

198B.030 Department of Housing, Buildings and Construction -- Comments from boards and advisory committees to be received before promulgating administrative regulations.

- (1) There is hereby created the Kentucky Department of Housing, Buildings and Construction within the Public Protection Cabinet. The Governor shall appoint a commissioner to head the department. The commissioner shall receive for his or her services such compensation as the Governor shall determine.
- (2) The commissioner may employ sufficient staff to carry out the functions of the commissioner's office. Neither the commissioner nor any member of his or her staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the Department of Housing, Buildings and Construction.
- (3) The department shall serve as staff for the board of housing, buildings and construction as established by this chapter, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him or her by the Governor or secretary, or prescribed for the commissioner by law. The department or commissioner shall submit any proposed administrative regulation to the board and shall not promulgate the administrative regulation without giving the board the opportunity to produce written comments, as required by subsection (8) of this section. If the board chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.
- (4) The department may enter into contracts or agreements with the federal government, its subdivisions and instrumentalities, other agencies of state government or with its subdivisions and instrumentalities, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.
- (5) Subject to the direction of the board of housing, buildings and construction, the commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.
- (6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.
- (7) The commissioner is authorized to receive, for and on behalf of the state, the department, and the board of housing, buildings and construction, from the United

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

- (8) (a) If the department has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with the department, the department shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (b) of this subsection.
- (b) 1. If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (a) of this subsection, the department shall distribute the proposed administrative regulation to the board or advisory committee.
2. The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.
3. The time limits in this paragraph shall begin from the day the department submits the regulatory change and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.
4. If a board or advisory committee is not scheduled to meet or meets only at the call of the department, the department shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the department may proceed with the administrative changes at its discretion.
- (c) To the extent that any other statute relating to the department's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.
- (d) If a board or advisory committee chooses to produce written comments, those comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.

- (e) The rights and privileges enumerated in this subsection that apply to boards and advisory committees shall also be granted to the Kentucky Board of Housing, Buildings and Construction.
- (9) Any power or limitation relating to administrative regulations promulgated by the department that are subject to subsection (8) of this section shall also apply to administrative regulations promulgated by the commissioner of the department.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 1, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 24, sec. 247, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 167, sec. 1, effective July 12, 2006; and ch. 256, sec. 2, effective July 12, 2006. -- Amended 2004 Ky. Acts ch. 109, sec. 28, effective July 13, 2004. -- Created 1978 Ky. Acts ch. 117, sec. 3, effective June 17, 1978.

Legislative Research Commission Note. Acts 1978, ch. 155, sec. 126 (KRS 227.205) created the department of housing, buildings and construction, while Acts 1978, ch. 117, sec. 3 (KRS 198B.030) created the department of buildings, housing and construction. Since Acts 1978, ch. 155, sec. 126 was the later enactment, it prevails.