

MEMORANDUM

To: Kentucky Real Estate Authority Licensees
From: Jacob Walbourn, Interim Executive Director, KREA
Date: May 26, 2020
Re: COVID-19 and Executive Order 2020-257

As we advised you previously, on March 25, 2020, Governor Beshear issued Executive Order 2020-257 (“the EO”), requiring the closure of all businesses that are not “life sustaining” to in-person traffic. Thanks to the efforts of the citizens of the Commonwealth, we have begun the transition from “Healthy at Home” to “Healthy at Work.” The purpose of this memorandum is to provide answers to frequently asked questions regarding this Executive Order and the transition to Healthy at Work for those licensees holding licenses from the Kentucky Real Estate Authority (Realtors, Auctioneers, Home Inspectors, and Appraisers). As a threshold matter, all business are required, pursuant to Executive Order 2020-323 and the Cabinet for Health and Family Services Orders of May 11, 2020, to comply with the minimum requirements for all entities, which are attached hereto and incorporated by reference.

Am I allowed to keep working?

Yes. Real estate has been designated a “life sustaining” business in the EO. *See EO 2020-257(1)(o)*. Further, licensees will need to comply with relevant Orders of the Governor and the Cabinet for Health and Family Services, including, but not limited to, Executive Order 2020-323 and the May 11, 2020 Orders of the Cabinet for Health and Family Services. These Orders are available on the Healthy at Work Website, healthyatwork.ky.gov. Further, all real estate professionals must comply with the minimum requirements for all entities and the specific requirements for office-based businesses, which are attached hereto and incorporated by reference.

So are we back to business as usual?

No. Attached to this Memorandum, as noted above, are the minimum standards for all businesses. Office operations will be subject to the Requirements for “Office Based Business” available on the Healthy at Work website. There are also additional Orders that will be applicable to certain activities, as detailed herein.

Are there exceptions to the Executive Order of the Reopening Requirements, or can the KREA Boards override the Executive Order or Reopening Requirements?

No. There are not exceptions to the Executive Orders, Cabinet for Health and Family Services Orders or any Reopening Requirements. Boards may provide guidance regarding compliance with the Executive Orders or Reopening Requirements, but may not alter any of their terms.

I’m an Auctioneer. Can I still have auctions?

Yes, if the auction is for the sale of real property or livestock. Governor Beshear has recently announced that other auctions may resume on June 1, 2020. The industry-specific guidance and

requirements are being finalized at this time. We will provide additional updates once the industry-specific requirements are released.

I'm a Home Inspector. Can I still conduct inspections?

Yes. However, social distancing and hygiene measures must be implemented. Anyone feeling ill must absolutely **not** be conducting inspections. These businesses must also comply with the minimum requirements for all entities attached to this Memorandum.

I'm an Appraiser. May I conduct appraisals?

Yes. Appraisals may continue under the terms of the Executive Orders and Cabinet for Health and Family Services Orders. However, as above, social distancing and hygiene measures must be implemented and anyone feeling ill must absolutely **not** be conducting appraisals. These businesses must also comply with the minimum requirements for all entities attached to this Memorandum.

I'm a Realtor. May I continue/resume operations?

Yes. Real estate agents may continue to perform tasks related to their professions; however, some standard practices may need to change. Open Houses are permitted with groups of up to ten (10) people provided that 1) these Open Houses comply with both the "minimum requirements" and "guidance for gatherings of up to ten people" attached to this Memorandum, and 2) all parties agree that they are amenable to having an Open House. House showings may continue provided that social distancing is implemented. With regard to other tasks, if you are able to complete the task while implementing social distancing, it is permitted to continue. If you cannot effectively implement social distancing, or you are feeling ill, you must **not** perform the task. Your offices may reopen pursuant to the terms for guidance for office based businesses, provided that this guidance is strictly followed. Telework and remote work, as well as virtual showings, are still strongly encouraged.

Will transactions still be closing?

Generally, yes. Real estate closings are not prohibited by any Executive Order and are free to continue. All closing tasks that can be done remotely should be done remotely, and any in-person requirements must implement social distancing. Only the parties that absolutely **must** be at a closing should attend.

I've heard that my County Clerk's office is closed and documents can't be recorded or title searches can't be completed. Can KREA help?

No. County Clerks are independently elected officials and not under the jurisdiction of the KREA. You should contact your County Clerk or visit the website of your County Clerk to learn what services the County Clerk is providing at this time.

Could there be changes to these directives?

Yes. All Orders and guidance are subject to change. We will provide updates as we receive additional information. Compliance with the Orders and requirements will be vital to being able to continue to operate.

I have a question not answered here. Can I still ask it?

Yes. However, please be advised that the KREA's staff is largely working remotely. Our response to you may be delayed. We will respond as soon as possible. Be advised, however, that KREA staff is not permitted to provide exceptions to any Executive Order or any other Order, and will only be able to provide clarification regarding the orders, minimum requirements, or this memo.

Do you have any other general advice?

Yes. You should follow all Orders and guidance issued by state and local governments. Do your part in addressing this global health pandemic by following best practices. Do not be around people unless you absolutely must, and in all cases practicing social distancing. Also, be sure to:

1. Stay home if you are sick. Follow the "When to Seek Care" advice contained on the Team Kentucky COVID-19 website, available at kycovid19.ky.gov.
2. If you are in a high risk group, including having a serious underlying health condition, stay home and stay away from other people.
3. If someone in your household or someone you have been in close contact with tests positive for COVID-19, avoid contact with other people. Please also consult the Team Kentucky COVID-19 website for additional guidance, at kycovid19.ky.gov.
4. Regularly review any guidance issued by the Centers for Disease Control or the Kentucky Cabinet for Health and Family Services or the Department for Public Health. Be alert for changes to the existing Orders.
5. Be sure you are familiar with ALL REQUIREMENTS imposed for the reopening of businesses/resumption of certain operations. It is YOUR responsibility to be in complete compliance. Information concerning the requirements for safe operations is located on the Healthy at Work website at healthyatwork.ky.gov.

We hope you are all staying healthy and safe. We look forward to continuing to work with you.



**CABINET FOR HEALTH AND FAMILY SERVICES
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Eric C. Friedlander
Secretary

ORDER

May 11, 2020

On March 6, 2020, Governor Andy Beshear signed Executive Order 2020-215 declaring a state of emergency in the Commonwealth due to the outbreak of the COVID-19 virus, a public health emergency.

At this time the Commonwealth is beginning to reopen its economy with a phased approach known as the Healthy at Work program. Healthy at Work is based upon criteria set by the Centers for Disease Control and Prevention and public health officials and experts, along with advice from industry experts. Each phase will be introduced in steps to ensure the Commonwealth's citizens can safely return to work while still protecting the most vulnerable Kentuckians.

The Cabinet for Health and Family Services has already issued directives for the reopening of Kentucky's healthcare system that are available for review on <https://govstatus.egov.com/ky-healthy-at-work>. On May 11, 2020, Healthy at Work will continue with the reopening of entities in the following economic sectors: manufacturing, distribution, and supply-chain businesses; vehicle and vessel dealerships; office-based businesses (50% or less in office); photography businesses; pet care, grooming, and boarding businesses; and horse racing tracks (with no fans).

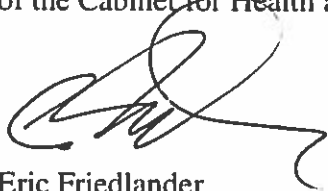
Therefore, pursuant to the authority in KRS Chapter 39A, KRS 194A.025, KRS 214.020, Executive Order 2020-215, and Executive Order 2020-323, the Cabinet for Health and Family Services states that the following directives are in effect during this state of emergency:

All entities in the Commonwealth of Kentucky shall comply with minimum requirements attached to, and fully adopted and incorporated by reference in this Order. The minimum requirements for all entities in the Commonwealth of Kentucky can be found at: <https://govstatus.egov.com/ky-healthy-at-work>.

In addition to the minimum requirements, entities shall implement and comply with any industry- or sector-specific requirements under any Cabinet Order. Those requirements can be found at <https://govstatus.egov.com/ky-healthy-at-work>.

If any entity cannot comply with the minimum requirements or the industry- or sector-specific requirements, they must wait to reopen until they are able to do so or until some or all of these requirements are lifted.

The Secretary for the Cabinet for Health and Family Services has been designated by the Governor to deliver these directives during this public health emergency. The Cabinet for Health and Family Services will continue to provide information and updates during the duration of this Public Health Emergency. Prior orders of the Cabinet for Health and Family Services remain in effect unless inconsistent with this Order.

A handwritten signature in black ink, appearing to read 'Eric Friedlander', with a large, stylized flourish extending from the end of the signature.

Eric Friedlander
~~Acting~~ Secretary
Governor's Designee

Minimum Requirements for All Entities

All entities that are currently closed will remain closed until it is determined it is safe for their sector to begin reopening.

Closed Entities Reopening. Each entity must meet the following minimum requirements before they can reopen. If any entity in a sector being reopened cannot comply with the minimum requirements set out below, they must wait to reopen until they are able to do so or until some or all of these restrictions are lifted.

Entities That Have Remained Open. For those entities that have been deemed life-sustaining and remained operating, they will be expected to meet the following minimum requirements no later than May 11, 2020.

1. **Continue telework where possible.** Entities should operate via phone or Internet to the greatest extent practicable. Employees who are able to perform their job duties via telework (phone or Internet) must continue to telework.
2. **Phased return to work.** Entities are encouraged to implement a phased return to work, including generous telework, sick leave, and family leave policies for those employees who are not able to come into work due to illness, taking care of a family member(s), or lack of childcare options.
3. **Enforce social distancing.** Entities must ensure, to the greatest extent practicable, that employees who are not able to telework and must be physically present at the office remain a minimum of six (6) feet away from all other employees and customers unless closer interaction is absolutely required to perform their job duties (e.g., health care examinations).
4. **Limit face-to-face interaction.** Entities must ensure that employees minimize face-to-face contact with one another and with customers to the greatest extent practicable. Meetings should be conducted via telephone or Internet if possible.
5. **Universal masks and any other necessary PPE.**

Universal Employee Masks: Businesses, organizations, and entities must ensure, to the greatest extent practicable, that their employees, volunteers, and contractors wear a cloth mask (a surgical or N95 mask is not required). A business, organization, or entity need not require an employee/volunteer/contractor to wear a mask when masking would create a serious health or safety hazard to the employee/volunteer/contractor, when the employee/volunteer/contractor is working alone in an enclosed space, or when the employee/volunteer/contractor is working

Healthy at Work



alone in an area with more than six (6) feet of social distancing. Businesses and organizations shall provide PPE at no cost to employees and should offer instruction on proper use of masks and PPE.

CDC guidelines on proper use of PPE can be found at:

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/DIY-cloth-face-covering-instructions.pdf>.

Encourage Customers to Mask: Entities should encourage customers to wear masks, which the entities may provide. Entities may refuse to serve any customer who is not wearing a mask.

Access To Gloves: Entities must ensure that employees whose job duties include touching items often touched by others (e.g., credit cards/cash, paper, computers) wear gloves that are regularly replaced. Entities should also follow the applicable CDC, OSHA, or other federal guidelines relating to gloves.

6. **Adequate Hand Sanitizer and Encouraging Hand Washing.** Entities must supply adequate hand sanitizer (60% alcohol content or higher) for both employees and customers and ensure that it is made available near high-traffic and high-touch areas (e.g., doors or door handles). Entities must also encourage routine and consistent hand washing for employees and customers.
7. **Restrict Common Areas.** Entities must, to the greatest extent practicable, restrict common areas such as lobbies, waiting rooms, break rooms, smoking areas, lunch rooms, and concession areas to maximize social distancing and reduce congregating.
8. **Proper sanitation.** Entities must sanitize frequently touched surfaces and areas (e.g., door knobs, credit card machines, shared computers) in accordance with CDC guidelines. When they have identified an employee who has COVID-19 or the associated symptoms, entities must further ensure that they immediately restrict access to contaminated areas and post signage and adequately clean impacted areas. Any contaminated area should be off-limits to all but essential personnel for a minimum of 24 hours if practicable.
9. **Conduct daily temperature/health checks.** Entities must require employees to undergo daily temperature and health checks; these checks may be either self-administered or

Healthy at Work



administered by the entities prior to workplace entry. Self-administered temperature and health checks may be performed at home. Employees who have a fever and/or any symptoms of COVID-19 should be directed to their health care provider to be tested and then instructed to quarantine at home as soon as any illness is detected. This includes employees that passed a temperature and health check prior to reporting to work but became ill during the course of the day. Guidance on COVID-19 symptoms and how to conduct temperature and health checks can be found in the [Health Requirements and Temperature Checks section below](#).

- 10. Create a testing plan.** Entities must ensure that any employee with COVID-19 symptoms is tested by a health care provider for COVID-19 within 36 hours. Entities must ensure that employees are trained on how to isolate individuals with suspected or confirmed COVID-19 and how to report possible cases. If an employee tests positive, the entities must immediately notify the local public health department.
- 11. Make special accommodations.** Entities must, to the greatest extent practicable, make special accommodations for employees and customers at higher risk for severe illness. Individuals in these high-risk categories have been identified by the Centers for Disease Control and Prevention – further information is available at: <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Higher-Risk>.
- 12. Designate a “Healthy at Work” Officer.** Entities must ensure that an employee is designated as its Healthy at Work Officer. This individual will be responsible for the entity’s compliance with this guidance and any other guidance provided. Entities should allow for employees to identify and communicate potential improvements and/or concerns to the Healthy at Work designated Officer or management.
- 13. Educate and Train Employees.** Entities must educate and train all individuals, including employees, temporary employees, contractors, vendors, customers, etc., regarding the Healthy at Work protocols. This training must be offered during scheduled work times at no cost to the employee.
- 14. Contact Notification Responsibilities.** Entities opened must be prepared to assist public health officials if an employee tests positive or becomes exposed to COVID-19. This assistance includes, but is not limited to, providing the employee’s work schedule, workstation, hours or shifts worked, when the employee was potentially exposed, and the names and contact information of any other employee or other party exposed to the virus. Additional information about Contact Notification Responsibilities can be found in the [Contact Notification Responsibilities Section Below](#).

[If any entity fails to comply with this guidance, they can be reported to KYSAFER at 833-KYSAFER or \[kysafer.ky.gov\]\(http://kysafer.ky.gov\).](#)

Requirements for Health and Temperature Screenings

- All businesses should instruct employees not to report to work if they are having fever and/or any symptoms of COVID-19.
- All businesses, once their sector has been reopened and they can comply with the requirements to reopen, must require employees to undergo a temperature and health check prior to beginning work each day to minimize the spread of COVID-19. This includes businesses that remained operating because they were deemed life-sustaining; those businesses must begin implementing health checks and the other minimum requirements starting May 11, 2020.
- These daily temperature and health checks may be administered by the employer at the business site or self-administered by the employee prior to arriving at work (at least once every 24-hour period).

Health Screenings

- All businesses must assess employees each day to ensure that they do not have any COVID-19 symptoms. Businesses may choose whether to require: 1) an in-person assessment at the beginning of each day, or; 2) a self-screening that the employee conducts at least once every 24 hours and then reports the results to the business.
- Any in-person assessment or self-screening must answer the following questions:
 - Have you had any of the CDC-recognized COVID-19 symptoms since your last day at work or the last time you were here? Please answer “Yes” or “No” to each question.
 - Employers should then list the CDC-recognized COVID-19 symptoms and have the employee respond to each symptom with a “Yes” or “No.”
 - The current CDC-recognized COVID-19 symptoms are available at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>. These symptoms are sometimes updated or supplemented, so employers should be sure to check this website regularly and update their assessment in line with CDC guidance.
 - Is there anyone in your household who is showing COVID-19 symptoms or who has been diagnosed with COVID-19?
 - Have you been in close contact with anyone exhibiting sign or symptoms of fever, persistent cough or shortness of breath consistent with COVID-19 who has not been tested or is still awaiting testing?

Temperature Screenings

- All businesses must assess employees each day to ensure they do not have a fever. Businesses may choose whether to require: 1) on-site temperature screenings, or; 2) self-screenings conducted by the employees at home at least once every 24 hours, ideally just before going to work, and reported to the employer prior to beginning work. Employees with a fever above 100.4° should not report to work.
- If the business opts for on-site temperature screenings, businesses should ensure that proper social distancing can still be followed. This may be accomplished by using no- contact thermometers or thermal imaging cameras. If that equipment is unavailable, it may be accomplished by setting up temperature check stations for employees to self- administer standard oral/aural thermometer checks and then report the results to on- site screeners. If standard oral/aural thermometers are used, they should be thoroughly sanitized after each use.

Acting on Screening Results

- If the employee answers “NO” to all of the screening questions AND has a temperature of 100.4°F or below, then they may begin their work day. However, employees should be instructed to continue to self-monitor during the day; if they develop symptoms during the workday, they should report those symptoms to a supervisor and leave work to report to a health care provider for testing.
- If the employee answers “YES” to any of the screening questions OR has a temperature greater than 100.4°F, then the employee must not be allowed into the workplace that day, unless cleared by a medical professional. They should self-isolate at home and follow current Kentucky Department for Public Health and/or CDC guidelines available at: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

Healthy At Work: Contact Notification

Contact notification is the process of identifying, contacting, and supporting people who have been exposed to a disease. It is a critical part of our effort to stop transmission of COVID-19.

Public health officials will interview patients who have tested positive for COVID-19, to learn about their recent contacts. Officials will then reach out to all of the close contacts of COVID-19 positive persons to inform them of their status and risks.

Responsibilities of Entities Under Healthy At Work

Entities opened under Healthy At Work must be prepared to assist public health officials if an employee tests positive or becomes exposed to COVID-19. They should keep documentation of work shifts, work locations, meetings, and in-person clients or visitor contacts. Entities should be prepared to answer the following questions about the employee who tested positive:

- **What was that employee's work schedule prior to testing positive?**
- **Where was that employee working in the days prior to testing positive?**
- **When was the last day that employee came into work?**
- **Who could have come in close contact (defined as being within six feet for more than thirty minutes) with that employee in the two days prior to that employee testing positive?**
 - **Consider employees who were working nearby, sitting in the same meetings, interacting during breaks, entering or exiting the building together, or riding in a car together.**
 - **Consider customers, clients, or visitors who may have interacted with that employee based on visitor logs, invoices, billing statements, or meeting records.**
- **Please provide contact information for the employee who tested positive and anyone who may have come into close contact with that employee.**

Requirements for Office-Based Businesses¹

In addition to the Healthy at Work [Minimum Requirements](#), **office-based businesses** must meet the requirements below in order to reopen and remain open:

Social Distancing Requirements

- Businesses should conduct business via phone or Internet to the greatest extent practicable. Employees who are currently able to perform their job duties via telework should continue to telework.
- Businesses must ensure that no more than 50% of employees are physically present in the office on any given day.
- Businesses must ensure that employees wear face masks for any interactions between co-workers or while in common travel areas of the office (e.g., hallways, conference rooms, bathrooms, entries and exits). Employees are not required to wear face masks while alone in personal offices or if doing so would pose a serious threat to their health or safety.
- Businesses should ensure that employees use digital files rather than paper formats (e.g., documentation, invoices, inspections, forms, agendas) to the greatest extent practicable.
- Businesses must conduct meetings with customers over the phone or Internet to the greatest extent practicable. Where in-person meetings with customers cannot be avoided, the employees must wear face masks and remain six feet apart from the customers.
- Businesses should, to the greatest extent practicable, modify the office's traffic flow to minimize contacts between employees.

Cleaning and Disinfecting Requirements

- Businesses should ensure that offices and workstations are properly cleaned and ventilated.
- Businesses should encourage employees to frequently wash their hands or use hand sanitizer, which should be provided by the business.

¹ Office-based businesses include finance and accounting, legal, insurance, engineering, architecture, real estate, scientific/technical, property management, non-profit organizations performing administrative services, and other corporate offices and private office-based firms.

Training and Safety Requirements

- Businesses should ensure that appropriate signage is posted throughout the office space to inform employees and customers about good hygiene and new office practices.
- Businesses should, to the greatest extent practicable, implement hours where service can be safely provided to persons at higher risk for severe illness per CDC guidelines. These guidelines are available at: <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Higher-Risk>

Guidance for Gatherings of Up To Ten (10) People

- Under Governor Beshear’s new executive order, groups of up to ten (10) people may begin gathering on May 22, 2020.
- Public health experts recommend people remain Healthy at Home to the greatest extent practicable and that they continue to socialize via Internet, telephone, and any other modes of communications that allow people to engage in appropriate social distancing.
- While people may meet in groups of up to ten (10) people, public health experts discourage people from engaging in excessive social gatherings in order to appropriately limit contacts.
- If people meet in the allowable groups of up to ten (10) people, public health experts recommend limiting the gathering size to the smallest number of people practicable.
- Public health experts discourage people from sharing items in any gathering, including tools, sporting equipment, vehicles, cooking/grilling ware, and other high-touch objects.
- If you are a member of a group particularly vulnerable to COVID-19 (individuals with conditions identified by the CDC as higher risk or those over 65 years old), public health experts recommend that you avoid any in-person gatherings and remain Healthy At Home.
- If you host or attend a gathering of up to ten people, please consider the following recommendations:
 - Hold the gathering outside whenever possible;
 - Remain at least six (6) feet apart from people who are not a part of your household;
 - Do not share food, drink, containers, plates, napkins, or utensils;
 - Wash or sanitize your hands frequently before, during, and after the gathering;
 - Avoid touching your eyes, nose, or mouth, and;
 - If you will be closer than six (6) feet to someone outside your household at any point, wear a cloth face covering or mask over your nose and mouth.