

1 AN ACT relating to the emergency powers of the Governor.

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

3 ➔Section 1. KRS 39A.010 is amended to read as follows:

4 The General Assembly realizes the Commonwealth is subject at all times to disaster or
5 emergency occurrences which can range from crises affecting limited areas to widespread
6 catastrophic events, and that response to these occurrences is a fundamental responsibility
7 of elected government in the Commonwealth. It is the intent of the General Assembly to
8 establish and to support a statewide comprehensive emergency management program for
9 the Commonwealth, and through it an integrated emergency management system, in
10 order to provide for adequate assessment and mitigation of, preparation for, response to,
11 and recovery from, the threats to public safety and the harmful effects or destruction
12 resulting from all major hazards, including but not limited to: flood, flash flood, tornado,
13 blizzard, ice storm, snow storm, wind storm, hail storm, or other severe storms; drought,
14 extremes of temperature, earthquake, landslides, or other natural hazards; fire, forest fire,
15 or other conflagration; enemy attack, threats to public safety and health involving
16 nuclear, chemical, or biological agents or weapons; sabotage, riot, civil disorder or acts of
17 terrorism, and other domestic or national security emergencies; explosion, power failure
18 or energy shortages, major utility system failure, dam failure, building collapse, other
19 infrastructure failures; transportation-related emergencies on, over, or through the
20 highways, railways, air, land, and waters in the Commonwealth; emergencies caused by
21 spill or release of hazardous materials or substances; mass-casualty or mass-fatality
22 emergencies; other technological, biological, etiological, radiological, environmental,
23 industrial, or agricultural hazards~~]; or other disaster or emergency occurrences; or~~
24 ~~catastrophe; or other causes; and the potential, threatened, or impending occurrence of~~
25 ~~any of these events];~~ and in order to protect ***the*** life, ***liberty***, and property of the people of
26 the Commonwealth,~~[and to protect public peace, health, safety, and welfare,]~~ and the
27 environment; and in order to ensure the continuity and effectiveness of government in

1 time of emergency, disaster, or catastrophe in the Commonwealth, it is hereby declared to
2 be necessary:

- 3 (1) To create a Division of Emergency Management as the emergency management
4 agency of state government and to authorize the creation of local emergency
5 management agencies in the cities, counties, and urban-county or charter county
6 governments of the Commonwealth;
- 7 (2) To confer upon the Governor, the county judges/executive of the counties, the
8 mayors of the cities and urban-county governments of the Commonwealth, and the
9 chief executive of other local governments the emergency powers provided in KRS
10 Chapters 39A to 39F;
- 11 (3) To establish provisions for mutual aid among the cities, counties, and urban-county
12 or charter county governments of the Commonwealth, with other states, and with
13 the federal government with respect to the performance of disaster and emergency
14 preparedness, response, recovery, and mitigation functions; and
- 15 (4) To authorize the establishment of a statewide comprehensive emergency
16 management program and integrated emergency management system, the
17 promulgation of orders or administrative regulations, and the taking of other steps
18 necessary and appropriate to carry out the provisions of KRS Chapters 39A to 39F.

19 ➔Section 2. KRS 39A.020 is amended to read as follows:

20 As used in KRS Chapters 39A to 39F, unless the context requires otherwise:

- 21 (1) "Adjutant General" means the executive head of the Department of Military Affairs
22 vested with general direction and control authority for the department and the
23 division of emergency management;
- 24 (2) "Catastrophe" means a disaster or series of concurrent disasters which adversely
25 affect the entire Commonwealth of Kentucky or a major geographical portion
26 thereof;
- 27 (3) "Chief executive officer" means a:

- 1 (a) County judge/executive of a county;
- 2 (b) Mayor of a consolidated local government;
- 3 (c) Mayor of an urban-county government;
- 4 (d) Chief executive officer of a charter county government;
- 5 (e) Chief executive officer of a unified local government; or
- 6 (f) Mayor of a city;
- 7 (4) "Comprehensive emergency management program" means the public safety
8 program developed, organized, implemented, administered, maintained, and
9 coordinated by the Division of Emergency Management and local emergency
10 management agencies created pursuant to the provisions of KRS Chapters 39A to
11 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency,
12 declared emergency, disaster, or catastrophe, or threat of any of those, as
13 contemplated in KRS 39A.010 or as defined in this section;
- 14 (5) "Coordination" means having and exercising primary state or local executive
15 branch oversight for the purpose of organizing, planning, and implementing;
- 16 (6) "County" means a county, urban-county government, charter county government,
17 consolidated local government, or unified local government;
- 18 (7) "Declared emergency" means any incident or situation declared to be an
19 emergency, disaster, or catastrophe by executive order of the Governor, or a county
20 judge/executive, or a mayor, or the chief executive of other local governments in
21 the Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;
- 22 (8) "Director" means the director of the Division of Emergency Management of the
23 Department of Military Affairs;
- 24 (9) "Disaster" means any incident or situation declared as such by executive action of
25 the Governor, or the President of the United States, pursuant to federal law;
- 26 (10) "Disaster and emergency response" means the performance of all emergency
27 functions, other than war-related functions for which military forces are primarily

1 responsible, including but not limited to: direction and control, incident command,
2 or management; communications; fire protection services; police services; medical
3 and health services; ambulance services; rescue; search and rescue or recovery;
4 urban search and rescue; engineering; alerting and warning services; resource
5 management; public works services; nuclear, chemical, biological, or other
6 hazardous material or substance monitoring, containment, decontamination,
7 neutralization, and disposal; emergency worker protection, site safety, site
8 operations and response planning; evacuation of persons; emergency welfare
9 services; emergency transportation; physical plant protection; temporary restoration
10 of public utility services; emergency lighting and power services; emergency public
11 information; incident investigation, hazards analysis, and damage assessment; and
12 other functions related to effective reaction to a disaster or emergency or
13 catastrophe,~~[or the potential, threatened,]~~ or impending threat of any disaster or
14 emergency or catastrophe, together with all other activities necessary or incidental
15 to the preparation for and carrying out of the functions set out in this subsection;

16 (11) "Division" means the Division of Emergency Management of the Department of
17 Military Affairs;

18 (12) "Emergency" means any incident or situation which poses a major threat to public
19 safety so as to cause, or threaten to cause, loss of life, serious injury, significant
20 damage to property, or major harm to public health or the environment;

21 (13) (a) "Executive action" means:

22 1. All orders and guidelines related to any~~[a COVID-19]~~ declared
23 emergency~~[issued by the Governor or any state agency, the President of~~
24 ~~the United States or any federal agency, or a local governmental~~
25 ~~agency]~~; and

26 2. Industry-specific or agency specific guidelines related to a~~[COVID-19]~~
27 declared emergency adopted by a state agency that govern the industry;

1 and

2 (b) "Executive action":

3 1. Does not mean informal or indefinite statements or recommendations
4 made by government officials; and

5 2. Does not create a duty of care;

6 (14) "Integrated emergency management system" means the unified and
7 multidisciplinary disaster and emergency response infrastructure developed in the
8 Commonwealth, under the coordination of the division, using methods which align
9 state or local administrative, organizational, and operational resources, to
10 accomplish the mission, goals, and objectives of the comprehensive emergency
11 management program of the Commonwealth;

12 (15) "Local disaster and emergency services organization" means that organization of
13 public and private entities developed to carry out the multiagency disaster and
14 emergency response of a city, county, urban-county or charter county pursuant to
15 KRS Chapters 39A to 39F;

16 (16) "Local emergency management agency" means the agency created, operated, and
17 maintained to coordinate the local comprehensive emergency management program
18 and disaster and emergency response of a city, county, and urban-county or charter
19 county government pursuant to KRS Chapters 39A to 39F;

20 (17) "Local emergency management director" or "Local director" means the executive
21 head of the local emergency management agency, appointed pursuant to the
22 provisions of KRS Chapters 39A to 39F;

23 (18) "State emergency management agency" means the Division of Emergency
24 Management of the Department of Military Affairs; and

25 (19) "State emergency management director" means the director of the Division of
26 Emergency Management.

27 ➔Section 3. KRS 39A.030 is amended to read as follows:

1 The General Assembly recognizes that the rationale and purpose of the comprehensive
2 emergency management program of the Commonwealth has evolved from a program for
3 response to threats to national security, enemy attack, and other national defense needs, to
4 a program for response to all ~~hazards, but primarily, domestic hazards and threats~~
5 ~~including natural, man-made, technological, industrial, or environmental~~ emergencies or
6 disasters, for which civil government is primarily responsible. Because of major changes
7 in the rationale and necessity for emergency management capabilities, as well as the
8 urgent requirement for multiagency participation and inter-agency coordination to ensure
9 timely, effective, and appropriate disaster and emergency response in the
10 Commonwealth, and to otherwise modernize and improve the administration,
11 effectiveness, and relevance of the comprehensive emergency management program for
12 the contemporary needs of the citizens of the Commonwealth, the General Assembly
13 declares:

14 (1) A Division of Emergency Management is hereby created as the emergency
15 management agency of state government which shall develop the comprehensive
16 emergency management program of the Commonwealth on behalf of the Governor,
17 and in consultation with the cabinet secretaries of state government, other
18 appropriate state agency heads, local elected chief executives, local emergency
19 management directors, and local emergency planning committees, for the purpose
20 of developing and enhancing comprehensive emergency management program
21 policies, plans, or procedures to provide for a coordinated responsive, and
22 integrated emergency management system in the Commonwealth;

23 (2) The division may accept on behalf of the Commonwealth any grant, contribution, or
24 fund, federal or otherwise, made to assist in meeting the costs of carrying out the
25 provisions and purposes of KRS Chapters 39A to 39F, and fully comply with all
26 funding requirements imposed by the receipt and use of the grant, contribution, or
27 fund; and

1 (3) The term "Division of Emergency Management" shall constitute and designate the
2 official name of the emergency management agency of state government created
3 pursuant to subsection (1) of this section and "Division of Emergency
4 Management," in the exact order or form as specified in this subsection, shall not be
5 utilized by or assigned to any other agency of state or local government, or other
6 state or local entity, or any political subdivision of the Commonwealth to constitute
7 or designate the official name of any such agency, entity, or political subdivision.

8 ➔Section 4. KRS 39A.050 is amended to read as follows:

9 (1) The Division of Emergency Management shall coordinate for the Governor all
10 matters pertaining to the comprehensive emergency management program and
11 disaster and emergency response of the Commonwealth. The division shall be the
12 executive branch agency of state government having primary jurisdiction,
13 responsibility, and authority for the planning and execution of disaster and
14 emergency assessment, mitigation, preparedness, response, and recovery for the
15 Commonwealth; the coordination of all disaster and emergency response by and
16 between all state agencies, all agencies of city, county, and urban-county or charter
17 county government, all local entities, and all political subdivisions of the
18 Commonwealth for an emergency, declared emergency, disaster, or catastrophe as
19 contemplated in KRS 39A.010, 39A.020, or 39A.030; the coordination of, and
20 liaison with, related or concerned federal government agencies, elected officials of
21 other states, private organizations or private sector companies dealing with disaster
22 and emergency response; the coordination of all recovery operations and mitigation
23 initiatives subsequent to disasters or emergencies; and the coordination of all public
24 information activities regarding state government disaster and emergency response
25 operations.

26 (2) The Division of Emergency Management shall have and exercise the following
27 powers, authorities, and duties:

- 1 (a) To develop, administer, and maintain a statewide comprehensive emergency
2 management program for the Commonwealth, and through it an integrated
3 emergency management system for the disaster and emergency response of
4 the Commonwealth, which shall be coordinated with the emergency
5 management programs, and other related public safety, emergency response,
6 mitigation, or disaster recovery programs, of all appropriate federal
7 government agencies including the Federal Emergency Management Agency,
8 the federal Department of Homeland Security, the State Department, the
9 Federal Aviation Administration, the Centers for Disease Control and
10 Prevention, the Department of Transportation, the Environmental Protection
11 Agency, the Occupational Safety and Health Administration, the Department
12 of Defense, the National Oceanic and Atmospheric Administration, the
13 Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the
14 National Transportation Safety Board, the Chemical Safety and Hazard
15 Investigation Board, the Army Corps of Engineers, the National Security
16 Council, the Department of Health and Human Services, the Federal Railroad
17 Administration, the United States Geological Survey, the Department of
18 Energy, the Nuclear Regulatory Commission, the Department of Agriculture,
19 the Department of Housing and Urban Development, the American Red
20 Cross, the other states, and other appropriate public or private agencies, to the
21 fullest appropriate extent;
- 22 (b) To coordinate the development, implementation, and maintenance of
23 comprehensive emergency management programs by local emergency
24 management agencies in the cities, counties, and urban-county or charter
25 county governments of the Commonwealth to ensure that all such programs,
26 agencies, and organizations are organized, administered, and operated as
27 functional components of the integrated emergency management system of

1 the Commonwealth;

2 (c) To develop and maintain a comprehensive, risk-based, all-hazards disaster
3 and emergency response plan entitled "Kentucky Emergency Operations
4 Plan," the provisions of which shall establish the organizational structure to be
5 utilized by state government for managing disaster and emergency response,
6 and set forth the policies, procedures, and guidelines for the coordination and
7 execution of all disaster and emergency response for an emergency, declared
8 emergency, disaster, or catastrophe in the Commonwealth. The Kentucky
9 Emergency Operations Plan shall be submitted to the Governor for approval
10 when the Governor assumes office following each gubernatorial election, or at
11 other times as the director deems appropriate. The Governor shall provide
12 written approval of the Kentucky Emergency Operations Plan through
13 issuance of an executive order, and the division shall file a copy of the
14 executive order with the Legislative Research Commission. The Kentucky
15 Emergency Operations Plan shall be the primary strategic disaster and
16 emergency response planning component of the integrated emergency
17 management system of the Commonwealth, and shall be utilized and followed
18 by all state agencies, all local government agencies, all local public agencies
19 or entities, and all other political subdivisions of the Commonwealth which
20 may be involved in disaster and emergency response in the Commonwealth.
21 The Kentucky Emergency Operations Plan shall be updated by the division
22 not less than annually;

23 (d) To maintain and operate the State Emergency Operations Center facility,
24 which shall be the official and primary state government twenty-four (24)
25 hour warning point, communications, and command center, from which the
26 Governor, cabinet secretaries, department heads, and other state agency
27 officials can, at any time, rapidly, adequately, and effectively manage the

1 disaster and emergency response of the Commonwealth. The State Emergency
2 Operations Center facility shall be the primary state direction and control
3 component of the integrated emergency management system of the
4 Commonwealth for the coordination of all disaster and emergency response in
5 the Commonwealth;

6 (e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis,
7 the appropriate alerting or warning systems, public safety telecommunications
8 systems, or radio networks; any state trunked, fiber, or interactive
9 communication systems; computer, fax, other telecommunications or
10 information networks; and systems needed for communication and
11 coordination with all necessary or appropriate federal, state, or local public
12 safety, law enforcement, emergency management, or other disaster and
13 emergency response agencies, and state or local dispatch centers in the
14 Commonwealth, and other appropriate interests, and through these agencies
15 and systems to receive or disseminate emergency information, or to receive
16 timely notification of, and continual assessment of, all threatened or actual
17 emergency incidents or disaster situations occurring anywhere in or near the
18 Commonwealth;

19 (f) To immediately notify the Governor, the adjutant general, and the executive
20 director of the Kentucky Office of Homeland Security, or his or her designee,
21 in the event of any major emergency incidents or disaster occurrences, ~~or the~~
22 ~~threatened~~ or impending occurrence of any of these events, and to keep the
23 Governor, the adjutant general, and the executive director of the Kentucky
24 Office of Homeland Security, or his or her designee, informed of all actions
25 being taken in response to these events;

26 (g) To respond to the scenes of emergencies or disasters, or their ~~threatened or~~
27 impending occurrence, and to directly and immediately investigate, analyze,

- 1 and assess the nature and seriousness of these situations; to convene meetings,
2 gather information, conduct briefings, and evaluate ongoing emergency
3 response activities; take actions to execute the appropriate provisions of the
4 Kentucky Emergency Operations Plan; coordinate the establishment and
5 operation of a state incident management system; establish or manage sub-
6 state or area emergency operations centers, or on-scene command posts; and
7 fully expedite and coordinate the disaster and emergency response of the
8 Commonwealth;
- 9 (h) To establish and operate area field offices of the division, each office to be
10 headed by an area manager, responsible for administering the policies, plans,
11 programs, and duties of the division in specific geographic areas of the
12 Commonwealth, including the coordination of comprehensive emergency
13 management programs developed by the cities, counties, urban-county, or
14 charter county governments in the areas;
- 15 (i) To provide funds to the cities, counties, and urban-county or charter county
16 governments of the Commonwealth to support the development,
17 administration, operation, and maintenance of local emergency management
18 agencies created pursuant to KRS Chapters 39A to 39F;
- 19 (j) To require the regular submission of program administration data, records,
20 materials, reports, or documents from local emergency management agencies
21 as may be necessary and sufficient to conduct performance reviews and
22 assessments to ensure compliance with all state or federal funding and
23 program requirements, and to ensure local program compatibility and
24 consistency with the mission, goals, and objectives of the comprehensive
25 emergency management program and integrated emergency management
26 system of the Commonwealth;
- 27 (k) To ascertain the requirements of the Commonwealth and its cities and

1 counties for emergency resources and the necessities of life in the event of
 2 disaster or emergency; institute an emergency resource management plan and
 3 procure emergency supplies, materials, and equipment; and use or employ in
 4 time of emergency any of the property, services, and resources of state or
 5 local government in the Commonwealth for the purposes set forth in KRS
 6 Chapters 39A to 39F; and

7 (l) To institute public information and education programs, emergency
 8 management training programs, and exercise programs to test and evaluate
 9 emergency operations plans and disaster and emergency response and
 10 recovery capabilities; ~~and~~

11 ~~(m) To promulgate administrative regulations to carry out the provisions of KRS~~
 12 ~~Chapters 39A to 39F].~~

13 ➔Section 5. KRS 39A.070 is amended to read as follows:

14 The director, with the approval of the adjutant general, shall exercise the following
 15 powers, responsibilities, and duties:

16 (1) To represent the Governor on all matters pertaining to the comprehensive
 17 emergency management program and the disaster and emergency response of the
 18 Commonwealth;

19 (2) To coordinate the development of a statewide comprehensive emergency
 20 management program, and through it, an integrated emergency management system
 21 for the disaster and emergency response of the Commonwealth;

22 (3) To ~~promulgate administrative regulations and~~ issue ~~orders, directives,~~ standards,
 23 rules, procedures, guidance, or recommended practices necessary to coordinate the
 24 development, administration, organization, operation, implementation, and
 25 maintenance of the statewide comprehensive emergency management program and
 26 the integrated emergency management system of the Commonwealth;

27 (4) To coordinate the development of comprehensive emergency management

- 1 programs by the cities, counties, and urban-county or charter county governments
2 as functional components of the integrated emergency management system of the
3 Commonwealth;
- 4 (5) To supervise the development and maintenance of the Kentucky Emergency
5 Operations Plan, and to review and give concurrence to local emergency operations
6 plans required pursuant to KRS Chapters 39A to 39F;
- 7 (6) To coordinate the comprehensive emergency management program of the
8 Commonwealth with the emergency management or other emergency response-
9 related programs of the federal government, and of other states, to the ~~fullest~~
10 appropriate extent;
- 11 (7) To advise the Governor and the adjutant general immediately of the occurrence ~~or~~
12 ~~threatened~~ or impending occurrence of any disaster or emergency, and to
13 recommend to the Governor any emergency executive action that the Governor
14 should execute;
- 15 (8) To serve as the Governor's primary liaison with local officials in the event of the
16 occurrence, or threatened or impending occurrence, of any disaster or emergency in
17 the cities, counties, urban-counties, or charter counties of the Commonwealth;
- 18 (9) To request ~~take any other preparedness or response actions deemed necessary for~~
19 ~~adequate response to a disaster or emergency situation to include: requesting~~
20 increased readiness activities by state or local agencies in advance of an actual
21 disaster or emergency; request ~~requesting~~ implementation of local emergency
22 operations plans or the activation of local emergency operations centers;
23 request ~~requesting~~ reports from state or local agencies regarding emergency
24 situations, damage assessments, or the taking of emergency response actions; and
25 request ~~requesting~~ the mobilization or deployment of any trained and equipped
26 forces of state or local government for the disaster and emergency response
27 purposes set forth in KRS Chapters 39A to 39F as necessary;

- 1 (10) To request and utilize the personnel, equipment, services, and facilities of existing
2 officers and agencies of the Commonwealth and of all political subdivisions and
3 special districts. All these officers and agencies shall fully cooperate with and
4 extend their resources to the director as requested to the extent that local public
5 safety is not unreasonably compromised;
- 6 (11) To employ measures and give directions to the state or local boards of health as
7 necessary for the purpose of securing compliance with the provisions of KRS
8 Chapters 39A to 39F, ~~or with the findings or recommendations of the boards of~~
9 ~~health~~, because of conditions arising from disasters **and emergencies**, ~~emergency~~
10 ~~situations, national security emergencies, or the threat thereof~~;
- 11 (12) To request and utilize the services of state and local law enforcement officers for
12 the purpose of securing compliance with the provisions of KRS Chapters 39A to
13 39F, or any order of the Governor pertaining to disaster and emergency response;
- 14 (13) **To recommend to** ~~On behalf of this Commonwealth, with the approval of~~ the
15 Governor or ~~act of~~ the General Assembly, ~~to enter into~~ reciprocal aid
16 agreements or compacts with other states and the federal government, either on a
17 statewide, local, county, or city basis, or with other states or a province of a foreign
18 country **regarding**. ~~The mutual aid agreements shall be limited to~~ the furnishing
19 or exchange of food, clothing, medicine, and other supplies; engineering services;
20 emergency housing; police services; National Guard personnel and resources while
21 under the control of the state; health, medical, and related services; firefighting;
22 rescue; search and rescue or recovery; urban search and rescue; hazardous materials
23 response services, transportation and construction services and equipment;
24 personnel necessary to provide or conduct these services and other supplies,
25 equipment, facilities, personnel, and services as needed; the reimbursement of costs
26 and expenses for equipment, supplies, personnel, and similar items for mobile
27 support units, firefighting, search and rescue, and police units, and health units; and

- 1 on the terms and conditions deemed necessary;
- 2 (14) To sponsor and develop mutual aid plans and agreements among the urban-county
3 or charter county governments, counties, cities, and other political subdivisions and
4 special districts of the Commonwealth, similar to the mutual aid arrangements with
5 other states referred to in subsection (13) of this section;
- 6 (15) To procure motor vehicles, radio and telecommunications equipment, protective
7 clothing, safety equipment, and other necessary supplies and materials to meet the
8 emergency response, operational, and administrative needs of the division;
- 9 (16) To identify deficiencies existing in the emergency management program
10 organization, facilities, and capabilities of the Commonwealth, including but not
11 limited to: personnel and administrative resources; state, sub-state, area, or local
12 emergency operations centers; mobile command posts; emergency
13 telecommunications and computer systems; alerting and warning systems;
14 stockpiles of critical resources; or any other necessary elements, and to recommend
15 to the adjutant general, for consideration by the Governor or the General Assembly
16 or other appropriate funding authority, the administrative or operational funding
17 requirements, and long-range capital construction or improvement projects needed
18 to meet the emergency management infrastructure needs of the Commonwealth;
- 19 (17) To serve as the state coordinating officer and notify the Governor of the
20 appropriations necessary to fund the expected emergency operational or response
21 costs of the division, and the Commonwealth's share of the grants provided by
22 Pub.L.No. 93-288, Title V, Federal Disaster Assistance Programs as amended by
23 Pub.L.No. 100-707, the Robert T. Stafford Disaster Relief and Emergency
24 Assistance Act, or successor acts or titles, and further, take action necessary to
25 ensure entitlement to all other federal relief or assistance programs;
- 26 (18) To cooperate with the President of the United States, the Federal Emergency
27 Management Agency, and other appropriate federal offices and agencies, and the

1 offices and agencies of other states in matters pertaining to the comprehensive
2 emergency management program of the Commonwealth and nation; and in
3 connection with these, to take any measures considered necessary to implement any
4 request of the President and the appropriate federal offices and agencies, for any
5 action requiring effective disaster and emergency response, including the direction
6 or control and mobilization of disaster and emergency response forces; tests and
7 exercises, warnings, and signals for drills or other emergency response activities
8 and the mechanical devices to be used in connection with these; the shutting off of
9 water mains, gas mains, electric power connections, and the suspension of all other
10 utility services; the conduct of civilians and the movement and cessation of
11 movement of pedestrians and vehicular traffic during, prior, and subsequent to a
12 drill, emergency, declared emergency, or disaster; public meetings or gatherings;
13 and the evacuation and sheltering of the civilian population; and

14 (19) To delegate any authority vested in the director under KRS Chapters 39A to 39F
15 and to provide for the subdelegation of any such authority.

16 ➔Section 6. KRS 39A.090 is amended to read as follows:

17 (1) The Governor may make, amend, and rescind any executive actions as deemed
18 necessary to carry out the provisions of KRS Chapters 39A to 39F.

19 (2) (a) Executive orders, administrative regulations, or other directives ***related to an***
20 ***emergency or disaster***~~[issued under this chapter by the Governor]~~ shall be in
21 effect no longer than thirty (30) days unless an extension, modification, or
22 termination is approved by the General Assembly prior to the extension of any
23 executive order, ***administrative regulation***, or directive that:

24 1. Places restrictions on the in-person meeting or places restrictions on the
25 functioning of the following:

26 a. Elementary, secondary, or postsecondary educational institutions;

27 b. Private businesses or nonprofit organizations;

- 1 c. Political, religious, or social gatherings;
- 2 d. Places of worship; or
- 3 e. Local governments; or
- 4 2. Imposes mandatory quarantine or isolation requirements.
- 5 (b) All other executive orders, administrative regulations, or directives that are
- 6 not described in paragraph (a) of this subsection may exceed thirty (30) days
- 7 if requested by a chief executive officer or a legislative body of a local
- 8 government only for that local government and only for the period of time
- 9 requested by the chief executive officer or a legislative body. The chief
- 10 executive officer or a legislative body may make a written request for
- 11 extensions or early termination of the executive order.
- 12 (3) Upon the expiration of an executive order or other directive described in subsection
- 13 (2)(a) of this section declaring an emergency or other implementation of powers
- 14 under this chapter, the Governor shall not declare a new emergency or continue to
- 15 implement any of the powers enumerated in this chapter based upon the same or
- 16 substantially similar facts and circumstances as the original declaration or
- 17 implementation without the prior approval of the General Assembly.
- 18 (4) The General Assembly, by joint resolution, may terminate a declaration of
- 19 emergency at any time.
- 20 (5) The Commonwealth waives immunity for prospective equitable and declaratory
- 21 relief only, under the Eleventh Amendment to the Constitution of the United States
- 22 for cases brought against it in federal jurisdictions pursuant to KRS 446.350 during
- 23 emergencies declared under KRS Chapters 39A to 39F. No award of monetary
- 24 damages, costs, or attorney fees is waived or authorized under this subsection.
- 25 ➔Section 7. KRS 39A.100 is amended to read as follows:
- 26 (1) In the event of the occurrence or threatened or impending occurrence of any of the
- 27 situations or events enumerated in KRS 39A.010, 39A.020, or 39A.030, the

1 Governor may declare, in writing, that a state of emergency exists. The Governor
2 shall have and may exercise the following emergency powers during the period in
3 which the state of emergency exists:

4 (a) To enforce all laws, and administrative regulations relating to disaster and
5 emergency response and to assume direct operational control of all disaster
6 and emergency response forces and activities in the Commonwealth;

7 (b) To require state agencies and to request local governments, local agencies,
8 and special districts to respond to the emergency or disaster in the manner
9 directed;

10 (c) ~~[To seize, take, or condemn property, for the duration of the emergency, and~~
11 ~~only for public use as defined in KRS 416.675, excluding firearms and~~
12 ~~ammunition, components of firearms and ammunition, or a combination~~
13 ~~thereof, for the protection of the public or at the request of the President, the~~
14 ~~Armed Forces, or the Federal Emergency Management Agency of the United~~
15 ~~States, including:~~

16 ~~1.—All means of transportation and communication;~~

17 ~~2.—All stocks of fuel of whatever nature;~~

18 ~~3.—Food, clothing, equipment, materials, medicines, and all supplies; and~~

19 ~~4.—Facilities, including buildings and plants, but excluding houses of worship,~~
20 ~~except to the extent that such houses have become unsafe to a degree that~~
21 ~~would justify condemnation in the absence of a state of emergency.~~

22 ~~—Compensation for property seized, taken, or condemned under this paragraph~~
23 ~~shall be determined using the process in KRS 416.540 to 416.670 to~~
24 ~~determine value;~~

25 ~~(d) To sell, lend, give, or distribute any of the property under paragraph (c) of this~~
26 ~~subsection among the inhabitants of the Commonwealth and to account to the~~
27 ~~State Treasurer for any funds received for the property;~~

- 1 ~~(e) To make compensation for the property seized, taken, or condemned under~~
2 ~~paragraph (e) of this subsection;~~
- 3 ~~(f)]To exclude all nonessential, unauthorized, disruptive, or otherwise~~
4 ~~uncooperative personnel from the *immediate* scene of the emergency, and to~~
5 ~~command those persons or groups assembled at the scene to disperse. A~~
6 ~~person who refuses to leave an area in which a written order of evacuation has~~
7 ~~been issued in accordance with a written declaration of emergency or a~~
8 ~~disaster may be forcibly removed to a place of safety or shelter, or may, if this~~
9 ~~is resisted, be arrested by a peace officer. Forcible removal or arrest shall not~~
10 ~~be exercised as options until all reasonable efforts for voluntary compliance~~
11 ~~have been exhausted;~~
- 12 ~~[(g) To declare curfews and establish their limits;~~
- 13 ~~(h) To prohibit or limit the sale or consumption of goods, in the event of a~~
14 ~~shortage of goods, excluding firearms and ammunition, components of~~
15 ~~firearms and ammunition, or a combination thereof, or commodities for the~~
16 ~~duration of the emergency;]~~
- 17 (d)~~[(i)]~~ To grant emergency authority to pharmacists pursuant to KRS 315.500,
18 for the duration of the emergency;
- 19 (e)~~[(j)]~~ To request any assistance from agencies of the United States as
20 necessary and appropriate to meet the needs of the people of the
21 Commonwealth; and
- 22 (f)~~[(k)]~~ Upon the recommendation of the Secretary of State, to declare by
23 executive order a different time or place for holding elections in an election
24 area for which a state of emergency has been declared for part or all of the
25 election area. The election shall be held within thirty-five (35) days from the
26 date of the suspended or delayed election. The executive order shall remain in
27 effect until the date of the suspended or delayed election regardless of the

- 1 time limitations in KRS 39A.090 and shall not be changed except by action of
2 the General Assembly. The State Board of Elections shall establish
3 procedures for election officials to follow. Any procedures established under
4 this paragraph shall be subject to the approval of the Secretary of State and the
5 Governor by respective executive orders~~;~~ and
6 ~~(1) Except as prohibited by this section or other law, to take action necessary to~~
7 ~~execute those powers enumerated in paragraphs (a) to (k) of this subsection].~~
8 (2) Within thirty (30) days of a declared emergency, and every thirty (30) days
9 thereafter, the Governor shall report to the General Assembly, if in session, or to the
10 Legislative Research Commission if the General Assembly is not in session, on a
11 form provided by the Commission detailing:
12 (a) All expenditures relating to contracts issued during the emergency under KRS
13 45A.085 or 45A.095, or under any provision for which a state agency does not
14 solicit bids or proposals for a contract; and
15 (b) All revenues received from the federal government in response to the declared
16 emergency, any expenditures or expenditure plan for the federal funds by
17 federal program, the state agency or program that was allocated the federal
18 funds, and any state fund expenditures required to match the federal funds.
19 (3) In the event of the occurrence or threatened or impending occurrence of any of the
20 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
21 the judgment of a local chief executive officer is of such severity or complexity as
22 to require the exercise of extraordinary emergency measures, the county
23 judge/executive of a county other than an urban-county government, or mayor of a
24 city or urban-county government, or chief executive of other local governments or
25 their designees as provided by ordinance of the affected county, city, or urban-
26 county may declare in writing that a state of emergency exists, and thereafter,
27 subject to any orders of the Governor, shall have and may exercise for the period as

1 the state of emergency exists or continues, the following emergency powers:

2 (a) To enforce all laws and administrative regulations relating to disaster and
3 emergency response and to direct all local disaster and emergency response
4 forces and operations in the affected county, city, urban-county, or charter
5 county;

6 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
7 personnel from the immediate scene of the emergency, and to command
8 persons or groups of persons at the scene to disperse. A person who refuses to
9 leave an area in which a written order of evacuation has been issued in
10 accordance with a written declaration of emergency or a disaster may be
11 forcibly removed to a place of safety or shelter, or may, if this is resisted, be
12 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
13 options until all reasonable efforts for voluntary compliance have been
14 exhausted;

15 (c) ~~To declare curfews and establish their limits;~~

16 ~~(d)~~ To order immediate purchase or rental of, contract for, or otherwise procure,
17 without regard to procurement codes or budget requirements, the goods and
18 services essential for protection of public health and safety or to maintain or
19 to restore essential public services; and

20 ~~(d)~~~~(e)~~ To request emergency assistance from any local government or special
21 district and, through the Governor, to request emergency assistance from any
22 state agency and to initiate requests for federal assistance as are necessary for
23 protection of public health and safety or for continuation of essential public
24 services.

25 (4) Nothing in **KRS Chapters 39B to 39F or this chapter**~~[this section]~~ shall be
26 construed to allow any governmental entity to impose additional restrictions on:

27 (a) The lawful possession, transfer, sale, transport, carrying, storage, display, or

1 use of firearms and ammunition or components of firearms and ammunition;

2 (b) The right of the people to exercise free speech, freedom of the press, to
3 petition their government for redress of injuries, or to peaceably assemble;
4 ~~{or}~~

5 (c) The right of the people to worship, worship in person, or to act or refuse to act
6 in a manner motivated by a sincerely held religious belief;~~{-}~~

7 **(d) The right of the people to secure in their persons, homes, papers, and**
8 **possessions from unreasonable search and seizure;**

9 **(e) The right of the people to due process of law prior to deprivation of life,**
10 **liberty, or property;**

11 **(f) The right of the accused to a speedy and public jury trial of their peers;**

12 **(g) The right of the people to be deprived of life, liberty, or property only by the**
13 **judgement of their peers or the law of the land; or**

14 ~~(g){(5)} [Nothing in this section shall be construed to allow any governmental~~
15 ~~entity to impose restrictions on.]The right of the people to~~;~~~~

16 ~~(a)—]peaceably assemble~~;~~ or~~

17 ~~(b)—Worship, worship in person, or to act or refuse to act in a manner motivated~~
18 ~~by a sincerely held religious belief].~~

19 (6) (a) A governmental entity shall not prohibit or restrict a religious organization
20 from operating or engaging in religious services during a declared emergency
21 to the same or any greater extent than other organizations or businesses that
22 provide essential services necessary and vital to the health and welfare of the
23 public are prohibited or restricted.

24 (b) Paragraph (a) of this subsection shall not prohibit the Governor from requiring
25 religious organizations to comply with neutral health, safety, or occupancy
26 requirements that are applicable to all organizations and businesses that
27 provide essential services. However, no health, safety, or occupancy

1 requirement may impose a substantial burden on a religious organization or its
2 services unless applying the burden to the religion or religious service in the
3 particular instance is essential to further a compelling governmental interest
4 and is the least restrictive means of furthering that compelling governmental
5 interest.

6 (c) A governmental entity shall not take any discriminatory action against a
7 religious organization.

8 (7) As used in this section:

9 (a) "Discriminatory action" includes any action taken by a governmental entity
10 wholly or partially on the basis that such organization is religious, operates or
11 seeks to operate during a state of emergency, or engages in the exercise of
12 religion as protected under the First Amendment to the Constitution of the
13 United States to:

14 1. Adversely alter in any way the tax treatment of, cause any tax, penalty,
15 or payment to be assessed against, or deny, delay, or otherwise make
16 unavailable an exemption from taxation;

17 2. Disallow, deny, or otherwise make unavailable a deduction for state tax
18 purposes of any charitable contribution made to or by a religious
19 organization;

20 3. Impose, levy, or assess a monetary fine, fee, civil or criminal penalty,
21 damages award, or injunction; or

22 4. Withhold, reduce, exclude, terminate, adversely alter the terms or
23 conditions of, or otherwise make unavailable or deny any:

24 a. State grant, contract, subcontract, cooperative agreement,
25 guarantee, loan, scholarship, or other similar benefit from or to a
26 religious organization;

27 b. Entitlement or benefit under a state benefit program from or to a

1 religious organization; or

2 c. License, certification, accreditation, recognition, or other similar
3 benefit, position, or status from or to any religious organization;

4 (b) "Governmental entity" means:

5 1. The Commonwealth or any of its political subdivisions;

6 2. Any agency of the state described in KRS 12.020;

7 3. Any person acting under color of state law; and

8 4. Any private person suing under or attempting to enforce a law, rule, or
9 administrative regulation adopted by the state or any of its political
10 subdivisions;

11 (c) "Religious organization" means:

12 1. A house of worship, including churches, synagogues, shrines, mosques,
13 and temples;

14 2. A religious group, corporation, association, educational institution,
15 ministry, order, society, or similar entity, regardless of whether it is
16 integrated or affiliated with a church or other house of worship; or

17 3. Any officer, owner, employee, manager, religious leader, clergy, or
18 minister of an entity or organization described in this paragraph; and

19 (d) "Religious services" means a meeting, gathering, or assembly of two (2) or
20 more persons organized by a religious organization for the purpose of
21 worship, teaching, training, providing educational services, conducting
22 religious rituals, or other activities that are deemed necessary by the religious
23 organization for the exercise of religion.

24 (8) A religious organization may assert a violation of subsection (4)(c)~~[(5)(b)]~~ or (6)
25 of this section as a claim against a governmental entity in any judicial or
26 administrative proceeding or as a defense in any judicial or administrative
27 proceeding without regard to whether the proceeding is brought by or in the name

1 of the governmental entity, any private person, or any other party. Sovereign,
2 governmental, and qualified immunity are waived to the extent of liability created
3 under this section. An action asserting a violation of this section may be
4 commenced, and relief may be granted, without regard to whether the religious
5 organization commencing the action has sought or exhausted administrative
6 remedies.

7 (9) Remedies available to a religious organization under this section against a
8 governmental entity include:

- 9 (a) Declaratory relief;
- 10 (b) Injunctive relief to prevent or remedy a violation of this section or the effects
11 of such violation;
- 12 (c) Compensatory damages for pecuniary and nonpecuniary losses;
- 13 (d) Reasonable attorneys' fees and costs; and
- 14 (e) Any other appropriate relief.

15 (10) Remedies available to a religious organization under this section against a person
16 not acting under color of state law shall be limited to declaratory and injunctive
17 relief.

18 (11) This section:

- 19 (a) Shall be construed in favor of a broad protection of free exercise of religion;
- 20 (b) Shall be in addition to the protections provided under state and federal laws
21 and constitutions. Nothing in this section shall be construed to:
 - 22 1. Preempt or repeal any state law or local ordinance that is equally or
23 more protective of free exercise of religion; or
 - 24 2. Narrow the meaning or application of any state law or local ordinance
25 protecting free exercise of religion; and
- 26 (c) Applies to, and in cases of conflict, supersedes:
 - 27 1. Each statute of the Commonwealth that infringes upon the free exercise

1 of religion protected by this section, unless a conflicting statute is
2 expressly made exempt from the application of this section; and

3 2. Any ordinance, rule, administrative regulation, order, opinion, decision,
4 practice, or other exercise of a governmental entity's authority that
5 infringes upon the free exercise of religion protected by this section.

6 (12) A religious organization shall bring an action to assert a claim under this section no
7 later than two (2) years from the date the person knew or should have known that a
8 discriminatory action or other violation of this section was taken against that
9 religious organization.

10 ➔Section 8. The following KRS sections are repealed:

11 39A.190 Power of arrest for violation of order or administrative regulation.

12 118.027 Suspension or revision of election statutes.