

198B.070 Appeals.

- (1) The mayor or county judge/executive of a local government which is enforcing the Uniform State Building Code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of five (5) technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official. At least three (3) members of the appeals board shall not be employed by the local government hearing the appeal.
- (2) Local governments that are enforcing the Uniform State Building Code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering these cooperative agreements. A local building official or employee of a local inspection department shall not sit on a local appeals board if the board is hearing an appeal to a decision rendered by his or her department. A member of a local appeals board shall not hear an appeal in a case in which he or she has a private interest.
- (3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.
- (4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the department. Appeals to the department shall include citation of those provisions of the Uniform State Building Code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.
- (5) The department shall serve to hear appeals from the decisions of local appeals boards, when these boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the department hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.
- (6) The department shall hear appeals directly from a party aggrieved by the decision of an agent of the department. These appeals shall include citations of those provisions of the Uniform State Building Code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.
- (7) Appeals to the department shall be addressed to the commissioner, who shall immediately notify the department when an appeal is received. The commissioner or a designated employee of his or her department shall then investigate the evidence pertaining to the appeal and, based upon the results of the investigation, make recommendations to the department on the disposition of the case in question. No employee of the department shall

investigate or make recommendations on an appeal to his or her own decision, but shall defer in such cases to employees who were not party to the decision which led to the appeal. In conducting an investigation, the commissioner or his or her designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any informal or fact-finding hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The commissioner shall complete his or her investigations within thirty (30) days after receiving an appeal.

- (8) If the matter is not settled by agreement of the parties through the procedure established in subsection (7) of this section, the commissioner shall schedule an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
- (9) The commissioner may appoint five (5) or more members of the department to conduct the hearing, and those appointed shall act in all matters concerning the appeal for the entire department.
- (10) The department may uphold, amend, or reverse the decision of a local appeals board, a local building official, or an agent of the department by final order. An appeal of the department's final order shall be to the Circuit Court within whose jurisdiction the property in question is located in accordance with KRS Chapter 13B.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 169, sec. 7, effective June 29, 2017. -- Amended 2010 Ky. Acts ch. 24, sec. 251, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 318, sec. 84, effective July 15, 1996. -- Amended 1986 Ky. Acts ch. 23, sec. 14, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 308, sec. 4, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 114, sec. 36, effective July 15, 1980. -- Created 1978 Ky. Acts ch. 117, sec. 7, effective June 17, 1978.