

1 AN ACT relating to the identification of lottery winners.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) For purposes of this section, "publish" means to issue information or material in*  
6 *printed or electronic form for distribution to the public, including a response to a*  
7 *request for release of information pursuant to KRS 154A.040.*

8 *(2) Any winner of a lottery prize may elect to have his or her name and likeness*  
9 *withheld from public record on forms prescribed by the corporation. A*  
10 *prizewinner who does not elect confidentiality pursuant to this section waives his*  
11 *or her confidentiality.*

12 *(3) (a) The Kentucky Lottery Corporation, its board of directors, or its employees*  
13 *shall not publish the name or likeness of any winner who elects to have his*  
14 *or her identifying information withheld from public record pursuant to this*  
15 *section.*

16 *(b) Information regarding the retail location from which the ticket was*  
17 *purchased may be published and shall not be confidential.*

18 *(4) Nothing in this section shall prohibit the corporation from sharing information*  
19 *with other state or federal agencies as authorized or required by subsection (5) of*  
20 *Section 2 of this Act and other applicable laws, or as required by court order or*  
21 *other legal process.*

22 *(5) This section shall not be construed to prevent an authorized agency from*  
23 *collecting data pursuant to subsection (5) of Section 2 of this Act.*

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

25 (1) The following public records are excluded from the application of KRS 61.870 to  
26 61.884 and shall be subject to inspection only upon order of a court of competent  
27 jurisdiction, except that no court shall authorize the inspection by any party of any

1 materials pertaining to civil litigation beyond that which is provided by the Rules of  
2 Civil Procedure governing pretrial discovery:

3 (a) Public records containing information of a personal nature where the public  
4 disclosure thereof would constitute a clearly unwarranted invasion of personal  
5 privacy;

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

9 (c) 1. Records confidentially disclosed to an agency or required by an agency  
10 to be disclosed to it, generally recognized as confidential or proprietary,  
11 which if openly disclosed would permit an unfair commercial advantage  
12 to competitors of the entity that disclosed the records;

13 2. Records confidentially disclosed to an agency or required by an agency  
14 to be disclosed to it, generally recognized as confidential or proprietary,  
15 which are compiled and maintained:

16 a. In conjunction with an application for or the administration of a  
17 loan or grant;

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

21 c. In conjunction with the regulation of commercial enterprise,  
22 including mineral exploration records, unpatented, secret  
23 commercially valuable plans, appliances, formulae, or processes,  
24 which are used for the making, preparing, compounding, treating,  
25 or processing of articles or materials which are trade commodities  
26 obtained from a person; or

27 d. For the grant or review of a license to do business.

- 1           3. The exemptions provided for in subparagraphs 1. and 2. of this  
2           paragraph shall not apply to records the disclosure or publication of  
3           which is directed by another statute;
- 4           (d) Public records pertaining to a prospective location of a business or industry  
5           where no previous public disclosure has been made of the business' or  
6           industry's interest in locating in, relocating within or expanding within the  
7           Commonwealth. This exemption shall not include those records pertaining to  
8           application to agencies for permits or licenses necessary to do business or to  
9           expand business operations within the state, except as provided in paragraph  
10          (c) of this subsection;
- 11          (e) Public records which are developed by an agency in conjunction with the  
12          regulation or supervision of financial institutions, including but not limited to  
13          banks, savings and loan associations, and credit unions, which disclose the  
14          agency's internal examining or audit criteria and related analytical methods;
- 15          (f) The contents of real estate appraisals, engineering or feasibility estimates and  
16          evaluations made by or for a public agency relative to acquisition of property,  
17          until such time as all of the property has been acquired. The law of eminent  
18          domain shall not be affected by this provision;
- 19          (g) Test questions, scoring keys, and other examination data used to administer a  
20          licensing examination, examination for employment, or academic  
21          examination before the exam is given or if it is to be given again;
- 22          (h) Records of law enforcement agencies or agencies involved in administrative  
23          adjudication that were compiled in the process of detecting and investigating  
24          statutory or regulatory violations if the disclosure of the information would  
25          harm the agency by revealing the identity of informants not otherwise known  
26          or by premature release of information to be used in a prospective law  
27          enforcement action or administrative adjudication. Unless exempted by other

1 provisions of KRS 61.870 to 61.884, public records exempted under this  
2 provision shall be open after enforcement action is completed or a decision is  
3 made to take no action; however, records or information compiled and  
4 maintained by county attorneys or Commonwealth's attorneys pertaining to  
5 criminal investigations or criminal litigation shall be exempted from the  
6 provisions of KRS 61.870 to 61.884 and shall remain exempted after  
7 enforcement action, including litigation, is completed or a decision is made to  
8 take no action. The exemptions provided by this subsection shall not be used  
9 by the custodian of the records to delay or impede the exercise of rights  
10 granted by KRS 61.870 to 61.884;

11 (i) Preliminary drafts, notes, correspondence with private individuals, other than  
12 correspondence which is intended to give notice of final action of a public  
13 agency;

14 (j) Preliminary recommendations, and preliminary memoranda in which opinions  
15 are expressed or policies formulated or recommended;

16 (k) All public records or information the disclosure of which is prohibited by  
17 federal law or regulation or state law;

18 (l) Public records or information the disclosure of which is prohibited or  
19 restricted or otherwise made confidential by enactment of the General  
20 Assembly, including any information acquired by the Department of Revenue  
21 in tax administration that is prohibited from divulgence or disclosure under  
22 KRS 131.190;

23 (m) 1. Public records the disclosure of which would have a reasonable  
24 likelihood of threatening the public safety by exposing a vulnerability in  
25 preventing, protecting against, mitigating, or responding to a terrorist act  
26 and limited to:

27 a. Criticality lists resulting from consequence assessments;

- 1                   b. Vulnerability assessments;
- 2                   c. Antiterrorism protective measures and plans;
- 3                   d. Counterterrorism measures and plans;
- 4                   e. Security and response needs assessments;
- 5                   f. Infrastructure records that expose a vulnerability referred to in this
- 6                   subparagraph through the disclosure of the location, configuration,
- 7                   or security of critical systems, including public utility critical
- 8                   systems. These critical systems shall include but not be limited to
- 9                   information technology, communication, electrical, fire
- 10                  suppression, ventilation, water, wastewater, sewage, and gas
- 11                  systems;
- 12                  g. The following records when their disclosure will expose a
- 13                  vulnerability referred to in this subparagraph: detailed drawings,
- 14                  schematics, maps, or specifications of structural elements, floor
- 15                  plans, and operating, utility, or security systems of any building or
- 16                  facility owned, occupied, leased, or maintained by a public
- 17                  agency; and
- 18                  h. Records when their disclosure will expose a vulnerability referred
- 19                  to in this subparagraph and that describe the exact physical
- 20                  location of hazardous chemical, radiological, or biological
- 21                  materials.
- 22                  2. As used in this paragraph, "terrorist act" means a criminal act intended
- 23                  to:
- 24                  a. Intimidate or coerce a public agency or all or part of the civilian
- 25                  population;
- 26                  b. Disrupt a system identified in subparagraph 1.f. of this paragraph;
- 27                  or

- 1                   c. Cause massive destruction to a building or facility owned,  
2                   occupied, leased, or maintained by a public agency.
- 3                   3. On the same day that a public agency denies a request to inspect a public  
4                   record for a reason identified in this paragraph, that public agency shall  
5                   forward a copy of the written denial of the request, referred to in KRS  
6                   61.880(1), to the executive director of the Kentucky Office of Homeland  
7                   Security and the Attorney General.
- 8                   4. Nothing in this paragraph shall affect the obligations of a public agency  
9                   with respect to disclosure and availability of public records under state  
10                  environmental, health, and safety programs.
- 11                  5. The exemption established in this paragraph shall not apply when a  
12                  member of the Kentucky General Assembly seeks to inspect a public  
13                  record identified in this paragraph under the Open Records Law;
- 14                  (n) Public or private records, including books, papers, maps, photographs, cards,  
15                  tapes, discs, diskettes, recordings, software, or other documentation regardless  
16                  of physical form or characteristics, having historic, literary, artistic, or  
17                  commemorative value accepted by the archivist of a public university,  
18                  museum, or government depository from a donor or depositor other than a  
19                  public agency. This exemption shall apply to the extent that nondisclosure is  
20                  requested in writing by the donor or depositor of such records, but shall not  
21                  apply to records the disclosure or publication of which is mandated by another  
22                  statute or by federal law;
- 23                  (o) Records of a procurement process under KRS Chapter 45A or 56. This  
24                  exemption shall not apply after:
- 25                    1. A contract is awarded; or
- 26                    2. The procurement process is canceled without award of a contract and  
27                    there is a determination that the contract will not be resolicited;

- 1 (p) Client and case files maintained by the Department of Public Advocacy or any  
2 person or entity contracting with the Department of Public Advocacy for the  
3 provision of legal representation under KRS Chapter 31;
- 4 (q) Except as provided in KRS 61.168, photographs or videos that depict the  
5 death, killing, rape, or sexual assault of a person. However, such photographs  
6 or videos shall be made available by the public agency to the requesting party  
7 for viewing on the premises of the public agency, or a mutually agreed upon  
8 location, at the request of;
- 9 1. a. Any victim depicted in the photographs or videos, his or her  
10 immediate family, or legal representative;
- 11 b. Any involved insurance company or its representative; or
- 12 c. The legal representative of any involved party;
- 13 2. Any state agency or political subdivision investigating official  
14 misconduct; or
- 15 3. A legal representative for a person under investigation for, charged with,  
16 pled guilty to, or found guilty of a crime related to the underlying  
17 incident. The person under investigation for, charged with, pled guilty  
18 to, or found guilty of a crime related to the underlying incident or their  
19 immediate family shall not be permitted to have access to the  
20 photographs or videos;
- 21 (r) Records confidentially maintained by a law enforcement agency in  
22 accordance with a wellness program, including an early intervention system,  
23 as described in KRS 15.409;~~and~~
- 24 (s) Communications of a purely personal nature unrelated to any governmental  
25 function; and
- 26 (t) The name, address, or likeness of the winner of a lottery prize if the  
27 prizewinner elects confidentiality on forms prescribed by the Kentucky

1                   *Lottery Corporation pursuant to Section 1 of this Act.*

- 2       (2) No exemption in this section shall be construed to prohibit disclosure of statistical  
3       information not descriptive of any readily identifiable person.
- 4       (3) No exemption in this section shall be construed to deny, abridge, or impede the  
5       right of a public agency employee, including university employees, an applicant for  
6       employment, or an eligible on a register to inspect and to copy any record including  
7       preliminary and other supporting documentation that relates to him or her. The  
8       records shall include but not be limited to work plans, job performance, demotions,  
9       evaluations, promotions, compensation, classification, reallocation, transfers, lay-  
10      offs, disciplinary actions, examination scores, and preliminary and other supporting  
11      documentation. A public agency employee, including university employees,  
12      applicant, or eligible shall not have the right to inspect or to copy any examination  
13      or any documents relating to ongoing criminal or administrative investigations by  
14      an agency.
- 15     (4) If any public record contains material which is not excepted under this section, the  
16      public agency shall separate the excepted and make the nonexcepted material  
17      available for examination.
- 18     (5) The provisions of this section shall in no way prohibit or limit the exchange of  
19      public records or the sharing of information between public agencies when the  
20      exchange is serving a legitimate governmental need or is necessary in the  
21      performance of a legitimate government function.
- 22     (6) When material is made available pursuant to a request under subsection (1)(q) of  
23      this section, the public agency shall not be required to make a copy of the recording  
24      except as provided in KRS 61.169, and the requesting parties shall not be limited in  
25      the number of times they may view the material.