

**272.390 Articles of incorporation -- What to set forth. (Effective until January 1, 2011)**

- (1) Each association formed under KRS 272.360 to 272.510 must prepare and file articles of incorporation, setting forth:
  - (a) The name of the association;
  - (b) The place where its principal business will be transacted;
  - (c) The term for which it is to exist; the number of directors thereof which must not be less than five (5) and may be any number in excess thereof; the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, or until election and qualification of their successors; and
  - (d) The property rights of the members and whether the interest of each member will be equal or unequal; and if unequal, the rule or rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules.
- (2) Except as authorized by subsections (3) and (4) of this section, the name of an association must be distinguishable from any name of record with the Secretary of State.
- (3) An association may apply to the Secretary of State for authorization to use a name that is not distinguishable from any name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:
  - (a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying association; or
  - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) An association may use the name, including the fictitious name, of another entity that is used in this state, if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user association:
  - (a) Has merged with the other entity;
  - (b) Has been formed by reorganization of the other entity; or
  - (c) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (5) This chapter does not control the use of assumed names.
- (6) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

**Effective:** July 15, 2010

**History:** Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 78, effective July 15, 2010.  
-- Amended 2007 Ky. Acts ch. 137, sec. 78, effective June 26, 2007. -- Created 1942  
Ky. Acts ch. 88, sec. 5.

**Legislative Research Commission Note (7/15/2010).** 2010 Ky. Acts ch. 51, sec. 183, provides, "The specific textual provisions of Sections 1 to 178 of this Act which reflect amendments made to those sections by 2007 Ky. Acts ch. 137 shall be deemed effective as of June 26, 2007, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text of those sections being unaffected by the provisions of this section."

**Legislative Research Commission Note (6/26/2007).** The numbering of subsections in this section has been altered by the Reviser of Statutes from the numbering in 2007 Ky. Acts ch. 137, sec. 78, under the authority of KRS 7.136.

### **272.390 Articles of incorporation -- What to set forth. (Effective January 1, 2011)**

Each association formed under KRS 272.360 to 272.510 must prepare and file articles of incorporation, setting forth:

- (1) The name of the association that satisfies KRS 14A.3-010;
- (2) The place where its principal business will be transacted;
- (3) The term for which it is to exist; the number of directors thereof which must not be less than five (5) and may be any number in excess thereof; the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, or until election and qualification of their successors; and
- (4) The property rights of the members and whether the interest of each member will be equal or unequal; and if unequal, the rule or rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules.

**Effective:** January 1, 2011

**History:** Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 78, effective July 15, 2010; and repealed, reenacted, and amended ch. 151, sec. 59, effective January 1, 2011. -- Amended 2007 Ky. Acts ch. 137, sec. 78, effective June 26, 2007. -- Created 1942 Ky. Acts ch. 88, sec. 5.

**Legislative Research Commission Note (1/1/2011).** This section was repealed, reenacted, and amended by 2010 Ky. Acts ch. 151, and repealed and reenacted by 2010 Ky. Acts ch. 51. Pursuant to Section 184 of Acts ch. 51, it was the intent of the General Assembly that the repeal and reenactment not serve to void the amendment, and these Acts do not appear to be in conflict, therefore, they have been codified together.

**Legislative Research Commission Note (7/15/2010).** 2010 Ky. Acts ch. 51, sec. 183, provides, "The specific textual provisions of Sections 1 to 178 of this Act which reflect amendments made to those sections by 2007 Ky. Acts ch. 137 shall be deemed effective as of June 26, 2007, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text of those sections being unaffected by the provisions of this section."

**Legislative Research Commission Note** (6/26/2007). The numbering of subsections in this section has been altered by the Reviser of Statutes from the numbering in 2007 Ky. Acts ch. 137, sec. 78, under the authority of KRS 7.136.