

Take Advantage of the Updates to Kentucky's Nonprofit Corporation Act

House Bill 440 was introduced to provide nonprofits with more flexibility and update existing laws to allow for increased usage of technology. The bill was unanimously passed by the Kentucky General Assembly in March and signed into law by Governor Steve Beshear on April 1, 2015. The law is effective on June 24, 2015.



Get Informed!

1. Notice of board of directors and members (if applicable) meetings may be distributed by email.

Note: If a member refuses to agree to accept electronic notices and insists upon written notice, your organization must comply.

2. The board of directors may act by unanimous written consent, which means that all board members must “sign” the consent document. “Sign” now includes manual signature, facsimile, conformed or electronic signature (email). This applies to regular or special meetings of the board. Board action by written consent has the effect of a meeting vote. The effective date of the written consent is the date of the last board member’s signature (or email).

3. Board members may participate in regular or special meetings by “any means of communication by which all directors participating may simultaneously hear each other during the meeting.” **KNN will work on more inclusive language in 2016 regarding “simultaneously hear each other” to address participation of the deaf and hearing impaired.*

4. Proxy voting by members of a nonprofit’s board of directors has never been permitted in Kentucky. House Bill 440 provides additional clarification that this practice is prohibited.



Take Action!

Amend your organization’s bylaws to provide that notice for board of directors (and member, if applicable) meetings may be given by email and delete any language requiring notices delivered by the US Postal Service, hand delivery, etc.

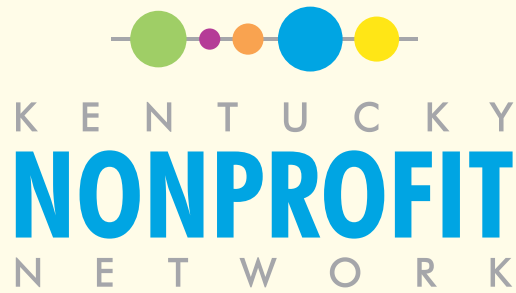
Amend your organization’s bylaws to delete any language that requires the physical presence of a board member to be counted as present at a meeting. Amend the bylaws to include language that allows for unanimous written consent to include electronic signatures. *Note: If such action is taken, the signed, written consent of each director must be included in the minutes or filed in the corporate records.*Membership organizations may update their bylaws to reflect similar language for members.*

Amend your bylaws to reflect the updated language.

Delete any language in your bylaws permitting or suggesting proxy voting by board members is permitted. *Note: Proxy voting by members of membership organizations IS permitted.*



Kentucky Nonprofit Network’s public policy priority in 2016 is continued work on updating these laws. Please emailus@kynonprofits.org with your feedback.



Get Informed!

5. Unless otherwise stated in an organization's article of incorporation or bylaws, the minimum notice for meetings of the board of directors is now two days.

6. For membership organizations, the board of directors can hold meetings of the organization's members (regular or special) exclusively by means of remote communication.

7. Nonprofits dissolving can now file articles of dissolution with the Secretary of State along with a copy of the plan of distribution of any assets. The Secretary of State is directed to forward a copy on to the Secretary of Revenue. This allows the nonprofit corporation to exist after filing the articles of dissolution for the purpose of liquidating its business. Dissolution of the corporation does not "abate or suspend" the rule of limited liability for board members.



Take Action!

Update your bylaws with this language and ensure you are providing at least two days notice of board meetings.

Update your bylaws to reflect the new provision and delete any language that would prohibit participation via remote communication.

Learn More! Additional items addressed in House Bill 440 include laws designed to assist small, informal groups and organizations with governance, liability issues, legal authority to enter into transactions or own property and dissolve. These groups may now voluntarily file a certificate of association with the Secretary of State and as a result, would receive some of the benefits and protections of more sophisticated and advanced organizations. All entities who file for this certificate would change the name of their organization to "Limited" or "Ltd." Contact the Kentucky Office of Secretary of State for additional guidance and support.

Empowering Nonprofits. Strengthening Kentucky.

Kentucky Nonprofit Network is the state association of nonprofit organizations, existing to strengthen and advance the nonprofit sector.

Visit www.kynonprofits.org to connect to member resources and get involved!

Kentucky Nonprofit Network, Inc., PO Box 24362, Lexington, KY 40524
T: 859.963.3203 F: 859.534.3310 www.kynonprofits.org

This summary is not meant to serve as legal advice. Legal counsel may be needed to address your organization's unique circumstances. © Kentucky Nonprofit Network, Inc., 2015