

1 AN ACT relating to civil rights.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 or

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

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

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

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

15 or

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

18 (b) An individual employed by or acting on behalf of any individual or entity
19 described in paragraph (a) of this subsection;~~["Familial status" means one~~
20 ~~(1) or more individuals who have not attained the age of eighteen (18) years~~
21 ~~and are domiciled with:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **homosexuality, or bisexuality; and**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 It is an unlawful practice for a labor organization:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5 (2) Nothing~~[contained]~~ in this chapter shall prohibit:
- 6 (a) Minimum hiring ages otherwise provided by law.
- 7 (b) State compliance with federal regulations.
- 8 (c) Termination of the employment of any person who is unable to perform the
 9 essential functions of the job, with or without reasonable accommodation.
- 10 (d) Any post-job-offer physical or medical examinations of applicants or
 11 employees which an employer requires to determine their ability to perform
 12 the essential functions of the job, with or without reasonable accommodation.
- 13 (e) An employer, labor organization, or employment agency from observing the
 14 terms of a bona fide seniority system or any bona fide employee benefit plan
 15 such as a retirement, pension, or insurance plan which is not a subterfuge to
 16 evade the purposes of this chapter, except that no such employee benefit plan
 17 shall excuse the failure to hire any individual.

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

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

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

26 It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue,
 27 display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a

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

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

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

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

15 The powers and duties of the commission shall be:

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

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

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

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

- 6 (1) To maintain an office in the city of Louisville and other offices within the
7 Commonwealth~~[state]~~ as may be deemed necessary;~~[.]~~
- 8 (2) To meet and exercise its powers at any place within the Commonwealth;~~[.]~~
- 9 (3) Within the limitations provided by law, to appoint an executive director, attorneys,
10 hearing examiners, clerks, and other employees and agents as it may deem
11 necessary. At the direction of the commission, attorneys appointed under this
12 section may appear for and represent the commission in any court. The commission
13 may, by written order, delegate the authority given by this subsection to its
14 executive director, except as that authority relates to the appointment of its
15 executive director;~~[.]~~
- 16 (4) To promote the creation of local commissions on human rights, to cooperate with
17 state, local, and other agencies, both public and private, and individuals, and to
18 obtain upon request and utilize the services of all governmental departments and
19 agencies;~~[.]~~
- 20 (5) To cooperate with the~~[United States]~~ Equal Employment Opportunity Commission,
21 created by~~[Section 705 of]~~ the Civil Rights Act of 1964, Pub. L. No. 88-352~~[(78~~
22 ~~Stat. 241)]~~, in order to achieve the purposes of that act, and with other federal and
23 local agencies in order to achieve the purposes of that act, and with other federal
24 and local agencies in order to achieve the purposes of this chapter;~~[.]~~
- 25 (6) To accept gifts or bequests, grants, or other payments, public or private, to help
26 finance its activities;~~[.]~~
- 27 (7) To accept reimbursement pursuant to Section 709(b) of the Civil Rights Act of

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

1 Members of these agencies~~[such committees]~~ shall serve without pay but
 2 shall be reimbursed for expenses incurred in such service. The commission
 3 may make provision for technical and clerical assistance to the
 4 agencies~~;~~~~[committees.]~~

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

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

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

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

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

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

27 Any city,~~[-or]~~ county, urban-county, consolidated local, unified local, or charter county

1 government, or one (1) or more of those local governments~~[cities and counties]~~ acting
 2 jointly, may create a local~~[human rights]~~ commission~~[(hereinafter a "local~~
 3 ~~commission")]~~:

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

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

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

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

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

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

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

27 (d)~~[(4)]~~ To refuse to negotiate for the sale, rental, or lease of real property to any

1 person because of race, color, religion, sex, *sexual orientation, gender*
2 *identity*, familial status, disability, or national origin;

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

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

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

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

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

- 1 1. ~~[(a)]~~ That buyer or renter;
- 2 2. ~~[(b)]~~ A person residing in or intending to reside in that housing
- 3 accommodation after it is so sold, rented, or made available; or
- 4 3. ~~[(c)]~~ Any person associated with that buyer or renter; or
- 5 (j)~~[(10)]~~ To discriminate against any person in the terms, conditions, or privileges
- 6 of sale or rental of a dwelling, or in the provision of services or facilities in
- 7 connection with such housing accommodation, because of a disability of:
- 8 1. ~~[(a)]~~ That person;~~[-or]~~
- 9 2. ~~[(b)]~~ A person residing in or intending to reside in that housing
- 10 accommodation after it is sold, rented, or made available; or
- 11 3. ~~[(c)]~~ Any person associated with that person.

12 (2)~~[(11)]~~ For purposes of this section, discrimination includes:

- 13 (a) A refusal to permit, at the expense of the disabled person, reasonable
- 14 modifications of existing premises occupied or to be occupied by a person, if
- 15 the modifications may be necessary to afford the person full enjoyment of the
- 16 premises; except that, in the case of a rental, the landlord may, where it is
- 17 reasonable to do so, condition permission for a modification on the renter
- 18 agreeing to restore the interior of the premises to the condition that existed
- 19 before the modification, reasonable wear and tear excepted;~~[-]~~
- 20 (b) A refusal to make reasonable accommodations in rules, policies, practices, or
- 21 services, when the accommodations may be necessary to afford the person
- 22 equal opportunity to use and enjoy a housing accommodation; or
- 23 (c) In connection with the design and construction of covered multifamily
- 24 housing accommodations for first occupancy after January 1, 1993, a failure
- 25 to design and construct those housing accommodations in a manner ensuring
- 26 that they have at least one (1) entrance on an accessible route unless
- 27 impractical to do so because of the terrain or unusual characteristics of the

1 site. Housing accommodations with a building entrance on an accessible route
2 shall comply with the following requirements:

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

18 ~~(3)~~~~(12)~~ Compliance with the appropriate requirements of the American National
19 Standard for buildings and facilities providing accessibility and usability for
20 physically disabled persons, ~~{commonly cited as "ANSI A117.1 - 1986."}~~
21 suffices to satisfy the requirements of subsection ~~(2)~~~~(11)~~(c)3. of this section.

22 ~~(4)~~~~(13)~~ As used in subsection ~~(2)~~~~(11)~~ of this section, the term "covered multifamily
23 housing accommodation" means:

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

27 ~~(5)~~~~(14)~~ Nothing in this section requires that a housing accommodation be made

1 available to an individual whose tenancy would constitute a direct threat to the
2 health or safety of other individuals or whose tenancy would result in substantial
3 physical damage to the property of others.

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

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

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

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

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

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

26 (3) To discriminate by refusing to give full recognition, because of sex, to the income
27 of each spouse or the total income and expenses of both spouses where both

1 spouses become or are prepared to become joint or several obligors in real estate
2 transactions~~]; or~~

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

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

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

8 ~~2. Secured by real estate.~~

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

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

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

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

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

25 (3) To induce or attempt to induce any person to sell or rent any dwelling by
26 representations regarding the entry or prospective entry into the neighborhood of a
27 person or persons of a particular race, color, religion, sex, sexual orientation,

1 **gender identity**, disability, familial status, or national origin.

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

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

7 (a) Deny credit to any person;

8 (b) Increase the charges or fees for or collateral required to secure any credit
9 extended to any person;

10 (c) Restrict the amount or use of credit extended or impose different terms or
11 conditions with respect to the credit extended to any person or any item or
12 service related thereto; **or**

13 (d) Attempt to do any of the unlawful practices defined in this section.

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

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

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

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

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

- 1 (1) A classified employee with status shall not be dismissed, demoted, suspended, or
2 otherwise penalized except for cause.
- 3 (2) Prior to dismissal, a classified employee with status shall be notified in writing of
4 the intent to dismiss the individual~~[him]~~. The notice shall also state:
- 5 (a) The specific reasons for dismissal including:
- 6 1. The statutory or regulatory violation;
- 7 2. The specific action or activity on which the intent to dismiss is based;
- 8 3. The date, time, and place of such action or activity; and
- 9 4. The name of the parties involved;
- 10 (b) That the employee has the right to appear personally, or with counsel if the
11 employee~~[he]~~ has retained counsel, to reply to the head of the cabinet or
12 agency or the cabinet's or agency's~~[his]~~ designee; and
- 13 (c) Whether the employee is placed on administrative leave by the appointing
14 authority with pay upon receiving the intent to dismiss letter prior to the
15 agency's final action.
- 16 (3) The Personnel Cabinet shall prescribe and distribute a form to be completed and
17 forwarded by an employee who wishes to appear before the head of the cabinet or
18 agency or the cabinet's or agency's~~[his]~~ designee, to each appointing authority. The
19 form shall be attached to every notice of intent to dismiss and shall contain written
20 instructions explaining:
- 21 (a) The right granted an employee under the provisions of this section relating to
22 pretermination hearings; and
- 23 (b) The time limits and procedures to be followed by all parties in pretermination
24 hearings.
- 25 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,
26 excluding the day the employee~~[he]~~ receives the notice, the employee may request
27 to appear, personally or with counsel if the employee~~[he]~~ has retained counsel, to

1 reply to the head of the cabinet or agency or the cabinet's or agency's^[his]
2 designee.

3 (5) Unless waived by the employee, the appearance shall be scheduled within six (6)
4 working days after receipt of an employee's request to appear before the head of the
5 cabinet or agency or the cabinet's or agency's^[his] designee, excluding the day the
6 employee's^[his] request is received.

7 (6) No later than five (5) working days after the employee appears before the head of
8 the cabinet or agency or the cabinet's or agency's^[his] designee, excluding the day
9 of the appearance, the cabinet head or agency or the cabinet's or agency's^[his]
10 designee shall:

11 (a) Determine whether to dismiss the employee or to alter, modify, or rescind the
12 intent to dismiss; and

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

14 (7) If the cabinet or agency head or the cabinet's or agency's^[his] designee determines
15 that the employee shall be dismissed or otherwise penalized, the employee shall be
16 notified in writing of:

17 (a) The effective date of the employee's^[his] dismissal or other penalization;

18 (b) The specific reason for this action, including:

19 1. The statutory or regulatory violation;

20 2. The specific action or activity on which the dismissal or other
21 penalization is based;

22 3. The date, time, and place of the action or activity; and

23 4. The name of the parties involved; and

24 (c) That the employee^[he] may appeal the dismissal or other penalization to the
25 board within sixty (60) days after receipt of this notification, excluding the
26 day the employee^[he] receives notice.

27 (8) A classified employee with status who is demoted, suspended, or otherwise

- 1 penalized shall be notified in writing of:
- 2 (a) The demotion, suspension, or other penalization;
- 3 (b) The effective date of the demotion, suspension, or other penalization;
- 4 (c) The specific reason for the action including:
- 5 1. The statutory or regulatory violation;
- 6 2. The specific action or activity on which the demotion, suspension, or
- 7 other penalization is based;
- 8 3. The date, time, and place of the action or activity; and
- 9 4. The name of the parties involved; and
- 10 (d) That the employee~~[he or she]~~ has the right to appeal to the board within sixty
- 11 (60) days, excluding the day that the employee~~[he or she]~~ received
- 12 notification of the personnel action.
- 13 (9) Any unclassified employee who is dismissed, demoted, suspended, or otherwise
- 14 penalized for cause may, within thirty (30) days after the dismissal, demotion,
- 15 suspension, or other form of penalization, appeal to the board for review thereof.
- 16 (10) (a) An employee whose position is reallocated shall be notified in writing by the
- 17 appointing authority of:
- 18 1. The reallocation; and
- 19 2. The employee's~~[His]~~ right to request reconsideration by the secretary
- 20 within ten (10) working days of receipt of the notice, excluding the day
- 21 the employee~~[he]~~ receives notification.
- 22 (b) The employee~~[He]~~ shall be provided with a form prescribed by the secretary
- 23 on which to request reconsideration.
- 24 (c) The employee shall file a written request for reconsideration of the
- 25 reallocation of the employee's~~[his]~~ position with the secretary in a manner and
- 26 form prescribed by the secretary and shall be given a reasonable opportunity
- 27 to be heard thereon by the secretary. The secretary shall make a determination

1 within sixty (60) days after the request has been filed by an employee. After
2 reconsideration of the request by the secretary, the employee may appeal to
3 the board.

4 (11) Any state employee, applicant for employment, or eligible on a register may appeal
5 to the board on the grounds that the employee's~~his~~ right to inspect or copy
6 records, including preliminary and other supporting documentation, relating to the
7 employee~~him~~ has been denied, abridged, or impeded by a public agency. The
8 board shall conduct a hearing to determine whether the records related to the
9 employee, applicant, or eligible, and whether the employee's~~his~~ right to inspect or
10 copy these records was denied, abridged, or impeded. If the board determines that
11 the records related to the employee and that the right to inspect or copy these
12 records has been denied, abridged, or impeded, the board shall order the public
13 agency to make them available for inspection and copying and shall charge the cost
14 of the hearing to the public agency. A state employee, an applicant for employment,
15 and an eligible on a register shall not have the right to inspect or to copy any
16 examination materials.

17 (12) Any classified employee may appeal to the board an action alleged to be based on
18 discrimination due to race, color, religion, national origin, sex, sexual orientation,
19 gender identity, disability, or age forty (40) and above. Nothing in this section shall
20 be construed to preclude any classified or unclassified employee from filing with
21 the Kentucky Commission on Human Rights a complaint alleging discrimination on
22 the basis of race, color, religion, national origin, sex, sexual orientation, gender
23 identity, disability, or age in accordance with KRS Chapter 344.

24 (13) When an eligible's name is removed from a register, the secretary shall notify the
25 eligible of the secretary's~~his~~ action and the reasons therefor, together with the
26 employee's~~his~~ right of appeal. An eligible's name shall be restored to the register
27 upon presentation of reasons satisfactory to the secretary or in accordance with the

1 decision of the board.

2 (14) (a) Any employee, applicant for employment, or eligible on a register, who
3 feels~~[believes that he has been]~~ discriminated against, may appeal to the
4 board.

5 (b) Any applicant whose application for admission to an open-competitive
6 examination has been rejected shall be notified of this rejection and the
7 reasons therefor and may appeal to the board for reconsideration of the
8 applicant's~~[his]~~ qualifications and for admission to the examination.
9 Applicants may be conditionally admitted to an examination by the secretary
10 pending reconsideration by the board.

11 (c) Any applicant who has taken an examination may appeal to the board for a
12 review of the applicant's~~[his]~~ rating in any part of the examination to assure
13 that uniform rating procedures have been applied equally and fairly.

14 (d) An appeal to the board by applicants or eligibles under subsections (11) and
15 (13) of this section and under this subsection shall be filed in writing with the
16 executive director not later than thirty (30) calendar days after the notification
17 of the action in question was mailed.

18 (15) An evaluation may be appealed to the board if an employee has complied with the
19 review procedure established in KRS 18A.110(7)(j).

20 (16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the
21 board. Appeal forms shall be available at the employee's place of work. The
22 Personnel Cabinet shall be responsible for the distribution of these forms.

23 (b) The appeal form shall be attached to any notice, or copy of any notice, of
24 dismissal, demotion, suspension, fine, involuntary transfer, or other
25 penalization, reallocation, or notice of any other action an employee may
26 appeal under the provisions of this section. The appeal form shall instruct the
27 employee to state:

- 1 1. Whether ***the employee***~~[he]~~ is ~~[a]~~ classified or unclassified ~~;~~~~[employee,]~~
- 2 2. ***The employee's***~~[his]~~ full name;~~;~~~~[,]~~
- 3 3. ***The employee's***~~[his]~~ appointing authority;~~;~~~~[,]~~
- 4 4. ***The employee's*** work station address and telephone number;~~;~~~~[,]~~ and~~;~~~~[,]~~
- 5 5. ~~[If he has retained counsel at the time he files an appeal,]~~The name,
- 6 address, and telephone number of ***the employee's***~~[his]~~ attorney ***if one***
- 7 ***has been retained at the time the employee files an appeal.***

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

9 ***employee***~~[he]~~ is appealing in a short, plain, concise statement of the facts. The

10 form shall instruct an unclassified employee to make a short, plain, concise

11 statement of the reason for the appeal and the cause given for ***the***

12 ***employee's***~~[his]~~ dismissal.

13 (d) Upon receipt of the appeal by the board, the appointing authority and the

14 Personnel Cabinet shall be notified and the board shall schedule a hearing.

15 (17) All administrative hearings conducted by the board shall be conducted in

16 accordance with KRS Chapter 13B.

17 (18) (a) The board may deny a hearing to an employee who has failed to file an appeal

18 within the time prescribed by this section; and to an unclassified employee

19 who has failed to state the reasons for the appeal and the cause for which ***the***

20 ***employee***~~[he]~~ has been dismissed. The board may deny any appeal after a

21 preliminary hearing if it lacks jurisdiction to grant relief. The board shall

22 notify the employee of its denial in writing and shall inform the employee of

23 ***the employee's***~~[his]~~ right to appeal the denial under the provisions of KRS

24 18A.100.

25 (b) Any investigation by the board of any matter related to an appeal filed by an

26 employee shall be conducted only upon notice to the employee, the

27 employee's counsel, and the appointing authority. All parties to the appeal

1 shall have access to information produced by the investigations and the
2 information shall be presented at the hearing.

3 (19) Each appeal shall be decided individually, unless otherwise agreed by the parties
4 and the board. The board shall not:

5 (a) Employ class action procedures; or

6 (b) Conduct test representative cases.

7 (20) Board members shall abstain from public comment about a pending or impending
8 proceeding before the board. This shall not prohibit board members from making
9 public statements in the course of their official duties or from explaining for public
10 information the procedures of the board.

11 (21) An appeal to the board may be heard by the full board or one (1) or more of the
12 following: Its executive director, its general counsel, any nonelected member of the
13 board, or any hearing officer secured by the board pursuant to KRS 13B.030.

14 (22) (a) If the board finds that the action complained of was taken by the appointing
15 authority in violation of laws prohibiting favor for, or discrimination against,
16 or bias with respect to, the employee's~~his~~ political or religious opinions or
17 affiliations or ethnic origin, or in violation of laws prohibiting discrimination
18 because of such individual's sex or age or disability, the appointing authority
19 shall immediately reinstate the employee to his former position or a position
20 of like status and pay, without loss of pay for the period of the
21 employee's~~his~~ penalization, or otherwise make the employee whole unless
22 the order is stayed by the board or the court on appeal.

23 (b) If the board finds that the action complained of was taken without just cause,
24 the board shall order the immediate reinstatement of the employee to the
25 employee's~~his~~ former position or a position of like status and pay, without
26 loss of pay for the period of the~~his~~ penalization, or otherwise make the
27 employee whole unless the order is stayed by the board or the court on appeal.

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

1 ~~site~~] and shall organize the decisions according to the statutory basis for which the
2 appeal was based.

3 (28) For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the
4 word "agency" means any agency not assigned to a cabinet for organizational
5 purposes.

6 (29) Notwithstanding any other prescribed limitation of action, an employee that has
7 been penalized, but has not received a written notice of ~~the~~his or her right to
8 appeal as provided in this section, shall file ~~an~~his or her appeal with the Personnel
9 Board within one (1) year from the date of the penalization or from the date that the
10 employee reasonably should have known of the penalization.