

1 AN ACT relating to legal actions involving the Commonwealth of Kentucky and
2 declaring an emergency.

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

4 ➔Section 1. KRS 15.020 is amended to read as follows:

5 **(1)** The Attorney General is the chief law officer of the Commonwealth of Kentucky
6 and all of its departments, commissions, agencies, and political subdivisions, and
7 the legal adviser of all state officers, departments, commissions, and agencies, and
8 when requested in writing shall furnish to them his ***or her*** written opinion touching
9 any of their official duties, and shall prepare proper drafts of all instruments of
10 writing required for public use, and shall exercise all common law duties and
11 authority pertaining to the office of the Attorney General under the common law,
12 except when modified by statutory enactment.

13 **(2)** ***The Attorney General***~~[He]~~ shall communicate with the Legislative Research
14 Commission as required by KRS 418.075.

15 **(3)** Except as otherwise provided in KRS 48.005 and 2000 Ky. Acts ch. 483, sec. 8, ***the***
16 ***Attorney General***~~[he]~~ shall appear for the Commonwealth in all cases in the
17 Supreme Court or Court of Appeals wherein the Commonwealth is interested, and
18 shall also commence all actions or enter ***an***~~[his]~~ appearance in all cases, hearings,
19 and proceedings in and before all other courts, tribunals, or commissions in or out
20 of the state, and attend to all litigation and legal business in or out of the state
21 required of ***the office***~~[him]~~ by law, or in which the Commonwealth has an interest,
22 and any litigation or legal business that any state officer, department, commission,
23 or agency may have in connection with, or growing out of, his, ***her***, or its official
24 duties, except where it is made the duty of the Commonwealth's attorney or county
25 attorney to represent the Commonwealth. When any attorney is employed for any
26 said agency, the same shall have the approval of such agency before such
27 employment.

1 (4) Notwithstanding any other statute or provision to the contrary, the Attorney
 2 General may bring any action challenging the constitutionality of a Kentucky
 3 statute, executive order, administrative regulation, or order of any cabinet,
 4 program cabinet, or department under KRS Chapter 12. The action may be
 5 brought in any county where the alleged constitutional harm has occurred or
 6 could be reasonably presumed to occur.

7 (5) If any funds of any kind or nature whatsoever are recovered by or on behalf of the
 8 Commonwealth, in any action, including an ex rel. action where the Attorney
 9 General has entered an appearance or is a party according to statutory or common
 10 law authority, those funds shall be handled under KRS 48.005.

11 ➔Section 2. KRS 15.060 is amended to read as follows:

12 [~~Upon written request of the Department of Revenue,~~]The Attorney General may[~~shall~~]:

13 (1) With the assistance of the Auditor of Public Accounts,~~and~~ the Department of
 14 Revenue, or any other appropriate agency, investigate the condition of any
 15 unsatisfied claim, demand, account, and judgment in favor of the Commonwealth.

16 (2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit,
 17 charge or claim has been erroneously or improperly approved, allowed or paid out
 18 of the Treasury to any person, institute the necessary actions to recover the same. To
 19 this end he may employ assistants and experts to assist in examining the fee bills,
 20 accounts, settlements, credits and claims, and the books, records and papers of any
 21 of the officers of the Commonwealth.

22 (3) Institute the necessary actions to collect and cause the payment into the Treasury of
 23 all unsatisfied claims, demands, accounts and judgments in favor of the
 24 Commonwealth, except where specific statutory authority is given the Department
 25 of Revenue to do so.

26 (4) Comply with KRS 48.005, if any funds of any kind or nature whatsoever are
 27 recovered by or on behalf of the Commonwealth, in any legal action, including an

1 ex rel. action in which the Attorney General has entered an appearance or is a party
 2 under statutory or common law authority.

3 ➔Section 3. KRS 15.113 is amended to read as follows:

4 (1) The **Attorney General may**~~Financial Integrity Enforcement Division is created in~~
 5 ~~the Department of Law. The division shall:~~

6 ~~(a) Investigate illegal redemption of food stamp benefits in cooperation with the~~
 7 ~~United States Department of Agriculture and the Cabinet for Health and~~
 8 ~~Family Services;~~

9 ~~(b) Verify eligibility of food stamp program applicants as to past criminal history;~~

10 ~~(c) Investigate the illegal distribution of counterfeit merchandise; and~~

11 ~~(d)]investigate the use of personal identification and financial information by~~
 12 ~~persons for the purpose of theft, [or] fraud, or both [theft and fraud], or~~
 13 ~~any[and] other illegal or fraudulent activity that[which] may involve~~
 14 ~~electronic commerce, the use of public funds or property, or obtaining or~~
 15 ~~attempting to obtain a benefit provided by the government.~~

16 (2) The ~~Office of the~~ Attorney General shall coordinate with the Department of
 17 Financial Institutions, the United States Secret Service, the Federal Trade
 18 Commission, the Kentucky Bankers' Association, and any other agency or
 19 organization to prepare and disseminate information to prevent identity theft.

20 ➔Section 4. KRS 15.200 is amended to read as follows:

21 (1) Whenever requested in writing by:

22 **(a)** The Governor;~~;~~

23 **(b) The President of the Senate or Speaker of the House of Representatives of**
 24 **the General Assembly;**~~or by~~

25 **(c)** Any of the courts or grand juries of the Commonwealth;~~;~~ or

26 **(d)** ~~[Upon receiving a communication from]~~A sheriff, mayor, or majority of a
 27 city legislative body;

1 stating that his *or her* participation in a given case is desirable to effect the
 2 administration of justice and the proper enforcement of the laws of the
 3 Commonwealth, the Attorney General may intervene, participate in, or direct any
 4 investigation or criminal action, or portions thereof, within the Commonwealth of
 5 Kentucky necessary to enforce the laws of the Commonwealth.

6 (2) **The Attorney General**~~[He]~~ may subpoena witnesses, secure testimony under oath
 7 for use in civil or criminal trials, investigations or hearings affecting the
 8 Commonwealth, its departments or political subdivisions.

9 ➔Section 5. KRS 15.240 is amended to read as follows:

10 Notwithstanding any other provision of law to the contrary, the Attorney General shall
 11 have authority to initiate actions or intervene in actions brought pursuant to ~~the~~
 12 ~~provisions of~~ KRS Chapters 146, 151, 217B, 224, ~~and~~ 350, **521, 522, 523, and 524 and**
 13 **KRS 525.015, 525.020, 525.030, 525.040, 525.045, 525.050, 525.055, 525.110, 525.113,**
 14 **525.140, 525.145, 525.150, 525.155, and 525.160.**

15 ➔Section 6. KRS 342.760 is amended to read as follows:

16 (1) There is hereby authorized in the Labor Cabinet an uninsured employers' fund for
 17 the purpose of making payments in accordance with the provisions of subsection (4)
 18 of this section. The secretary of the Labor Cabinet shall be the custodian of the
 19 fund, and all moneys and securities in the fund shall be held in trust by the secretary
 20 of the Labor Cabinet and shall not be considered a part of the general funds of the
 21 state.

22 (2) The secretary of the Labor Cabinet is authorized to disburse moneys from the fund
 23 only upon written order of the administrative law judge or the board.

24 (3) All amounts collected as fines and penalties under this chapter shall be paid into the
 25 uninsured employers' fund.

26 (4) The uninsured employers' fund shall be responsible for the payment of
 27 compensation when there has been default in the payment of compensation due to

1 the failure of an employer to secure payment of compensation as provided by this
 2 chapter. Such employer shall be liable for payment into the fund of all the amounts
 3 authorized to be paid therefrom under the authority of this subsection including
 4 reimbursement of the special fund of all liability apportioned to it and for the
 5 purposes of enforcing this liability the Labor Cabinet, for the benefit of the fund,
 6 shall be subrogated to all the rights of the person receiving such compensation from
 7 the fund. This provision shall apply to all pending claims upon which a final order
 8 has not been entered.

9 (5) In furtherance of this purpose, the secretary of the Labor Cabinet~~Attorney~~
 10 ~~General~~ shall assign an attorney or attorneys within the Labor Cabinet,~~appoint a~~
 11 ~~member or members of his or her staff or special counsel~~ to represent the fund in
 12 all proceedings brought to enforce claims against or on behalf of the fund.
 13 Necessary expenses for this purpose, including salaries of said staff or special
 14 counsel, shall be borne by the fund.

15 **(6)** The Labor Cabinet shall be responsible for the administration of the uninsured
 16 employers' fund and shall be charged with the conservation of the assets of the fund.

17 ~~(7)~~~~(6)~~ On December 29, 1987, the liabilities of the uninsured employers' fund and its
 18 assets remaining in the State Treasury shall be transferred to the uninsured
 19 employers' fund created within the Labor Cabinet pursuant to this section.

20 ➔Section 7. KRS 342.765 is amended to read as follows:

21 (1) ~~[Notwithstanding the provisions of KRS Chapter 342 to the contrary, the office of~~
 22 ~~the Attorney General shall be responsible for the administration of the uninsured~~
 23 ~~employers' fund and shall be charged with the conservation of the assets of the fund.~~
 24 ~~Funds to reimburse the Attorney General's office for expenses incurred in litigation~~
 25 ~~and administration in defense of the uninsured employers' fund shall be transferred~~
 26 ~~upon request of the Attorney General's office and approval by the secretary of the~~
 27 ~~Labor Cabinet.~~

1 ~~(2)~~—]The *secretary of the Labor Cabinet*~~[office of the Attorney General]~~ shall report
 2 monthly to the Interim Joint Committee on Appropriations and Revenue and~~[,]~~ the
 3 Interim Joint Committee on *Economic Development and Workforce*
 4 *Investment*~~[Labor and Industry, and the commissioner]~~ the amount of the agency
 5 fund expenditures in each month for the uninsured employers' fund and the nature
 6 of these expenditures.~~[In addition, the Office of the Attorney General shall report~~
 7 ~~quarterly to the commissioner on the amount of funds recouped from uninsured~~
 8 ~~employers.]~~

9 ➔Section 8. KRS 446.350 is amended to read as follows:

10 *(1)* Government shall not substantially burden a person's freedom of religion. The right
 11 to act or refuse to act in a manner motivated by a sincerely held religious belief may
 12 not be substantially burdened unless the government proves by clear and convincing
 13 evidence that it has a compelling governmental interest in infringing the specific act
 14 or refusal to act and has used the least restrictive means to further that interest. A
 15 "burden" shall include indirect burdens such as withholding benefits, assessing
 16 penalties, or an exclusion from programs or access to facilities.

17 *(2) The Commonwealth waives immunity for prospective equitable and declaratory*
 18 *relief only, under the Eleventh Amendment to the Constitution of the United*
 19 *States for cases brought against it in federal jurisdictions pursuant to this section.*
 20 *No immunity is waived, and no award of monetary damages, costs, or attorney*
 21 *fees is authorized under this section.*

22 ➔Section 9. Whereas protection of the rights of the citizens of this
 23 Commonwealth is of utmost importance, an emergency is declared to exist, and this Act
 24 takes effect upon its passage and approval by the Governor or upon its otherwise
 25 becoming a law.