

CHAPTER 191**(HB 367)**

AN ACT relating to agriculture water quality.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 224.71-100 TO 224.71-140 IS CREATED TO READ AS FOLLOWS:

For purposes of KRS 224.71-100 to 224.71-140, any documents relating to agriculture operations' agriculture water quality plans, conservation plans, or forest stewardship management plans, submitted to a local conservation district office or a state agency shall be confidential, and their disclosure to anyone other than a state or federal official is prohibited. The privilege of confidentiality given under this section does not apply to an agriculture operation's application for financial assistance from the soil erosion and water quality cost share program. The confidentiality given under this section shall not preclude disclosure of an agriculture operation's agriculture water quality plan to the Agriculture Water Quality Authority pursuant to a request by the authority for the purpose of the authority carrying out its statutory duties. In a civil or administrative proceeding, after a private review consistent with the Kentucky Rules of Civil Procedure, all documents claimed confidential under this section shall be disclosed if the court or hearing officer determines that the documents claimed confidential show evidence of noncompliance with this chapter or with applicable federal, state, or local law. The party asserting the privilege of confidentiality shall have the burden of showing that the privilege is properly asserted. If any person engaged in an agriculture operation is deemed a "bad actor" under KRS 224.71-130(2), the privilege of confidentiality given under this section to documents relating to the bad actor's agriculture operation shall be lost. The confidentiality granted by this section shall not prohibit disclosure of statistical information not descriptive of any identifiable agriculture operation or person. Nothing in this section shall prohibit disclosure of agency reports, monitoring or sampling data, and other information contained in state or local conservation district files relating to water quality compliance and investigations or notices under KRS 224.71-130.

Approved April 2, 2002