

1 AN ACT relating to ensuring fair permitting and licensing practices.

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 *As used in Sections 1 to 4 of this Act:*

6 *(1) "Administrative hearing" or "hearing" has the same meaning as in KRS*
7 *13B.010;*

8 *(2) "Final order" has the same meaning as in KRS 13B.010;*

9 *(3) "Hearing officer" has the same meaning as in KRS 13B.010; and*

10 *(4) "State agency":*

11 *(a) Means a department, cabinet, office, division, commission, council, board,*
12 *bureau, committee, institution, agency, government corporation, or any*
13 *other entity within the executive branch of state government; and*

14 *(b) Does not include the Department of Kentucky State Police.*

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
16 READ AS FOLLOWS:

17 *(1) Notwithstanding any other law to the contrary, a state agency shall specify in*
18 *clear and unambiguous language the criteria for approval of a license or permit.*

19 *(2) A state agency shall approve or deny an application for a license or permit within*
20 *sixty (60) days if:*

21 *(a) A specific timeline to approve or deny an application for a license or permit*
22 *is not otherwise prescribed by law, administrative regulation, or rule; or*

23 *(b) A law, administrative regulation, or rule is silent or ambiguous on a*
24 *timeline to approve or deny an application for a license or permit.*

25 *(3) If a license or permit is not approved or denied within the timeframe established*
26 *in subsection (2) of this section, the application shall be deemed approved by a*
27 *state agency unless:*

1 (a) The application is materially incomplete and the applicant, after being
2 notified of the deficiency, has failed to correct it; or

3 (b) A state agency issues a written justification for an extension of time within
4 the sixty (60) days that specifies the additional time necessary for making a
5 determination on an application for a license or permit, which shall:

6 1. Not exceed an additional thirty (30) days under any circumstance; and

7 2. Be based upon a substantial and demonstrable interest in protecting
8 public health, safety, or welfare, including but not limited to, permits
9 or licenses involving building safety, fire protection, utilization of
10 public infrastructure, utility capacity, or which require coordination
11 with other state agencies.

12 (4) The determination of what constitutes clear and unambiguous language shall be
13 a judicial question, without deference to a state agency.

14 (5) (a) This section shall not apply to licenses, permits, or other authorizations:

15 1. The criteria or the programs for which are either established by,
16 adopted from, or directly authorized by federal law; or

17 2. That are established by federal law in which authority to determine the
18 criteria for approval of a license, permit, or other authorization has
19 been delegated to a state agency; and

20 (b) The application of this section to a license, permit, or other authorization
21 pursuant to paragraph (a) of this subsection would result in a violation of
22 federal law or a violation of the terms of delegation made pursuant to
23 federal law to the state agency.

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

26 (1) An applicant who has been denied a license or permit may request an
27 administrative hearing to be conducted by the state agency that issued the denial.

1 *The state agency shall conduct the hearing in accordance with this section and*
2 *KRS Chapter 13B or the relevant provision governing administrative hearings for*
3 *that state agency.*

4 *(2) Notwithstanding subsection (1) of this section, in any state agency hearing*
5 *involving an application for a license or permit, a state agency shall have the*
6 *burden of persuasion relating to a state agency's denial of:*

7 *(a) A license or permit; or*

8 *(b) An application or request for modification of a license or permit*
9 *application.*

10 *(3) Notwithstanding subsection (1) of this section, at a state agency hearing involving*
11 *an application for a license or permit, upon the motion of an applicant or the*
12 *state agency and for use as evidence, the hearing officer may permit a deposition*
13 *to be taken, in the manner and on the terms designated by the hearing officer, of*
14 *a witness who cannot be subpoenaed or who is unable to attend the hearing.*

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

17 *(1) An applicant in a state agency hearing involving the denial of a license or permit*
18 *shall be entitled to a speedy and public judicial review of a final order pursuant to*
19 *KRS 13B.140 or the relevant provisions governing judicial review of a final order*
20 *of an administrative hearing for that state agency.*

21 *(2) If requested by an applicant to an action, within thirty (30) days after*
22 *transmission of the original or a certified copy of the official record of the*
23 *proceeding under review pursuant to KRS 13B.140(3), the court shall issue an*
24 *order scheduling a preliminary conference to address any scheduling matters,*
25 *including but not limited to future hearings, status conferences, or any other*
26 *issues pertaining to the application for a license or permit that may need to be*
27 *addressed.*

1 ➔Section 5. This Act takes effect January 1, 2027.