

1 AN ACT relating to insurance coverage of state property.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 164A.555 TO 164A.630 IS
4 CREATED TO READ AS FOLLOWS:

5 *(1) Notwithstanding KRS 56.065 to 56.180 and any other law to the contrary:*

6 *(a) Instead of insurance coverage provided through the state fire and tornado*
7 *insurance fund, the governing board of each institution may, subject to*
8 *paragraph (b) of this subsection, elect to obtain insurance under this section*
9 *to cover all of the state property in the institution's possession against loss*
10 *by fire and other hazards;*

11 *(b) An institution whose governing board elects to obtain insurance under this*
12 *section shall:*

13 *1. Not be required to obtain approval by the Finance and Administration*
14 *Cabinet or any other state agency or official to terminate the*
15 *institution's insurance coverage through the state fire and tornado*
16 *insurance fund;*

17 *2. Notify the secretary of the Finance and Administration Cabinet at*
18 *least sixty (60) days before terminating the institution's insurance*
19 *coverage through the state fire and tornado insurance fund;*

20 *3. Ensure that the insurance is in place immediately following*
21 *termination of the institution's insurance coverage through the state*
22 *fire and tornado insurance fund;*

23 *4. Comply with any bidding or advertising requirements under KRS*
24 *Chapters 45A and 424; and*

25 *5. Comply with subsection (2) of this section; and*

26 *(c) 1. An institution that terminates the institution's insurance coverage*
27 *through the state fire and tornado insurance fund under this*

1 subsection shall be permitted to resume that coverage, without any
2 need for approval by the Finance and Administration Cabinet or any
3 other state agency or official, by providing the following notices to the
4 secretary of the Finance and Administration Cabinet:

5 a. At least six (6) months prior to the effective date of the
6 institution's resumption of coverage through the state fire and
7 tornado insurance fund, as provided under subparagraph 2. of
8 this paragraph, a notice that the institution intends but is not
9 obligated to resume coverage through the fund; and

10 b. At least three (3) months prior to the effective date of the
11 institution's resumption of coverage through the state fire and
12 tornado insurance fund, as provided under subparagraph 2. of
13 this paragraph, a notice that the institution is resuming coverage
14 through the fund.

15 2. Upon receipt of the notices required under subparagraph 1. of this
16 paragraph, the Finance and Administration Cabinet shall insure all of
17 the state property in the institution's possession against loss by fire
18 and other hazards through the state fire and tornado insurance fund,
19 and coverage shall become effective not later than:

20 a. The next date of renewal of the coverage provided through the
21 fund; or

22 b. Any other date agreed upon by the institution and the cabinet.

23 (2) An institution that obtains insurance under this section shall ensure that an
24 annual inspection is made of each state building and its contents in the
25 institution's possession, for the purpose of determining the unnecessary causes of
26 a fire hazard therein, and recommendations are received for corrective actions,
27 by either:

- 1 (c) 1. Except as provided in subsection (4) of this section, shall insure each
2 building and its contents for an amount equal to one hundred percent
3 (100%) of the replacement cost determined through a certified
4 replacement cost appraisal performed at the direction of the institution
5 by an appraiser:
- 6 a. Licensed to perform appraisal services under KRS Chapter
7 324A; and
- 8 b. Experienced in appraising commercial or governmental
9 property.
- 10 2. As used in this paragraph, "replacement cost" includes the increased
11 cost of construction brought about by code changes that:
- 12 a. Have occurred since the original structure was built; and
13 b. Are required to be incorporated within a rebuilt structure;
- 14 (d) Shall contain an agreed amount provision; and
- 15 (e) Shall include:
- 16 1. Ordinance and law coverage at not less than five million dollars
17 (\$5,000,000);
- 18 2. Debris removal coverage at not less than one million dollars
19 (\$1,000,000);
- 20 3. Extra expense coverage at not less than five million dollars
21 (\$5,000,000); and
- 22 4. For any building containing a steam boiler, boiler and machinery
23 coverage at not less than the total value of the real and personal
24 property in the building in which the steam boiler is located.
- 25 (4) A governing board may obtain actual cash value coverage of a building and its
26 contents if a certification signed by the governing board chair is attached to the
27 insurance policy or contract, or self-insurance pool contract, stating that it would

1 *not be fiscally responsible to provide replacement cost coverage for the building*
2 *being insured.*

3 ➔Section 2. KRS 164A.575 is amended to read as follows:

- 4 (1) The governing boards of each institution may elect to purchase interest in real
5 property, contractual services, rentals of all types, supplies, materials, equipment,
6 printing, and services, except that competitive bids may not be required for:
- 7 (a) Contractual services where no competition exists;
 - 8 (b) Food, clothing, equipment, supplies, or other materials to be used in
9 laboratory and experimental studies;
 - 10 (c) Instructional materials available from only one (1) source;
 - 11 (d) Where rates are fixed by law or ordinance;
 - 12 (e) Library books;
 - 13 (f) Commercial items that are purchased for resale;
 - 14 (g) Professional, technical, scientific, or artistic services, but contracts shall be
15 submitted in accordance with KRS 45A.690 to 45A.725;
 - 16 (h) All other commodities, equipment, and services which, in the reasonable
17 discretion of the board, are available from only one (1) source; and
 - 18 (i) Interests in real property.
- 19 (2) Nothing in this section shall deprive the boards from negotiating with vendors who
20 maintain a General Services Administration price agreement with the United States
21 of America or any agency thereof, provided, however, that no contract executed
22 under this provision shall authorize a price higher than is contained in the contract
23 between General Services Administration and the vendor affected.
- 24 (3) The governing board shall require the institution to take and maintain inventories of
25 plant and equipment.
- 26 (4) The governing board shall establish procedures to identify items of common
27 general usage among all departments to foster volume purchasing. It shall establish

- 1 and enforce schedules for purchasing supplies, materials, and equipment.
- 2 (5) The governing board shall have power to salvage, to exchange, and to condemn
3 supplies, equipment, and real property.
- 4 (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the
5 governing board may purchase or otherwise acquire all real property determined to
6 be needed for the institution's use. The amount paid shall not exceed the fair market
7 value as determined by a qualified appraiser or the value set by the eminent domain
8 procedure. Any real property acquired under this section shall be in name of the
9 Commonwealth for the use and benefit of the institution.
- 10 (7) (a) Notwithstanding KRS 56.806, the governing board may renegotiate the cost
11 of a lease after the expiration of the lease term and any renewal terms
12 provided in the lease prior to any renewal not provided for in the terms of the
13 lease.
- 14 (b) Except when a lease incorporates a lease-purchase under KRS 56.806, the
15 governing board shall reserve the right to cancel a lease upon at least thirty
16 (30) days' written notice.
- 17 (c) Notwithstanding KRS 56.823(2) and (3), any lease renewals, except automatic
18 renewals permitted under KRS 56.803, 56.805(2), and 56.806(1), for which
19 the annual rental cost will exceed two hundred thousand dollars (\$200,000)
20 shall be reported to the Capital Projects and Bond Oversight Committee in the
21 same format as set out in KRS 56.823(2).
- 22 (d) Notwithstanding KRS 56.813, a public college or university may pay for
23 improvements to leased property costing in excess of ten thousand dollars
24 (\$10,000) but less than one million dollars (\$1,000,000) in a lump sum upon
25 approval of its board using non-general fund appropriations and without
26 incurring debt.
- 27 (8) The governing board shall sell or otherwise dispose of all real or personal property

1 of the institution which is not needed or has become unsuitable for public use, or
2 would be more suitable consistent with the public interest for some other use, as
3 determined by the board. The determination of the board shall be set forth in an
4 order, and shall be reached only after review of a written request by the institution
5 desiring to dispose of the property. Such request shall describe the property and
6 state the reasons why the institution believes disposal should be effected. All
7 instruments required by law to be recorded which convey any interest in any such
8 real property so disposed of shall be executed and signed by the appropriate officer
9 of the board. Unless the board deems it in the best interest of the institution to
10 proceed otherwise, all such real or personal property shall be sold either by
11 invitation of sealed bids or by public auction; provided, however, that the selling
12 price of any interest in real property shall not be less than the fair market value
13 thereof as determined by the Finance and Administration Cabinet or the
14 Transportation Cabinet for such requirements of that department.

15 (9) Real property or any interest therein may, subject to the provisions of KRS Chapter
16 45A, be purchased, leased, or otherwise acquired from any officer or employee of
17 any board of the institution, based upon a written application by the grantor or
18 lessor approved by the board, that the employee has not either himself or through
19 any other person influenced or attempted to influence either the board requesting
20 the purchase of the property. In any case in which such an acquisition is
21 consummated, the said request and finding shall be recorded and kept by the
22 Secretary of State along with the other documents recorded pursuant to the
23 provisions of KRS Chapter 56.

24 (10) (a) As used in this section, "construction manager-agency," "construction
25 management-at-risk," "design-bid-build," "design-build," and "construction
26 manager-general contractor" shall have the same meaning as in KRS
27 45A.030.

1 (b) For capital construction projects, the procurement may be on a total design-
2 bid-build basis, a design-build basis, construction manager-general contractor
3 basis, or construction management-at-risk basis, whichever in the judgment of
4 the board offers the best value to the taxpayer. Best value shall be determined
5 in accordance with KRS 45A.070. Proposals shall be reviewed by the
6 institution's engineering staff to assure quality and value, and compliance with
7 procurement procedures. All specifications shall be written to promote
8 competition. Services for projects delivered on the design-build basis,
9 construction manager-general contractor basis, or construction management-
10 at-risk basis shall be procured in accordance with KRS 45A.180, KRS
11 45A.183, and the regulations promulgated in accordance with KRS 45A.180.
12 Nothing in this section shall prohibit the procurement of construction
13 manager-agency services.

14 (c) Notwithstanding KRS 45A.185, for all capital construction projects, bidder
15 security for competitive sealed bidding for construction contracts shall only be
16 required when the price is estimated to exceed one million dollars
17 (\$1,000,000).

18 (11) The governing board shall attempt in every practicable way to insure the
19 institution's supplying its real needs at the lowest possible cost. To accomplish this
20 the board may enter into cooperative agreements with other public or private
21 institutions of education or health care.

22 (12) The governing board shall have control and supervision over all purchases of
23 energy consuming equipment, supplies, and related equipment purchased or
24 acquired by the institution, and shall designate by regulation the manner in which
25 an energy consuming item will be purchased so as to promote energy conservation
26 and acquisition of energy efficient products.

27 (13) The governing board may negotiate directly for the purchase of contractual

1 services, supplies, materials, or equipment in bona fide emergencies regardless of
2 estimated costs. The existence of the emergency must be fully explained, in writing,
3 by the vice president responsible for business affairs and such explanation must be
4 approved by the institution president. The letter and approval shall be filed with the
5 record of all such purchases. Where practical, standard specifications shall be
6 followed in making emergency purchases. A good faith effort shall be made to
7 effect a competitively established price for emergency purchases.

8 (14) (a) All governing boards that purchase agricultural products, as defined by KRS
9 45A.630, shall, on or before January 1 of each year, provide a report to the
10 Legislative Research Commission and to the Department of Agriculture
11 describing the types, quantities, and costs of each product purchased. The
12 report shall be completed on a form provided by the department.

13 (b) If purchasing agricultural products, a governing board shall encourage the
14 purchase of Kentucky-grown agricultural products in accordance with KRS
15 45A.645. If a governing board purchases agricultural products through a
16 contract with a vendor or food service provider, the contract shall require that
17 if Kentucky-grown agricultural products are purchased, the products shall be
18 purchased in accordance with KRS 45A.645. Only contracts entered into or
19 renewed after July 15, 2008, shall be required to comply with the provisions
20 of this subsection.

21 (c) All governing boards that purchase Kentucky-grown agricultural products
22 shall, on or before January 1 of each year, provide a report to the Legislative
23 Research Commission and to the Department of Agriculture describing the
24 types, quantities, and costs of each product purchased. The report shall be
25 completed on a form provided by the department.

26 (15) Notwithstanding KRS 45.760, the governing board may authorize a capital
27 construction project or a major item of equipment even though it is not specifically

1 listed in any branch budget bill, subject to the following conditions and procedures:

2 (a) The full cost shall be funded solely by non-general fund appropriations;

3 (b) Moneys specifically budgeted and appropriated by the General Assembly for
4 another purpose shall not be allotted or reallocated for expenditure on the
5 project or major item of equipment. Moneys utilized shall not jeopardize any
6 existing program and shall not require the use of any current general funds
7 specifically dedicated to existing programs; and

8 (c) The institution's president, or designee, shall submit the project or major item
9 of equipment to the Capital Projects and Bond Oversight Committee for
10 review as provided by KRS 45.800.

11 (16) Governing boards shall apply the reciprocal resident bidder preference described in
12 KRS 45A.494 prior to the award of any contract.

13 (17) Governing boards may authorize the use of reverse auctions as defined in KRS
14 45A.070 for the procurement of goods and leases.

15 ~~[(18) (a) Notwithstanding KRS 56.070, the governing board may obtain private~~
16 ~~insurance to cover any state property in the institution's possession against~~
17 ~~loss by fire and other hazards. The level of private insurance coverage shall be~~
18 ~~commensurate with or greater than the insurance coverage provided through~~
19 ~~the state fire and tornado insurance fund. An institution whose governing~~
20 ~~board elects to obtain private insurance shall notify the secretary of the~~
21 ~~Finance and Administration Cabinet at least six (6) months before terminating~~
22 ~~the institution's insurance coverage through the state fire and tornado~~
23 ~~insurance fund.~~

24 ~~(b) No later than January 1 of each year, an institution whose governing board~~
25 ~~elects to obtain private insurance instead of insurance coverage provided~~
26 ~~through the state fire and tornado insurance fund shall certify, in writing, to~~
27 ~~the secretary of the Finance and Administration Cabinet that the property is~~

1 ~~insured in accordance with paragraph (a) of this subsection and shall attach a~~
2 ~~copy of the private insurance policy.]~~