

56.813 Request for additional space -- Improvements in premises -- Use of funds to improve leased building that state will own at end of lease term -- Amendment or modification of leases -- Emergency modification -- Register of proposed lease modifications.

- (1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.
- (2)
 - (a)
 1. When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.
 2. If the improvements cost more than ten thousand dollars (\$10,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.
 3.
 - a. If the improvements cost ten thousand dollars (\$10,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer than the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.
 - b. Any improvements approved under this subparagraph with a cost between one thousand dollars (\$1,000) and ten thousand dollars (\$10,000) shall be reported semiannually by the Finance and Administration Cabinet to the Capital Projects and Bond Oversight Committee established by KRS 45.790. The report shall include, for each project, the agency for which the improvement was made, the cost, a description of the work performed, and the property identification number.
 - (b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.
 - (c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.
 - (d) For any building leased by a state agency that the state will own upon termination of the lease or expiration of the lease term, and for which no modification of the lease may be made to amortize improvements to the

property, the cabinet may use funds provided by state agencies to improve, renovate, or refit the building to better satisfy the needs of the agencies occupying the leased property up to six hundred thousand dollars (\$600,000) without additional approval of the General Assembly.

- (3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.
- (4) The Division of Real Properties, within the Department for Facilities and Support Services, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he or she may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Effective: March 21, 2017

History: Amended 2017 Ky. Acts ch. 103, sec. 1, effective March 21, 2017. -- Amended 2014 Ky. Acts ch. 80, sec. 1, effective July 15, 2014. -- Amended 2005 Ky. Acts ch. 85, sec. 81, effective June 20, 2005. -- Amended 1994 Ky. Acts ch. 177, sec. 2, effective July 15, 1994. Amended 1992 Ky. Acts ch. 339, sec. 2, effective July 14, 1992. -- Created 1990 Ky. Acts ch. 512, sec. 8, effective July 13, 1990.

Legislative Research Commission Note (7/15/2014). In codification, the Reviser of Statutes has altered the numbering within subsection (2) of this statute from the way it appeared in 2014 Ky. Acts ch. 80, sec. 1, under the authority of KRS 7.136(1)(c).