

1 AN ACT relating to financial institutions.

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

3 ➔Section 1. KRS 61.870 is amended to read as follows:

4 As used in KRS 61.870 to 61.884, unless the context requires otherwise:

- 5 (1) "Public agency" means:
- 6 (a) Every state or local government officer;
 - 7 (b) Every state or local government department, division, bureau, board,
8 commission, and authority;
 - 9 (c) Every state or local legislative board, commission, committee, and officer;
 - 10 (d) Every county and city governing body, council, school district board, special
11 district board, and municipal corporation;
 - 12 (e) Every state or local court or judicial agency;
 - 13 (f) Every state or local government agency, including the policy-making board of
14 an institution of education, created by or pursuant to state or local statute,
15 executive order, ordinance, resolution, or other legislative act;
 - 16 (g) Any body created by state or local authority in any branch of government;
 - 17 (h) Any body which, within any fiscal year, derives at least twenty-five percent
18 (25%) of its funds expended by it in the Commonwealth of Kentucky from
19 state or local authority funds. However, any funds derived from a state or local
20 authority in compensation for goods or services that are provided by a contract
21 obtained through a public competitive procurement process shall not be
22 included in the determination of whether a body is a public agency under this
23 subsection;
 - 24 (i) Any entity where the majority of its governing body is appointed by a public
25 agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of
26 this subsection; by a member or employee of such a public agency; or by any
27 combination thereof;

- 1 (j) Any board, commission, committee, subcommittee, ad hoc committee,
2 advisory committee, council, or agency, except for a committee of a hospital
3 medical staff, established, created, and controlled by a public agency as
4 defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this
5 subsection; and
- 6 (k) Any interagency body of two (2) or more public agencies where each public
7 agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of
8 this subsection;
- 9 (2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs,
10 diskettes, recordings, software, or other documentation regardless of physical form
11 or characteristics, which are prepared, owned, used, in the possession of or retained
12 by a public agency. "Public record" shall not include any records owned or
13 maintained by or for a body referred to in subsection (1)(h) of this section that are
14 not related to functions, activities, programs, or operations funded by state or local
15 authority;
- 16 (3) (a) "Software" means the program code which makes a computer system
17 function, but does not include that portion of the program code which contains
18 public records exempted from inspection as provided by KRS 61.878 or
19 specific addresses of files, passwords, access codes, user identifications, or
20 any other mechanism for controlling the security or restricting access to public
21 records in the public agency's computer system.
- 22 (b) "Software" consists of the operating system, application programs,
23 procedures, routines, and subroutines such as translators and utility programs,
24 but does not include that material which is prohibited from disclosure or
25 copying by a license agreement between a public agency and an outside entity
26 which supplied the material to the agency;
- 27 (4) (a) "Commercial purpose" means the direct or indirect use of any part of a public

1 record or records, in any form, for sale, resale, solicitation, rent, or lease of a
2 service, or any use by which the user expects a profit either through
3 commission, salary, or fee.

4 (b) "Commercial purpose" shall not include:

- 5 1. Publication or related use of a public record by a newspaper or
6 periodical;
- 7 2. Use of a public record by a radio or television station in its news or other
8 informational programs; or
- 9 3. Use of a public record in the preparation for prosecution or defense of
10 litigation, or claims settlement by the parties to such action, or the
11 attorneys representing the parties;

12 (5) "Official custodian" means the chief administrative officer or any other officer or
13 employee of a public agency who is responsible for the maintenance, care and
14 keeping of public records, regardless of whether such records are in his actual
15 personal custody and control;

16 (6) "Custodian" means the official custodian or any authorized person having personal
17 custody and control of public records;

18 (7) "Media" means the physical material in or on which records may be stored or
19 represented, and which may include, but is not limited to paper, microform, disks,
20 diskettes, optical disks, magnetic tapes, and cards;

21 (8) "Mechanical processing" means any operation or other procedure which is
22 transacted on a machine, and which may include, but is not limited to a copier,
23 computer, recorder or tape processor, or other automated device;~~and~~

24 (9) "Booking photograph and photographic record of inmate" means a photograph or
25 image of an individual generated by law enforcement for identification purposes
26 when the individual is booked into a detention facility as defined in KRS 520.010 or
27 photograph and image of an inmate taken pursuant to KRS 196.099; **and**

1 **(10) "Resident of the Commonwealth" means:**

2 **(a) An individual residing in the Commonwealth;**

3 **(b) A domestic business entity with a location in the Commonwealth;**

4 **(c) A foreign business entity registered with the Secretary of State; or**

5 **(d) A news-gathering organization as defined in KRS 189.635(8)(b)1.a. to e.**

6 **that:**

7 **1. Has a location in the Commonwealth; or**

8 **2. Is affiliated with another news-gathering organization that has a**
 9 **location in the Commonwealth.**

10 ➔Section 2. KRS 61.872 is amended to read as follows:

11 (1) All public records shall be open for inspection by any **resident of the**
 12 **Commonwealth**~~[person]~~, except as otherwise provided by KRS 61.870 to 61.884,
 13 and suitable facilities shall be made available by each public agency for the exercise
 14 of this right. No **resident of the Commonwealth**~~[person]~~ shall remove original
 15 copies of public records from the offices of any public agency without the written
 16 permission of the official custodian of the record.

17 (2) Any **resident of the Commonwealth**~~[person]~~ shall have the right to inspect public
 18 records. The official custodian may require **written**~~[-~~

19 ~~(a)—Written]~~ application, signed by the applicant and with his **or her** name **and**
 20 **mailing address** printed legibly on the application, describing the records to
 21 be inspected. The written application shall be:

22 **(a) Hand delivered;**~~[-]~~

23 **(b) Mailed;**~~[-, or]~~

24 **(c) Sent via facsimile**~~[to the public agency];~~ **or**

25 **(d) Sent via e-mail to the public agency's official custodian of public records or**
 26 **his or her designee at the e-mail address designated in the public agency's**
 27 **rules and regulations adopted pursuant to Section 2 of this Act**~~[-]~~

- 1 ~~(b) Facsimile transmission of the written application described in paragraph (a) of~~
2 ~~this subsection; or~~
- 3 ~~(c) E-mail of the application described in paragraph (a) of this subsection].~~
- 4 (3) A **resident of the Commonwealth**~~[person]~~ may inspect the public records:
- 5 (a) During the regular office hours of the public agency; or
- 6 (b) By receiving copies of the public records from the public agency through the
7 mail. The public agency shall mail copies of the public records to a person
8 whose residence or principal place of business is outside the county in which
9 the public records are located after he precisely describes the public records
10 which are readily available within the public agency. If the **resident of the**
11 **Commonwealth**~~[person]~~ requesting the public records requests that copies of
12 the records be mailed, the official custodian shall mail the copies upon receipt
13 of all fees and the cost of mailing.
- 14 (4) If the person to whom the application is directed does not have custody or control of
15 the public record requested, that person shall notify the applicant and shall furnish
16 the name and location of the official custodian of the agency's public records.
- 17 (5) If the public record is in active use, in storage or not otherwise available, the official
18 custodian shall immediately notify the applicant and shall designate a place, time,
19 and date for inspection of the public records, not to exceed three (3) days from
20 receipt of the application, unless a detailed explanation of the cause is given for
21 further delay and the place, time, and earliest date on which the public record will
22 be available for inspection.
- 23 (6) If the application places an unreasonable burden in producing public records or if
24 the custodian has reason to believe that repeated requests are intended to disrupt
25 other essential functions of the public agency, the official custodian may refuse to
26 permit inspection of the public records or mail copies thereof. However, refusal
27 under this section shall be sustained by clear and convincing evidence.

1 (7) Subject to an order of the court of competent jurisdiction, records otherwise
 2 obtainable through the civil discovery process in a pending civil lawsuit shall not
 3 be subject to inspection by:

4 (a) A party to that civil lawsuit with the Commonwealth or any public agency;

5 (b) A person or entity acting on behalf of a party to that civil lawsuit with the
 6 Commonwealth or any public agency; or

7 (c) A person or entity who has made a filing in that civil lawsuit or appeal of
 8 that civil lawsuit against the Commonwealth or any public agency.

9 ➔Section 3. KRS 61.876 is amended to read as follows:

10 (1) Each public agency shall adopt rules and regulations in conformity with the
 11 provisions of KRS 61.870 to 61.884 to provide full access to public records, to
 12 protect public records from damage and disorganization, to prevent excessive
 13 disruption of its essential functions, to provide assistance and information upon
 14 request and to insure efficient and timely action in response to application for
 15 inspection, and such rules and regulations shall include, but shall not be limited to:

16 (a) The principal office of the public agency and its regular office hours;

17 (b) The title, mailing address, and e-mail address of the official custodian of the
 18 public agency's records;

19 (c) The fees, to the extent authorized by KRS 61.874 or other statute, charged for
 20 copies;

21 (d) The procedures to be followed in requesting public records.

22 (2) Each public agency shall display ~~a copy of its rules and regulations pertaining to~~
 23 ~~public records~~ in a prominent location accessible to the public, including on its
 24 Web site:

25 (a) A copy of its rules and regulations pertaining to public records;

26 (b) The mailing address, e-mail address, and phone number of the official
 27 custodian of the records or his or her designee to which all requests for

1 public records shall be made; and

2 (c) The form developed by the Attorney General under subsection (4) of this
 3 section to be used to request public records.

4 (3) The Finance and Administration Cabinet may promulgate administrative
 5 regulations pursuant to KRS Chapter 13A~~[uniform rules and regulations]~~ for all
 6 state administrative agencies, except for the Legislative Research Commission and
 7 the Administrative Office of the Courts, each of which may promulgate
 8 administrative regulations for their respective agencies.

9 (4) The Attorney General shall promulgate by administrative regulation under KRS
 10 Chapter 13A a standardized form to be used to request public records from a
 11 public agency. The form shall not allow any request for information other than
 12 the following:

13 (a) The name of the requesting party;

14 (b) The mailing address of the requesting party;

15 (c) The e-mail address of the requesting party, if any;

16 (d) The phone number of the requesting party, if any;

17 (e) Whether the request is for a commercial purpose;

18 (f) The fee, if any, that will be charged to obtain copies of the public records;

19 (g) The exact nature of the documents requested; and

20 (h) A certification that the person making the request:

21 1. Is not a party to a pending lawsuit or has not made a filing in a
 22 pending lawsuit or an appeal of a lawsuit with the Commonwealth or
 23 any public agency; and

24 2. Is otherwise entitled to obtain or inspect the records requested.

25 (5) The Attorney General shall make the form readily available to the public,
 26 including on the Attorney General's Web site, as of the effective date of this Act.
 27 The form shall be adopted and used by every public agency and shall be used for

1 *any request for public records made on or after the effective date of this Act.*

2 ➔Section 4. KRS 61.878 is amended to read as follows:

3 (1) The following public records are excluded from the application of KRS 61.870 to
4 61.884 and shall be subject to inspection only upon order of a court of competent
5 jurisdiction, except that no court shall authorize the inspection by any party of any
6 materials pertaining to civil litigation beyond that which is provided by the Rules of
7 Civil Procedure governing pretrial discovery:

8 (a) Public records containing information of a personal nature where the public
9 disclosure thereof would constitute a clearly unwarranted invasion of personal
10 privacy;

11 (b) Records confidentially disclosed to an agency and compiled and maintained
12 for scientific research. This exemption shall not, however, apply to records the
13 disclosure or publication of which is directed by another statute;

14 (c) 1. ~~{Upon and after July 15, 1992, }~~Records confidentially disclosed to an
15 agency or required by an agency to be disclosed to it, generally
16 recognized as confidential or proprietary, which if openly disclosed
17 would permit an unfair commercial advantage to competitors of the
18 entity that disclosed the records;

19 2. ~~{Upon and after July 15, 1992, }~~Records confidentially disclosed to an
20 agency or required by an agency to be disclosed to it, generally
21 recognized as confidential or proprietary, which are compiled and
22 maintained:

23 a. In conjunction with an application for or the administration of a
24 loan or grant;

25 b. In conjunction with an application for or the administration of
26 assessments, incentives, inducements, and tax credits as described
27 in KRS Chapter 154;

- 1 c. In conjunction with the regulation of commercial enterprise,
2 including mineral exploration records, unpatented, secret
3 commercially valuable plans, appliances, formulae, or processes,
4 which are used for the making, preparing, compounding, treating,
5 or processing of articles or materials which are trade commodities
6 obtained from a person; or
- 7 d. For the grant or review of a license to do business.
- 8 3. The exemptions provided for in subparagraphs 1. and 2. of this
9 paragraph shall not apply to records the disclosure or publication of
10 which is directed by another statute;
- 11 (d) Public records pertaining to a prospective location of a business or industry
12 where no previous public disclosure has been made of the business' or
13 industry's interest in locating in, relocating within or expanding within the
14 Commonwealth. This exemption shall not include those records pertaining to
15 application to agencies for permits or licenses necessary to do business or to
16 expand business operations within the state, except as provided in paragraph
17 (c) of this subsection;
- 18 (e) Public records which are developed by an agency in conjunction with the
19 regulation or supervision of financial institutions, including but not limited to,
20 banks, savings and loan associations, and credit unions, which disclose the
21 agency's internal examining or audit criteria and related analytical methods;
- 22 (f) The contents of real estate appraisals, engineering or feasibility estimates and
23 evaluations made by or for a public agency relative to acquisition of property,
24 until such time as all of the property has been acquired. The law of eminent
25 domain shall not be affected by this provision;
- 26 (g) Test questions, scoring keys, and other examination data used to administer a
27 licensing examination, examination for employment, or academic examination

- 1 before the exam is given or if it is to be given again;
- 2 (h) Records of law enforcement agencies or agencies involved in administrative
3 adjudication that were compiled in the process of detecting and investigating
4 statutory or regulatory violations if the disclosure of the information would
5 harm the agency by revealing the identity of informants not otherwise known
6 or by premature release of information to be used in a prospective law
7 enforcement action or administrative adjudication. Unless exempted by other
8 provisions of KRS 61.870 to 61.884, public records exempted under this
9 provision shall be open after enforcement action is completed or a decision is
10 made to take no action; however, records or information compiled and
11 maintained by county attorneys or Commonwealth's attorneys pertaining to
12 criminal investigations or criminal litigation shall be exempted from the
13 provisions of KRS 61.870 to 61.884 and shall remain exempted after
14 enforcement action, including litigation, is completed or a decision is made to
15 take no action. The exemptions provided by this subsection shall not be used
16 by the custodian of the records to delay or impede the exercise of rights
17 granted by KRS 61.870 to 61.884;
- 18 (i) Preliminary drafts, notes, correspondence with private individuals, other than
19 correspondence which is intended to give notice of final action of a public
20 agency;
- 21 (j) Preliminary recommendations, and preliminary memoranda in which opinions
22 are expressed or policies formulated or recommended;
- 23 (k) All public records or information the disclosure of which is prohibited by
24 federal law or regulation *or state law*;
- 25 (l) Public records or information the disclosure of which is prohibited or
26 restricted or otherwise made confidential by enactment of the General
27 Assembly, including any information acquired by the Department of Revenue

1 in tax administration that is prohibited from divulgence or disclosure under
2 KRS 131.190;

- 3 (m) 1. Public records the disclosure of which would have a reasonable
4 likelihood of threatening the public safety by exposing a vulnerability in
5 preventing, protecting against, mitigating, or responding to a terrorist act
6 and limited to:
- 7 a. Criticality lists resulting from consequence assessments;
 - 8 b. Vulnerability assessments;
 - 9 c. Antiterrorism protective measures and plans;
 - 10 d. Counterterrorism measures and plans;
 - 11 e. Security and response needs assessments;
 - 12 f. Infrastructure records that expose a vulnerability referred to in this
13 subparagraph through the disclosure of the location, configuration,
14 or security of critical systems, including public utility critical
15 systems. These critical systems shall include but not be limited to
16 information technology, communication, electrical, fire
17 suppression, ventilation, water, wastewater, sewage, and gas
18 systems;
 - 19 g. The following records when their disclosure will expose a
20 vulnerability referred to in this subparagraph: detailed drawings,
21 schematics, maps, or specifications of structural elements, floor
22 plans, and operating, utility, or security systems of any building or
23 facility owned, occupied, leased, or maintained by a public agency;
24 and
 - 25 h. Records when their disclosure will expose a vulnerability referred
26 to in this subparagraph and that describe the exact physical
27 location of hazardous chemical, radiological, or biological

1 materials.

2 2. As used in this paragraph, "terrorist act" means a criminal act intended
3 to:

4 a. Intimidate or coerce a public agency or all or part of the civilian
5 population;

6 b. Disrupt a system identified in subparagraph 1.f. of this paragraph;
7 or

8 c. Cause massive destruction to a building or facility owned,
9 occupied, leased, or maintained by a public agency.

10 3. On the same day that a public agency denies a request to inspect a public
11 record for a reason identified in this paragraph, that public agency shall
12 forward a copy of the written denial of the request, referred to in KRS
13 61.880(1), to the executive director of the Kentucky Office of Homeland
14 Security and the Attorney General.

15 4. Nothing in this paragraph shall affect the obligations of a public agency
16 with respect to disclosure and availability of public records under state
17 environmental, health, and safety programs.

18 5. The exemption established in this paragraph shall not apply when a
19 member of the Kentucky General Assembly seeks to inspect a public
20 record identified in this paragraph under the Open Records Law;

21 (n) Public or private records, including books, papers, maps, photographs, cards,
22 tapes, discs, diskettes, recordings, software, or other documentation regardless
23 of physical form or characteristics, having historic, literary, artistic, or
24 commemorative value accepted by the archivist of a public university,
25 museum, or government depository from a donor or depositor other than a
26 public agency. This exemption shall apply to the extent that nondisclosure is
27 requested in writing by the donor or depositor of such records, but shall not

1 apply to records the disclosure or publication of which is mandated by another
2 statute or by federal law;

3 (o) Records of a procurement process under KRS Chapter 45A or 56. This
4 exemption shall not apply after:

5 1. A contract is awarded; or

6 2. The procurement process is canceled without award of a contract and
7 there is a determination that the contract will not be resolicited;~~and~~

8 (p) *Client and case files maintained by the Department of Public Advocacy or*
9 *any person or entity contracting with the Department of Public Advocacy*
10 *for the provision of legal representation under KRS Chapter 31; and*

11 (q) Communications of a purely personal nature unrelated to any governmental
12 function.

13 (2) No exemption in this section shall be construed to prohibit disclosure of statistical
14 information not descriptive of any readily identifiable person.

15 (3) No exemption in this section shall be construed to deny, abridge, or impede the
16 right of a public agency employee, including university employees, an applicant for
17 employment, or an eligible on a register to inspect and to copy any record including
18 preliminary and other supporting documentation that relates to him. The records
19 shall include, but not be limited to, work plans, job performance, demotions,
20 evaluations, promotions, compensation, classification, reallocation, transfers, lay-
21 offs, disciplinary actions, examination scores, and preliminary and other supporting
22 documentation. A public agency employee, including university employees,
23 applicant, or eligible shall not have the right to inspect or to copy any examination
24 or any documents relating to ongoing criminal or administrative investigations by
25 an agency.

26 (4) If any public record contains material which is not excepted under this section, the
27 public agency shall separate the excepted and make the nonexcepted material

1 available for examination.

2 (5) The provisions of this section shall in no way prohibit or limit the exchange of
3 public records or the sharing of information between public agencies when the
4 exchange is serving a legitimate governmental need or is necessary in the
5 performance of a legitimate government function.

6 ➔Section 5. KRS 61.880 is amended to read as follows:

7 (1) If a person enforces KRS 61.870 to 61.884 pursuant to this section, he shall begin
8 enforcement under this subsection before proceeding to enforcement under
9 subsection (2) of this section. Each public agency, upon any request for records
10 made under KRS 61.870 to 61.884, shall determine within five (5)~~three (3)~~ days,
11 excepting Saturdays, Sundays, and legal holidays, after the receipt of any such
12 request whether to comply with the request and shall notify in writing the person
13 making the request, within the five (5)~~three (3)~~ day period, of its decision. An
14 agency response denying, in whole or in part, inspection of any record shall include
15 a statement of the specific exception authorizing the withholding of the record and a
16 brief explanation of how the exception applies to the record withheld. The response
17 shall be issued by the official custodian or under his authority, and it shall constitute
18 final agency action.

19 (2) (a) If a complaining party wishes the Attorney General to review a public
20 agency's denial of a request to inspect a public record, the complaining party
21 shall forward to the Attorney General a copy of the written request and a copy
22 of the written response denying inspection. If the public agency refuses to
23 provide a written response, a complaining party shall provide a copy of the
24 written request. The Attorney General shall review the request and denial and
25 issue within twenty (20) days, excepting Saturdays, Sundays and legal
26 holidays, a written decision stating whether the agency violated provisions of
27 KRS 61.870 to 61.884.

- 1 (b) In unusual circumstances, the Attorney General may extend the twenty (20)
2 day time limit by sending written notice to the complaining party and a copy
3 to the denying agency, setting forth the reasons for the extension, and the day
4 on which a decision is expected to be issued, which shall not exceed an
5 additional thirty (30) work days, excepting Saturdays, Sundays, and legal
6 holidays. As used in this section, "unusual circumstances" means, but only to
7 the extent reasonably necessary to the proper resolution of an appeal:
- 8 1. The need to obtain additional documentation from the agency or a copy
9 of the records involved;
 - 10 2. The need to conduct extensive research on issues of first impression; or
 - 11 3. An unmanageable increase in the number of appeals received by the
12 Attorney General.
- 13 (c) On the day that the Attorney General renders his decision, he shall mail a copy
14 to the agency and a copy to the person who requested the record in question.
15 The burden of proof in sustaining the action shall rest with the agency, and the
16 Attorney General may request additional documentation from the agency for
17 substantiation. The Attorney General may also request a copy of the records
18 involved but they shall not be disclosed.
- 19 (3) Each agency shall notify the Attorney General of any actions filed against that
20 agency in Circuit Court regarding the enforcement of KRS 61.870 to 61.884. The
21 Attorney General shall not, however, be named as a party in any Circuit Court
22 actions regarding the enforcement of KRS 61.870 to 61.884, nor shall he have any
23 duty to defend his decision in Circuit Court or any subsequent proceedings.
- 24 (4) If a person feels the intent of KRS 61.870 to 61.884 is being subverted by an agency
25 short of denial of inspection, including but not limited to the imposition of
26 excessive fees or the misdirection of the applicant, the person may complain in
27 writing to the Attorney General, and the complaint shall be subject to the same

1 adjudicatory process as if the record had been denied.

2 (5) (a) A party shall have thirty (30) days from the day that the Attorney General
3 renders his decision to appeal the decision. An appeal within the thirty (30)
4 day time limit shall be treated as if it were an action brought under KRS
5 61.882.

6 (b) If an appeal is not filed within the thirty (30) day time limit, the Attorney
7 General's decision shall have the force and effect of law and shall be
8 enforceable in the Circuit Court of the county where the public agency has its
9 principal place of business or the Circuit Court of the county where the public
10 record is maintained.

11 ➔Section 6. KRS 7.119 is amended to read as follows:

12 (1) Records in the custody of the Legislative Research Commission or the General
13 Assembly shall be available for distribution to the public, or open for inspection by
14 any person *who is a resident of the Commonwealth.*

15 (2) As used in subsection (1) of this section, "records" includes bills and amendments
16 introduced in the Senate or House of Representatives, Senate and House Journals,
17 Acts of the General Assembly, roll call votes, final reports of committees, Kentucky
18 Administrative Regulations, documents showing salary and expenses paid to
19 members of the General Assembly and all employees of the legislative branch,
20 contracts, receipts and work orders for repairs or renovations to legislative offices or
21 facilities, items cataloged in the legislative library, the Legislative Record, and
22 informational and educational materials offered by the public information office,
23 including legislative videotapes and photographs, calendars, and meeting notices.

24 (3) Requests for records~~[or other documents]~~ in the custody of the Legislative
25 Research Commission or the General Assembly *set forth in subsection (2) of this*
26 *section* shall be directed to the director of the Legislative Research Commission,
27 *who shall determine within five (5) days, excepting Saturdays, Sundays, and legal*

1 holidays, after the receipt of the request whether to comply with the request, and
2 shall, in writing notify the person making the request of his or her decision.
3 ~~[Except for KRS 61.880(3), provisions of the Open Records Act, KRS 61.870 to~~
4 ~~61.884, shall apply to a request for inspection or copies of documents or other items~~
5 ~~not set forth in subsection (2) of this section, and except that]A request for a review~~
6 ~~[under KRS 61.880] of any determination by the director regarding a request for~~
7 records set forth in subsection (2) of this section shall be made to the Legislative
8 Research Commission, which shall issue its decision within thirty (30) days of the
9 first scheduled meeting held following receipt for review. If the Legislative
10 Research Commission does not issue its decision on a review of the director's
11 determination within thirty (30) days of the first scheduled meeting held following
12 receipt of the request for review, the review shall be considered denied~~[submission~~
13 ~~to it of the matter, the director's determination may be appealed to the Franklin~~
14 ~~Circuit Court within sixty (60) days of its issuance. For purposes of this subsection,~~
15 ~~any reference to the Attorney General in KRS 61.880 and 61.882 shall be read as~~
16 ~~the Legislative Research Commission].~~

17 (4) If a request for records in the custody of the Legislative Research Commission or
18 the General Assembly not set forth in subsection (2) of this section or in KRS
19 7.117 is made to the director of the Legislative Research Commission, those
20 records shall not be subject to disclosure. A request for review of the denial of the
21 disclosure shall be made to the Legislative Research Commission, which shall
22 issue its decision within thirty (30) days of the first scheduled meeting held
23 following receipt of the request for review. That decision shall be final and
24 unappealable.

25 (5) Once a request for records is made, and unless otherwise permitted by statute, if
26 the Legislative Research Commission determines that a denial of disclosure
27 related to that request was properly made, no member of the Commission, the

1 General Assembly, or the staff of the Legislative Research Commission shall
2 knowingly or intentionally disclose to any person the records that were the
3 subject of the denied request. Violation of this subsection is a violation under
4 KRS 6.734.

5 (6) (a) If a public agency other than the Legislative Research Commission receives
6 a request for inspection of a public record that may fall under subsection (2)
7 of this section, the official custodian of the records for the public agency
8 shall notify the director of the Legislative Research Commission within two
9 (2) days of receipt of the request. The official custodian records for the
10 public agency that received the request shall be required to respond to the
11 request.

12 (b) If the Legislative Research Commission receives a request relating to a
13 specific member of the General Assembly, the director shall notify that
14 member within one (1) day of receipt of the request.

15 (7) Nothing in this section shall be construed as a waiver or diminishment of any
16 constitutional, common law, or statutory defenses, privileges, or immunities that
17 may apply to any member of the General Assembly, legislative staff, legislative
18 agency or entity, or any other member or employee of the legislative branch.

19 ➔Section 7. KRS 189.635 is amended to read as follows:

20 (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall
21 be responsible for maintaining a reporting system for all vehicle accidents which
22 occur within the Commonwealth. Such accident reports shall be utilized for such
23 purposes as will improve the traffic safety program in the Commonwealth involving
24 the collection, processing, storing, and dissemination of such data and the
25 establishment of procedures by administrative regulations to ensure that uniform
26 definitions, classifications, and other federal requirements are in compliance.

27 (2) Any person operating a vehicle on the highways of this state who is involved in an

1 accident resulting in fatal or nonfatal personal injury to any person or damage to the
2 vehicle rendering the vehicle inoperable shall be required to immediately notify a
3 law enforcement officer having jurisdiction. In the event the operator fails to notify
4 or is incapable of notifying a law enforcement officer having jurisdiction, such
5 responsibility shall rest with the owner of the vehicle or any occupant of the vehicle
6 at the time of the accident. A law enforcement officer having jurisdiction shall
7 investigate the accident and file a written report of the accident with his or her law
8 enforcement agency.

9 (3) Every law enforcement agency whose officers investigate a vehicle accident of
10 which a report must be made as required in this chapter shall file a report of the
11 accident with the Department of Kentucky State Police within ten (10) days after
12 investigation of the accident upon forms supplied by the department.

13 (4) Any person operating a vehicle on the highways of this state who is involved in an
14 accident resulting in any property damage exceeding five hundred dollars (\$500) in
15 which an investigation is not conducted by a law enforcement officer shall file a
16 written report of the accident with the Department of Kentucky State Police within
17 ten (10) days of occurrence of the accident upon forms provided by the department.

18 (5) (a) All accident reports filed with the Department of Kentucky State Police in
19 compliance with subsection (4) of this section shall not be considered open
20 records under KRS 61.870 to 61.884 and shall remain confidential, except that
21 the department may:

22 1. Disclose the identity of a person involved in an accident when his or her
23 identity is not otherwise known or when he or she denies his or her
24 presence at an accident; and

25 2. Make the reports available:

26 a. To the persons named in paragraph (c) of this subsection; and

27 b. In accordance with subsection (8) of this section.

- 1 (b) All other accident reports required by this section, and the information
2 contained in the reports, shall be confidential and exempt from public
3 disclosure under KRS 61.870 to 61.884, except when:
- 4 1. Produced pursuant to a properly executed subpoena or court order; or
 - 5 2. Disclosed as provided in this section.
- 6 (c) Accident reports shall be made available to:
- 7 1. The parties to the accident;
 - 8 2. The parents or guardians of a minor who is party to the accident;
 - 9 3. Insurers or their written designee for insurance business purposes of any
10 party who is the subject of the report;
 - 11 4. The attorneys *or employees of the attorney,* of the parties to the accident
12 *or the attorney's written designee;*
 - 13 5. Any party to litigation who files with the department a request for the
14 report and includes a copy of the first page of a District or Circuit Court
15 clerk-stamped complaint naming all parties; and
 - 16 6. The Department of Workplace Standards in the Labor Cabinet if the
17 accident report is pertinent to an occupational safety and health
18 investigation.
- 19 (6) (a) Except as provided for in paragraph (b) of this subsection, the department
20 shall not release accident reports for a commercial purpose.
- 21 (b) Notwithstanding any other provision of this section, the department may, as a
22 matter of public safety, contract with an outside entity and release unredacted
23 vehicle damage data extracted from accident reports to the entity if the data is
24 used solely for the purpose of providing the public a means of determining a
25 vehicle's accident history. The department may further contract with a third
26 party to provide electronic access to reports for persons and entities who are
27 entitled to the reports under subsection (5) of this section.

- 1 (7) The department shall promulgate administrative regulations in accordance with
2 KRS Chapter 13A to set out a fee schedule for accident reports made available
3 pursuant to subsections (5) and (8) of this section. These fees shall be in addition to
4 those charged to the public for records produced under KRS Chapter 61.
- 5 (8) (a) The report shall be made available to a news-gathering organization, solely for
6 the purpose of publishing or broadcasting the news. The news-gathering
7 organization shall not use or distribute the report, or knowingly allow its use
8 or distribution, for a commercial purpose other than the news-gathering
9 organization's publication or broadcasting of the information in the report.
- 10 (b) For the purposes of this subsection:
- 11 1. "News-gathering organization" includes:
- 12 a. A newspaper or periodical if it:
- 13 i. Is published at least fifty (50) of fifty-two (52) weeks during
14 a calendar year;
- 15 ii. Contains at least twenty-five percent (25%) news content in
16 each issue or no more than seventy-five percent (75%)
17 advertising content in any issue in the calendar year; and
- 18 iii. Contains news of general interest to its readers that can
19 include news stories, editorials, sports, weddings, births, and
20 death notices;
- 21 b. A television or radio station with a valid broadcast license issued
22 by the Federal Communications Commission;
- 23 c. A news organization that broadcasts over a multichannel video
24 programming service as defined in KRS 136.602;
- 25 d. A Web site published by or affiliated with any entity described in
26 subdivision a., b., or c. of this subparagraph;
- 27 e. An online-only newspaper or magazine that publishes news or

- 1 opinion of interest to a general audience and is not affiliated with
2 any entity described in subparagraph 2. of this paragraph; and
- 3 f. Any other entity that publishes news content by any means to the
4 general public or to members of a particular profession or
5 occupational group; and
- 6 2. "News-gathering organization" does not include any product or
7 publication with the primary purpose of distributing advertising or of
8 publishing names and other personal identifying information concerning
9 parties to motor vehicle accidents which may be used to solicit for
10 services covered under Subtitle 39 of KRS Chapter 304.
- 11 (c) A news-gathering organization shall not be held to have used or knowingly
12 allowed the use of the report for a commercial purpose merely because of its
13 publication or broadcast.
- 14 (d) A request under this subsection shall be completed using a form promulgated
15 by the department through administrative regulations in accordance with KRS
16 Chapter 13A. The form under this paragraph shall include:
- 17 1. The name and address of the requestor and the news-gathering
18 organization the requestor represents;
- 19 2. A statement that the requestor is a news-gathering organization under
20 this subsection and identifying the specific subdivision of paragraph
21 (b)1. of this subsection under which the requester qualifies;
- 22 3. A statement that the request is in compliance with the criteria contained
23 in this section; and
- 24 4. A declaration of the requestor as to the accuracy and truthfulness of the
25 information provided in the request.
- 26 (e) 1. The department shall redact all personal information from a report prior
27 to making it available to a news-gathering organization as defined under

- 1 paragraph (b)1.f. of this subsection.
- 2 2. Reports may be provided to news-gathering organizations as defined
- 3 under paragraph (b)1.a. to e. of this subsection without redaction.
- 4 3. For the purposes of this paragraph, "personal information" means:
- 5 a. The address, driver's license number, phone number, date of birth,
- 6 and any other contact information contained in the report for each
- 7 person listed on the report; and
- 8 b. The vehicle identification numbers (VINs) for each vehicle listed
- 9 on the report.
- 10 (9) The motor vehicle insurers of any train engineer or other train crew member
- 11 involved in an accident on a railroad while functioning in their professional capacity
- 12 shall be prohibited from obtaining a copy of any accident report filed on the
- 13 accident under this section without written consent from the individual the company
- 14 insures. Insurance companies issuing motor vehicle policies in the Commonwealth
- 15 shall be prohibited from raising a policyholder's rates solely because the
- 16 policyholder, in his or her professional capacity, is a train engineer or other train
- 17 crew member involved in an accident on a railroad.
- 18 (10) For reporting and statistical purposes, motor scooters and autocycles as defined in
- 19 KRS 186.010 shall be listed as a distinct category and shall not be considered to be
- 20 a motor vehicle or a motorcycle for reports issued under this section.