

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 with an overall gross value that exceeds one million*
9 *dollars (\$1,000,000) shall have his or her name and likeness withheld from public*
10 *record for not more than one (1) year from the date of the prize claim unless the*
11 *winner elects to waive his or her confidentiality on forms prescribed by the*
12 *corporation.*

13 *(3) (a) The corporation, its board of directors, or its employees shall not publish*
14 *the name or likeness of any winner whose individual share of a lottery prize*
15 *exceeds one million dollars (\$1,000,000) unless the individual elects to*
16 *waive the confidentiality of his or her identifying information pursuant to*
17 *this section.*

18 *(b) Information regarding the retail location from which the ticket was*
19 *purchased and information that is not personally identifiable information of*
20 *the individual prize winner may be published and shall not be confidential.*

21 *(4) Nothing in this section shall prohibit the corporation from sharing information*
22 *with other state or federal agencies as authorized or required by subsection (5) of*
23 *Section 3 of this Act and other applicable laws, or as required by court order or*
24 *other legal process. This section shall not be construed to prevent an authorized*
25 *agency from collecting data pursuant to subsection (5) of Section 3 of this Act.*

26 ➔Section 2. KRS 154A.040 is amended to read as follows:

27 (1) All records of the corporation shall be deemed open records and subject to public

1 inspection, unless:

2 (a) The record is excluded from inspection under KRS 61.870 to 61.884 under
3 KRS 61.878;

4 (b) The record involves a trade secret or other legally-protectable intellectual
5 property or confidential proprietary information of the corporation or of a
6 vendor;~~or~~

7 (c) The disclosure of the record could impair or adversely impact the security of
8 the corporation in the operation of the lottery or the security of lottery
9 retailers; or

10 **(d) The record identifies a winner of a lottery prize who has won a prize with an**
11 **overall gross value that exceeds one million dollars (\$1,000,000) within one**
12 **(1) year of the date of the request for public inspection and the winner has**
13 **not elected to waive confidentiality in accordance with Section 1 of this Act.**

14 (2) The provisions of KRS 61.878, 61.880, and 61.884 shall apply to records of the
15 lottery corporation with the exception that the only Circuit Court with jurisdiction
16 over the records of the lottery corporation is the Circuit Court in the county where
17 the corporate headquarters of the lottery corporation is located.

18 ➔Section 3. KRS 61.878 is amended to read as follows:

19 (1) The following public records are excluded from the application of KRS 61.870 to
20 61.884 and shall be subject to inspection only upon order of a court of competent
21 jurisdiction, except that no court shall authorize the inspection by any party of any
22 materials pertaining to civil litigation beyond that which is provided by the Rules of
23 Civil Procedure governing pretrial discovery:

24 (a) Public records containing information of a personal nature where the public
25 disclosure thereof would constitute a clearly unwarranted invasion of personal
26 privacy;

27 (b) Records confidentially disclosed to an agency and compiled and maintained

1 for scientific research. This exemption shall not, however, apply to records the
2 disclosure or publication of which is directed by another statute;

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

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

10 a. In conjunction with an application for or the administration of a
11 loan or grant;

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

15 c. In conjunction with the regulation of commercial enterprise,
16 including mineral exploration records, unpatented, secret
17 commercially valuable plans, appliances, formulae, or processes,
18 which are used for the making, preparing, compounding, treating,
19 or processing of articles or materials which are trade commodities
20 obtained from a person; or

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

22 3. The exemptions provided for in subparagraphs 1. and 2. of this
23 paragraph shall not apply to records the disclosure or publication of
24 which is directed by another statute;

25 (d) Public records pertaining to a prospective location of a business or industry
26 where no previous public disclosure has been made of the business' or
27 industry's interest in locating in, relocating within or expanding within the

- 1 Commonwealth. This exemption shall not include those records pertaining to
2 application to agencies for permits or licenses necessary to do business or to
3 expand business operations within the state, except as provided in paragraph
4 (c) of this subsection;
- 5 (e) Public records which are developed by an agency in conjunction with the
6 regulation or supervision of financial institutions, including but not limited to
7 banks, savings and loan associations, and credit unions, which disclose the
8 agency's internal examining or audit criteria and related analytical methods;
- 9 (f) The contents of real estate appraisals, engineering or feasibility estimates and
10 evaluations made by or for a public agency relative to acquisition of property,
11 until such time as all of the property has been acquired. The law of eminent
12 domain shall not be affected by this provision;
- 13 (g) Test questions, scoring keys, and other examination data used to administer a
14 licensing examination, examination for employment, or academic
15 examination before the exam is given or if it is to be given again;
- 16 (h) Records of law enforcement agencies or agencies involved in administrative
17 adjudication that were compiled in the process of detecting and investigating
18 statutory or regulatory violations if the disclosure of the information would
19 harm the agency by revealing the identity of informants not otherwise known
20 or by premature release of information to be used in a prospective law
21 enforcement action or administrative adjudication. Unless exempted by other
22 provisions of KRS 61.870 to 61.884, public records exempted under this
23 provision shall be open after enforcement action is completed or a decision is
24 made to take no action; however, records or information compiled and
25 maintained by county attorneys or Commonwealth's attorneys pertaining to
26 criminal investigations or criminal litigation shall be exempted from the
27 provisions of KRS 61.870 to 61.884 and shall remain exempted after

- 1 enforcement action, including litigation, is completed or a decision is made to
2 take no action. The exemptions provided by this subsection shall not be used
3 by the custodian of the records to delay or impede the exercise of rights
4 granted by KRS 61.870 to 61.884;
- 5 (i) Preliminary drafts, notes, correspondence with private individuals, other than
6 correspondence which is intended to give notice of final action of a public
7 agency;
- 8 (j) Preliminary recommendations, and preliminary memoranda in which opinions
9 are expressed or policies formulated or recommended;
- 10 (k) All public records or information the disclosure of which is prohibited by
11 federal law or regulation or state law;
- 12 (l) Public records or information the disclosure of which is prohibited or
13 restricted or otherwise made confidential by enactment of the General
14 Assembly, including any information acquired by the Department of Revenue
15 in tax administration that is prohibited from divulgence or disclosure under
16 KRS 131.190;
- 17 (m) 1. Public records the disclosure of which would have a reasonable
18 likelihood of threatening the public safety by exposing a vulnerability in
19 preventing, protecting against, mitigating, or responding to a terrorist act
20 and limited to:
- 21 a. Criticality lists resulting from consequence assessments;
- 22 b. Vulnerability assessments;
- 23 c. Antiterrorism protective measures and plans;
- 24 d. Counterterrorism measures and plans;
- 25 e. Security and response needs assessments;
- 26 f. Infrastructure records that expose a vulnerability referred to in this
27 subparagraph through the disclosure of the location, configuration,

- 1 or security of critical systems, including public utility critical
2 systems. These critical systems shall include but not be limited to
3 information technology, communication, electrical, fire
4 suppression, ventilation, water, wastewater, sewage, and gas
5 systems;
- 6 g. The following records when their disclosure will expose a
7 vulnerability referred to in this subparagraph: detailed drawings,
8 schematics, maps, or specifications of structural elements, floor
9 plans, and operating, utility, or security systems of any building or
10 facility owned, occupied, leased, or maintained by a public
11 agency; and
- 12 h. Records when their disclosure will expose a vulnerability referred
13 to in this subparagraph and that describe the exact physical
14 location of hazardous chemical, radiological, or biological
15 materials.
- 16 2. As used in this paragraph, "terrorist act" means a criminal act intended
17 to:
- 18 a. Intimidate or coerce a public agency or all or part of the civilian
19 population;
- 20 b. Disrupt a system identified in subparagraph 1.f. of this paragraph;
21 or
- 22 c. Cause massive destruction to a building or facility owned,
23 occupied, leased, or maintained by a public agency.
- 24 3. On the same day that a public agency denies a request to inspect a public
25 record for a reason identified in this paragraph, that public agency shall
26 forward a copy of the written denial of the request, referred to in KRS
27 61.880(1), to the executive director of the Kentucky Office of Homeland

1 Security and the Attorney General.

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

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

8 (n) Public or private records, including books, papers, maps, photographs, cards,
9 tapes, discs, diskettes, recordings, software, or other documentation regardless
10 of physical form or characteristics, having historic, literary, artistic, or
11 commemorative value accepted by the archivist of a public university,
12 museum, or government depository from a donor or depositor other than a
13 public agency. This exemption shall apply to the extent that nondisclosure is
14 requested in writing by the donor or depositor of such records, but shall not
15 apply to records the disclosure or publication of which is mandated by another
16 statute or by federal law;

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

19 1. A contract is awarded; or

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

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

25 (q) Except as provided in KRS 61.168, photographs or videos that depict the
26 death, killing, rape, or sexual assault of a person. However, such photographs
27 or videos shall be made available by the public agency to the requesting party

- 1 for viewing on the premises of the public agency, or a mutually agreed upon
2 location, at the request of;
- 3 1. a. Any victim depicted in the photographs or videos, his or her
4 immediate family, or legal representative;
- 5 b. Any involved insurance company or its representative; or
6 c. The legal representative of any involved party;
- 7 2. Any state agency or political subdivision investigating official
8 misconduct; or
- 9 3. A legal representative for a person under investigation for, charged with,
10 pled guilty to, or found guilty of a crime related to the underlying
11 incident. The person under investigation for, charged with, pled guilty
12 to, or found guilty of a crime related to the underlying incident or their
13 immediate family shall not be permitted to have access to the
14 photographs or videos;
- 15 (r) Records confidentially maintained by a law enforcement agency in
16 accordance with a wellness program, including an early intervention system,
17 as described in KRS 15.409;~~and~~
- 18 (s) Communications of a purely personal nature unrelated to any governmental
19 function; and
- 20 (t) For a period of not more than one (1) year, the name, address, or likeness
21 of the winner of a lottery prize with an overall gross value that exceeds one
22 million dollars (\$1,000,000), unless the prize winner elects to waive
23 confidentiality on forms prescribed by the Kentucky Lottery Corporation
24 pursuant to Section 1 of this Act.
- 25 (2) No exemption in this section shall be construed to prohibit disclosure of statistical
26 information not descriptive of any readily identifiable person.
- 27 (3) No exemption in this section shall be construed to deny, abridge, or impede the

1 right of a public agency employee, including university employees, an applicant for
2 employment, or an eligible on a register to inspect and to copy any record including
3 preliminary and other supporting documentation that relates to him or her. The
4 records shall include but not be limited to work plans, job performance, demotions,
5 evaluations, promotions, compensation, classification, reallocation, transfers, lay-
6 offs, disciplinary actions, examination scores, and preliminary and other supporting
7 documentation. A public agency employee, including university employees,
8 applicant, or eligible shall not have the right to inspect or to copy any examination
9 or any documents relating to ongoing criminal or administrative investigations by
10 an agency.

11 (4) If any public record contains material which is not excepted under this section, the
12 public agency shall separate the excepted and make the nonexcepted material
13 available for examination.

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

18 (6) When material is made available pursuant to a request under subsection (1)(q) of
19 this section, the public agency shall not be required to make a copy of the recording
20 except as provided in KRS 61.169, and the requesting parties shall not be limited in
21 the number of times they may view the material.