



Andy Beshear
Governor

Kerry B. Harvey, Secretary
Public Protection Cabinet

Robert Astorino
Kentucky Real Estate Authority

Kentucky Board of Home Inspectors
500 Mero Street 2NE09
Frankfort, KY 40601
(502) 564-7760
bhi.ky.gov

VOTING MEMBERS
Mitch Buchanan, Chair
Paul Ogden, Vice Chair
James (Jim) Chandler
Mark Hiten

STAFF
Nathan L. Burton, Board Administrator

MEMORANDUM

FROM: John Hardesty, General Counsel, Kentucky Real Estate Authority
TO: Kentucky Board of Home Inspectors Licensees
DATE: August 18, 2020
RE: Kentucky Board of Home Inspectors' Actions in Response to COVID-19 State of Emergency

I. Executive Order 2020-243 and Senate Bill 150

On March 6, 2020, the Governor declared a State of Emergency in the Commonwealth in response to the COVID-19 pandemic. Following that declaration, the Governor issued a series of Executive Orders, including Executive Order (“EO”) 2020-243. Pursuant to EO 2020-243, the Governor declared statutes and regulations requiring in-person meetings or appearances conflict with the need to practice social distancing, creating a threat to public health and safety. EO 2020-243 declares that under KRS Chapter 39A, the Governor is authorized to suspend existing Kentucky laws and administrative regulations, and to command individuals to disperse from the location of an emergency. Through EO 2020-243, the Governor ordered all boards and commissions to take all reasonable and necessary steps to ensure appropriate social distancing, while ensuring the continued provision of services to the public. Those steps may include:

- a. providing services and conducting operations by mail, internet, telephone, and video teleconference, to the extent practicable;
- b. extending licenses, credentials, or certificates that require in-person appearances or education for renewal;
- c. permitting education and continuing education requirements to be satisfied through online courses, to the extent practicable;
- d. extending deadlines for statutory or regulatory reporting requirements; and
- e. extending deadlines for payment of fees, taxes, and assessments, and waiving late payment penalties incurred because of the emergency.

Pursuant to KRS 39A.180, the EO provides any state statute or regulation that conflicts with the provisions of the EO is suspended. It specifically states, “[t]his suspension includes, but is not limited to, Kentucky statutes or regulations mandating in-person meetings or interactions[.]” The EO further states, “[a]ll state agencies, including . . . boards [and] commissions . . . shall issue any order or memoranda necessary to clarify the suspension of any statutory or regulatory provision that is suspended pursuant to this Order, subject to the approval by the Office of the Governor or the Cabinet Secretary, to which the state agency is administratively attached under KRS 12.020.”

Through Senate Bill (“SB”) 150, the Kentucky General Assembly codified similar steps. SB 150(1)(b) permits administrative bodies, such as the Kentucky Board of Home Inspectors (“KBHI”), to waive or suspend administrative obligations required to engage in the business regulated by that administrative body. Such suspensions may last through the course of the State of Emergency. It further provides licensees shall be granted at least thirty (30) days after the expiration of the State of Emergency to pay any owed fee or complete any administrative obligation before an action may be taken against their license.

II. KBHI’s Continuing Education Regulations

831 KAR 2:040(11)(2)(a) requires each KBHI licensee who renews a license in an odd year to have at least fourteen (14) hours of continuing education per license year. Subsection (b) requires a licensee who renews a license during an even year to have at least twenty-eight (28) hours of continuing education during the license biennial period. 831 KAR 2:040(11)(3)(a)-(c) states that satisfaction of the educational requirements in 831 KAR 2:040(11)(2)(a) and (b) shall consist of a minimum of (a) three (3) hours in KRS 198B.700 to 198B.738 and 831 KAR Chapter 2; (b) three (3) hours in report writing; and (c) eight (8) hours in elective courses.

831 KAR 2:040(11)(5) requires the continuing education courses established in 831 KAR 2:040(11)(3)(a) and (b) to be completed face-to-face. An online continuing education course shall not satisfy the continuing education requirement for each respective category. Further, 831 KAR 2:040(4)(4)(a) provides that if a continuing education course is an online course, the course shall not satisfy the continuing education requirements established in 831 KAR 2:040(11)(3)(a) and (b).

III. Action By KBHI in Response to the State of Emergency

EO 2020-243 and SB 150 authorize KBHI to suspend the requirements under 831 KAR 2:040(11)(5) and 831 KAR 2:040(4)(4), and allow licensees to obtain the continuing education required by 831 KAR 2:040(11)(3)(a) and (b) via online courses during the State of Emergency. Likewise, they authorize KBHI to suspend 831 KAR 2:040(11)(2)(a) and (b), which detail continuing education requirements for licensees, and to extend the deadline by which licensees must complete the required continuing education.

Therefore, at its August 18, 2020, meeting, KBHI voted to take the following action:

- (1) Effective August 18, 2020, KBHI suspended application of 831 KAR 2:040(11)(5) and 831 KAR 2:040(4)(4)(a), which require licensees to complete the continuing education courses established in 831 KAR 2:040(11)(3)(a) and (b) face-to-face and not by online means, until further notice. KBHI authorized licensees to complete the courses required by 831 KAR 2:040(11)(3)(a) and (b) through virtual and/or online means. To facilitate the online delivery of these courses, KBHI authorized its education providers to administer the 831 KAR 2:040(11)(3)(a) and (b) courses by virtual and/or online means until further notice.**
- (2) Effective August 18, 2020, KBHI suspended the application of 831 KAR 2:040(11)(2)(a) and 831 KAR 2:040(11)(2)(b) as they relate to continuing education requirements for licensees whose renewals and continuing education are or were due in the licensee’s birth month of calendar year 2020. For licensees with renewals due in calendar year 2020, KBHI extended the renewal and continuing education deadline for those licensees to December 31, 2020.**
- (3) Due to KBHI’s actions as described in paragraph (2), above, effective August 18, 2020, KBHI rescinded the resolution it passed at its March 2020 meeting, which extended the deadline for all renewals until sixty (60) days after the Governor lifts the State of Emergency.**