GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 422

MONDAY, MARCH 21, 2016

The following bill was reported to the Senate from the House and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to local code enforcement.

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

3 ➔Section 1. KRS 65.8805 is amended to read as follows:

4 As used in KRS 65.8801 to 65.8839, unless the context otherwise requires:

5 (1) "Local government" means any county, ***consolidated local government,***[~~any~~
6 ~~municipal corporation of any class incorporated in the Commonwealth, any~~] urban-
7 county government[~~ organized and governed under KRS Chapter 67A~~], [~~and any~~
8]charter county government***, unified local government, or city of any class***
9 [~~organized and governed under KRS Chapter 67~~].

10 (2) "Code enforcement board" means an administrative body created and acting under
11 the authority of KRS 65.8801 to 65.8839.

12 (3) "Joint code enforcement board" means two (2) or more local governments that have
13 entered into an interlocal agreement in accordance with KRS 65.210 to 65.300 to
14 perform and enforce the duties of a code enforcement board as provided in KRS
15 65.8801 to 65.8839.

16 (4) "Code enforcement officer" means a city police officer, safety officer, citation
17 officer, county police officer, sheriff, deputy sheriff, university police officer,
18 airport police officer, or other public law enforcement officer with the authority to
19 issue a citation.

20 (5) "Ordinance" means an official action of a local government body, which is a
21 regulation of a general and permanent nature and enforceable as a local law and
22 shall include any provision of a code of ordinances adopted by a local government
23 which embodies all or part of an ordinance.

24 ***(6) "Imminent danger" means a condition which is likely to cause serious or life-***
25 ***threatening injury or death at any time.***

26 ***(7) "Abatement costs" means a local government's necessary and reasonable costs***
27 ***for and associated with clearing, preventing unauthorized entry to, or***

1 *demolishing all or a portion of a structure or premises, or taking any other action*
2 *with regard to a structure or premises necessary to remedy a violation and to*
3 *maintain and preserve the public health, safety, and welfare in accordance with*
4 *any local government ordinance.*
5 *(8) "Final order" means any order:*
6 *(a) Issued by the code enforcement board in accordance with subsection (4) or*
7 *(6) of Section 8 of this Act;*
8 *(b) Issued by an assigned hearing officer in accordance with subsection (7) of*
9 *Section 5 of this Act and that is not appealed to the code enforcement board*
10 *as provided in subsection (6) of Section 8 of this Act;*
11 *(c) Created because a violator neither paid nor contested the citation within*
12 *seven (7) days as provided in subsection (6) of Section 7 of this Act;*
13 *(d) Created because of a failure of a violator to appear at a hearing the violator*
14 *requested to contest the citation as provided in subsection (1) of Section 8 of*
15 *this Act.*
16 *(9) "Owner" means a person, association, corporation, partnership, or other legal*
17 *entity having a legal or equitable title in real property.*
18 *(10) "Premises" means a lot, plot, or parcel of land, including any structures upon it.*
19 ➔Section 2. KRS 65.8808 is amended to read as follows:
20 (1) The legislative body of a local government may, by ordinance, create a code
21 enforcement board which shall have the power to issue remedial orders and impose
22 civil fines as a method of enforcing a local government ordinance when a violation
23 of the ordinance has been classified as a civil offense in accordance with this
24 section. Any local government may expand its code enforcement board to include
25 additional cities or counties within its jurisdiction for performing the function for
26 which the code enforcement board was organized.
27 (2) Subject to the limitations set forth in subsection (3) of this section, the legislative

1 body of a local government may ***utilize a code enforcement board***[~~elect~~] to enforce
2 any ordinance of the local government, including ***but not limited to,*** any zoning ***or***
3 ***nuisance*** ordinance.[~~ or regulation, by classifying a violation of the ordinance as a~~
4 ~~civil offense and establishing civil fines which may be imposed on any person who~~
5 ~~commits a violation of the ordinance. If a local government elects to enforce an~~
6 ~~ordinance as a civil offense,~~] ***Each ordinance to be enforced by a code***
7 ***enforcement board,***[~~the ordinance,~~] by its express terms, shall provide[~~:~~
8 ~~(a)~~] that ***each***[~~a~~] violation of the ordinance ***shall constitute***[~~is~~] a civil offense.[~~;~~
9] ***The ordinance shall provide either:***
10 ***(a)***[~~(b)~~] A ***specific***[~~maximum~~] civil fine ***or fines*** that may be imposed for each
11 violation of the ordinance; ***or***[~~and~~]
12 ***(b)***[~~(c)~~] ***Two (2) separate civil fines as follows:***
13 ***1. A maximum civil fine that may be imposed for each offense if the***
14 ***citation is contested under subsection (6) of Section 7 of this Act; and***
15 ***2.*** A specific civil fine of less than the maximum civil fine that will be
16 imposed for each offense if the person who has committed the offense
17 does not contest the citation.
18 (3) No legislative body of a local government shall classify the violation of an
19 ordinance as a civil offense if the same conduct that is regulated by the ordinance
20 would also***, under any provision of the Kentucky Revised Statutes,*** constitute a
21 criminal offense or a moving motor vehicle offense[~~ under any provision of the~~
22 ~~Kentucky Revised Statutes~~].
23 ➔Section 3. KRS 65.8811 is amended to read as follows:
24 (1) (a) A code enforcement board shall consist of no fewer than three (3) members
25 who shall be appointed by the executive authority of the local government,
26 subject to the approval of the legislative body.
27 (b) A joint code enforcement board shall include representation on the board of

all participating local governments and members shall be appointed as set out in the terms of the interlocal agreement.

(2) The initial appointments to a code enforcement board shall be as follows:

(a) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;

(b) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of two (2) years; and

(c) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of three (3) years.

All subsequent appointments shall be made for a term of three (3) years.

(3) (a) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

(b) Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

(4) A member may be reappointed, subject to approval of the legislative body.

(5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled~~[by the executive authority]~~ within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(6) Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing

1 authority who exercises the power to remove a member of a code enforcement
2 board shall submit a written statement to the member and to the legislative body of
3 the local government setting forth the reasons for removal. The member so removed
4 shall have the right of appeal to the Circuit Court.
5 (7) All members of a code enforcement board shall, before entering upon their duties,
6 take the oath of office prescribed by Section 228 of the Constitution of the
7 Commonwealth of Kentucky.
8 (8) The members of a code enforcement board may be reimbursed for expenses or
9 compensated, or both, as specified in the ordinance creating the board.
10 (9) No member of a local government code enforcement board shall hold any elected or
11 appointed office, whether paid or unpaid, or any position of employment with the
12 unit of local government that has created the code enforcement board.
13 (10) Each legislative body that elects to establish a code enforcement board is
14 encouraged to provide opportunities for education regarding pertinent topics for the
15 members of the code enforcement board.
16 ➔Section 4. KRS 65.8815 is amended to read as follows:
17 (1) The board shall, upon the initial appointment of its members, and annually
18 thereafter, elect a chair from among its members, who shall be the presiding officer
19 and a full voting member of the board. In the absence of the chair, the remaining
20 members of the board shall select one (1) of their number to preside in place of the
21 chair and exercise the powers of the chair.
22 (2) ***Regular*** meetings of the code enforcement board shall be held as specified in the
23 ordinance creating the board. ***A code enforcement board shall be authorized to***
24 ***conduct special or emergency meetings in accordance with KRS 61.805 to 61.850.***
25 (3) The presence of at least a majority of the board's entire membership shall constitute
26 a quorum. The affirmative vote of a majority of the members constituting a quorum
27 shall be necessary for any official action to be taken. Any member of a code

1 enforcement board who has any direct or indirect financial or personal interest in
2 any matter to be decided shall disclose the nature of the interest and shall disqualify
3 himself from voting on the matter and shall not be counted for purposes of
4 establishing a quorum.
5 (4) Minutes shall be kept for all proceedings of the code enforcement board and the
6 vote of each member on any issue decided by the board shall be recorded in the
7 minutes.
8 (5) All meetings and hearings of the code enforcement board shall be open to the
9 public.
10 (6) The local government legislative body shall provide clerical and administrative
11 personnel[~~ as reasonably required by its code enforcement board~~] for the proper
12 conduct of ***the duties of the code enforcement board***[~~its duties~~].
13 ➔SECTION 5. A NEW SECTION OF KRS 65.8801 TO 65.8839 IS CREATED
14 TO READ AS FOLLOWS:
15 ***(1) A code enforcement board may assign a hearing officer as provided by ordinance***
16 ***to conduct hearings in accordance with the procedures set forth in Section 8 of***
17 ***this Act.***
18 ***(2) (a) Any member of the code enforcement board, including the chair, may be***
19 ***assigned as a hearing officer.***
20 ***(b) An individual that is not a member of the code enforcement board may be***
21 ***assigned by the code enforcement board as a hearing officer as long as the***
22 ***individual does not hold any elected or appointed office or position of***
23 ***employment with a unit of local government that created the code***
24 ***enforcement board.***
25 ***(3) Any person assigned to be a hearing officer by a code enforcement board shall***
26 ***have experience or shall have received training in the code enforcement process***
27 ***and basic procedural due process, as specified in the ordinance creating the code***

1 *enforcement board. The experience or training shall include, at a minimum,*
2 *acquired knowledge regarding a party's fundamental due process right to:*
3 *(a) Be accompanied and advised by counsel at the hearing;*
4 *(b) Present evidence and witnesses on his or her behalf at the hearing;*
5 *(c) Examine the evidence opposing the party; and*
6 *(d) Confront and cross-examine the witnesses opposing the party.*
7 *(4) An assigned hearing officer may administer oaths to witnesses prior to their*
8 *testimony and subpoena alleged violators, witnesses, and evidence to the hearing*
9 *to which the officer is assigned.*
10 *(5) Any hearing conducted by a hearing officer under this section shall conform to*
11 *the procedural requirements of subsections (1) to (5) of Section 8 of this Act.*
12 *(6) The hearing officer shall make written findings of fact, conclusions of law, and a*
13 *recommended order for consideration by the code enforcement board. The*
14 *hearing officer shall, within twenty-four (24) hours of entry, forward these*
15 *findings, conclusions, and recommended order to the alleged violator in the*
16 *manner required by subsection (5) of Section 8 of this Act and to the code*
17 *enforcement board for its action under Section 8 of this Act.*
18 *(7) (a) In lieu of subsection (6) of this section, a local government may provide in*
19 *the ordinance establishing the code enforcement board that a hearing*
20 *officer shall make written findings of facts and conclusions of law, and*
21 *enter final orders consistent with the authority granted to the code*
22 *enforcement board under subsection (4) of Section 8 of this Act.*
23 *(b) The findings of fact, conclusions of law, and final order shall be forwarded*
24 *within twenty-four (24) hours of entry to the alleged violator in the manner*
25 *required by subsection (5) of Section 8 of this Act and to the code*
26 *enforcement board.*
27 *(c) For appeals of a final order of a hearing officer issued under this*

1 ***subsection, the local government shall designate in the ordinance***
2 ***governing the operation of the code enforcement board that either:***
3 ***1. A final order issued by a hearing officer under this subsection may be***
4 ***appealed by the alleged violator to the code enforcement board in***
5 ***accordance with terms specified in the ordinance governing the***
6 ***operation of the code enforcement board. If the local government***
7 ***provides appeals to the code enforcement board, the appeal shall be***
8 ***filed in writing to the code enforcement board within seven (7) days of***
9 ***the receipt of the final order. The failure to file an appeal within seven***
10 ***(7) days shall render the order entered by the hearing officer final for***
11 ***all purposes and an individual receiving a final order under this***
12 ***subparagraph shall be required to exhaust the administrative remedy***
13 ***of appeal to the code enforcement board before appealing to District***
14 ***Court as authorized under Section 9 of this Act; or***
15 ***2. A final order issued by a hearing officer under this subsection may be***
16 ***appealed by the alleged violator directly to District Court, in***
17 ***accordance with the provisions of Section 9 of this Act.***
18 ➔Section 6. KRS 65.8821 is amended to read as follows:
19 Each code enforcement board shall have the power to:
20 (1) Adopt rules and regulations to govern its operation and the conduct of its hearings
21 that are consistent with the requirements of KRS 65.8801 to 65.8839 and
22 ordinances of the local government or local governments creating the board.
23 (2) Conduct hearings, or assign a hearing officer to conduct a hearing, to determine
24 whether there has been a violation of any local government ordinance that the board
25 has jurisdiction to enforce.~~[Any member of the code enforcement board, including~~
26 ~~the chairman, may be assigned to conduct hearings on behalf of the board. All~~
27 ~~hearing officers, including members of a code enforcement board who serve as~~

1 ~~hearing officers, shall receive training related to the conduct of administrative~~
2 ~~hearings in accordance with procedures set out in KRS 13B.080.]~~
3 (3) Subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas
4 issued by the board***, or an assigned hearing officer,*** may be served by any code
5 enforcement officer.
6 (4) Take testimony under oath. The chairman of the board, or an assigned hearing
7 officer, shall have the authority to administer oaths to witnesses prior to their
8 testimony before the board on any matter.
9 (5) Make findings and issue orders that are necessary to remedy any violation of a local
10 government ordinance that the board has jurisdiction to enforce.
11 (6) Impose civil fines as authorized by ordinance on any person found to have violated
12 any ordinance that the board has jurisdiction to enforce.
13 ➔Section 7. KRS 65.8825 is amended to read as follows:
14 (1) Enforcement proceedings before a code enforcement board ***or hearing officer*** shall
15 be initiated by the issuance of a citation by a code enforcement officer.
16 (2) When a code enforcement officer, based upon personal observation or investigation,
17 has reasonable cause to believe that a person has committed a violation of a local
18 government ordinance, the officer is authorized to issue a citation by:
19 (a) Personal service to the alleged violator;
20 (b) Leaving a copy of the citation with any person eighteen (18) years of age or
21 older who is on the premises, if the alleged violator is not on the premises at
22 the time the citation is issued; or
23 (c) Posting a copy of the citation in a conspicuous place on the premises and
24 mailing a copy of the citation by regular, first-class mail of the United States
25 Postal Service to the owner of record of the property if no one is on the
26 premises at the time the citation is issued.
27 ***(3)*** When authorized by ordinance, a code enforcement officer may, in lieu of

1 immediately issuing a citation, give notice that a violation shall be remedied within
2 a specified period of time. If the person to whom the notice is given fails or refuses
3 to remedy the violation within the time specified, the code enforcement officer is
4 authorized to issue a citation.

5 ***(4)***[~~(3)~~] The citation issued by the code enforcement officer shall be in a form
6 prescribed by the local government and shall contain, in addition to any other
7 information required by ordinance or rule of the board:

8 (a) The date and time of issuance;

9 (b) The name and address of the person to whom the citation is issued;

10 (c) The date and time the offense was committed;

11 (d) The facts constituting the offense;

12 (e) The section of the code or the number of the ordinance violated;

13 (f) The name of the code enforcement officer;

14 (g) The civil fine that will be imposed for the violation if the person does not
15 contest the citation ***if the local government has elected to use the alternative***
16 ***authorized under subsection (2)(b) of Section 2 of this Act***;

17 (h) The maximum civil fine that may be imposed if the person elects to contest
18 the citation;

19 (i) The procedure for the person to follow in order to pay the civil fine or to
20 contest the citation; and

21 (j) A statement that if the person fails to pay the civil fine set forth in the citation
22 or contest the citation, within the time allowed, the person shall be deemed to
23 have waived the right to a hearing before the code enforcement board ***or***
24 ***hearing officer*** to contest the citation and that the determination that a
25 violation was committed shall be final***, and the alleged violator shall be***
26 ***deemed to have waived the right to appeal the final order to District Court***.

27 ***(5)***[~~(4)~~] After issuing a citation to an alleged violator, the code enforcement officer

1 shall notify the code enforcement board by delivering the citation to the
2 administrative official designated by ordinance or by the board. ***The code***
3 ***enforcement officer, hearing officer, or code enforcement board may also elect to***
4 ***provide notice of the issuance of the citation to any lienholder with an interest in***
5 ***the subject premises.***
6 ***(6)***~~[(5)]~~ When a citation is issued, the person to whom the citation is issued shall
7 respond to the citation within seven (7) days of the date the citation is issued by
8 either paying the civil fine set forth in the citation or requesting, in writing, a
9 hearing ~~[before the code enforcement board]~~to contest the citation. If the person
10 fails to respond to the citation within seven (7) days, the person shall be deemed to
11 have waived the right to a hearing to contest the citation and the determination that
12 a violation was committed shall be considered final. In this event, the ***citation, as***
13 ***issued, shall be deemed***~~[board shall enter]~~ a final order determining that the
14 violation was committed and imposing the civil fine set forth in the citation***, and***
15 ***the alleged violator shall be deemed to have waived the right to appeal the final***
16 ***order to District Court. Notice of the final order shall be provided to the cited***
17 ***violator in the manner set forth in subsection (5) of Section 8 of this Act.***
18 ➔Section 8. KRS 65.8828 is amended to read as follows:
19 (1) When a hearing ~~[before the code enforcement board]~~is requested, the code
20 enforcement board, through its clerical and administrative staff, shall schedule a
21 hearing. Not less than seven (7) days before the date set for the hearing, the code
22 enforcement board shall notify the person who requested the hearing of the date,
23 time, and place of the hearing. The notice may be given by ***regular first-class mail;***
24 certified mail, return receipt requested; by personal delivery; or by leaving the
25 notice at the person's usual place of residence with any individual residing therein
26 who is eighteen (18) years of age or older and who is informed of the contents of
27 the notice. ***The code enforcement board may also elect to provide notice of***

1 ***hearing to any lienholders with an interest in the subject premises.*** Any person
2 requesting a hearing who fails to appear at the time and place set for the hearing
3 shall be deemed to have waived the right to a hearing to contest the citation and the
4 determination that a violation was committed shall be final. In this event, ***the***
5 ***citation, as issued, shall be deemed***~~[the board shall enter]~~ a final order determining
6 that the violation was committed and imposing the civil fine set forth in the citation,
7 ***and the alleged violator shall be deemed to have waived the right to appeal the***
8 ***final order to District Court. Notice of the final order shall be provided to the***
9 ***cited violator in the manner set forth in subsection (5) of Section 8 of this Act***.
10 (2) Each case that is the subject of a hearing may be presented by an attorney selected
11 by the local government or by a member of the administrative staff of the local
12 government. An attorney may either be counsel to the code enforcement board or
13 may represent the local government by presenting cases at the hearing, but in no
14 case shall an attorney serve in both capacities.
15 (3) All testimony shall be under oath and shall be recorded. The code enforcement
16 board or assigned hearing officer shall take testimony from the code enforcement
17 officer, the alleged offender, and any witnesses to the alleged violation offered by
18 the code enforcement officer or the alleged offender. Formal rules of evidence shall
19 not apply, but fundamental due process shall be observed and shall govern the
20 proceedings.
21 (4) If a code enforcement board conducts the hearing, or upon the receipt of
22 recommendations of a hearing officer pursuant to ~~[this]~~subsection ***(6) of Section 5***
23 ***of this Act***, then the code enforcement board shall determine, based on the evidence
24 presented, whether a violation was committed. ~~[If a hearing officer conducts the~~
25 ~~hearing, the hearing officer shall make written findings of fact, conclusions of law,~~
26 ~~and a recommended order for consideration by the board.]~~When the board
27 determines that no violation was committed, an order dismissing the citation shall

be entered. When the board determines that a violation has been committed, the board ***may***~~[shall]~~ issue an order upholding the citation and may order the offender to ***do either or both of the following:***

(a) Pay a civil fine in an amount up to the maximum authorized by ordinance***;***~~[,]~~ or~~[may order the offender to]~~

(b) Remedy a continuing violation within a specified time to avoid the imposition of a fine~~[, or both,]~~ as authorized by ordinance.

(5) Every final order ***following a hearing*** of a code enforcement board shall be reduced to writing, which shall include the findings and conclusions of the board, and the date the order was issued. A copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the board is issued, the order shall be delivered to that person by ***regular first-class mail;*** certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

(6) If the code enforcement board is reviewing a final order entered by a hearing officer on appeal as authorized by subsection (7) of Section 5 of this Act, the code enforcement board shall review the record created before the hearing officer and determine whether there is substantial evidence on the record to support a finding by the hearing officer that a violation was committed. If the code enforcement board determines that there is not substantial evidence on the record, it shall issue an order dismissing the citation. If the code enforcement board determines that there is substantial evidence on the record that a violation was committed, it shall issue a final order upholding the order entered by the hearing officer. The provisions of subsections (1) and (4) of this section shall apply to any appeal hearing conducted pursuant to this subsection.

1 ➔Section 9. KRS 65.8831 is amended to read as follows:

2 (1) An appeal from any final order issued ~~[by a code enforcement board]~~***pursuant to***
3 ***subsection (7)(c)2. of Section 5 of this Act, or pursuant to subsection (4) or (6) of***
4 ***Section 8 of this Act*** may be made to the District Court of the county in which the
5 local government is located within thirty (30) days of the date the order is issued.
6 The appeal shall be initiated by the filing of a complaint and a copy of the
7 ***final***~~[board's]~~ order in the same manner as any civil action under the Rules of Civil
8 Procedure. ***The District Court shall review the final order***~~[the]~~ ***de novo***~~[appeal~~
9 ~~shall be limited to a review of the record created before the code enforcement~~
10 ~~board]~~.

11 (2) A judgment of the District Court may be appealed to the Circuit Court in
12 accordance with the Rules of Civil Procedure.

13 (3) If no appeal from a final order ~~[of a code enforcement board]~~is filed within the time
14 period set forth in ***subsection (1) of*** this section, the ~~[code enforcement board's~~
15 ~~]~~order shall be deemed final for all purposes.

16 ➔Section 10. KRS 65.8835 is amended to read as follows:

17 (1) The local government shall possess a lien on property owned by the person found
18 by a ~~[final,]~~nonappealable ***final*** order ***as defined by subsection (8) of Section 1 of***
19 ***this Act***~~[of a code enforcement board]~~, or by a final judgment of the court, to have
20 committed a violation of a local government ordinance***. The lien shall be*** for all
21 ***civil*** fines assessed for the violation and for all charges and fees incurred by the
22 local government in connection with the enforcement of the ordinance***, including***
23 ***abatement costs. An affidavit of the code enforcement officer shall constitute***
24 ***prima facie evidence of the amount of the lien and the regularity of the***
25 ***proceedings pursuant to KRS 65.8801 to 65.8839***. The lien***:***

26 ***(a)*** Shall be recorded in the office of the county clerk***;***

27 ***(b)*** ~~[. The lien]~~Shall be notice to all persons from the time of its recording and

1 shall bear interest until paid;

2 *(c) Subject to Section 11 of this Act,*[~~. The lien~~] shall take precedence over all

3 other [~~subsequent~~]liens, except state, county, school board, and city taxes;[~~,~~

4 ~~and~~]

5 *(d) Shall continue for ten (10) years following the date of the nonappealable*

6 *final order, or final judgment of the court; and*

7 *(e)* May be enforced by judicial proceedings*, including an action to foreclose*.

8 (2) In addition to the remedy prescribed in subsection (1) of this section, the person

9 found to have committed the violation shall be personally responsible for the

10 amount of *the lien, including all civil fines assessed for the violation and for all*

11 *charges, fees, and abatement costs incurred by the local government in*

12 *connection with the enforcement of the ordinance*[~~all fines assessed for the~~

13 ~~violation and for all charges and fees incurred by the local government in~~

14 ~~connection with the enforcement of the ordinance~~]. The local government may bring

15 a civil action against the person and shall have the same remedies as provided for

16 the recovery of a debt.

17 *(3) Nothing in this section shall otherwise affect the rights or obligations between the*

18 *owner of the property and those persons who claim a security interest in the*

19 *property.*

20 ➔SECTION 11. A NEW SECTION OF KRS 65.8801 TO 65.8839 IS CREATED

21 TO READ AS FOLLOWS:

22 *(1) A local government adopting the provisions of KRS 65.8801 to 65.8839 shall*

23 *implement a system for notification to lienholders that meets the minimum*

24 *requirements of subsection (2) of this section and shall comply with the*

25 *procedures to permit remedial action by lienholders as provided in subsection (3)*

26 *of this section in order to obtain and maintain the lien priority over previously*

27 *filed liens granted in Section 10 of this Act.*

1 *(2) A local government shall create a notification system that provides lienholders*
2 *and others that elect to do so with electronic notifications of all final orders*
3 *entered pursuant to KRS 65.8801 to 65.8839. The system shall meet the following*
4 *minimum requirements:*
5 *(a) An individual or entity may register with the local government to receive*
6 *information on each final order by providing a name, mailing address,*
7 *phone number, and an electronic mailing address to the local government.*
8 *The local government shall accept this information in any form submitted*
9 *by a registrant. It shall be the responsibility of the registrant to maintain*
10 *and update its contact information with the local government, except that a*
11 *local government shall inform a registrant of any evidence the local*
12 *government receives that the electronic mailing address is invalid or not*
13 *functional in order to provide the registrant an opportunity to submit an*
14 *updated electronic mailing address;*
15 *(b) No less than once a month but no more frequently than once per week, the*
16 *local government shall send electronic mail notification of all final orders*
17 *issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last*
18 *date of notification to each party registered pursuant to paragraph (a) of*
19 *this subsection. The notification shall, at a minimum, include or provide an*
20 *electronic link to a document or database meeting the requirements of this*
21 *paragraph that includes:*
22 *1. The name of the person charged with a violation;*
23 *2. The physical address of the premises where the violation occurred;*
24 *3. The last known mailing address for the owner of the premises where*
25 *the violation occurred.*
26 *4. A specific description of the citation leading to the final order,*
27 *including the citation detail set forth in paragraphs (a) to (h) of*

1 *subsection (4) of Section 7 of this Act, which may be satisfied by*
2 *including a copy of the full citation;*
3 *5. The findings of the final order, including the penalty or penalties*
4 *imposed by the final order, which may be satisfied by providing a copy*
5 *of the full final order; and*
6 *6. The status of the final order in regards to its ability to be appealed*
7 *pursuant to Section 9 of this Act, except that the local government*
8 *shall provide an update to registrants if an appeal is filed on a final*
9 *order pursuant to Section 9 of this Act;*
10 *(c) A local government shall post the notification required under paragraph (b)*
11 *of this subsection or provide a summary of the information regarding each*
12 *final order required by paragraph (b) of this subsection in a conspicuous*
13 *place on its public Web site, which shall be affiliated with the local*
14 *government and contain other information about the local government,*
15 *within ten (10) days of the issuance of the final order. If the local*
16 *government posts using summary form:*
17 *1. The summary shall be calculated to reasonably allow identification of*
18 *the specific properties which may be impacted by the lien.*
19 *2. Upon request, the local government shall provide the complete record*
20 *of a final order created under paragraph (b) of this section without*
21 *charge; and*
22 *(d) A local government shall maintain the records created under this*
23 *subsection for a period of ten (10) years following their issuance.*
24 *(3) (a) A lien holder of record may, within forty-five (45) days from the date of*
25 *issuance of notification under subsection (2) of this section, correct the*
26 *violation if it has not already been abated, or elect to pay all civil fines*
27 *assessed for the violation and all charges and fees incurred by the local*

1 *government in connection with the enforcement of the ordinance, including*
2 *abatement costs. This subsection shall not prohibit the local government*
3 *from taking immediate action if necessitated under Section 12 of this Act.*
4 *(b) The lien provided by Section 10 of this Act shall not take precedence over*
5 *previously recorded liens if:*
6 *1. The local government failed to comply with the requirements of*
7 *subsection (2) of this section for notification of the final order; or*
8 *2. A prior lienholder corrected the violation or paid all civil fines*
9 *assessed for the violation and all charges and fees incurred by the*
10 *local government in connection with the enforcement of the*
11 *ordinance, including abatement costs within forty-five (45) days as*
12 *provided in paragraph (a) of this subsection.*
13 *(c) A lien that does not take precedence over previously recorded liens under*
14 *the circumstances outlined in paragraph (b) of this subsection, shall, if the*
15 *final order remains partially unsatisfied, take precedence over all other*
16 *subsequent liens except liens for state, county, school board and city taxes.*
17 *(d) Nothing contained in this subsection shall prohibit a local government from*
18 *recording a lien before the forty-five (45) day period established in*
19 *paragraph (a) of this subsection expires. If the lien is fully satisfied prior to*
20 *the expiration of the forty-five (45) day period established in paragraph (a)*
21 *of this subsection, the local government shall release the lien in the county*
22 *clerk's office where the lien is recorded within fifteen (15) days of*
23 *satisfaction.*
24 *(4) The local government may delegate responsibility for compliance with this*
25 *section to the code enforcement board or its administrative staff as specified in*
26 *the ordinance establishing and governing the operation of the code enforcement*
27 *board.*

1 ***(5) The failure of a local government to comply with this section or the failure of a***
2 ***lien to take precedence over previously filed liens as provided in subsection (3)(b)***
3 ***of this section, shall not limit or restrict any other remedies that the local***
4 ***government has against the property or the violator.***
5 ***(6) The requirements of this section shall not be mandatory for a local government's***
6 ***compliance with Section 13 of this Act.***
7 ***(7) The requirements of this section shall not apply to a local government when it***
8 ***enforces Section 13 of this Act.***
9 ➔Section 12. KRS 65.8838 is amended to read as follows:
10 Nothing contained in KRS 65.8801 to 65.8839 shall prohibit a local government from
11 taking immediate action to remedy a violation of its ordinances when there is reason to
12 believe that the existence of the violation presents ***imminent danger,*** a serious threat to
13 the public health, safety, and welfare, or if in the absence of immediate action, the effects
14 of the violation will be irreparable or irreversible.
15 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
16 READ AS FOLLOWS:
17 ***(1) As used in this section:***
18 ***(a) "Abatement costs" means a local government's necessary and reasonable***
19 ***costs for and associated with clearing, preventing unauthorized entry to, or***
20 ***demolishing all or a portion of a structure or premises, or taking any other***
21 ***action with regard to a structure or premises necessary to remedy a***
22 ***violation and to maintain and preserve public health, safety, and welfare in***
23 ***accordance with any local government ordinance;***
24 ***(b) "Automobile collector" means a person who collects and restores motor***
25 ***vehicles;***
26 ***(c) "Code enforcement board" means an administrative body created and***
27 ***acting under the authority of KRS 65.8801 to 65.8839;***

1 *(d) "Code enforcement officer" means a city police officer, safety officer,*
2 *citation officer, county police officer, sheriff, deputy sheriff, university*
3 *police officer, airport police officer, or other public law enforcement officer*
4 *with the authority to issue a citation;*
5 *(e) "Imminent danger" means a condition which is likely to cause serious or*
6 *life-threatening injury or death at any time;*
7 *(f) "Local government" means any county, consolidated local government,*
8 *urban-county government, charter county government, unified local*
9 *government, or city of any class;*
10 *(g) "Ordinance" means an official action of a local government body, which is*
11 *a regulation of a general and permanent nature and enforceable as a local*
12 *law and shall include any provision of a code of ordinances adopted by a*
13 *local government which embodies all or part of an ordinance;*
14 *(h) "Ordinary public view" means a sight line within normal visual range by a*
15 *person on a public street or sidewalk adjacent to real property;*
16 *(i) "Owner" means a person, association, corporation, partnership, or other*
17 *legal entity having a legal or equitable title in real property;*
18 *(j) "Parts car" means an automobile that is not intended to be operated along*
19 *streets and roads, but is used to provide parts for the restoration of other*
20 *automobiles; and*
21 *(k) "Premises" means a lot, plot, or parcel of land, including any structures*
22 *upon it.*
23 *(2) (a) The provisions of this section may be enforced through a code enforcement*
24 *board pursuant to KRS 65.8801 to 65.8839, or by any other means*
25 *authorized by law, including but not limited to direct enforcement through*
26 *the enactment of an ordinance as provided in subsection (6) of this section.*
27 *(b) If the provisions of this section are enforced through a code enforcement*

1 board pursuant to KRS 65.8801 to 65.8839, the provisions of subsections
2 (7), (8), and (9) of this section shall not apply, and KRS 65.8801 to 65.8839
3 shall supersede any conflicting provisions of this section.
4 (3) Except as provided in subsection (4) of this section, it shall be unlawful for the
5 owner, occupant, or person having control or management of any premises
6 within a local government to permit a public nuisance, health hazard, or source
7 of filth to develop thereon through the accumulation of:
8 (a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap
9 or salvage materials, excluding inoperative farm equipment;
10 (b) One (1) or more mobile or manufactured homes as defined in KRS 227.550
11 that are junked, wrecked, or inoperative and which are not inhabited;
12 (c) Rubbish; or
13 (d) The excessive growth of weeds or grass.
14 (4) The provisions of paragraph (a) of subsection (3) of this section shall not apply
15 to:
16 (a) Junked, wrecked, or inoperative automobiles, vehicles, machines, or other
17 similar scrap or salvage materials located on the business premises of a:
18 1. Licensed automotive recycling dealer as described in KRS 190.010(8);
19 2. Used motor vehicle dealer as defined in KRS 190.010(6): or
20 3. Motor vehicle auction dealer as defined in KRS 190.010(11);
21 (b) Junked, wrecked, or inoperative motor vehicles, including parts cars, stored
22 on private premises by automobile collectors, whether as a hobby or a
23 profession, if these motor vehicles and parts cars are stored out of ordinary
24 public view by means of suitable fencing, trees, shrubbery, or other means;
25 and
26 (c) Any motor vehicle as defined in KRS 281.010 that is owned, controlled,
27 operated, managed, or leased by a motor carrier.

1 *(5) An owner shall not permit any structure upon his or her premises to become unfit*
2 *and unsafe for human habitation, occupancy, or use or to permit conditions to*
3 *exist on the structure or premises which are dangerous or injurious to the health*
4 *or safety of the occupants of the structure, the occupants of neighboring*
5 *structures, or other residents of the local government.*
6 *(6) Any local government may establish by ordinance reasonable standards and*
7 *procedures for the enforcement of this section. The procedures shall comply with*
8 *all applicable statutes, administrative regulations, or codes. Any ordinance*
9 *establishing these procedures may be enforced by any means authorized by law.*
10 *Proper notice shall be given to owners before any action is taken pursuant to this*
11 *section, and, prior to the demolition of any unfit or unsafe structure, the right to*
12 *a hearing shall be afforded the owner.*
13 *(7) Unless imminent danger exists on the subject premises that necessitates*
14 *immediate action, the local government shall send, within fourteen (14) days of a*
15 *final determination after hearing or waiver of hearing by the owner, a copy of the*
16 *determination to any lien holder of record of the subject premises by first-class*
17 *mail with proof of mailing. The lien holder of record may, within forty-five (45)*
18 *days from receipt of that notice, correct the violations cited or elect to pay all civil*
19 *fines assessed for the violation and all charges and fees incurred by the local*
20 *government in connection with the enforcement of the ordinance, including*
21 *abatement costs, as permitted by subsection (8) of this section.*
22 *(8) A local government shall have a lien against the property for all civil fines*
23 *assessed for the violation and for all charges and fees incurred by the local*
24 *government in connection with the enforcement of the ordinance, including*
25 *abatement costs. The affidavit of the code enforcement officer shall constitute*
26 *prima facie evidence of the amount of the lien and the regularity of the*
27 *proceedings pursuant to this section, and shall be recorded in the office of the*

1 *county clerk. The lien shall be notice to all persons from the time of its recording*
2 *and shall bear interest thereafter until paid. The lien created shall take*
3 *precedence over all other liens, except state, county, school board, and city taxes,*
4 *except as provided in subsection (9) of this section. The local government shall*
5 *possess the lien for ten (10) years following the date of the final, nonappealable*
6 *order of a code enforcement board or final judgment of the court. The lien may*
7 *be enforced by judicial proceeding.*
8 *(9) The lien provided in subsection (8) of this section shall not take precedence or*
9 *priority over a previously recorded lien if:*
10 *(a) The local government failed to provide the lien holder a copy of the*
11 *determination in accordance with subsection (7) of this section; or*
12 *(b) The lien holder received a copy of the determination as required by*
13 *subsection (7) of this section, and the lien holder corrected the violations or*
14 *paid all civil fines assessed for the violation and all charges and fees*
15 *incurred by the local government in connection with the enforcement of the*
16 *ordinance, including abatement costs.*
17 *(10) In addition to the remedy prescribed in subsection (6) of this section or any other*
18 *remedy authorized by law, the owner of a premises upon which a lien has been*
19 *attached pursuant to this section shall be personally liable for the amount of the*
20 *lien, including all civil fines assessed for the violation and all charges, fees, and*
21 *abatement costs incurred by the local government in connection with the*
22 *enforcement of the ordinance. The local government may bring a civil action*
23 *against the owner and shall have the same remedies as provided for the recovery*
24 *of a debt owed. The failure of a local government to comply with subsection (7) of*
25 *this section, and the failure of a lien to take precedence over previously filed liens*
26 *as provided in subsection (9) of this section, shall not limit or restrict any*
27 *remedies that the local government has against the owner of the premises.*

1 ***(11) The provisions of subsections (6), (8), and (10) of this section shall not apply to***
2 ***an owner, occupant, or person having control or management of any land located***
3 ***in an unincorporated area if the owner, occupant, or person is not the generator***
4 ***of the rubbish or is not dumping or knowingly allowing the dumping of the***
5 ***rubbish and has made reasonable efforts to prevent the dumping of rubbish by***
6 ***other persons onto the premises.***
7 ***(12) The provisions of this section shall not be enforced by a county government upon***
8 ***any premises situated in an unincorporated portion of the county that is assessed***
9 ***as agricultural land for tax purposes by the property valuation administrator.***
10 ➔Section 14. KRS 99.710 is amended to read as follows:
11 (1) If the legislative body of a consolidated local government, a city of any class, or a
12 county containing a city of the first class finds and declares that there exists in the
13 consolidated local government, city of any class, or county containing a city of the
14 first class blighted or deteriorated properties and that there is need in the city or
15 county for the exercise of powers, functions, and duties conferred by KRS 99.705 to
16 99.730, the legislative body may adopt the provisions of KRS 99.705 to 99.730 by
17 ordinance.
18 (2) The ordinance adopting the provisions of KRS 99.705 to 99.730 shall also establish
19 a vacant property review commission which shall certify properties as blighted or
20 deteriorated to the legislative body. The ordinance shall specify the duties of, the
21 number of members that will serve on, the requirements of membership, and the
22 makeup of the commission. Members shall be appointed by the mayor and approved
23 by the legislative body. No officer or employee of the consolidated local
24 government, city of any class, or county containing a city of the first class whose
25 duties include enforcement of housing, building, plumbing, fire, or related codes
26 shall be appointed to the commission.
27 ***(3) Nothing in KRS 99.705 to 99.730 shall prevent the duties of a vacant property***

1 ***review commission from being assigned to a local government code enforcement***
2 ***board established pursuant to KRS 65.8801 to 65.8839.***
3 ➔Section 15. KRS 382.135 is amended to read as follows:
4 (1) In addition to any other requirement imposed by law, a deed to real property shall
5 contain the following:
6 (a) ***The full name of the grantor and grantee;***
7 ***(b)*** The mailing addresses of the grantor and grantee;
8 ***(c)***[~~(b)~~] A statement of the full consideration;
9 ***(d)***[~~(c)~~] A statement indicating the in-care-of address to which the property tax
10 bill for the year in which the property is transferred may be sent; and
11 ***(e)***[~~(d)~~] 1. In the case of a transfer other than by gift, or with nominal or no
12 consideration a sworn, notarized certificate signed by the grantor or his
13 agent and the grantee or his agent, or the parent or guardian of a person
14 under eighteen (18) years old, that the consideration reflected in the deed
15 is the full consideration paid for the property; or
16 2. In the case of a transfer either by gift or with nominal or no
17 consideration, a sworn, notarized certificate signed by the grantor or his
18 agent and the grantee or his agent, or the parent or guardian of a person
19 under eighteen (18) years old, stating that the transfer is by gift and
20 setting forth the estimated fair cash value of the property.
21 (2) The deed filing requirements listed in subsection (1)***(c)***[~~(b)~~], ***(d)***[~~(c)~~], and ***(e)***[~~(d)~~] of
22 this section shall not apply to:
23 (a) Deeds which only convey utility easements;
24 (b) Deeds which transfer property through a court action pursuant to a divorce
25 proceeding;
26 (c) Deeds which convey rights-of-way that involve governmental agencies;
27 (d) Deeds which convey cemetery lots;

1 (e) Deeds which correct errors in previous deeds conveying the same property
2 from the same grantor to the same grantee; or
3 (f) Deeds which convey real property to a local airport board.
4 (3) In the case of an exchange of properties, the fair cash value of the property being
5 exchanged shall be stated in the body of the deed.
6 (4) In the event of a transfer of property by will or under the laws of intestate
7 succession, the personal representative of the estate, prior to closing out the estate,
8 shall file an affidavit with the county clerk of each county in which any of the
9 property is located, which shall contain the following:
10 (a) The names and addresses of the persons receiving each property passing by
11 will or intestate succession; and
12 (b) The full or fair market value of each property as estimated or established for
13 any purpose in the handling of the estate, or a statement that no such values
14 were estimated or established.
15 (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or
16 deputy shall receive and permit to be lodged for record, any deed that does not
17 comply with the provisions of this section.
18 ➔Section 16. KRS 426.530 is amended to read as follows:
19 (1) If real property sold in pursuance of a judgment or order of a court, other than an
20 execution, does not bring two-thirds (2/3) of its appraised value, the defendant and
21 his or her representatives may redeem it within six (6) months from the day of sale,
22 by paying the original purchase money and ten percent (10%) per annum interest
23 thereon, and any reasonable costs incurred by the purchaser after the sale for
24 maintenance or repair of the property, including but not limited to utility expenses,
25 insurance, association fees, taxes, and the costs to conform the property to the
26 minimum standards of~~[:~~
27 ~~(a) The]~~ local nuisance code ***provisions and other local ordinances*** as

1 ***authorized***[~~defined~~] in KRS ***65.8801 to 65.8839***[~~82.700; and~~
2 ~~(b) Local ordinances as defined in KRS 65.8805~~].
3 (2) The defendant shall pay the redemption money to the clerk of the court in which the
4 judgment was rendered or the order of sale was made. Upon payment by the
5 defendant, the master commissioner shall convey the real property to the defendant.
6 (3) When the right of redemption exists, the purchaser shall receive an immediate writ
7 of possession and a deed containing a lien in favor of the defendant, reflecting the
8 defendant's right to redeem during the statutory period.
9 ➔Section 17. Section 18 of this Act shall not be interpreted or otherwise
10 construed to affect the status, priority, or enforcement of any lien that was created and
11 existed pursuant to the provisions of KRS 82.725 or KRS 381.770 prior to January 1,
12 2017.
13 ➔Section 18. Effective January 1, 2017, the following KRS sections are repealed:
14 82.700 Definitions for KRS 82.700 to 82.725.
15 82.705 Local government authorized to enact nuisance code.
16 82.710 Requirements for local government nuisance code.
17 82.715 Notice of violation -- Liability of property owner -- Appeal.
18 82.720 Lien of local government for fines and penalties -- Effect on rights of secured
19 parties.
20 82.722 KRS 82.700 to 82.725 not to be enforced upon agricultural land in
21 unincorporated portion of county.
22 82.725 Short title for KRS 82.700 to 82.725.
23 381.770 Abatement of nuisance -- Exceptions -- Enforcement ordinance -- Lien --
24 Personal liability of property owner.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 9 APRIL 2016