

1 AN ACT relating to permits.

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

3 ➔ SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) For purposes of this section:

6 (a) "Applicant" means any person or entity who has submitted a permit
7 application to a permitting authority for approval;

8 (b) "Permit" means any authorization, license, or approval issued by a
9 governmental entity or department that is required to engage in any activity;
10 and

11 (c) "Permitting authority" means a governmental entity or department
12 responsible for reviewing and issuing permits.

13 (2) Notwithstanding any provision of law to the contrary:

14 (a) A permitting authority shall process and review permit applications in a
15 timely manner and shall issue a decision on any application within sixty
16 (60) days of the submission of an application. If a permitting authority fails
17 to issue a decision within sixty (60) days, a permit shall be immediately
18 granted to the applicant.

19 (b) If a permitting authority denies an application or conditionally approves an
20 application, its decision shall be based on clearly established applicable laws
21 and regulations and shall be clearly articulated to the applicant.

22 (c) The Circuit Court of the county in which the applicant resides or for which
23 the permit is sought shall have jurisdiction over any appeal brought by an
24 applicant following the decision of a permitting authority. The Circuit Court
25 shall review the decision of the permitting authority de novo. In reviewing
26 the decision, the Circuit Court shall consider whether the permitting
27 authority acted within its jurisdiction in issuing the decision and whether

1 *the decision is supported based on clear and convincing evidence in light of*
2 *the whole record. If the Circuit Court finds against the permitting authority,*
3 *it shall direct the permitting authority to grant the permit to the applicant,*
4 *and shall award attorney's fees, expenses, and costs incurred by the*
5 *applicant.*

6 → SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) *For purposes of this section:*

9 (a) *"Development permit" means any authorization, license, or approval issued*
10 *by a governmental entity or department related to the construction,*
11 *alteration, or use of a property, including but not limited to building*
12 *permits, land use or zoning permits, plat approvals, lot splits, infrastructure*
13 *permits, and environmental permits;*

14 (b) *"Expedited review process" means a streamlined procedure established by a*
15 *relevant authority to resolve disputes related to development permits, which*
16 *may include accelerated proceedings in court, mediation, or alternative*
17 *dispute resolution;*

18 (c) *"Relevant authority" means a governmental entity or department*
19 *responsible for issuing a development permit; and*

20 (d) *"Third-party challenger" means a person or entity other than an applicant*
21 *for a development permit or a relevant authority.*

22 (2) *Notwithstanding any provision of law to the contrary:*

23 (a) *Development permits issued by the relevant authority shall be presumed*
24 *valid and enforceable;*

25 (b) 1. *A third-party challenger shall have standing to challenge a relevant*
26 *authority's decision to issue a development permit only if that person:*

27 a. *Has property adjacent to the property for which the development*

permit was issued; and

b. Can demonstrate that the issuance of the development permit would:

i. Cause concrete and particularized harm to that person's property; and

ii. Present a clear and immediate threat to health, safety, or welfare or otherwise constitutes a common law nuisance.

2. A third-party challenger that has brought a claim in accordance with this paragraph shall bear the burden of proof by clear and convincing evidence.

3. A person whose application for a development permit is denied following a claim by a third-party challenger may appeal the final decision of the Circuit Court to the Court of Appeals.

4. A person whose application for a development permit is finally approved following the challenge of a third-party challenger shall be awarded attorney's fees, expenses, and costs to be paid by the third-party challenger; and

(c) A relevant authority shall establish an expedited review process for resolving disputes concerning development permits.

20 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) Notwithstanding any provision of law to the contrary, all proposed housing
23 projects, including but not limited to those involving accessory dwelling units and
24 multifamily housing units, that meet the criteria outlined in a planning unit's
25 land use code or regulations shall be approved by-right, without the need for
26 discretionary review or approval by a planning commission, board, or other
27 regulatory body.

1 (2) A Circuit Court shall have jurisdiction over any claim brought by a housing
2 project applicant that a planning unit has violated subsection (1) of this section.
3 The Circuit Court shall review the decision of the planning unit de novo. In
4 reviewing the decision, the Circuit Court shall consider whether the planning
5 unit acted within its jurisdiction in issuing the decision and whether the decision
6 is supported based on clear and convincing evidence in light of the whole record.
7 If the Circuit Court finds against the planning unit, it shall award attorney's fees,
8 expenses, and costs incurred by the housing project applicant.

9 (3) This section shall not be construed to:

10 (a) Prohibit a planning unit from monitoring a housing development for
11 compliance with its ordinances or regulations or engaging in enforcement
12 actions; or

13 (b) Affect, prohibit, preempt, or render unenforceable any property or use
14 restrictions contained in the properly enacted rules or regulations of a
15 homeowners association, condominium association, or other similar
16 property owners association or cooperative.

17 ➔Section 4. KRS 198B.060 is amended to read as follows:

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

25 (2) (a) Local governments shall be responsible for the examination and approval or
26 disapproval of plans and specifications for churches having a capacity of four
27 hundred (400) or less persons, and six thousand (6,000) or less square feet of

1 total floor area, and buildings of no more than three (3) stories in height,
2 exclusive of attic and basement, which do not contain more than twenty
3 thousand (20,000) square feet of floor area, and are not intended for
4 educational, institutional, or high hazard occupancy; or assembly, business, or
5 industrial occupancy in excess of one hundred (100) persons, except churches
6 as stated in this subsection, or for use as a frozen food locker plant as defined
7 in KRS 221.010.

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

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

25 (3) Urban-county governments may determine service districts within their boundaries
26 within which farm dwellings and other farm buildings, not used in the business of
27 retail trade or as a place of regular employment for ten (10) or more people, shall be

1 exempt from the requirements of the Uniform State Building Code. The
2 determination may be reviewed and altered by the department.

3 (4) (a) With the exception of single-family dwellings, the department shall be
4 responsible for the examination and approval or disapproval of plans and
5 specifications for all buildings which are not the responsibility of local
6 governments. The department may issue and revoke permits, licenses,
7 certificates, and similar documents within its area of responsibility, and shall
8 have concurrent jurisdiction with local governments for the inspection of all
9 buildings pursuant to this chapter and the Uniform State Building Code.

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

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

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

23 (5) (a) Any local government may petition the commissioner requesting that
24 additional plan review functions be allocated to that local government. The
25 petition shall include evidence of the local government's capability to perform
26 additional plan review functions.

27 (b) The commissioner, after review of the petition and supporting evidence, may

1 grant or deny to the local government any part of a request for additional
2 responsibility. If the commissioner denies any part of a petition, he or she
3 shall explain his or her reasons for denial in writing, and provide a copy to the
4 local government.

5 (c) A local government may appeal the denial directly to the commissioner, and
6 the department shall review the appeal according to the procedures found in
7 subsections (8) to (10) of KRS 198B.070.

8 (d) If the local government is granted additional responsibility by the
9 commissioner, the department shall hold concurrent jurisdiction over the
10 additional responsibility, but the local government shall collect any fees for
11 functions it performs pursuant to the additional responsibility.

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

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

22 (8) No building shall be constructed in this state until a local building official and an
23 official representing the department, if the department has jurisdiction, issue a
24 permit for the construction. Nothing in this subsection shall require a single-family
25 dwelling to be permitted or inspected unless a local government has established a
26 building inspection program as set out in this section.

27 (9) The local building official or the representative of the department shall issue a

1 permit if the proposed building satisfies the requirements of the Uniform State
2 Building Code and if the party desiring to construct the building has complied with
3 all other legal requirements concerning the location and construction of the
4 building. The applicant for a building permit, by the act of applying for the permit,
5 shall be deemed to have consented to inspection by the local government or the
6 department, of the building during construction and upon the completion of
7 construction for the purpose of determining that the building is constructed in
8 compliance with the Uniform State Building Code.

9 (10) (a) No permit for building, construction, reconstruction, renovation, demolition,
10 or maintenance or for any activity related to building, construction,
11 reconstruction, renovation, demolition, or maintenance shall be issued by any
12 building department or by any political subdivision of the Commonwealth of
13 Kentucky to any person seeking the permit unless the person shall assure, by
14 affidavit, that all contractors and subcontractors employed, or that will be
15 employed, on activity covered by the permit shall be in compliance with
16 Kentucky requirements for workers' compensation insurance according to
17 KRS Chapter 342 and unemployment insurance according to KRS Chapter
18 341.

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

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

- 1 (11) A certified electrical inspector shall be employed by, or contracted for, or
2 contracted with a local government having responsibility over buildings described
3 in this section as part of its building inspection program. After a certified electrical
4 inspector has been provided for by the local government or the department, no
5 utility shall initiate permanent electrical service to any new building, or any
6 building which has been moved, until a final certificate of approval has been issued
7 by a certified electrical inspector. Unless the department shall notify the utility in
8 writing as to which buildings are subject to department approval, it shall be
9 presumed by the utility that the building is subject to the jurisdiction of the local
10 government. However, nothing in this section shall prohibit the supply or use of
11 necessary electrical services during the construction and testing process.
- 12 (12) This section shall apply to industrialized building systems, but destructive
13 disassembly of industrialized building systems which carry a seal of approval
14 pursuant to a manufactured building law in the state in which they were
15 manufactured, which seal of approval is accepted by the department, shall not be
16 performed in order to conduct the tests or inspections.
- 17 (13) No building on which construction was begun nor any industrialized building
18 system on which site preparation and assembly were begun after the Uniform State
19 Building Code became effective shall be occupied until the local building official or
20 a representative of the department issues a certificate of occupancy certifying that
21 the building was constructed in conformance with the standards of the Uniform
22 State Building Code, or assembled or installed in conformance with applicable
23 instructions. Nothing in this subsection shall be construed to require a certificate of
24 occupancy to be issued for any single-family dwelling unless a local government
25 has established jurisdiction for the enforcement of the Uniform State Building Code
26 under this section.
- 27 (14) A local government may associate with other local governments, and may seek the

1 technical assistance of other agencies or area development districts in order to
2 provide for the local enforcement of the Uniform State Building Code.

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

7 (a) The person performing the plans and specifications inspection is certified by
8 the department as having successfully completed the test requirements
9 provided by KRS 198B.090 to practice as a certified plans and specifications
10 inspector;

11 (b) The person performing the building inspection is certified by the department
12 as having successfully completed the test requirements provided in KRS
13 198B.090 to practice as a certified building inspector;

14 (c) 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 (d) The person performing the plumbing inspection is certified by the department
18 as having successfully completed the requirements provided in KRS 318.140
19 to practice as a certified plumbing inspector; and

20 (e) The person, firm, or company does not have a conflict of interest between its
21 plan review or inspection functions and any other employment or business
22 activities.

23 (16) If the department has reason to believe that an inspector is not enforcing, or is
24 improperly enforcing, the provisions of the Kentucky building codes, it shall
25 conduct an informal hearing to review the inspector's procedures and return in
26 written form the required corrections resulting from the hearing to the inspector, or
27 may take action to suspend or revoke the inspector's certificate.

1 (17) If the inspector fails to comply within sixty (60) days of a written notification from
2 the department that specifies the required corrections, the department shall suspend
3 the inspector's certification until the inspector complies. Any action to suspend or
4 revoke an inspector's certificate may be appealed to the department, and upon
5 appeal an administrative hearing shall be conducted in accordance with KRS
6 Chapter 13B.

7 (18) Each local government and the department may establish a schedule of fees for the
8 functions performed under this chapter. The fees shall be designed to fully cover,
9 but shall not exceed, the cost of the service performed. Fees payable to the
10 department shall be paid into the State Treasury and credited to a trust and agency
11 fund to be used by the department in carrying out this chapter. No part of this fund
12 shall revert to the general fund of the Commonwealth.

13 **(19) Notwithstanding any provision of law to the contrary, a person seeking any plan**
14 **review or inspection in accordance with this section may have that plan review or**
15 **inspection performed by a licensed third-party inspector pursuant to Section 5 of**
16 **this Act.**

17 ➔ SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO
18 READ AS FOLLOWS:

19 **(1) For purposes of this section:**

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

21 **(b) "Permit" means:**

22 **1. An authorization required to conduct any construction-related**
23 **activities involving a qualifying property; or**

24 **2. A certificate of occupancy or other similar certification for a**
25 **qualifying property;**

26 **(c) "Qualifying property":**

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

1 2. *Includes buildings with mixed commercial and residential uses;*

2 (d) *"Qualifying third-party inspector" means a third-party inspector that is not:*

3 1. *In any way affiliated with or financially interested in the project to be*
4 *reviewed or inspected; or*

5 2. *An employee of a regulatory authority from which the permit that is*
6 *the subject of an application that is sought;*

7 (e) *"Regulatory authority" means a state or local governmental entity*
8 *enforcing any state code for which a permit is required;*

9 (f) *"Regulatory fee" means any fee, including a permit fee, application fee,*
10 *inspection fee, or any other similar fee, that a regulatory authority requires*
11 *as part of its enforcement of any state code for which a permit is required;*
12 *and*

13 (g) *"Third-party inspector" means:*

14 1. *An architect licensed under KRS Chapter 323;*
15 2. *An engineer licensed under KRS Chapter 322;*
16 3. *An electrical inspector certified under KRS Chapter 227; and*
17 4. *A building inspector, plans and specifications inspector, or plumbing*
18 *inspector certified under KRS 198B.090.*

19 (2) (a) *A regulatory authority shall provide any prospective applicant with a*
20 *schedule of the requirements for applying for and obtaining any permit,*
21 *including:*

22 1. *A list of any plan reviews or inspections that are required by the*
23 *regulatory authority to obtain a permit;*
24 2. *The timelines set forth in this section regarding notification and*
25 *submission of documents;*
26 3. *Any regulatory fees charged by the regulatory authority; and*
27 4. *All other requirements to complete an application for a permit,*

including any prior approvals or permits needed.

(3) (a) After an applicant has submitted an application for a permit, the regulatory authority shall send the applicant a notice indicating whether the application is complete, except for any required plan review or inspection, within three (3) business days of receiving the application. The notice shall contain a statement indicating whether the regulatory authority is able to conduct a plan review and inspection within the time limits established in subsection (4)(a)1. and 2. of this section.

(b) If an applicant is notified that an application for a permit is deficient:

1. The notification shall contain a list of any deficiencies in the application; and

2. The applicant may submit revisions to the application to cure any deficiencies.

(c) A regulatory authority shall send an applicant a notice indicating whether the deficiencies of the application have been cured within three (3) business days of receiving the revisions.

(d) An applicant may resubmit an application for a permit any number of times until the application is deemed complete, except for any required plan review or inspection, and a regulatory authority's responses shall be subject to the three (3) day time limit set out in this subsection.

21 (4) (a) If the regulatory authority notifies an applicant that an application is
22 complete, except for any required plan review or inspection, the regulatory
23 authority shall conduct any required:

1. Plan review within seven (7) business days after the notice is sent; and
2. Inspection within five (5) business days after receiving a written request for the inspection.

(b) 1. An applicant may use a qualifying third-party inspector to perform a

1 plan review or inspection, regardless of whether the regulatory
2 authority is able to perform those activities within the time frames set
3 out in paragraph (a) of this subsection.

4 2. The cost for any plan review or inspection performed by a qualifying
5 third-party inspector shall be at the applicant's own expense.

6 3. A regulatory authority that has notified an applicant under subsection
7 (3)(a) of this section that it cannot meet the deadlines established in
8 paragraph (a)1. and 2. of this subsection:

9 a. Shall refund any fees paid to the regulatory authority associated
10 with the review or inspection if the applicant elects to use a
11 qualifying third-party inspector as authorized in subparagraph 1.
12 of this paragraph; and

13 b. May withhold from the refund an administrative fee not to
14 exceed one hundred dollars (\$100).

15 4. A regulatory authority that has notified an applicant under subsection
16 (3)(a) of this section that it can meet the deadlines established in
17 paragraph (a) of this subsection, but fails to meet those deadlines,
18 shall:

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

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

23 (5) (a) A qualifying third-party inspector may perform any plan review or
24 inspection that is required by a regulatory authority to determine
25 compliance with regulatory requirements and necessary to receive a
26 building permit or certificate of occupancy, including but not limited to
27 inspections of:

- 1 1. Footings;
- 2 2. Foundations;
- 3 3. Concrete slabs;
- 4 4. Framing;
- 5 5. Electrical;
- 6 6. Plumbing;
- 7 7. Heating;
- 8 8. Ventilation; and
- 9 9. Air conditioning.

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

13 (c) A qualifying third-party inspector shall only perform a plan review or
14 inspection that is within the scope of the qualifying third-party inspector's
15 competency.

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

- 18 1. The plans were reviewed or inspection was conducted by the third-
19 party inspector;
- 20 2. The third-party inspector was duly authorized to perform the review or
21 inspection as set out in this section;
- 22 3. The third-party inspector maintains the insurance coverage in
23 accordance with paragraph (g) of this subsection;
- 24 4. The third-party inspector has the appropriate registration or
25 certification, and the plan review or inspection conducted was within
26 the scope of the third-party inspector's competence; and
- 27 5. The plans or subject of the inspection comply with all applicable state

and local requirements.

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

1. The affidavit required in paragraph (d) of this subsection;
2. Any remaining fees; and
3. Any other documents required by the regulatory authority to determine compliance.

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

1. One million dollars (\$1,000,000) per claim; and
2. Two million dollars (\$2,000,000) of aggregate coverage.

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

20 (6) A regulatory authority shall issue a permit or approval to an applicant within one
21 (1) business day following the completion of any required plan review or
22 inspection, including a third-party plan review or inspection that complies with
23 subsection (5) of this section.

24 (7) Any ordinance, rule, or regulation of a regulatory authority that conflicts with
25 *this section is void and unenforceable.*

26 (8) This section shall not be construed to prohibit a regulatory authority from issuing
27 a stop work order if the regulatory authority determines that a condition of a

1 *building project constitutes an immediate threat to public safety and welfare.*

2 *(9) A regulatory authority and any of its agents shall be immune from liability to any*

3 *person for any action or inaction by a qualifying third-party inspector or*

4 *applicant under this section.*