The cabinet shall prepare and post a report to the website required in KRS
22 154.12-2035, on November 1 of each year, that contains a list of the local
23 governments that have established districts and implemented programs
24 under this section and a list of communities that have obtained the certified
25 child care community designation under KRS 199.891, and information
26 regarding the cabinet's engagement with companies including the total
27 number of contacts made under paragraph (b) of this subsection.

1 (10) (a) When a local government establishes a district, and no later than each
2 September 1 thereafter, the local government shall transmit information to
3 the cabinet and the department including:

4 1. Whether the district has been established jointly with any other local
5 government, and if so which other local governments;

6 2. A map and description of the area included in the district;

7 3. The density of housing units per acre in the district;

8 4. The total number of developers that have applied for participation in
9 the program including the number approved and denied;

10 5. The total number of projects in the program;

11 6. For each approved project:

12 a. The name of the developer of the approved project;

13 b. The total assessed value of property that is a part of the approved
14 project;

15 c. The total number of housing units that have been constructed in
16 connection with the approved project;

17 d. The total amount of housing incentive payments that have been
18 made in connection with the approved project;

19 e. The duration of the housing incentive payments that the local
20 government has agreed to make to the developer;

21 f. The identity of any other taxing authority that has participated in
22 the approved project and the total amount of housing incentive
23 payments issued from each taxing authority; and

24 g. The identity of any private or nonprofit entities that have
25 participated in the approved project and the total amount of
26 housing incentive payments from each entity;

27 7. A running total of the amount of funds all participating local

1 governments have expended on all approved projects within the
 2 district;

3 8. A running total of the number of housing units constructed in the
 4 district by a developer that has received housing incentive payments;
 5 and

6 9. Whether the local government has obtained a certified child care
 7 community designation under KRS 199.891.

8 (b) Beginning November 1, 2027, the department shall submit an annual report
 9 to the Legislative Research Commission for referral to the Interim Joint
 10 Committee on Appropriations and Revenue summarizing the information it
 11 has received from local governments under paragraph (a) of this
 12 subsection.

13 (c) The department may promulgate administrative regulations in accordance
 14 with KRS Chapter 13A to carry out this subsection, including the creation
 15 of a standardized form to be used by local governments to submit
 16 information.

17 (d) A local government shall not be required to submit any further information
 18 on an approved project following the disbursement of the final housing
 19 incentive payment associated with that project.

20 (11) This section shall not be construed to prohibit or preempt a local government
 21 from adopting any other ordinance or regulation or establishing any other
 22 program, including an incentive program, concerning housing development.

23 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) As used in this section:

26 (a) "Applicant" means:

27 1. A property owner or developer, or the representative or agent of any

- 1 property owner or developer, who has filed an application; and
- 2 2. Includes any transferee, assignee, or successor in interest of a person
- 3 or entity who has filed an application;
- 4 (b) "Application" means the filing with the relevant authority of an application
- 5 for a building permit, preliminary development plan, final development plan
- 6 where no preliminary development plan is required, or subdivision plat;
- 7 (c) "Approval" means:
- 8 1. The approval by a planning unit in which a property is located of a
- 9 final development plan or subdivision plat; or
- 10 2. The issuance of a building permit;
- 11 (d) "Development standard":
- 12 1. Means any standard adopted by a planning unit or local government
- 13 that is applicable to the development of property, including but not
- 14 limited to those relating to:
- 15 a. Planning and zoning;
- 16 b. Storm water;
- 17 c. Construction or building, including of streets, alleys, curbs, and
- 18 sidewalks;
- 19 d. Layout or design; and
- 20 e. Lot size or dimension; and
- 21 2. Does not include standards required by federal or state law;
- 22 (e) "Final development plan" means a plan which has been submitted by an
- 23 applicant describing with reasonable certainty the type and intensity of use
- 24 for a specific parcel or parcels of property, and may be in any form,
- 25 including but not limited to a subdivision plat or development plan;
- 26 (f) "Local government" means any city, county, consolidated local
- 27 government, urban-county government, charter county government, or

1 unified local government;

2 (g) "Planning unit" has the same meaning as in KRS 100.111;

3 (h) "Preliminary development plan" means a plan which has been submitted by
4 an applicant and that depicts a single-phased or multiphased planned
5 development typically used to facilitate initial public feedback and secure
6 preliminary approvals from a relevant authority; and

7 (i) "Relevant authority" means a local governmental entity enforcing any
8 development standards and includes a planning unit.

9 (2) (a) An applicant shall have a vested right to the development standards in effect
10 on the date of application for a period of no less than three (3) years from
11 the date of an application, and a relevant authority shall not deny an
12 application or any portion of an application due to a change in a
13 development standard that occurs after the submission of an application.

14 (b) An applicant shall have a vested right to an approval for:

15 1. No less than five (5) years in the case of a final development plan or
16 subdivision plat; or

17 2. If a building permit has been issued, the time period authorized by the
18 building permit, including any approved renewal obtained by the
19 applicant prior to the expiration or termination of the permit to be
20 renewed.

21 (c) A relevant authority shall not require an applicant to waive the applicant's
22 vested rights as a condition of approval or as consideration for an approval
23 under this section.

24 (3) (a) A relevant authority may terminate an applicant's vested rights during the
25 vesting periods set out in subsection (2) of this section by providing notice to
26 the applicant that the relevant authority has found that:

27 1. An applicant has materially violated the terms and conditions specified

- 1 in the approved development plan or building permit;
- 2 2. An applicant has materially violated a local ordinance established by
- 3 the relevant authority;
- 4 3. The enactment of any state or federal law, administrative regulation,
- 5 rule, or other similar device would preclude the development as
- 6 approved;
- 7 4. An applicant intentionally supplied inaccurate information or
- 8 knowingly made misrepresentations material to the issuance of an
- 9 approval; or
- 10 5. An applicant has violated state or federal law.
- 11 (b) The termination of a vested right under paragraphs (a)1. to 3. of this
- 12 subsection shall occur only after the applicant has been given ninety (90)
- 13 days from the date of notice to cure any violation or modify any plan. A
- 14 relevant authority may extend the time to cure any violation or modify any
- 15 plan.
- 16 (4) (a) A vested right shall not preclude enforcement of a development standard
- 17 contrary to that secured by a vested right when:
- 18 1. The relevant authority obtains the written consent of an applicant or
- 19 owner;
- 20 2. The relevant authority determines that a compelling countervailing
- 21 interest exists specifically relating to a prior development standard
- 22 secured by a vested right, where use of that prior development
- 23 standard would seriously threaten public health, safety, or welfare of
- 24 the community and the threat cannot be mitigated by the applicant
- 25 within a reasonable time;
- 26 3. The relevant authority determines that a natural or man-made hazard
- 27 on the property subject to an approval that was not identified in the

1 development plan or building permit would pose a serious threat to
 2 public health, safety, or welfare of the community and the threat
 3 cannot be mitigated by the applicant within a reasonable time; or

4 4. A new development standard is required by the enactment of any state
 5 or federal law, administrative regulation, rule, or any other similar
 6 device.

7 (b) The findings under paragraph (a)2. and 3. of this subsection shall be made
 8 in writing and provided to the applicant, and shall be applied only to the
 9 extent necessary to address the identified threat or hazard.

10 (5) This section shall not be construed to prohibit a relevant authority and a
 11 developer from mutually agreeing to extend the period of a vested right
 12 established under this section.

13 (6) A vested property right does not alter, amend, impair, or change the eminent
 14 domain powers of a relevant authority as set out in the Eminent Domain Act of
 15 Kentucky.

16 (7) If a planning unit enacts a moratorium on development or construction, a vesting
 17 period authorized under subsection (2) of this section shall be tolled during the
 18 period of the moratorium.

19 ➔Section 9. KRS 100.347 is amended to read as follows:

20 (1) (a) Any person or entity claiming to be injured or aggrieved by any final action of
 21 the board of adjustment who meets the criteria in subsection (6) of this
 22 section, ~~and that owns real property within the same zone where the property~~
 23 ~~that is the subject of the final action is located~~ shall appeal from the action to
 24 the Circuit Court of the county in which the property that is the subject of the
 25 action of the board of adjustment lies.

26 (b) The appeal shall be taken within thirty (30) days after the final action of the
 27 board.

1 (c) All final actions which have not been appealed within thirty (30) days shall
2 not be subject to judicial review.

3 (d) The board of adjustment shall be a party in any appeal filed in the Circuit
4 Court under this subsection.

5 (2) (a) Any person or entity claiming to be injured or aggrieved by any final action of
6 the planning commission who meets the criteria in subsection (6) of this
7 section, ~~and that owns real property within the same zone where the property~~
8 ~~that is the subject of the final action is located~~ shall appeal from the final
9 action to the Circuit Court of the county in which the property that is the
10 subject of the commission's action lies.

11 (b) The appeal shall be taken within thirty (30) days after the action of the
12 commission. Such action shall not include the commission's recommendations
13 made to other governmental bodies.

14 (c) All final actions which have not been appealed within thirty (30) days shall
15 not be subject to judicial review. Provided, however, any appeal of a planning
16 commission action granting or denying a variance or conditional use permit
17 authorized by KRS 100.203(5) shall be taken pursuant to this subsection. In
18 such case, the thirty (30) day period for taking an appeal begins to run at the
19 time the legislative body grants or denies the map amendment for the same
20 development.

21 (d) The planning commission shall be a party in any appeal filed in the Circuit
22 Court under this subsection.

23 (3) (a) Any person or entity claiming to be injured or aggrieved by any final action of
24 the legislative body of any city, county, consolidated local government, or
25 urban-county government, relating to a map amendment who meets the
26 criteria in subsection (6) of this section, ~~and that owns real property within~~
27 ~~the same zone where the property that is the subject of the final action is~~

1 ~~located~~ shall appeal from the action to the Circuit Court of the county in
2 which the property that is the subject of the map amendment lies.

3 **(b)** The appeal shall be taken within thirty (30) days after the final action of the
4 legislative body.

5 **(c)** All final actions which have not been appealed within thirty (30) days shall
6 not be subject to judicial review.

7 **(d)** The legislative body shall be a party in any appeal filed in the Circuit Court
8 under this subsection.

9 (4) The owner of the subject property and applicants who initiated the proceeding shall
10 be made parties to the appeal. Other persons speaking at the public hearing are not
11 required to be made parties to such appeal.

12 (5) For purposes of this chapter, final action shall be deemed to have occurred on the
13 calendar date when the vote is taken to approve or disapprove the matter pending
14 before the body.

15 **(6) (a) Only the following persons or entities shall have standing to challenge a**
16 **final action under this section:**

17 **1. An applicant who initiated the proceeding that is subject to the final**
18 **action;**

19 **2. An owner of the property that is the subject of the final action; or**

20 **3. A third party who:**

21 **a. Owns real property within the same zone where the property that**
22 **is the subject of the final action is located;**

23 **b. Would suffer a concrete and particularized injury-in-fact that is**
24 **actual or imminent that is fairly traceable to the final action and**
25 **where the requested relief would be likely to remedy the injury;**
26 **and**

27 **c. Participated in the approval process prior to the final action by:**

1 i. Submitting a written statement to the relevant body; or

2 ii. Speaking at a public hearing of the relevant body.

3 Other persons or entities shall not have standing to challenge a final action
4 under this section.

5 (b) A person or entity that was required to be given notice in connection with a
6 final action taken under this chapter, but did not receive that notice, shall
7 not be required to have participated as set out in paragraph (a)3.c. of this
8 subsection to have standing to challenge a final action under this section.

9 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED
10 TO READ AS FOLLOWS:

11 (1) As used in this section:

12 (a) "Applicant" means a person who applies for a permit;

13 (b) "Business day" means a day excluding Saturday, Sunday, and any federal
14 holiday;

15 (c) "Permit" means:

16 1. An authorization required to conduct any construction-related
17 activities involving a qualifying property; or

18 2. A certificate of occupancy or other similar certification for a
19 qualifying property;

20 (d) "Qualifying property":

21 1. Means a residential building containing ten (10) or fewer units; and

22 2. Includes buildings with mixed commercial and residential uses;

23 (e) "Qualifying third-party inspector" means a third-party inspector that is not:

24 1. In any way affiliated with or financially interested in the project to be
25 reviewed or inspected; or

26 2. An employee of a regulatory authority from which the permit that is
27 the subject of an application is sought;

1 (f) "Regulatory authority" means a state or local governmental entity
2 enforcing any state code for which a permit is required;

3 (g) "Regulatory fee" means any fee, including a permit fee, application fee,
4 inspection fee, or any other similar fee, that a regulatory authority requires
5 as part of its enforcement of any state code for which a permit is required;
6 and

7 (h) "Third-party inspector" means any of the following:

8 1. An architect licensed under KRS Chapter 323;

9 2. An engineer licensed under KRS Chapter 322;

10 3. An electrical inspector certified under KRS Chapter 227; or

11 4. A building inspector, plans and specifications inspector, or plumbing
12 inspector certified under KRS 198B.090.

13 (2) A regulatory authority shall provide any prospective applicant with the
14 requirements for applying for and obtaining any permit, including:

15 (a) A list of any plan reviews or inspections that are required by the regulatory
16 authority;

17 (b) The time limits set forth in this section regarding notification and
18 submission of documents;

19 (c) Any regulatory fees charged by the regulatory authority; and

20 (d) All other requirements to complete an application for a permit, including
21 any prior approvals or permits needed.

22 (3) (a) 1. After an applicant has submitted an application for a permit, the
23 regulatory authority shall send the applicant a notice indicating
24 whether the application is complete, except for any required plan
25 review or inspection, within five (5) business days of receiving the
26 application.

27 2. If the regulatory authority finds that the application is complete,

1 except for any required plan review or inspection, the notice shall
2 contain a statement indicating whether the regulatory authority is able
3 to conduct a plan review and inspection within the time limits
4 established in subsection (4) of this section.

5 (b) 1. If the regulatory authority finds the application is deficient, the
6 notification shall contain a list of any deficiencies in the application.

7 2. An applicant may resubmit an application for a permit any number of
8 times until the application is deemed complete, except for any required
9 plan review or inspection.

10 3. A regulatory authority shall send an applicant a notice indicating
11 whether the deficiencies of the application have been cured within five
12 (5) business days of receiving the revisions. The notice shall contain a
13 statement indicating whether the regulatory authority is able to
14 conduct a plan review and inspection within the time limits established
15 in subsection (4) of this section.

16 (4) (a) When the regulatory authority notifies an applicant that an application is
17 complete under subsection (3) of this section, except for any required plan
18 review or inspection, the regulatory authority shall also indicate whether the
19 regulatory authority can meet the following time limits to conduct any
20 required:

21 1. Plan review within ten (10) business days after the notice is sent; and

22 2. Inspection within five (5) business days after receiving a written
23 request for the inspection.

24 (b) The time limits in paragraph (a) of this subsection may be extended if:

25 1. A cause outside the control of the regulatory authority requires an
26 extension and the regulatory authority provides the applicant a written
27 explanation articulating the need for the extension. In no case shall

1 the extension exceed an additional fourteen (14) business days for
2 plan review or an additional five (5) business days for inspection;

3 2. An extension is necessary due to the fault of the applicant and the
4 regulatory authority notifies the applicant and gives the applicant time
5 to cure the fault; or

6 3. The applicant and the regulatory authority mutually agree to an
7 extension.

8 (c) 1. If the:

9 a. Regulatory authority notifies the applicant that it cannot meet
10 the time limits established in paragraph (a) of this subsection;
11 and

12 b. Applicant elects to use a qualifying third-party inspector under
13 subsection (5) of this section;
14 the regulatory authority shall refund any fees paid to it associated with
15 the plan review or inspection, less an administrative fee not to exceed
16 one hundred dollars (\$100).

17 2. If the regulatory authority notifies the applicant that it can meet the
18 time limits established in paragraph (a) of this subsection but fails to
19 meet them, the regulatory authority shall:

20 a. Issue a temporary permit to the applicant that allows the
21 applicant to begin work; and

22 b. Refund all fees paid to the regulatory authority for the review or
23 inspection associated with the application.

24 (5) An applicant may use a qualifying third-party inspector to perform a plan review
25 or inspection, regardless of whether the regulatory authority is able to perform
26 those activities within the time limits set out in subsection (4) of this section. The
27 cost for any plan review or inspection performed by a qualifying third-party

1 inspector shall be at the applicant's own expense.

2 (6) (a) A qualifying third-party inspector may perform any plan review or
3 inspection that is required by a regulatory authority to receive a building
4 permit or certificate of occupancy, including but not limited to inspections
5 of:

6 1. Footings;

7 2. Foundations;

8 3. Concrete slabs;

9 4. Framing;

10 5. Electrical;

11 6. Plumbing;

12 7. Heating;

13 8. Ventilation; and

14 9. Air conditioning.

15 (b) Any plan review or inspection conducted by a qualifying third-party
16 inspector shall be at least as extensive as a plan review or inspection that
17 would be conducted by the regulatory authority.

18 (c) A qualifying third-party inspector shall only perform a plan review or
19 inspection that is within the scope of the qualifying third-party inspector's
20 competency and for which the qualifying third-party inspector is licensed or
21 certified.

22 (d) Upon completing a plan review or inspection, a qualifying third-party
23 inspector shall prepare an affidavit certifying under oath that:

24 1. The plans were reviewed or the inspection was conducted by the
25 qualifying third-party inspector;

26 2. The qualifying third-party inspector was duly authorized to perform
27 the review or inspection;

1 3. The qualifying third-party inspector maintains the insurance coverage
2 in accordance with paragraph (f) of this subsection;

3 4. The qualifying third-party inspector has the appropriate license,
4 certification, or registration, and the plan review or inspection
5 conducted was within the scope of the third-party inspector's
6 competence; and

7 5. The plans or subject of the inspection comply with all applicable state
8 and local requirements.

9 (e) A qualifying third-party inspector shall submit a copy of a plan review or
10 inspection report conducted pursuant to this section to the regulatory
11 authority within five (5) days of its completion. As part of this submission,
12 the qualifying third-party inspector shall submit:

13 1. The affidavit required in paragraph (d) of this subsection;

14 2. Any remaining fees; and

15 3. Any other documents required by the regulatory authority to
16 determine compliance.

17 (f) A qualifying third-party inspector shall maintain insurance coverage for
18 personal liability insurance of at least:

19 1. One million dollars (\$1,000,000) per claim; and

20 2. Two million dollars (\$2,000,000) of aggregate coverage.

21 (g) A qualifying third-party inspector performing any activities pursuant to this
22 subsection shall be subject to the disciplinary guidelines of his or her
23 relevant professional licensing or certification board. Any complaint,
24 investigation, or discipline arising out of a qualifying third-party inspector's
25 activities pursuant to this subsection shall be conducted by his or her
26 professional licensing or certification board.

27 (7) A regulatory authority shall rely on a plan review or inspection conducted by a

1 qualifying third-party inspector submitted in accordance with subsection (6) of
2 this section, unless the authority identifies a specific deficiency in writing.

3 (8) Any ordinance, rule, or regulation of a regulatory authority that conflicts with
4 this section is void and unenforceable.

5 (9) This section shall not be construed to prohibit a regulatory authority from issuing
6 a stop-work order if the regulatory authority determines that a condition of a
7 building project constitutes an immediate threat to public safety and welfare.

8 (10) A regulatory authority and any of its agents shall be immune from liability to any
9 person for any action or inaction by a qualifying third-party inspector or
10 applicant under this section.

11 ➔Section 11. KRS 198B.060 is amended to read as follows:

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

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

1 in KRS 221.010.

2 (b) Local governments shall be responsible for the issuance and revocation of
3 building permits, licenses, certificates, and similar documents which cover
4 activities within their area of responsibility, and the inspection of all buildings
5 pursuant to this chapter and the Uniform State Building Code. Each local
6 government issuing a building or demolition permit or an initial certificate of
7 occupancy on a new structure shall send a copy of the permit or certificate to
8 the commissioner for his or her use in maintaining an accurate housing
9 inventory for Kentucky.

10 (c) Notwithstanding the provisions of paragraph (a) of this subsection or the
11 provisions of KRS 162.060, local governments may have jurisdiction for plan
12 review, inspection, and enforcement responsibility over buildings intended for
13 educational purposes, other than licensed day-care centers, but only when
14 agreed to in writing by the local government and the department. Copies of
15 documentation related to plan review, inspection, and enforcement shall be
16 provided to the Kentucky Department of Education at the time they are issued
17 to the district. Any agreements relating to expanded jurisdiction in effect on
18 July 14, 2022, may be amended accordingly.

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

24 (4) (a) With the exception of single-family dwellings, the department shall be
25 responsible for the examination and approval or disapproval of plans and
26 specifications for all buildings which are not the responsibility of local
27 governments. The department may issue and revoke permits, licenses,

1 certificates, and similar documents within its area of responsibility, and shall
2 have concurrent jurisdiction with local governments for the inspection of all
3 buildings pursuant to this chapter and the Uniform State Building Code.

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

10 (c) The local jurisdiction may appeal the preemption directly to the
11 commissioner, and the department shall review the appeal according to the
12 procedures found in ~~subsections (8) to (10) of~~ KRS 198B.070 (8) to (10). No
13 preemption by the commissioner shall take place until a final decision has
14 been issued in an appeal under this subsection.

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

17 (5) (a) Any local government may petition the commissioner requesting that
18 additional plan review functions be allocated to that local government. The
19 petition shall include evidence of the local government's capability to perform
20 additional plan review functions.

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

26 (c) A local government may appeal the denial directly to the commissioner, and
27 the department shall review the appeal according to the procedures found in

1 ~~subsections (8) to (10) of~~ KRS 198B.070 (8) to (10).

2 (d) If the local government is granted additional responsibility by the
3 commissioner, the department shall hold concurrent jurisdiction over the
4 additional responsibility, but the local government shall collect any fees for
5 functions it performs pursuant to the additional responsibility.

6 (6) Any local government may also petition the commissioner requesting that plans and
7 specifications inspection, building inspection, and approval responsibility relating
8 to the application of local plumbing permits for local installations be allocated to
9 the local government. The petition shall not be granted unless the local government
10 has demonstrated to the commissioner that it can perform these functions in
11 accordance with KRS 198B.050 to 198B.090.

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

16 (8) ~~A~~~~no~~ building shall ***not*** be constructed in this state until a local building official
17 and an official representing the department, if the department has jurisdiction, issue
18 a permit for the construction. ~~Nothing in~~ This subsection shall ***not*** require a
19 single-family dwelling to be permitted or inspected unless a local government has
20 established a building inspection program as set out in this section.

21 (9) The local building official or the representative of the department shall issue a
22 permit if the proposed building satisfies the requirements of the Uniform State
23 Building Code and if the party desiring to construct the building has complied with
24 all other legal requirements concerning the location and construction of the
25 building. The applicant for a building permit, by the act of applying for the permit,
26 shall be deemed to have consented to inspection by the local government or the
27 department, of the building during construction and upon the completion of

1 construction for the purpose of determining that the building is constructed in
2 compliance with the Uniform State Building Code.

3 (10) (a) ~~A~~^{Not} permit for building, construction, reconstruction, renovation,
4 demolition, or maintenance or for any activity related to building,
5 construction, reconstruction, renovation, demolition, or maintenance shall ***not***
6 be issued by any building department or by any political subdivision of the
7 Commonwealth of Kentucky to any person seeking the permit unless the
8 person shall assure, by affidavit, that all contractors and subcontractors
9 employed, or that will be employed, on activity covered by the permit shall be
10 in compliance with Kentucky requirements for workers' compensation
11 insurance according to KRS Chapter 342 and unemployment insurance
12 according to KRS Chapter 341.

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

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

22 (11) A certified electrical inspector shall be employed by, or contracted for, or
23 contracted with a local government having responsibility over buildings described
24 in this section as part of its building inspection program. After a certified electrical
25 inspector has been provided for by the local government or the department, no
26 utility shall initiate permanent electrical service to any new building, or any
27 building which has been moved, until a final certificate of approval has been issued

1 by a certified electrical inspector. Unless the department shall notify the utility in
2 writing as to which buildings are subject to department approval, it shall be
3 presumed by the utility that the building is subject to the jurisdiction of the local
4 government. However, nothing in this section shall prohibit the supply or use of
5 necessary electrical services during the construction and testing process.

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

11 (13) ~~A~~~~no~~ building on which construction was begun nor any industrialized building
12 system on which site preparation and assembly were begun after the Uniform State
13 Building Code became effective shall ***not*** be occupied until the local building
14 official or a representative of the department issues a certificate of occupancy
15 certifying that the building was constructed in conformance with the standards of
16 the Uniform State Building Code, or assembled or installed in conformance with
17 applicable instructions. ~~Nothing in~~ This subsection shall ***not*** be construed to
18 require a certificate of occupancy to be issued for any single-family dwelling unless
19 a local government has established jurisdiction for the enforcement of the Uniform
20 State Building Code under this section.

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

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

- 1 (a) The person performing the plans and specifications inspection is certified by
2 the department as having successfully completed the test requirements
3 provided by KRS 198B.090 to practice as a certified plans and specifications
4 inspector;
- 5 (b) The person performing the building inspection is certified by the department
6 as having successfully completed the test requirements provided in KRS
7 198B.090 to practice as a certified building inspector;
- 8 (c) The person, firm, or company does not have a conflict of interest between its
9 plan review or inspection functions and any other employment or business
10 activities;
- 11 (d) The person performing the plumbing inspection is certified by the department
12 as having successfully completed the requirements provided in KRS 318.140
13 to practice as a certified plumbing inspector; and
- 14 (e) The person, firm, or company does not have a conflict of interest between its
15 plan review or inspection functions and any other employment or business
16 activities.
- 17 (16) If the department has reason to believe that an inspector is not enforcing, or is
18 improperly enforcing, the provisions of the Kentucky building codes, it shall
19 conduct an informal hearing to review the inspector's procedures and return in
20 written form the required corrections resulting from the hearing to the inspector, or
21 may take action to suspend or revoke the inspector's certificate.
- 22 (17) If the inspector fails to comply within sixty (60) days of a written notification from
23 the department that specifies the required corrections, the department shall suspend
24 the inspector's certification until the inspector complies. Any action to suspend or
25 revoke an inspector's certificate may be appealed to the department, and upon
26 appeal an administrative hearing shall be conducted in accordance with KRS
27 Chapter 13B.

1 (18) Each local government and the department may establish a schedule of fees for the
2 functions performed under this chapter. The fees shall be designed to fully cover~~[,]~~
3 but ~~[shall]~~ not exceed~~[,]~~ the cost of the service performed. Fees payable to the
4 department shall be paid into the State Treasury and credited to a trust and agency
5 fund to be used by the department in carrying out this chapter. No part of this fund
6 shall revert to the general fund of the Commonwealth.

7 **(19) Notwithstanding any provision of law to the contrary, a person seeking any plan**
8 **review or inspection in accordance with this section may have that plan review or**
9 **inspection performed by a licensed third-party inspector pursuant to Section 10 of**
10 **this Act.**

11 ➔Section 12. KRS 381.785 is amended to read as follows:

12 As used in KRS 381.785 to 381.801:

- 13 (1) "Assessment" means the liability for an expense that is allocated to a lot in a
14 planned community in accordance with governing documents;
- 15 (2) "Association" means a nonprofit corporation or unincorporated organization that is
16 composed of lot owners in a planned community that is responsible for the
17 administrative governance, maintenance, and upkeep of the planned community;
- 18 (3) "Board" means the executive body of an association, regardless of name, designated
19 in the declaration or bylaws to act on behalf of an association;
- 20 (4) "Bylaws" means a document adopted by the association for the regulation or
21 management of the affairs of the association;
- 22 (5) "Common area" means property, including any facilities and amenities, within a
23 planned community that is designated as a public space and is owned, leased, or
24 required by the declaration to be maintained or operated by an association;
- 25 (6) "Declarant" means any person or entity, and their successors and assigns, that:
- 26 (a) Executes and files a declaration encumbering real property; or
- 27 (b) Authorizes real property to be governed by a declaration, as part of the

- 1 establishment or maintenance of a planned community;
- 2 (7) "Declarant control period" means the period of time in which the declarant controls
3 the association by appointing or removing the members of the association's board of
4 directors and manages the association;
- 5 (8) "Declaration" means any instrument, however denominated, including but not
6 limited to covenants, conditions, or restrictions, and any amendment or supplement
7 thereto, recorded among the land records of the county or counties in which a
8 planned community or any part thereof is located, that either:
- 9 (a) Imposes restrictions, covenants, conditions, or maintenance or operational
10 responsibilities for any common area on an association; or
- 11 (b) Conveys the authority of an association to impose on lots, or on the lot owners
12 or occupants, or on any other entity, an assessment in connection with the
13 provision of maintenance or services for the benefit of some or all of the lots
14 or the common area;
- 15 (9) "Governing documents" means the articles of incorporation, bylaws, plat,
16 declaration of covenants, conditions and restrictions, rules, regulations, policies,
17 and guidelines of an association, or other written instrument granting the
18 association the authority to manage, maintain, or otherwise affect the property
19 under its jurisdiction;
- 20 (10) "Lot" means any plot or parcel of real property designated for separate ownership or
21 occupancy and is either shown on a recorded subdivision plat for a planned
22 community or the boundaries are described in the declaration;
- 23 (11) "Owner" means a declarant or other person who owns a lot in a planned community
24 but does not include any person that has an interest in a lot solely as security for an
25 obligation;
- 26 (12) "Person" means a natural person, corporation, business trust, estate, trust,
27 partnership, association, joint venture, limited liability company, government,

1 governmental subdivision or agency, or other legal or commercial entity;

2 (13) (a) "Planned community" means a group of five (5) or more residential
3 dwellings, excluding condominiums, composed of individual lots for which a
4 deed, common plan, or declaration requires that:

- 5 1. All owners become members of an association;
- 6 2. Owners or the association hold or lease property or facilities for the
7 benefit of all owners; or
- 8 3. Owners support by membership fees or property or facilities for all
9 owners to use.

10 (b) "Planned communities" shall not include:

- 11 1. Any deed, subdivision plat or plan, or declaration which is recorded
12 whereby the sole common facility for sharing maintenance expenses is
13 for shared or common roadways providing access to multiple lots;~~or~~
- 14 2. A current development or neighborhood that does not currently have a
15 homeowners' association established by declaration, subdivision plat, or
16 deed; or
- 17 3. Any group of individual lots that would otherwise be required to
18 comply with KRS 381.785 to 381.801, but which has four (4) or fewer
19 individual lots in the group;

20 (14) "Purchaser" means a person who acquires a legal or equitable interest in a lot by
21 voluntary or involuntary transfer. A purchaser shall not be a declarant or a person in
22 the business of selling real estate for profit;

23 (15) "Real estate" includes lands together with improvements thereon and appurtenances
24 thereto; and

25 (16) "Residential dwelling" means a building or portion of a building that is designed
26 and intended for use and occupancy by a single household and not for business
27 purposes, and which may share common walls, roofing, or other common structural

1 elements.

2 ➔Section 13. KRS 381.794 is amended to read as follows:

- 3 (1) An association shall keep financial records sufficiently detailed to enable the
4 association to prepare financial statements in accordance with generally accepted
5 accounting principles.
- 6 (2) No later than one hundred eighty (180) days after the end of the fiscal year, or
7 annually on a date provided in the declaration or bylaws, the association shall have
8 a financial report prepared for the preceding fiscal year. No later than thirty (30)
9 days after the financial report is prepared and received by the board, the association
10 shall make the financial report available electronically at no charge or provide a
11 paper copy with payment of a reasonable fee to a lot owner.
- 12 (3) The financial report shall be prepared in accordance with the following standards:
- 13 (a) An association with total annual revenues of less than one hundred twenty-
14 five thousand dollars (\$125,000) shall prepare a statement of cash receipts and
15 disbursements that discloses all sources of income and expenses by account
16 and classification;
- 17 (b) An association with total annual revenues of at least one hundred twenty-five
18 thousand dollars (\$125,000) but less than three hundred thousand dollars
19 (\$300,000) shall prepare a financial report under the standards of a
20 compilation by an accounting professional;
- 21 (c) An association with total annual revenues of at least three hundred thousand
22 dollars (\$300,000) but less than one million dollars (\$1,000,000) shall prepare
23 a financial report under the standards of review, to be prepared by a certified
24 public accountant; and
- 25 (d) An association with total annual revenues of one million dollars (\$1,000,000)
26 or greater shall have prepared a financial report under the standards of an
27 audit prepared by a certified public accountant.

1 An association may elect to have the financial report required under this subsection
2 prepared in accordance with a higher standard than required for the association's
3 annual revenue level.

4 **(4) Subsections (1) to (3) of this section shall not apply to an association for a**
5 **planned community containing fifteen (15) or fewer lots, but an association for a**
6 **planned community containing fifteen (15) or fewer lots may voluntarily elect to**
7 **adopt the standards set out in subsections (1) to (3) of this section in its governing**
8 **documents.**

9 ➔Section 14. KRS 381.9197 is amended to read as follows:

10 (1) The association shall keep financial records sufficiently detailed to enable the
11 association to comply with KRS 381.9203 and, except for the statement of cash
12 receipts and disbursements which shall be kept on a cash basis, all financial
13 statements shall be prepared in accordance with generally accepted accounting
14 principles. All financial and other records shall be made reasonably available for
15 examination by any unit owner and his or her authorized agents.

16 (2) Not later than one hundred fifty (150) days after the end of the fiscal year, or
17 annually on a date provided in the declaration or bylaws, the association shall cause
18 to be prepared by an independent accountant or certified public accountant a
19 financial report for the preceding fiscal year. No later than thirty (30) days after the
20 financial report is prepared and received by the executive board, the association
21 shall make it available for examination by any unit owner and, upon request and
22 payment of a reasonable fee, shall provide a unit owner with a copy of the financial
23 report.

24 (3) The type of financial report the association shall have prepared under this section
25 shall be determined as follows:

26 (a) An association with total annual revenues of less than one hundred thousand
27 dollars (\$100,000) shall have prepared a financial statement of cash receipts

1 and disbursements that disclose all sources of income and expenses by
2 account and classification;

3 (b) An association with total annual revenues of at least one hundred thousand
4 dollars (\$100,000) but less than two hundred fifty thousand dollars (\$250,000)
5 shall have prepared a financial report under the standards of a compilation by
6 a certified public accountant;

7 (c) An association with total annual revenues of at least two hundred fifty
8 thousand dollars (\$250,000) but less than five hundred thousand dollars
9 (\$500,000) shall have prepared a financial report under the standards of a
10 review by a certified public accountant; and

11 (d) An association with total annual revenues of five hundred thousand dollars
12 (\$500,000) or greater shall have prepared a financial report under the
13 standards of an audit by a certified public accountant.

14 The executive board of an association, in its sole discretion, may elect to have the
15 financial report required by this subsection prepared in accordance with a higher
16 standard of care than required for that association's annual revenue level.

17 **(4) Subsections (1) to (3) of this section shall not apply to an association for a**
18 **condominium containing fifteen (15) or fewer units, but an association for a**
19 **condominium containing fifteen (15) or fewer units may voluntarily elect to adopt**
20 **the standards set out in subsections (1) to (3) of this section in its governing**
21 **documents.**

22 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
23 READ AS FOLLOWS:

24 **(1) A city, county, charter county government, urban-county government, unified**
25 **local government, consolidated local government, or special district shall not**
26 **adopt or enforce any ordinance, regulation, or other rule that restricts the**
27 **occupancy of any dwelling unit:**

- 1 (a) To less than two (2) occupants per bedroom; or
 2 (b) Based on the familial or nonfamilial relationship or marital status among
 3 the occupants.

4 (2) This section shall not be construed to affect a local government's ability to
 5 enforce the state building code or any uniform code or administrative regulation
 6 related to fire safety or the construction or safety of buildings.

7 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) A planning unit shall not adopt or enforce any ordinance or regulation that
 10 would require:

11 (a) More than one (1) parking space per residential unit; or

12 (b) Any minimum parking requirements for:

13 1. Existing buildings undergoing a change of use;

14 2. Licensed child-care facilities;

15 3. Deed-restricted affordable housing; or

16 4. Assisted living facilities.

17 (2) This section shall not alleviate a developer or planning unit's obligations to
 18 provide accessible parking spaces as required by the Americans with Disabilities
 19 Act, 42 U.S.C. sec. 12101 et seq. An accessible parking space shall not count
 20 towards the minimums set out in this section.

21 (3) This section shall not prohibit a developer from providing more parking spaces
 22 than the minimum number of parking spaces required in any ordinance or
 23 regulation adopted pursuant to this section.

24 (4) (a) If a planning unit determines that the parking spaces for a proposed
 25 development plan would have substantial negative impacts on
 26 transportation infrastructure, traffic flow, or roadway access standards as a
 27 result of the standards set out in subsection (1) of this section, the planning

1 unit may request that a developer modify and resubmit development plans
 2 for a proposed development to ameliorate or remediate those potential
 3 negative impacts.

4 (b) A planning unit that makes a request under paragraph (a) of this subsection
 5 shall:

6 1. Articulate any specific negative impact or impacts that the proposed
 7 development plan would have;

8 2. Articulate the specific requirement under subsection (1) of this section
 9 that would cause a specific negative impact; and

10 3. Provide the developer with sufficient time to modify and resubmit a
 11 development plan.

12 (c) A planning unit may deny a proposed development plan that fails to
 13 ameliorate or remediate the negative impacts under paragraph (a) of this
 14 subsection.

15 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) As used in this section:

18 (a) "Commercial zone" means any business, professional, or commercial zone
 19 and includes areas designated by a local government for job creation or
 20 economic development;

21 (b) "Mixed-use residential development":

22 1. Means a development consisting of residential and nonresidential uses
 23 in which the nonresidential uses constitute less than fifty percent
 24 (50%) of the total square footage of the development; and

25 2. Includes condominiums; and

26 (c) "Multifamily residential development":

27 1. Means a development with three (3) or more dwelling units within one

- 1 (1) or more buildings; and
- 2 2. Includes condominiums.
- 3 (2) Mixed-use residential developments and multifamily residential developments
 4 shall be considered permitted uses in all commercial zones and shall not be
 5 subject to any additional permitting or review under this chapter that would
 6 otherwise be required for such a structure in a residential zone.
- 7 (3) A qualifying planning unit shall not adopt or enforce any regulation or
 8 ordinance that:
- 9 (a) Prohibits mixed-use residential developments or multifamily residential
 10 developments in commercial zones;
- 11 (b) Imposes requirements on mixed-use residential developments or multifamily
 12 residential developments that are more restrictive than those placed on
 13 other comparable uses within the commercial zone; or
- 14 (c) Requires mixed-use residential developments or multifamily residential
 15 developments to have on the property or share via a parking agreement
 16 more parking spaces than required under Section 16 of this Act.
- 17 (4) This section shall not apply to any property located within a designated historic
 18 overlay district, unless the local government that established the historic overlay
 19 district adopts an ordinance or resolution allowing property in the district to be
 20 subject to the provisions of this section.

21 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 22 READ AS FOLLOWS:

- 23 (1) As used in this section, unless the context otherwise requires:
- 24 (a) "Business day" means a day excluding Saturday, Sunday, or any federal
 25 holiday;
- 26 (b) "Local government" means a city, county, urban-county government,
 27 charter county government, unified local government, consolidated local

1 government, or planning unit that is engaged in planning and zoning under
2 KRS Chapter 100;

3 (c) "Owner" means a person that has an interest in title or a present possessory
4 interest in property that is offered to the public as a short-term rental, and
5 includes a tenant that has received permission from his or her landlord to
6 offer the rented property as a short-term rental; and

7 (d) "Short-term rental" means the rental of a dwelling unit or part of a
8 dwelling unit, other living or sleeping space, an accessory dwelling unit, or
9 any other space made available for rent for terms of less than thirty (30)
10 consecutive days at a time.

11 (2) A local government shall not adopt or enforce any ordinance, regulation, or
12 utilize any other means that:

13 (a) Requires a conditional use permit or other similar permit to be obtained to
14 use a property as a short-term rental;

15 (b) Imposes density-based restrictions on short-term rentals, including any
16 requirement that short-term rentals:

17 1. Be spaced any distance apart from other short-term rentals; or

18 2. Not exceed a specified percentage or number of housing units in a
19 given building, zoning district, or other geographical boundary;

20 (c) Prohibits the operation of a short-term rental in a residential zone;

21 (d) Regulates the time, including the duration, frequency, or time of year, that a
22 property is used as a short-term rental;

23 (e) Limits the number of properties used as short-term rentals by any person or
24 entity;

25 (f) Imposes a residency requirement of any kind to operate a short-term rental,
26 including a requirement that:

27 1. A person be present when a property is used as a short-term rental;

1 2. The property serves as a primary residence of the short-term rental
2 owner; or

3 3. The owner of the short-term rental be present or reside in the primary
4 residence on the property if an accessory dwelling unit is used as a
5 short-term rental;

6 (g) Restricts or imposes requirements on any short-term rental platform or the
7 use of a short-term rental platform for the listing or rental of short-term
8 rentals, but this paragraph shall not affect a local government's ability to
9 assess a transient room tax if it is authorized to do so under state law; or

10 (h) Prohibits or restricts a tenant from offering a leased property as a short-
11 term rental, so long as the tenant has received permission to do so from his
12 or her landlord.

13 (3) (a) Subject to the preemptions set out in subsection (2) of this section, a local
14 government may require an owner to register each property used as a short-
15 term rental by adopting an ordinance consistent with this section.

16 (b) A local government that requires registration shall require an owner to
17 register each single-family home, two (2) family or multifamily dwelling,
18 condominium, cooperative, or timeshare that an owner uses as a short-term
19 rental. Registration shall cover all dwelling units and detached accessory
20 structures located on a parcel.

21 (c) A local government requiring registration shall only require an owner
22 seeking to register a property as a short-term rental to provide the following
23 information for each property:

24 1. a. If the owner is an individual, the owner's name, mailing address,
25 email address, and telephone number;

26 b. If the owner is a corporation or partnership:

27 i. The owner's state of incorporation or organization; and

- 1 ii. Names, business addresses, and telephone numbers of the
2 owner's principal officers or partners; and
- 3 c. If a property manager is used, in addition to the information in
4 subdivisions a. and b. of this subparagraph, the property
5 manager's name, mailing address, email address, and telephone
6 number; and
- 7 2. A short description of how each of the owner's short-term rentals on
8 the property are marketed or advertised, including the following:
- 9 a. The advertised occupancy limits of each short-term rental; and
- 10 b. Whether the short-term rental is a:
- 11 i. Single family home;
- 12 ii. Dwelling unit in a single family home;
- 13 iii. Dwelling unit in a two (2) family or multifamily dwelling;
- 14 or
- 15 iv. Dwelling unit in a condominium, cooperative, or
16 timeshare.
- 17 (d) An owner shall be responsible for registering a property as a short-term
18 rental. If the owner is a corporation, partnership, or other legal entity, the
19 registration shall be made by an officer or agent of the owner.
- 20 (e) An owner may operate a property as a short-term rental within thirty (30)
21 days following the registration of the property if the owner was not
22 operating the property as a short-term rental prior to the adoption of an
23 ordinance requiring registration. An owner who was operating a property as
24 a short-term rental prior to the adoption of an ordinance requiring
25 registration, may continue to operate the property as a short-term rental, but
26 shall register the property within fourteen (14) days following the adoption
27 of the ordinance.

- 1 (f) If any information provided by an owner to a local government as part of a
2 registration as set out in paragraph (c) of this subsection changes, the
3 owner shall provide the updated information to the local government in
4 writing within thirty (30) business days of the change.
- 5 (g) A local government may charge an initial and renewal registration fee to an
6 owner that shall not exceed one hundred fifty dollars (\$150).
- 7 (h) Registration under this subsection shall be valid for one (1) year from the
8 date of registration. An owner may automatically renew registration by
9 paying the renewal fee set out in paragraph (g) of this subsection.
- 10 (i) If an owner sells all or part of a registered property, the registration shall
11 not be transferred to the new owner. The new owner may register the
12 property pursuant to this subsection.
- 13 (j) An owner who operates his or her property as a short-term rental without
14 registering the property, where a local government has adopted an
15 ordinance requiring registration, commits a violation of the ordinance, and
16 each transaction by the owner leasing the property as a short-term rental
17 shall constitute a separate violation.
- 18 (k) A local government may allow owners to register a property pursuant to this
19 subsection on a website maintained by the local government.
- 20 (4) (a) If an owner is found by final order as defined in KRS 65.8805, or by a final
21 judgment of a court, to have committed three (3) or more ordinance
22 violations associated with a registered property within a calendar year, the
23 local government may revoke the registration for that property for a period
24 of not more than one (1) year after the date the registration is revoked.
- 25 (b) A local government shall provide notice and a hearing for revocation in
26 accordance with the procedures for revocation utilized by the local
27 government.

1 (c) Notwithstanding the provisions of subsection (2) of this section, a local
2 government may require an owner to obtain a conditional use permit to
3 operate a short-term rental for a property if that owner has been subject to a
4 revocation as set out in paragraph (a) of this subsection.

5 (d) An owner shall not be permitted to register the property subject to
6 revocation until any violation that led to a citation being issued has been
7 remediated and any outstanding fines are paid by the owner.

8 (5) Notwithstanding the other provisions of this section, a local government may
9 enact or enforce ordinances or regulations that:

10 (a) Affect short-term rentals only for the following primary purposes:

11 1. Protection of the public's health and safety related to:

12 a. Fire and building safety;

13 b. Sanitation;

14 c. Transportation;

15 d. Traffic control;

16 e. Pollution control; and

17 2. Residential use and zoning related to:

18 a. Noise;

19 b. Protection of welfare;

20 c. Property maintenance; and

21 d. Nuisance issues; and

22 only if enforcement is performed in the same manner as enforcement that
23 applies to similar properties that are not short-term rentals; or

24 (b) Prohibit the use of short-term rentals to:

25 1. House sex offenders;

26 2. Operate a recovery residence, sober living residence, or other similar
27 facility;

1 3. Manufacture, exhibit, distribute, or sell any illicit substance or
 2 obscene materials; or

3 4. Operate an adult entertainment establishment.

4 (6) The section shall not be construed to prohibit a local government from adopting
 5 or enforcing ordinances or regulations that are applicable to all dwellings,
 6 provided that the ordinances or regulations do not treat short-term rentals
 7 differently from other residential uses of property.

8 (7) This section shall supersede and render void and unenforceable any local
 9 ordinance or regulation to the contrary. The registration system set out in
 10 subsections (3) and (4) of this section shall be the exclusive means by which a
 11 local government may register properties in relation to the use of property as a
 12 short-term rental. If a local government is found by a court to have violated any
 13 provision of this section, the court may award attorney's fees and costs to a party
 14 aggrieved by the action of the local government.

15 (8) This section shall not be construed to affect, prohibit, preempt, or render
 16 unenforceable any property or use restrictions contained in the properly enacted
 17 rules or regulations of a homeowners association, condominium association, or
 18 other similar property owner association or cooperative.

19 ➔Section 19. KRS 198B.030 is amended to read as follows:

20 (1) There is hereby created the Kentucky Department of Housing, Buildings and
 21 Construction within the Public Protection Cabinet. The Governor shall appoint a
 22 commissioner to head the department. The commissioner shall receive for his or her
 23 services such compensation as the Governor shall determine.

24 (2) The commissioner may employ sufficient staff to carry out the functions of the
 25 commissioner's office. Neither the commissioner nor any member of his or her staff
 26 shall be employed, either directly or indirectly, in any aspect of the building
 27 industry as regulated by this chapter while employed by the Department of

- 1 Housing, Buildings and Construction.
- 2 (3) The department shall perform all budgeting, procurement, and other administrative
3 activities necessary for the statewide regulation and enforcement of building,
4 construction, and inspection standards and codes. The department or commissioner
5 shall submit any proposed administrative regulation to the committee and shall not
6 promulgate the administrative regulation without giving the committee the
7 opportunity to produce written comments, as required by subsection (8) of this
8 section. If the committee chooses to produce written comments, the comments shall
9 be attached to any public submission of the administrative regulation, including any
10 filing under KRS Chapter 13A.
- 11 (4) The department may enter into contracts or agreements with the federal
12 government, its subdivisions and instrumentalities, other agencies of state
13 government or with its subdivisions and instrumentalities, or with private profit or
14 nonprofit organizations in order to effect the purposes of this chapter.
- 15 (5) The commissioner shall cooperate with the agencies of the United States and with
16 the governing bodies and housing authorities of counties, cities, and with not for
17 profit organizations and area development districts in relation to matters set forth in
18 this chapter, and in any reasonable manner that may be necessary for the state to
19 qualify for, and to receive grants or aid from these agencies. The commissioner
20 shall have the power to comply with each condition and execute any agreement that
21 may be necessary, convenient, or desirable.
- 22 (6) Nothing in this chapter shall preclude any other agency, board, or officer of the
23 state from being designated as the directing or allocating agency, board, or officer
24 for the distribution of federal grants and aid, or the performance of other duties to
25 the extent necessary to qualify for and to receive grants and aid for programs under
26 the administration of the department.
- 27 (7) The commissioner is authorized to receive, for and on behalf of the state and the

1 department from the United States and agencies thereof, and from any and all other
2 sources, grants and aid and gifts made for the purpose of providing, or to assist in
3 providing, any of the programs authorized by this chapter, including expenses of
4 administration. All funds received under this subsection shall be paid into the state
5 treasury and credited to a trust and agency fund to be used by the department in
6 carrying out the provisions of this chapter. No part of this fund shall revert to the
7 general fund of the Commonwealth.

8 (8) (a) If the department has proposed a new or amended administrative regulation
9 that directly and clearly relates to the work of a profession, class of workers,
10 or industry that is under the authority of the committee, the department shall
11 not promulgate the proposed administrative regulation without first receiving
12 comments from the committee, subject to the restrictions of paragraph (b) of
13 this subsection.

14 (b) 1. The committee shall be granted a maximum of thirty (30) days to submit
15 its comments on the proposed regulatory change. This subparagraph
16 does not apply to an administrative regulation that is a new emergency
17 administrative regulation.

18 2. The time limits in this paragraph shall begin from the day the
19 department submits the regulatory change and sets a date for a proposed
20 hearing for the comments of the committee. If the committee is already
21 scheduled to meet at a time that will give it an adequate opportunity to
22 review the administrative regulation and respond, the hearing may be
23 held at that meeting.

24 3. If the committee is not scheduled to meet or meets only at the call of the
25 department, the department shall arrange for the committee to meet at a
26 time that will allow the committee an adequate opportunity to review
27 and comment on the regulation within the time limit. If the committee

1 fails to comment within the time limit, the department may proceed with
2 the administrative changes at its discretion.

3 (c) To the extent that any other statute relating to the department's authority to
4 promulgate administrative regulations conflicts with this section, this section
5 shall take precedence.

6 (d) The department may issue advisory opinions and declaratory rulings related to
7 KRS Chapters 198B, 227, 227A, 236, and 318 and the administrative
8 regulations promulgated under those chapters.

9 **(9) (a) If the department has proposed a new or amended administrative**
10 **regulation, it shall determine how the regulation, if adopted, would affect**
11 **residential construction by conducting:**

12 **1. A cost-benefit analysis, which shall include estimates of any potential:**

13 **a. Compliance costs that would be incurred by residential builders;**
14 **and**

15 **b. Benefits to the public, including improvements to quality of life**
16 **and safety; and**

17 **2. An analysis estimating any potential increase or decrease in the**
18 **amount of residential construction in the Commonwealth.**

19 **(b) The analyses required under paragraph (a) of this subsection shall be:**

20 **1. Completed prior to and included with the submission of the**
21 **administrative regulation to the committee under subsection (8) of this**
22 **section; and**

23 **2. Included as an attachment to the administrative regulation when it is**
24 **filed with the Legislative Research Commission in accordance with**
25 **KRS Chapter 13A.**

26 ➔Section 20. KRS 211.203 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Class A" means any pool or bathing facility intended for or used by the
2 general public for recreational use; and
- 3 (b) "Class B" means any pool not open to the general public, but open to limited
4 groups and their invited guests, including but not limited to:
- 5 1. Health or athletic clubs;
 - 6 2. Country clubs; or
 - 7 3. Residential communities.
- 8 (2) (a) Lifeguards shall be required at all Class A and Class B pools if the pool
9 facility meets at least one (1) of the following criteria:
- 10 1. Allows persons seventeen (17) years of age or younger to enter the pool
11 facility enclosure without a responsible adult eighteen (18) years or
12 older;
 - 13 2. Contains features such as induced waves or slides that are available for
14 use; or
 - 15 3. Contains an entry into the pool from a height above the deck from a
16 diving board, platform, climbing wall or other similar feature, that is
17 available for use.
- 18 (b) If a Class A or Class B pool meets any of the criteria in paragraph (a) of this
19 subsection, it shall provide one (1) lifeguard for each one (1) to one hundred
20 (100) bathers.
- 21 (3) Lifeguards shall be required at all Class A pools that do not meet any of the criteria
22 in subsection (2)(a) of this section if the pool facility has:
- 23 (a) Two thousand (2,000) square feet or greater of water surface area, in which
24 case it shall provide one (1) lifeguard for each two thousand (2,000) square
25 feet or major fraction more than half thereof; or
 - 26 (b) One hundred (100) or more bathers, in which case it shall provide one (1)
27 lifeguard for each one hundred (100) or more bathers.

- 1 (4) At a pool where the use is intended for aquatic events, swimming practice, or
 2 swimming competition, the swimming coach or instructor that provides instruction
 3 during the program may count as a lifeguard, provided the coach or instructor can
 4 supervise the entire group.
- 5 (5) Notwithstanding subsections (2) and (3) of this section, the Cabinet for Health and
 6 Family Services may allow Class A and Class B pools to submit an alternative
 7 lifeguard staffing plan that has been certified by a third-party compliance specialist
 8 that is recognized by the Cabinet for Health and Family Services.
- 9 (6) All Class A and Class B pools shall be equipped with an emergency shut-off switch
 10 to disconnect power to pool recirculation, chemical feed, and electrical devices
 11 engaged with the water circulation system, which is located at a place quickly
 12 accessible to lifeguards and other pool staff, but secure from the public.
- 13 (7) Any pool located on the same plat as a single-family residence **intended only for**
 14 **the use of the owner and his or her guests, regardless of whether the guests**
 15 **gained use of the private single-family residence pool through a sharing platform**
 16 **or pay a fee for its use,**~~and not used in connection with a home occupation or~~
 17 ~~business] shall be exempted from the provisions of this section.~~
- 18 (8) The Cabinet for Health and Family Services shall promulgate administrative
 19 regulations in accordance with KRS Chapter 13A to implement this section.

20 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 21 READ AS FOLLOWS:

22 **(1) As used in this section:**

23 **(a) "Local government" means a city, county, urban-county government,**
 24 **charter county government, consolidated local government, or unified local**
 25 **government;**

26 **(b) "Low voltage battery-charged security fence":**

27 **1. Means a fence that:**

- 1 a. Is interfaced with an alarm system in a manner that enables the
2 fence to cause the connected alarm system to transmit a signal
3 intended to alert the business occupying the property and a
4 monitoring station operator in response to an intrusion or
5 burglary;
- 6 b. Is energized by a commercial direct current storage battery of
7 twelve (12) volts or less that is designed to periodically deliver
8 voltage impulses to the fence;
- 9 c. Includes a battery charging device used exclusively to charge the
10 fence energizer's battery, the energizer of which is certified to
11 meet the current International Electrotechnical Commission
12 Standard 60335-2-76 or a successor standard;
- 13 d. Is surrounded by a nonelectric perimeter barrier;
- 14 e. Is ten (10) feet in height, or two (2) feet higher than the
15 surrounding nonelectric perimeter barrier, whichever is greater;
16 and
- 17 f. Has warning signs that read, "WARNING—ELECTRIC
18 FENCE" or substantially similar language posted on it at
19 intervals not greater than thirty (30) feet apart for its entire
20 length; and
- 21 2. Does not mean a:
- 22 a. Security alarm system that does not attach to a security fence
23 system capable of delivering an electric pulse; or
- 24 b. Low voltage battery-charged security fence surrounding a
25 property used as or zoned exclusively for residential purposes;
26 and
- 27 (c) "Nonelectric perimeter barrier" means a fence or wall that is at least five

- 1 (5) feet in height and not capable of delivering an electric pulse.
- 2 (2) A low voltage battery-charged security fence may be installed and operated on
 3 any property that is not used as or exclusively zoned for residential purposes
 4 without the need to obtain any local government permit, approval, or other
 5 authorization, except for an alarm permit when required by a local government.
- 6 (3) The authorizations provided in subsection (2) of this section shall not be
 7 interpreted or construed to limit a local government's powers and abilities to
 8 regulate a nonelectric perimeter barrier as it relates to:
- 9 (a) Generally applicable safety, building, electrical, and fire codes, including
 10 the Kentucky Building Code and Kentucky Electrical Code; or
- 11 (b) Generally applicable setback, height, and lot coverage requirements that
 12 apply uniformly to other fences or accessory structures.

13 ➔SECTION 22. A NEW SECTION OF KRS 383.200 TO 383.285 IS CREATED
 14 TO READ AS FOLLOWS:

- 15 (1) In an action for forcible detainer, the case shall be eligible for expungement if:
- 16 (a) The case has a final disposition of dismissal or judgment was entered for all
 17 defendants on or after the effective date of this Act; and
- 18 (b) Either:
- 19 1. The time for appeal has expired with no appeal being filed; or
 20 2. Any appeal has become final and the trial court's order of dismissal or
 21 judgment in favor of the defendants was upheld.
- 22 (2) (a) Within seven (7) days of being eligible for expungement under this section,
 23 the clerk of the court shall provide the record to the court of original
 24 jurisdiction.
- 25 (b) The court shall review the record within seven (7) days of receipt of the
 26 record. If the record is eligible for expungement under this section, the
 27 court shall order expunged all records of the forcible detainer case in the

1 custody of the court. The order expunging the records shall not require any
2 action by the defendants or the plaintiff.

3 (3) (a) Following the entry of an order of expungement, proceedings in the matter
4 shall be deemed never to have occurred, and the clerk of the court shall not
5 accept any subsequent pleadings, motions, or other documents for filing in
6 the matter.

7 (b) The court and consumer reporting agencies, as defined in KRS 15.800,
8 shall delete or remove the records from their computer systems so that any
9 electronic records management system or consumer report will indicate that
10 the records do not exist.

11 (c) The court and other agencies shall reply to any inquiry that no record exists
12 on the matter.

13 (d) The person whose record is expunged shall not have to disclose the fact of
14 the record or any matter relating to it on an application for employment,
15 credit, or other type of application.

16 (4) An order of expungement under this section shall be on a form provided by the
17 Administrative Office of the Courts and include language directing any consumer
18 reporting agency in possession of information related to the person and the
19 expunged record to destroy or otherwise cease disclosure of the information upon
20 written notice and demand.

21 (5) If a motion or other document is submitted to the clerk of the court for filing in a
22 case that is eligible for expungement under this section and the record has not
23 been ordered expunged, the clerk of the court shall:

24 (a) Accept the filing;

25 (b) Notify the court; and

26 (c) Suspend any further performance of the duties outlined in this section until
27 resolution of the motion or further order of the court.

1 (6) Within forty-five (45) days of entry of an order of expungement, the clerk of the
2 court shall cause to be deleted or removed any records necessary to comply with
3 this section.

4 (7) Any data or information remaining after a record has been expunged under this
5 section shall not contain any personally identifiable information of the parties.

6 (8) For purposes of this section, "expunge" and "expungement" mean the removal
7 or deletion of records or portions thereof by the court and other agencies which
8 prevents the matter from appearing in a search of court records that would have
9 otherwise disclosed the matter had it not been ordered expunged.

10 ➔SECTION 23. A NEW SECTION OF KRS 383.200 TO 383.285 IS CREATED
11 TO READ AS FOLLOWS:

12 (1) A minor shall not be named as a defendant in an action for forcible detainer
13 unless the minor is the primary leaseholder and the lease is not otherwise void.

14 (2) If a minor is named as a defendant in an action for forcible detainer in violation
15 of this section:

16 (a) The minor;

17 (b) The minor's parent or guardian; or

18 (c) Any other defendant named in the order;

19 may petition the court at any time to expunge the name of the minor from the
20 action.

21 (3) (a) If the court finds that a minor was named as a defendant in violation of this
22 section, the court shall dismiss the minor as a party to the action. The court
23 may direct the sealing of any documents within the record necessary to
24 protect the privacy interests of the minor.

25 (b) An order dismissing a minor as a party to the action under this subsection
26 shall not:

27 1. Require the reissuance of notice of a hearing for the remaining

- 1 defendants;
 2 2. Dismiss the action unless the minor was the only named defendant; or
 3 3. Alter the time for proceedings relating to any other named defendants
 4 who have been properly served.

5 (4) This section shall not prevent an "all occupants" eviction or a minor from being
 6 evicted as part of an "all occupants" eviction.

7 ➔Section 24. KRS 383.240 is amended to read as follows:

- 8 (1) Upon the return of the inquest, the court shall enter a judgment according to the
 9 inquisition as follows: ~~either~~
 10 (a) For the plaintiff, in substance, that he or she have restitution of the premises
 11 aforesaid, and recover of the defendants his or her costs in this behalf
 12 expended; ~~or~~
 13 (b) For the defendants, in substance, that they recover of the plaintiff their costs
 14 in this behalf expended; or
 15 (c) For the plaintiff against some of the defendants, and for the other defendants
 16 against the plaintiff, if some be found guilty and others not guilty.

17 (2) In an action for forcible detainer, if the court enters a judgment in accordance
 18 with subsection (1)(b) of this section or if the court enters an order dismissing the
 19 action, the court shall give notice to the parties that:

- 20 (a) The record will be expunged pursuant to Section 22 of this Act after the
 21 expiration of the appeal period if no appeal is filed or when any appeal is
 22 final if the appeal upholds the trial court's judgment for the defendants or
 23 order of dismissal; and
 24 (b) Notice of entry of the order of expungement is waived unless a written
 25 request for notice is filed in the record prior to entry of the order of
 26 expungement.

27 ➔Section 25. KRS 383.250 is amended to read as follows:

1 The clerk of the court shall carefully preserve all papers, records, files, and proceedings~~[,]~~
2 relating to the cause~~;~~ and ~~shall deliver, to any person requiring it, a transcript thereof~~.

3 →Section 26. KRS 367.310 is amended to read as follows:

4 ~~A[No]~~ consumer reporting agency shall not maintain any information in its files relating
5 to any:

6 (1) Charge in a criminal case~~[,]~~ in any court of this Commonwealth, unless the charge
7 has resulted in a conviction; or

8 (2) *Dismissed forcible detainer action in any court of this Commonwealth.*