

1 AN ACT relating to local government records.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Legislative body" means the city commission, board of commissioners, city*  
7 *council, or board of alderman of a city; the fiscal court of a county; the*  
8 *board of a special purpose governmental entity, fire district, or volunteer*  
9 *fire department; or the legislative body of an urban-county government,*  
10 *charter county government, unified local government, or consolidated local*  
11 *government;*

12 *(b) "Local government" means a city, county, urban-county government,*  
13 *charter county government, unified local government, consolidated local*  
14 *government, special purpose governmental entity as defined in KRS*  
15 *65A.010, or fire district operating under KRS Chapter 75 or volunteer fire*  
16 *department operating under KRS Chapter 273, which reports to the*  
17 *Kentucky Fire Commission under KRS Chapter 95A;*

18 *(c) "Government entity" means an entity enumerated in KRS 12.020 or the*  
19 *Legislative Research Commission; and*

20 *(d) "Record" means a record, document, data, or information required to be*  
21 *produced by a local government no matter the format. "Record" shall not*  
22 *include any record required under:*

23 *1. KRS Chapter 422;*

24 *2. KRS Chapters 131 to 144, or any record ancillary to tax collection;*

25 *3. KRS Chapters 116 to 121A, or any record ancillary to elections of any*  
26 *kind;*

27 *4. KRS Chapter 382, or any record ancillary to conveyances and*

1                   encumbrances of property;

2                   5. KRS Chapter 213, or any record ancillary to the collection of vital  
3                   statistics or the reporting of deaths and diseases; or

4                   6. KRS Chapters 431 to 441, or any record ancillary to the  
5                   administration of persons held in local correctional facilities.

6                   (2) If a record required to be produced by a local government is lost, damaged, or  
7                   destroyed, under circumstances other than as set out in KRS 519.060, then the  
8                   legislative body of the local government, in lieu of presenting the record itself,  
9                   may provide an affidavit that shall be sufficient to serve as being in compliance  
10                  with any statute or administrative regulation promulgated under KRS Chapter  
11                  13A that requires the local government to transmit a record to a government  
12                  entity. Any affidavit presented to a government entity that is in substantial  
13                  compliance with this section shall be sufficient to consider the local government  
14                  as effectively having transmitted that record, and a penalty for noncompliance  
15                  shall not be assessed. The affidavit shall only serve to satisfy any requirement  
16                  based solely on the fact of the transmission or receipt of the record.

17                  (3) A local government shall make a good-faith attempt at replacing or recreating the  
18                  record that has been lost, damaged, or destroyed. A good-faith effort shall include  
19                  at least bona fide attempts at:

20                  (a) Contacting the individual or entity in charge of producing or storing the  
21                  record for replacement;

22                  (b) Reproducing the data that constituted the record and recreating the record;  
23                  and

24                  (c) Contacting an individual or entity that possesses a copy or an additional  
25                  original of the record to acquire a copy for replacement.

26                  (4) If a bona fide attempt or attempts at replacing or recreating the record in its  
27                  entirety is unsuccessful, then the legislative body of the local government may

- 1        proceed with filing the affidavit with the government entity, which shall contain:
- 2        (a) The statutory citation requiring transmission of the record which has been
- 3                lost, damaged, or destroyed and a description of the general contents of
- 4                what was required to be recorded;
- 5        (b) A description of the circumstances surrounding the loss, damage, or
- 6                destruction of the record;
- 7        (c) A detailed description of the specific efforts toward reconstructing the
- 8                record as set out in subsection (3) of this section; and
- 9        (d) A citation of any data or information that the city has been able to replace
- 10                or reconstruct from the original record, and the data or information itself
- 11                shall be included as an attachment to the affidavit.
- 12        (5) The affidavit shall be in the form of a resolution passed by the legislative body of
- 13                the local government.
- 14        (6) Nothing in this section shall prevent a government entity from requiring that the
- 15                local government reproduce the information contained in the record if the
- 16                government entity determines that information is necessary for governmental
- 17                operations. A government entity shall not require the local government to
- 18                reproduce the information contained in the record if that information is received
- 19                only for archival purposes or used for incidental data collection.