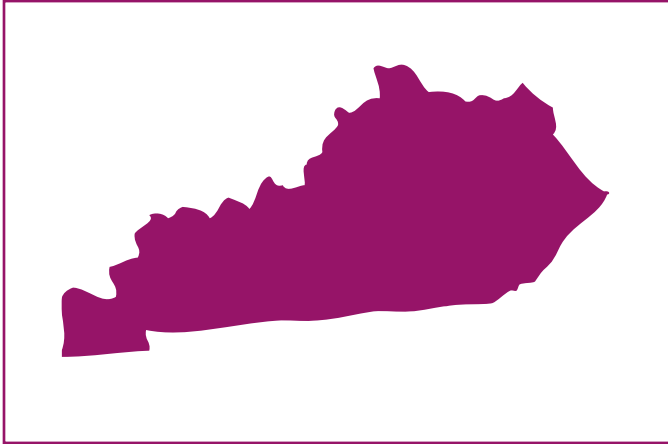


This profile is part of a set of 51 profiles, including all U.S. states and the District of Columbia, which outlines state laws, regulations, and requirements that apply to charitable organizations. It covers six areas and highlights ways in which state laws differ from federal laws governing charitable organizations.



Formation, Elections, Operation, and Dissolution

Nonprofit Corporations

Kentucky Nonprofit Corporations Act. KY ST T. XXIII, Ch. 273.

Nonprofit Unincorporated Associations

Effective as of June 24, 2015, Kentucky adopted the Revised Uniform Unincorporated Nonprofit Association Act, Ky Rev. Stat. Ann. § 273A. Unincorporated associations are treated as 'entities' under Ky. Rev. Stat. Ann. § 273.161(13).

Election of Directors

The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws.

The number of directors shall not be less than 3. Ky. Rev. Stat. Ann. § 273.211.

Director Term

In the absence of a provision fixing the term of office, the term of office of a director shall be one year, and until his successor is elected and has accepted his election. Ky. Rev. Stat. Ann. § 273.211.

Meeting and Quorum Requirements

Quorum (Members): Unless the bylaws provide otherwise, members holding one-tenth of the votes entitled to be cast on the matter to be

voted upon represented in person or by proxy shall constitute a quorum. Ky. Rev. Stat. Ann. § 273.203.

Quorum (Board): A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws. Ky. Rev. Stat. Ann. § 273.217.

An annual meeting of the members is required. Ky. Rev. Stat. Ann. § 273.193.

Officer Requirements

A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws. Ky. Rev. Stat. Ann. § 273.227(1)

The bylaws or the board of directors shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation. Ky. Rev. Stat. Ann. § 273.227(3).

Officer Term

Each officer shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. Ky. Rev. Stat. Ann. § 273.227(5).

Dissolution

Ky. Rev. Stat. Ann. § 273.300 et seq. governs dissolution.

Duties, Indemnification, and Interested Transactions

Director Duties

A director of a nonprofit corporation subject to the provisions of KRS 273.161 to 273.387 shall discharge his duties as a director, including his duties as a member of a committee: (a) In good faith; (b) On an informed basis; and (c) In a manner he honestly believes to be in the best interests of the corporation. Ky. Rev. Stat. Ann. § 273.215.

Officer Duties

Each officer shall have the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers. Ky. Rev. Stat. Ann. § 273.228.

An officer of a nonprofit corporation subject to the provisions of KRS 273.161 to 273.387, with discretionary authority, shall discharge his duties under that authority: (a) In good faith; (b) On an informed basis; and (c) In a manner he honestly believes to be in the best interests of the corporation. Ky. Rev. Stat. Ann. § 273.229.

Board Independence Requirements

No relevant statute found.

Interested Transactions

A conflict of interest transaction is a transaction with the nonprofit corporation in which a director of such corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction; or

(b) The transaction was fair to the corporation. Ky. Rev. Stat. Ann. § 273.219.

Indemnification of Directors/Officers

Each corporation has the power to indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or bylaws, or resolution adopted after notice to the members entitled to vote.

Ky. Rev. Stat. Ann. § 273.171(14).

Loans to Directors, Officers, or Employees

No loans shall be made by a corporation to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the corporation for the amount of such loan until the repayment thereof. Ky. Rev. Stat. Ann. § 273.241.

Notable Departures from Federal Law

Religious/Church Exemption

Religious organizations do not need to report regarding charitable contributions relating to disasters. Ky. Rev. Stat. Ann. § 273.470.

See tax sections below.

Healthcare "Plus Factors"

No relevant statute found.

General

Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law. Ky. Rev. Stat. Ann. § 273.221.

Charitable Solicitation Requirements

Ky. Rev. Stat. Ann. §§ 367.650 to 367.670 govern charitable solicitations.

State-Specific Retention Policies

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected and copied by any member, or the member's agent or attorney, for any proper purpose at any reasonable time. The member's right of inspection shall not be abolished or limited by the corporation's articles of incorporation or bylaws. Ky. Rev. Stat. Ann. § 273.233.

Personal Information Collection and Protection Laws

No relevant statute found.

Whistleblower Protection

Not specific to nonprofit corporations; however, the state whistleblower statutes can be found at Ky. Rev. Stat. Ann §§ 61.101-103 and Ky Rev. Stat. Ann §§ 338.121 and 338.991.

State Volunteer Liability Law

Any person who serves as a director, officer, volunteer or trustee of a nonprofit organization qualified as a tax-exempt organization under § 501(c) of the Internal Revenue Code of 1986, as from time to time amended, and who is not compensated for such services on a salary or prorated equivalent basis, shall be immune from civil liability for any act or omission resulting in damage or injury occurring on or after July 15, 1988, if such person was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by the willful or wanton misconduct of such person. Ky. Rev. Stat. Ann. § 411.200.

Independent Audit Requirements

No relevant statute found.

open to multiple interpretations. The information presented here is accurate as of 10/26/2016.

State Filing Requirements

Each document delivered by a domestic or foreign corporation to the Secretary of State for filing shall satisfy the requirements of Ky. Rev. Stat. Ann. 14A.2-010 to 14A.2-150. Ky. Rev. Stat. Ann. § 273.252.

Annual reports are required. Ky. Rev. Stat. Ann. § 14A.6-010.

Model Acts

Uniform Prudent Management of Institutional Funds Act

Adopted

Uniform Prudent Investor Act

Not adopted

Tax Exemptions

Income Tax

Entities exempt under § 501 of the Internal Revenue Code are exempt from corporate income tax, as well as "religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit." Ky. Rev. Stat. Ann. § 141.040(f)-(g).

Sales and Use Taxation

Tax does not apply to sales of tangible personal property, digital property, or services to institutions qualified for exemption from income taxation under § 501(c)(3) of the Internal Revenue Code provided the tangible personal property, digital property, or service is to be used solely within the educational, charitable, or religious function. Ky. Rev. Stat. Ann. § 139.495.

Property Tax Exemption

The Kentucky Constitution exempts "institutions of religion" and "institutions of purely public charity" from property taxes. Kentucky Constitution § 170.

Miscellaneous Exemptions

N/A.

General Resource:

<http://www.lrc.ky.gov/statutes/chapter.aspx?id=38571>

Disclaimer

This manual is intended to be used as a practical and informative guide only, and is not a substitute for the advice of legal counsel. It is not to be considered comprehensive or to be used as legal authority for any purpose. Please note that the information provided within may not be accurate for many reasons, including but not limited to changes in applicable legal authority and the applicability of such authority in any particular circumstance is highly fact-specific and