

1 AN ACT relating to reorganization of the Department of Law and declaring an  
2 emergency.

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

4 ➔Section 1. KRS 15.010 (Effective until March 15, 2024) is amended to read as  
5 follows:

6 (1) The Attorney General is the head of the Department of Law.

7 (2) The Department of Law shall include the following major organizational units:

8 (a) Department of Criminal ~~Investigations~~~~[Litigation]~~;

9 1. ***Office of Counter-Exploitation***~~[Department of Criminal Investigations]~~;

10 a. ***Special Victims Division***~~[Public Corruption Division]~~;

11 b. ***Cyber Crimes Division***~~[Special Victims Division]~~; ***and***

12 c. ***Trafficking and Abuse Prevention and Prosecution***  
13 ***Division***~~[Special Investigations Division]~~; and

14 d. ~~Protective Intelligence Division]~~;

15 2. Office of ***Investigative Operations***~~[Special Prosecutions]~~;

16 a. ***Public Corruption Division***;

17 b. ***Special Investigations Division***; ***and***

18 c. ***Protective Intelligence Division***;

19 (b) ***Department of Criminal Litigation***;

20 1. ***Office of Special Prosecutions***;

21 2~~[3]~~. Office of Medicaid Fraud and Abuse Control;

22 3~~[4.]~~ ~~[Office of Trafficking and Abuse Prevention and Prosecution]~~;

23 5. ~~Office of Prosecutors Advisory Council~~; and

24 4~~[6]~~. Office of Victims Advocacy;

25 (c)~~[(b)]~~ Department of Civil Litigation;

26 1. Office of Consumer Protection;

27 2. Office of Civil and Environmental Law;

- 1 a. Open Records and Meetings Division; and
- 2 b. Civil Litigation~~[Administrative Hearings]~~ Division;
- 3 3. Office of Rate Intervention;~~[and]~~
- 4 4. Office of Senior Protection; and
- 5 5. Office of Administrative Hearings;
- 6 a. Family and Children Division;
- 7 b. Health Services Division; and
- 8 c. General Government Division;
- 9 ~~(d)~~~~(e)~~ Office of the Solicitor General;
- 10 1. Criminal Appeals Division; and
- 11 2. Civil Appeals Division;
- 12 ~~(e)~~~~(d)~~ Office of Legal Counsel;
- 13 ~~(f)~~~~(e)~~ Office of Communications;~~[and]~~
- 14 ~~(g)~~~~(f)~~ Office of Management and Budget~~[Administrative Services]; and~~
- 15 (h) Kentucky Office of Regulatory Relief.

16 ➔Section 2. KRS 15.010 (Effective March 15, 2024) is amended to read as  
 17 follows:

- 18 (1) The Attorney General is the head of the Department of Law.
- 19 (2) The Department of Law shall include the following major organizational units:
  - 20 (a) Department of Criminal Investigations~~[Litigation]~~;
    - 21 1. Office of Counter-Exploitation~~[Department of Criminal Investigations]~~;
    - 22 a. Special Victims Division~~[Public Corruption Division]~~;
    - 23 b. Cyber Crimes Division~~[Special Victims Division]; and~~
    - 24 c. Trafficking and Abuse Prevention and Prosecution
    - 25 Division~~[Special Investigations Division; and~~
    - 26 d. ~~Protective Intelligence Division]~~;
    - 27 2. Office of Investigative Operations~~[Special Prosecutions]~~;

- 1                    *a. Public Corruption Division;*
- 2                    *b. Special Investigations Division; and*
- 3                    *c. Protective Intelligence Division;*
- 4                    *(b) Department of Criminal Litigation;*
- 5                    *1. Office of Special Prosecutions;*
- 6                    ~~2[3]. Office of Medicaid Fraud and Abuse Control;~~
- 7                    ~~3[4]. [Office of Trafficking and Abuse Prevention and Prosecution;~~
- 8                    ~~5.—]Office of Prosecutors Advisory Council; and~~
- 9                    ~~4[6]. Office of Victims Advocacy;~~
- 10                  ~~(c)[(b)] Department of Civil Litigation;~~
- 11                  1. Office of Consumer Protection;
- 12                  2. Office of Civil and Environmental Law;
- 13                  a. Open Records and Meetings Division; and
- 14                  b. *Civil Litigation*~~[Administrative Hearings]~~ Division;
- 15                  3. Office of Rate Intervention; ~~and]~~
- 16                  4. Office of Senior Protection; and
- 17                  *5. Office of Administrative Hearings;*
- 18                  *a. Family and Children Division;*
- 19                  *b. Health Services Division; and*
- 20                  *c. General Government Division;*
- 21                  ~~(d)[(e)] Office of the Solicitor General;~~
- 22                  1. Criminal Appeals Division; and
- 23                  2. Civil Appeals Division;
- 24                  ~~(e)[(d)] Office of Legal Counsel;~~
- 25                  ~~(f)[(e)] Office of Communications;~~
- 26                  ~~(g)[(f)] Office of Management and Budget[Administrative Services]; and~~
- 27                  ~~(h)[(g)] Kentucky Office of Regulatory Relief.~~

1           ➔Section 3. KRS 13B.010 is amended to read as follows:

2   As used in this chapter, unless the context requires otherwise:

- 3   (1) "Administrative agency" or "agency" means each state board, bureau, cabinet,  
4       commission, department, authority, officer, or other entity in the executive branch  
5       of state government authorized by law to conduct administrative hearings.
- 6   (2) "Administrative hearing" or "hearing" means any type of formal adjudicatory  
7       proceeding conducted by an agency as required or permitted by statute or regulation  
8       to adjudicate the legal rights, duties, privileges, or immunities of a named person.
- 9   (3) "Party" means:
- 10       (a) The named person whose legal rights, duties, privileges, or immunities are  
11         being adjudicated in the administrative hearing;
- 12       (b) Any other person who is duly granted intervention in an administrative  
13         hearing; and
- 14       (c) Any agency named as a party to the adjudicatory proceeding or entitled or  
15         permitted by the law being enforced to participate fully in the administrative  
16         hearing.
- 17   (4) "Agency head" means the individual or collegial body in an agency that is  
18       responsible for entry of a final order.
- 19   (5) "Recommended order" means the whole or part of a preliminary hearing report to  
20       an agency head for the disposition of an administrative hearing.
- 21   (6) "Final order" means the whole or part of the final disposition of an administrative  
22       hearing, whenever made effective by an agency head, whether affirmative,  
23       negative, injunctive, declaratory, agreed, or imperative in form.
- 24   (7) "Hearing officer" means the individual, duly qualified and employed pursuant to  
25       this chapter, assigned by an agency head as presiding officer for an administrative  
26       hearing or the presiding member of the agency head.
- 27   (8) "Office"~~["Division"]~~ means the Office~~Division~~ of Administrative Hearings in the

1 Office of the Attorney General created pursuant to KRS 15.111.

2 ➔Section 4. KRS 13B.030 is amended to read as follows:

3 (1) An agency head may exercise all powers conferred on an agency relating to the  
4 conduct of administrative hearings, and he may delegate conferred powers to a  
5 hearing officer or a member of a collegial body that serves as an agency head, or he  
6 may delegate conferred powers to a hearing officer to conduct an administrative  
7 hearing before a hearing panel, reserving the authority to render a recommended  
8 order to that panel. An agency head may not, however, delegate the power to issue a  
9 final order unless specifically authorized by statute, or unless disqualified in  
10 accordance with KRS 13B.040(2).

11 (2) (a) In securing hearing officers as necessary to conduct administrative hearings  
12 under the jurisdiction of the agency, an agency may:

- 13 1. Employ hearing officers;
- 14 2. Contract with another agency for hearing officers; or
- 15 3. Contract with private attorneys through personal service contract.

16 (b) An agency may secure hearing officers pursuant to subsection (2)(a)3. of this  
17 section only if the Attorney General has first determined that the Attorney  
18 General's Office cannot provide the needed hearing officers to the agency. If  
19 the Attorney General determines that the Attorney General's Office can  
20 provide the needed hearing officers to the agency, the agency shall use the  
21 hearing officers provided by the Attorney General's Office. The expenses  
22 incurred by the Attorney General's Office in providing the hearing officers to  
23 the agency shall be paid to the Attorney General's Office by the agency in the  
24 following manner:

- 25 1. The amount to be paid by the agency to the Attorney General's Office  
26 shall be established by vouchers submitted by the Attorney General's  
27 Office to the agency which shall be promptly paid by the agency, at the

- 1 beginning of, at the end of, or at any time during the provision of the  
2 hearing officers by the Attorney General's Office.
- 3 2. The expenses to be paid to the Attorney General's Office shall be  
4 calculated according to the amount of time spent by the salaried hearing  
5 officers of the Attorney General's Office in providing the services. The  
6 charge for time spent shall not exceed twenty-five percent (25%) more  
7 than the amount allowed for a sole practitioner under personal service  
8 contract. The Attorney General may require payment in advance of the  
9 provision of the requested services based on his calculation of the  
10 amount of time that will be spent by the salaried hearing officers of the  
11 Attorney General's Office in providing the services. The agency shall be  
12 reimbursed for any overpayment at the conclusion of the provision of  
13 services by the Attorney General's Office.
- 14 (3) A hearing officer shall possess and meet qualifications as the Personnel Cabinet and  
15 the employing agency, with the advice of the office~~[division]~~, may find necessary to  
16 assure competency in the conduct of an administrative hearing. The qualifications  
17 in this subsection shall not, however, apply to a member of a board, commission, or  
18 other collegial body who may serve as a hearing officer in his capacity as a member  
19 of the collegial body.
- 20 (4) All hearing officers, including members of collegial bodies who serve as hearing  
21 officers, shall receive training necessary to prepare them to conduct a competent  
22 administrative hearing. The training shall pertain to the conduct of administrative  
23 hearings generally and to the applications of the provisions of this chapter,  
24 specifically. The office~~[division]~~ shall establish by administrative regulation  
25 minimum standards concerning the length of training, course content, and instructor  
26 qualifications. Required training shall not exceed eighteen (18) classroom hours for  
27 initial training and six (6) classroom hours per year for continuing training. Actual

1 training may be conducted by an agency or any other organization, if the training  
2 program offered has been approved by the office~~[division]~~ as meeting minimum  
3 standards.

4 ➔Section 5. KRS 15.111 (Effective until July 1, 2024) is amended to read as  
5 follows:

- 6 (1) The Office~~[Division]~~ of Administrative Hearings is created in the Office of  
7 Attorney General.
- 8 (2) This office~~[division]~~ shall have the following responsibilities:
- 9 (a) Employing and maintaining a pool of hearing officers for assignment to the  
10 individual agencies at their request, for the conduct of administrative hearings.  
11 The Attorney General's office may also employ other staff as necessary to  
12 carry out functions and responsibilities assigned by KRS Chapter 13B;
- 13 (b) Reviewing and approving or disapproving requests from agencies for waivers  
14 from provisions of KRS Chapter 13B;
- 15 (c) Providing training in administrative hearing procedures for hearing officers as  
16 required in KRS 13B.030, either by developing and offering the training, or  
17 by contracting with appropriate organizations for the provision of training, or  
18 by approving training developed and submitted by the agencies;
- 19 (d) Consulting with the Personnel Cabinet and employing agencies in the  
20 establishment of relevant and appropriate qualifications for classes of hearing  
21 officers;
- 22 (e) Establishing, in cooperation with the Office~~[Division]~~ of Consumer  
23 Protection, a clearinghouse for complaints concerning the administrative  
24 hearing process in Kentucky. Each complaint received shall be referred to the  
25 agency that is the subject of the complaint, and the action of the agency to  
26 resolve the complaint shall be noted and reported to the office~~[division]~~; **and**
- 27 (f) Reporting to the Legislative Research Commission by July 1 of each odd-

1            numbered year, the status of the administrative hearing process in Kentucky.  
2            The report shall include a compilation of statistical data and other information  
3            necessary to assess the effectiveness and efficiency of hearing procedures and  
4            recommendations for making improvements to the system. Agencies shall  
5            provide the information requested by the Office~~[Division]~~ of Administrative  
6            Hearings necessary to complete the report.

7            ➔Section 6. KRS 15.111 (Effective July 1, 2024) is amended to read as follows:

- 8            (1) The Office~~[Division]~~ of Administrative Hearings is created in the Office of  
9            Attorney General.
- 10          (2) This office~~[division]~~ shall have the following responsibilities:
- 11          (a) Employing and maintaining a pool of hearing officers for assignment to the  
12                  individual agencies at their request, for the conduct of administrative hearings.  
13                  The Attorney General's office may also employ other staff as necessary to  
14                  carry out functions and responsibilities assigned by KRS Chapter 13B;
- 15          (b) Reviewing and approving or disapproving requests from agencies for waivers  
16                  from provisions of KRS Chapter 13B;
- 17          (c) Providing training in administrative hearing procedures for hearing officers as  
18                  required in KRS 13B.030, either by developing and offering the training, or  
19                  by contracting with appropriate organizations for the provision of training, or  
20                  by approving training developed and submitted by the agencies;
- 21          (d) Consulting with the Personnel Cabinet and employing agencies in the  
22                  establishment of relevant and appropriate qualifications for classes of hearing  
23                  officers;
- 24          (e) Establishing, in cooperation with the Office~~[Division]~~ of Consumer  
25                  Protection, a clearinghouse for complaints concerning the administrative  
26                  hearing process in Kentucky. Each complaint received shall be referred to the  
27                  agency that is the subject of the complaint, and the action of the agency to



1 resolve the complaint shall be noted and reported to the office~~[division]~~;

2 (f) Reporting to the Legislative Research Commission by July 1 of each odd-  
3 numbered year, the status of the administrative hearing process in Kentucky.  
4 The report shall include a compilation of statistical data and other information  
5 necessary to assess the effectiveness and efficiency of hearing procedures and  
6 recommendations for making improvements to the system. Agencies shall  
7 provide the information requested by the Office~~[Division]~~ of Administrative  
8 Hearings necessary to complete the report;

9 (g) Reporting to the Cabinet for Health and Family Services, Office of Inspector  
10 General, for review and investigation:

11 1. Any charge or case against any employee of the Cabinet for Health and  
12 Family Services where it has cause to believe the employee has engaged  
13 in dishonest, unethical, or illegal conduct or practices related to his or  
14 her job duties; or

15 2. Any violation of state law or administrative regulation by any  
16 organization or individual regulated by, or contracted with, the Cabinet  
17 for Health and Family Services; and

18 (h) Conducting and providing oversight of administrative hearings as it relates to  
19 the Cabinet for Health and Family Services.

20 ➔Section 7. KRS 15.753 is amended to read as follows:

21 (1) This section shall apply to:

22 (a) The Attorney General and his or her staff;

23 (b) A county attorney and his or her staff; and

24 (c) A Commonwealth's attorney and his or her staff.

25 (2) A person named in subsection (1) of this section who is sued for any act or  
26 omission in the course of his or her duties and who suffers actual financial loss,  
27 unreimbursed from any source, including any costs or attorney's fees awarded as a

1 result of the action, or any costs or reasonable attorney's fees incurred in defending  
2 the action, shall be indemnified by the Commonwealth from funds appropriated to  
3 the Finance and Administration Cabinet for the payment of judgments, to the extent  
4 of his or her actual financial loss.

5 (3) The indemnification shall be contingent upon an express determination by the  
6 **Prosecutors**~~Prosecutor's~~ Advisory Council that the act or omission which resulted  
7 in liability or financial loss was within the scope and course of the officer's  
8 employment and occurred during the performance of duty and was committed or  
9 omitted in the good faith belief that the act or omission was lawful and proper.

10 (4) If the officer seeking indemnification is the Attorney General, the determination  
11 referred to in subsection (3) of this section shall be made by the Governor.

12 (5) The indemnification shall not be construed to abrogate or limit any privilege,  
13 immunity, or matter of defense otherwise available to the person claiming  
14 indemnification and shall not constitute a waiver of any privilege, immunity, or  
15 matter or defense including the sovereign immunity of the Commonwealth.

16 (6) The indemnification shall not be the subject of comment, directly or indirectly,  
17 before any jury hearing any cause of action in which the Attorney General, a county  
18 or Commonwealth's attorney, or a member of their staff is a party, and any  
19 comment before the jury shall result in an immediate mistrial.

20 ➔Section 8. KRS 189A.050 is amended to read as follows:

21 (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall  
22 be sentenced to pay a service fee of four hundred twenty-five dollars (\$425), which  
23 shall be in addition to all other penalties authorized by law.

24 (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS  
25 534.020 and KRS 534.060.

26 (3) The first fifty dollars (\$50) of each service fee imposed by this section shall be paid  
27 into the general fund, the second fifty dollars (\$50) of each service fee imposed by

1 this section shall be paid to the ignition interlock administration fund established in  
2 KRS 189A.380, and the remainder of the revenue collected from the service fee  
3 imposed by this section shall be utilized as follows:

4 (a) Twelve percent (12%) shall be transferred to the Department of Kentucky  
5 State Police forensic laboratory for the acquisition, maintenance, testing, and  
6 calibration of alcohol concentration testing instruments and the training of  
7 laboratory personnel to perform these tasks;

8 (b) Twenty percent (20%) shall be allocated to the Department of Public  
9 Advocacy;

10 (c) One percent (1%) shall be transferred to the Prosecutors~~Prosecutor's~~  
11 Advisory Council for training of prosecutors for the prosecution of persons  
12 charged with violations of this chapter and for obtaining expert witnesses in  
13 cases involving the prosecution of persons charged with violations of this  
14 chapter or any other offense in which driving under the influence is a factor in  
15 the commission of the offense charged;

16 (d) Sixteen percent (16%) shall be transferred as follows:

17 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust  
18 fund established under KRS 211.476; and

19 2. Fifty percent (50%) shall be credited to the Cabinet for Health and  
20 Family Services, Department for Behavioral Health, Developmental and  
21 Intellectual Disabilities, for the purposes of providing direct services to  
22 individuals with brain injuries that may include long-term supportive  
23 services and training and consultation to professionals working with  
24 individuals with brain injuries. As funding becomes available under this  
25 subparagraph, the cabinet may promulgate administrative regulations  
26 pursuant to KRS Chapter 13A to implement the services permitted by  
27 this subparagraph;

- 1 (e) Any amount specified by a specific statute shall be transferred as provided in  
2 that statute;
- 3 (f) Forty-six percent (46%) shall be transferred to be utilized to fund enforcement  
4 of this chapter and for the support of jails, recordkeeping, treatment, and  
5 educational programs authorized by this chapter and by the Department of  
6 Public Advocacy; and
- 7 (g) The remainder shall be transferred to the general fund.

8 (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be  
9 placed in trust and agency accounts that shall not lapse.

10 ➔Section 9. KRS 205.8465 is amended to read as follows:

11 (1) Any person who knows or has reasonable cause to believe that a violation of this  
12 chapter has been or is being committed by any person, corporation, or entity, shall  
13 report or cause to be reported to the **Office of Medicaid Fraud and Abuse Control**  
14 **in the Office of the Attorney General**~~[state Medicaid Fraud Control Unit]~~, or the  
15 Medicaid Fraud and Abuse hotline, the following information, if known:

- 16 (a) The name and address of the offender;
- 17 (b) The offender's place of employment;
- 18 (c) The nature and extent of the violation;
- 19 (d) The identity of the complainant; and
- 20 (e) Any other information that the receiving person reasonably believes might be  
21 helpful in investigation of the alleged fraud, abuse, or misappropriation.

22 The **Office of Medicaid Fraud and Abuse Control**~~[state Medicaid Fraud Control~~  
23 ~~Unit]~~ shall periodically publicize the provisions of this subsection.

24 (2) The identity of any person making a report under this section shall be considered  
25 confidential by the receiving party. Any person making a report under this section  
26 regarding the offenses of another shall not be liable in any civil or criminal action  
27 based on the report if it was made in good faith.

1 (3) No employer shall, without just cause, discharge or in any manner discriminate or  
2 retaliate against any person who in good faith makes a report required or permitted  
3 by KRS 205.8451 to 205.8483, testifies, or is about to testify, in any proceeding  
4 with regard to any report or investigation. Any individual injured by any act in  
5 violation of the provisions of this subsection shall have a civil cause of action in  
6 Circuit Court to enjoin further violations, and to recover the actual damages  
7 sustained, together with the costs of the lawsuit, including a reasonable fee for the  
8 individual's attorney of record.

9 (4) No employee of the state *Office of Medicaid Fraud and Abuse Control*  
10 ~~*in*~~ ~~*the Medicaid Fraud Control Unit,*~~ the Office of the Attorney General, the Office of  
11 the Inspector General, or the Cabinet for Health and Family Services shall notify  
12 the alleged offender of the identity of the person who in good faith makes a report  
13 required or permitted by KRS 205.8451 to 205.8483 nor shall the employee notify  
14 the alleged offender that a report has been made alleging a violation of KRS  
15 205.8451 to 205.8483 until such time as civil or criminal proceedings have been  
16 initiated or a formal investigation has been initiated. Any information or report  
17 concerning an alleged offender shall be considered confidential in accordance with  
18 the Kentucky Open Records Law, KRS 61.870 to 61.884.

19 ➔Section 10. KRS 205.8483 is amended to read as follows:

20 (1) The Office of the Inspector General in the Cabinet for Health and Family Services  
21 shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for  
22 the purpose of receiving reports of alleged fraud and abuse by Medical Assistance  
23 Program recipients and participating providers.

24 (2) The Office of the Inspector General in the Cabinet for Health and Family Services  
25 shall develop and implement procedures for screening alleged fraud and abuse of  
26 the Medical Assistance Program to ensure that appropriate written referrals are  
27 made to:

1 (a) The *Office of Medicaid Fraud and Abuse Control* ~~in~~ ~~the~~ ~~state~~ ~~Medicaid~~ ~~Fraud~~  
 2 ~~Control~~ ~~Unit~~ ~~and~~ ~~to~~ the Office of the Attorney General of credible allegations  
 3 of fraud and abuse by providers participating in the Medical Assistance  
 4 Program; and

5 (b) Other agencies and licensure boards of all allegations received on the hotline  
 6 that are relevant to their jurisdiction.

7 (3) The Office of the Inspector General in the Cabinet for Health and Family Services  
 8 shall provide, upon request, a Medicaid fraud and abuse report that shall include but  
 9 not be limited to the following information from the prior fiscal year:

10 (a) The number and type of reports received in the Office of the Inspector  
 11 General in the Cabinet for Health and Family Services, from the Medicaid  
 12 fraud and abuse hotline categorized by recipient and provider groups; and

13 (b) The number and type of alleged Medicaid recipient fraud and abuse reports  
 14 which were opened for investigation by the Office of Inspector General and  
 15 their disposition.

16 ➔Section 11. KRS 217.896 is amended to read as follows:

17 The *Office* ~~Division~~ of Consumer Protection of the Office of the Attorney General shall  
 18 develop and distribute to licensed pharmacies without charge a pamphlet for citizens of  
 19 the Commonwealth which explains the provisions of KRS 217.815 to 217.826 and  
 20 217.895. Pharmacists shall display such distributed pamphlets in a prominent place and  
 21 make them available without charge. Pharmacies shall maintain a sufficient stock of the  
 22 distributed pamphlets to assure that the supply will not become exhausted for any lengthy  
 23 time.

24 ➔Section 12. KRS 248.353 is amended to read as follows:

25 (1) Compliance with the provisions of KRS 248.350 shall be monitored by the  
 26 department with enforcement assistance provided by the *Office of* Special  
 27 Prosecutions ~~in~~ ~~Unit~~ ~~of~~ the Office of the Attorney General.

- 1 (2) The Attorney General at the request of the commissioner:
- 2 (a) May make such public or private investigations within or outside of this state
- 3 as he deems necessary to determine if any person has violated or is about to
- 4 violate KRS 248.350 or any administrative regulation or order thereunder, or
- 5 to aid in the enforcement of KRS 248.350 or in the prescribing of
- 6 administrative regulations and forms thereunder;
- 7 (b) May require or permit any person to file a statement in writing, under oath or
- 8 otherwise as the Attorney General may determine, as to all the facts and
- 9 circumstances concerning the matter to be investigated; and
- 10 (c) May publish information concerning any violation of KRS 248.350 or any
- 11 administrative regulation or order thereunder.
- 12 (3) For the purpose of any investigation or proceeding under KRS 248.350, the
- 13 Attorney General or any officer designated by him may administer oaths and
- 14 affirmations, subpoena witnesses, compel their attendance, take evidence, and
- 15 require production of any books, papers, correspondence, memoranda, agreements,
- 16 or other documents or records which the Attorney General deems relevant or
- 17 material to the inquiry.
- 18 (4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any
- 19 court of competent jurisdiction, upon application by the Attorney General, may
- 20 issue to that person an order requiring him to appear before the Attorney General,
- 21 or the officer designated by him, there to produce documentary evidence if so
- 22 ordered or to give evidence touching the matter under investigation or in question;
- 23 and any failure to obey the order of the court may be punished by the court as a
- 24 contempt of court.
- 25 (5) No person is excused from attending and testifying or from producing any
- 26 document or record before the Attorney General, or in obedience to the subpoena of
- 27 the Attorney General or any officer designated by him, or in any proceeding

1 instituted by the Attorney General, on the ground that the testimony or evidence  
2 (documentary or otherwise) required of him may tend to incriminate him or subject  
3 him to a penalty or forfeiture; but no individual may be prosecuted or subjected to  
4 any penalty or forfeiture for or on account of any transaction, matter, or thing  
5 concerning which he is compelled, after claiming his privilege against self-  
6 incrimination, to testify or produce evidence (documentary or otherwise), except  
7 that the individual so testifying shall not be exempt from prosecution and  
8 punishment for perjury committed in so testifying.

9 ➔Section 13. KRS 304.1-120 is amended to read as follows:

10 No provision of this code shall apply to:

- 11 (1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle  
12 29.
- 13 (2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as  
14 identified in Subtitle 32) except as stated in Subtitle 32.
- 15 (3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle  
16 31.
- 17 (4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as  
18 stated in KRS Chapter 299.
- 19 (5) Insurance premium finance companies (as identified in Subtitle 30), except as stated  
20 in Subtitle 30.
- 21 (6) Qualified organizations which issue charitable gift annuities within the  
22 Commonwealth of Kentucky. For the purposes of this subsection:
  - 23 (a) A "qualified organization" means one which is:
    - 24 1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue  
25 Code as a charitable organization, if it files a copy of federal form 990  
26 with the Office~~[Division]~~ of Consumer Protection in the Office of the  
27 Attorney General; or



- 1           2.   Exempt from taxation under Section 501(c)(3) of the Internal Revenue  
2           Code as a religious organization; or
- 3           3.   Exempt as a publicly owned or nonprofit, privately endowed educational  
4           institution approved or licensed by the State Board of Education, the  
5           Southern Association of Colleges and Schools, or an equivalent public  
6           authority of the jurisdiction where the institution is located; and
- 7           (b) A "charitable gift annuity" means a giving plan or method by which a gift of  
8           cash or other property is made to a qualified organization in exchange for its  
9           agreement to pay an annuity.
- 10       (7) A religious organization, as identified in this subsection, or its participants, that:
- 11       (a) Is a nonprofit religious organization;
- 12       (b) Is limited to participants who are members of the same denomination or  
13       religion;
- 14       (c) Matches its participants who have financial, physical, or medical needs with  
15       participants who choose to assist with those needs;
- 16       (d) 1. Includes the following notice for delivery to all participants, printed in  
17       not less than ten (10) point, bold-faced type on or accompanying all  
18       applications, guideline materials, or any similar documents:
- 19       "NOTICE: UNDER KENTUCKY LAW, THE RELIGIOUS  
20       ORGANIZATION FACILITATING THE SHARING OF MEDICAL  
21       EXPENSES IS NOT AN INSURANCE COMPANY, AND ITS  
22       GUIDELINES, PLAN OF OPERATION, OR ANY OTHER  
23       DOCUMENT OF THE RELIGIOUS ORGANIZATION DO NOT  
24       CONSTITUTE OR CREATE AN INSURANCE POLICY.  
25       PARTICIPATION IN THE RELIGIOUS ORGANIZATION OR A  
26       SUBSCRIPTION TO ANY OF ITS DOCUMENTS SHALL NOT BE  
27       CONSIDERED INSURANCE. ANY ASSISTANCE YOU RECEIVE

1 WITH YOUR MEDICAL BILLS WILL BE TOTALLY  
 2 VOLUNTARY. NEITHER THE ORGANIZATION OR ANY  
 3 PARTICIPANT SHALL BE COMPELLED BY LAW TO  
 4 CONTRIBUTE TOWARD YOUR MEDICAL BILLS. WHETHER OR  
 5 NOT YOU RECEIVE ANY PAYMENTS FOR MEDICAL  
 6 EXPENSES, AND WHETHER OR NOT THIS ORGANIZATION  
 7 CONTINUES TO OPERATE, YOU SHALL BE PERSONALLY  
 8 RESPONSIBLE FOR THE PAYMENT OF YOUR MEDICAL  
 9 BILLS."

10 2. A participant shall acknowledge receipt of the "Notice" by signing  
 11 below the "Notice" on the application;

12 (e) Suggests amounts to give that are voluntary among the participants, with no  
 13 assumption of risk or promise to pay either among the participants or between  
 14 the participants and the organization.

15 (8) A public or private ambulance service licensed and regulated by the Cabinet for  
 16 Health and Family Services to the extent that it solicits membership subscriptions,  
 17 accepts membership applications, charges membership fees, and furnishes prepaid  
 18 or discounted ambulance services to subscription members and designated members  
 19 of their households.

20 (9) A direct primary care agreement established under KRS 311.6201, 311.6202,  
 21 314.198, and 314.199.

22 ➔Section 14. KRS 367.120 is amended to read as follows:

23 (1) The General Assembly finds that the public health, welfare and interest require a  
 24 strong and effective consumer protection program to protect the public interest and  
 25 the well-being of both the consumer public and the ethical sellers of goods and  
 26 services; toward this end, a Consumers' Advisory Council and the Office~~of a~~  
 27 ~~Division~~ of Consumer Protection in~~of~~ the Office of the Attorney

1        General~~[Department of Law]~~ are hereby created for the purpose of aiding in the  
2        development of preventive and remedial consumer protection programs and  
3        enforcing consumer protection statutes.

4        (2) KRS 367.110 to 367.300 may be cited as the "Consumer Protection Act."

5        ➔Section 15. KRS 367.46951 is amended to read as follows:

6        As used in KRS 367.46951 to 367.46999 and 367.990, unless the context otherwise  
7        requires:

8        (1) "Telephone solicitation" means:

9        (a) A live or recorded communication sent by a telephone or message sent by a  
10        facsimile machine to a residential, mobile, or telephone paging device  
11        telephone number, including a call made by an automatic dialing or recorded  
12        message device, for the purpose of:

- 13        1. Soliciting a sale of consumer goods or services, offering an investment,  
14        business, or employment opportunity, or offering a consumer loan to the  
15        person called;
- 16        2. Obtaining information that will or may be used for the solicitation of a  
17        sale of consumer goods or services, the offering of an investment,  
18        business, or employment opportunity, or the offering of a consumer loan  
19        to the person called;
- 20        3. Offering the person called a prize, gift, or anything else of value, if  
21        payment of money or other consideration is required in order to receive  
22        the prize or gift, including the purchase of other merchandise or services  
23        or the payment of any processing fees, delivery charges, shipping and  
24        handling fees, or other fees or charges; or
- 25        4. Offering the person called a prize, gift, or other incentive to attend a  
26        sales presentation for consumer goods or services, an investment or  
27        business opportunity, or a consumer loan; or

- 1 (b) A live or recorded communication sent by telephone, facsimile machine,  
2 mobile telephone, or telephone paging device in response to inquiries  
3 generated by unrequested notifications sent by the merchant to persons who  
4 have not previously purchased goods or services from the merchant or  
5 telemarketer or who have not previously requested credit from the merchant,  
6 to a prospective purchaser if the merchant or telemarketer represents or  
7 implies to the recipient of the notification that any of the following applies:
- 8 1. That the recipient has in any manner been specially selected to receive  
9 the notification or the offer contained in the notification;
  - 10 2. That the recipient will receive a prize or gift if the recipient calls the  
11 merchant or telemarketer; or
  - 12 3. That if the recipient buys one (1) or more items from the merchant or  
13 telemarketer, the recipient will also receive additional or other items of  
14 the same or a different type at no additional cost or for less than the  
15 regular price of the items;
- 16 (2) "Telephone solicitation" does not mean the following:
- 17 (a) A telephone call made in response to an express request of a person called,  
18 unless the request was made during a prior telephone solicitation;
  - 19 (b) A telephone call made to the debtor or a party to the contract in connection  
20 with the payment or performance of an existing debt or contract, the payment  
21 or performance of which has not been completed at the time of the call;
  - 22 (c) A telephone call to any person with whom the telemarketer or merchant has a  
23 prior or existing business relationship, including but not limited to the  
24 solicitation of contracts for the maintenance or repair of items previously  
25 purchased from the person making the solicitation or on whose behalf the  
26 solicitation is made;
  - 27 (d) A telephone call made by the following:

- 1           1.    A merchant or telemarketer located in Kentucky to a location outside of  
2                    the Commonwealth of Kentucky;
- 3           2.    A telephone call made by one (1) merchant to another;
- 4   (3)   "Consumer goods or services" means goods, services, or interests in real property  
5            used by natural persons primarily for personal, family, or household purposes;
- 6   (4)   "Consumer loan" means any extension of credit, including credit cards and other  
7            forms of revolving credit, to a natural person primarily for the purposes of  
8            purchasing consumer goods or services or for paying existing personal, family, or  
9            household debts;
- 10   (5)   "Consumer" means a natural person who receives a telephone solicitation;
- 11   (6)   "Legal name of the merchant" means the real name of the merchant, as defined in  
12            KRS 365.015(1), or the assumed name of the merchant for which all proper  
13            certificates have been filed pursuant to KRS 365.015;
- 14   (7)   "Merchant" means the individual or business entity offering the consumer goods or  
15            services, an investment, business, or employment opportunity, or a consumer loan;
- 16   (8)   "Caller" or "sales person" means the individual making the call or operating the  
17            automatic dialing or recorded message device and causing the call to be made;
- 18   (9)   "Office"~~["Division"]~~ means the Office of Consumer Protection ~~in~~~~["Division of"]~~ the  
19            Office of the Attorney General;
- 20   (10)   "Automated calling equipment" means any device or combination of devices used  
21            to select or dial telephone numbers and to deliver recorded messages to those  
22            numbers without the use of a live operator;
- 23   (11)   "Telemarketer" means any person who under contract with a merchant or in  
24            connection with a telephone solicitation initiates or receives telephone calls to or  
25            from a consumer of goods and services. A telemarketer includes but is not limited  
26            to any such person that is an owner, operator, officer, director, or partner to the  
27            management activities of a business;

- 1 (12) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a  
2 class of securities which is:
- 3 (a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec.  
4 78l) and which is registered or exempt from registration under paragraph (A),  
5 (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;
- 6 (b) Listed on the New York Stock Exchange, the American Stock Exchange, or  
7 the NASDAQ National Market System; or
- 8 (c) A reported security within the meaning of subparagraph (4) of Regulation  
9 Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A  
10 subsidiary of an issuer that qualifies for exemption under this paragraph shall  
11 not itself be exempt unless at least sixty percent (60%) of the voting power of  
12 its shares is owned by the qualifying issuer;
- 13 (13) "Telemarketing company" means a company whose primary business is to engage  
14 in telephone solicitation; and
- 15 (14) "Zero call list" means the national Do Not Call Registry maintained by the United  
16 States Federal Trade Commission containing the residential or wireless telephone  
17 numbers of the individuals that indicate their preference not to receive telephone  
18 solicitations.
- 19 ➔Section 16. KRS 367.46971 is amended to read as follows:
- 20 (1) At least ten (10) days prior to doing business in this state, a telemarketing company  
21 shall register with the ~~office~~division by filing the information described below and  
22 paying a filing fee of three hundred dollars (\$300). A telemarketing company shall  
23 be deemed to do business in this state if the telemarketing company solicits  
24 prospective purchasers from locations in this state or solicits prospective purchasers  
25 who are located in this state. The information required by this section shall be  
26 submitted on a form provided by the Attorney General and shall be verified by a  
27 declaration signed by each principal of the telemarketing company, under penalty of

1           perjury. The declaration shall specify the date and location of signing. Information  
2           submitted pursuant to KRS 367.46951 to 367.46999 shall be clearly identified and  
3           appended to the filing.

4       (2) Registration of a telemarketing company shall be valid for one (1) year from the  
5           effective date thereof and may be renewed annually by making the filing required  
6           by this section and paying a filing fee of fifty dollars (\$50).

7       (3) If, prior to expiration of a telemarketing company's annual registration, there is a  
8           material change in the information required by KRS 367.46951 to 367.46999, the  
9           telemarketing company shall, within ten (10) days, file an addendum updating the  
10          information with the office~~[division]~~. However, changes in salespersons soliciting  
11          on behalf of a telemarketing company shall be updated by filing addenda, if  
12          necessary, in quarterly intervals computed from the effective date of registration.  
13          The addendum shall include the required information for all salespersons currently  
14          soliciting or having solicited on behalf of the telemarketing company at any time  
15          during the period between the filing of the registration, or the last addendum, and  
16          the current addendum, and shall include information on salespersons no longer  
17          soliciting for the telemarketing company as of the date of the filing of the current  
18          addendum.

19       (4) Upon receiving the filing and the filing fee pursuant to this section, the  
20          office~~[division]~~ shall send the telemarketing company a written confirmation of  
21          receipt of the filing. If the telemarketing company has more than one (1) business  
22          location, the written confirmation shall be sent to the telemarketing company's  
23          principal business location as identified in the telemarketing company's filing in  
24          sufficient numbers so that the telemarketing company can meet the requirements of  
25          this subsection. Within ten (10) days of receipt of the confirmation, the  
26          telemarketing company shall post in a conspicuous place at each of the  
27          telemarketing company's business locations within this state a copy of the entire

1 registration statement which has been filed with the office[division]. Until  
2 confirmation of receipt of filing is received and posted, the telemarketing company  
3 shall post in a conspicuous place at each of the telemarketing company's business  
4 locations within this state a copy of the first page of the registration form sent to the  
5 department. The telemarketing company shall also post in close proximity to either  
6 the confirmation of receipt of filing or the first page of the submitted registration  
7 form the name of the individual in charge of each location from which the  
8 telemarketing company does business in this state.

9 ➔Section 17. KRS 367.46981 is amended to read as follows:

- 10 (1) Every telemarketing company shall maintain a bond issued by a surety company  
11 admitted to do business in this state. The bond shall be in the amount of fifty  
12 thousand dollars (\$50,000) in favor of the Attorney General for the benefit of any  
13 person suffering injury or loss by reason of any violation of KRS 367.46951 to  
14 367.46999 to be paid under the terms of any order of a court of competent  
15 jurisdiction obtained by the Attorney General, as a result of any violation of KRS  
16 367.46951 to 367.46999. A copy of the bond shall be filed with the office[division].
- 17 (2) At least ten (10) days prior to the inception of any promotion offering a premium  
18 with an actual market value or advertised value of five hundred dollars (\$500) or  
19 more, the telemarketing company shall notify the Attorney General in writing of the  
20 details of the promotion, describing the premium and its current market value, the  
21 value at which it is advertised or held out to the customer, the date the premium  
22 shall be awarded, and the conditions under which the award shall be made. The  
23 telemarketing company shall maintain an additional bond for the greater of the  
24 current total market value or the advertised value of the premiums held out or  
25 advertised to be available to a purchaser or recipient. A copy of the bond shall be  
26 filed with the office[division]. The bond, or a portion of it necessary to cover the  
27 cost of the award, shall be forfeited if the premium is not awarded to a bona fide



1 customer within thirty (30) days of the date disclosed as the time of award or the  
2 time otherwise required by law. The proceeds of the bond shall be paid to any  
3 person suffering injury or loss by reason of any violation of KRS 367.46951 to  
4 367.46999 or shall be paid pursuant to the terms of any order of a court of  
5 competent jurisdiction obtained by the Attorney General, Commonwealth's  
6 attorney, or county attorney as a result of any violation of KRS 367.46951 to  
7 367.46999. The bond shall be maintained until the telemarketing company files  
8 with the Attorney General proof that the premium was awarded.

9 ➔Section 18. KRS 367.801 is amended to read as follows:

10 As used in KRS 367.801 to 367.819 and KRS 367.990, unless the context requires  
11 otherwise:

12 (1) "Office"~~["Division"]~~ means the Office~~["Division"]~~ of Consumer Protection in~~of~~ the  
13 Office of the Attorney General.

14 (2) "Person" means natural persons, corporations, trusts, partnerships, incorporated or  
15 unincorporated associations, or any other legal entity.

16 (3) "Offeror" means a person who is engaged in the business of selling business  
17 opportunities including any subsidiary business which affiliates with the offeror for  
18 goods or services or locations.

19 (4) "Consumer/investor" means a person who has purchased or is solicited for the  
20 purchase of a business opportunity.

21 (5) "Business opportunity" means the sale or lease, or offer to sell or lease, of any  
22 products, equipment, supplies, or services for the purpose of enabling the consumer  
23 investor to start a business when:

24 (a) The offeror obtains an initial required consideration of not less than five  
25 hundred dollars (\$500) from the purchase or lease of the business opportunity  
26 or inventory associated therewith; and

27 (b) The offeror has represented, directly or indirectly, that the consumer/investor

1 will earn, can earn, or is likely to earn a gross or net profit in excess of the  
2 initial required investment paid by the consumer/investor for the business  
3 opportunity; or

4 (c) 1. The offeror has represented that he has knowledge of the relevant  
5 market and that the market demand will enable the consumer/investor to  
6 earn a profit from the business opportunity; or

7 2. The offeror has represented that locations will be provided or assistance  
8 will be given directly or indirectly to the consumer/investor in finding  
9 locations for the use or operation of the business opportunity including,  
10 but not limited to, supplying the consumer/investor with names of  
11 locator companies, contracting with the consumer/investor to provide  
12 assistance with or supply names of or collect a fee on behalf of or for a  
13 locator company; or

14 3. The offeror has represented that there is a guaranteed market or that the  
15 offeror will buy back or is likely to buy back any product made,  
16 manufactured, produced, fabricated, grown, or bred by the  
17 consumer/investor using, in whole or in part, the products, supplies,  
18 equipment, or services which were initially sold or offered for sale to the  
19 consumer/investor by the offeror.

20 ➔Section 19. KRS 367.805 is amended to read as follows:

21 (1) It is unlawful for any person to engage in the sale of business opportunities unless  
22 prior to the offering the offeror has registered with the ~~office~~<sup>division</sup> and has  
23 furnished a bond pursuant to KRS 367.815(2) and provided all of the following:

24 (a) All trade names, assumed names, and all trademarks by which the offeror or  
25 the prospective consumer/investor of the business opportunity will be doing  
26 business.

27 (b) The names, home addresses, and home telephone numbers of the persons and

1            company offering the business opportunity, and the company's directors and  
2            chief executive officers, and the names, home addresses, and home telephone  
3            numbers of all representatives selling business opportunities in Kentucky.

4            (c) A statement as to the length of time the person and company offering the  
5            business opportunity has conducted a business of the type being offered both  
6            within and without Kentucky.

7            (d) A statement as to whether the person or company offering the business  
8            opportunity or any of its directors or chief executive officers or sales  
9            representatives operating in Kentucky is currently involved in litigation or has  
10           been held liable in a civil action by final judgment for having engaged in  
11           unfair, false, misleading, or deceptive practices or is currently charged with or  
12           has been convicted of or pleaded nolo contendere to a felony involving fraud,  
13           embezzlement, fraudulent conversion, or misappropriation of property during  
14           the most recent seven (7) year period, or has entered into any agreed  
15           settlements or is currently in any bankruptcy proceeding or has been declared  
16           bankrupt in any judicial proceeding during the most recent seven (7) year  
17           period.

18           (e) A statement as to whether the person or the company offering the business  
19           opportunity or its officers, directors, or agents making the offering of the  
20           business opportunity has been a party to any legal cause of action brought by  
21           a consumer/investor of the business opportunity within the last seven (7) year  
22           period and, if so, the name and address of such individual who has brought the  
23           legal action.

24           (f) A statement disclosing the names, addresses, and telephone numbers of all  
25           persons who have been sold a business opportunity by the offeror within the  
26           last two (2) year period.

27           (g) A statement listing the names and addresses of any consumer/investor who

1           has requested within the preceding three (3) years that the offeror return his  
2           money.

3           (h) A current audited financial statement of the offeror.

4           (i) A specimen of each contract proposed for use in connection with the business  
5           opportunity.

6           (j) A full and detailed description of the actual services that the offeror of the  
7           business opportunity undertakes to perform for the consumer/investor.

8           (k) If training is promised by the offeror, a complete description of the training,  
9           including length of the training and costs.

10          (2) The offeror shall immediately notify the office~~[division]~~ of any material change in  
11          information contained in the application for registration and shall make appropriate  
12          amendment of the disclosure statement.

13          (3) The division shall collect, from any offeror required to comply with this section, an  
14          initial fee of one hundred fifty dollars (\$150), and an annual renewal fee of fifty  
15          dollars (\$50), and an update fee of twenty-five dollars (\$25) for the administration  
16          and enforcement of KRS 367.801 to 367.819. Funds so collected shall be credited  
17          to a trust or agency account for the administrative purpose of the Attorney General's  
18          Office~~[office, Division]~~ of Consumer Protection.

19          (4) The Attorney General may promulgate administrative regulations as needed to  
20          provide for: a hearing, to be conducted in accordance with KRS Chapter 13B, for  
21          any business opportunity which the Attorney General initially determines should  
22          not be registered or should have registration revoked or suspended; for the  
23          establishment of specific standards for the form and content of the disclosure  
24          document; and for registration procedures including fee schedules.

25          ➔Section 20. KRS 367.807 is amended to read as follows:

26          (1) An offeror is exempt from the provisions of KRS 367.801 to 367.819 and KRS  
27          367.990 when the offeror:

- 1 (a) Meets the definition of a franchise as defined in the Federal Trade  
2 Commission's Regulation on Disclosure Requirements and Prohibitions  
3 Concerning Franchising and Business Opportunity Ventures, as set forth in 16  
4 C.F.R. 436 et seq., and has complied with these and filed written notice so  
5 stating with the office[division]; or
- 6 (b) Offers a security pursuant to KRS 292.313;
- 7 (c) Offers an ongoing business for sale; or
- 8 (d) Offers a not-for-profit sale of sales demonstration equipment, materials, or  
9 samples for use in making sales and not for resale for a total price of \$500 or  
10 less.

- 11 (2) The Attorney General may promulgate administrative regulations as needed to  
12 provide for additional exemptions. ~~[Is offering to sell or selling a package franchise~~  
13 ~~as described in KRS 367.801(7).]~~

14 ➔Section 21. KRS 367.809 is amended to read as follows:

- 15 (1) The office[division], after ascertaining that the applicant has complied with KRS  
16 367.805, shall issue a registration number.
- 17 (2) It shall be unlawful for the registrant to fail to include the registration number in  
18 any advertising.

19 ➔Section 22. KRS 367.811 is amended to read as follows:

20 It shall be unlawful for any offeror to make any oral or written representation, actual or  
21 hypothetical, regarding the business opportunity's potential sales, income, gross or net  
22 profit unless such sales, income, or profits are examples based upon the actual earnings  
23 made by existing consumer/investors of the business opportunity. Upon request by the  
24 office[division], names and addresses of the consumer/investors shall be made available  
25 for verification of the earnings claims. If such actual or hypothetical earnings examples  
26 are in excess of the average net earnings realized by all of the consumer/investors of the  
27 business opportunity, then there must be a full and complete disclosure of the average net

1 earnings actually realized by all of these consumer/investors.

2 ➔Section 23. KRS 367.813 is amended to read as follows:

- 3 (1) Prior to the solicitation of potential consumer/investors the offeror shall furnish and  
4 display to the potential consumer/investor a copy of the material required to be  
5 furnished the office[division] when registering pursuant to KRS 367.805.
- 6 (2) When furnishing the information required by subsection (1) of this section, the  
7 offeror shall furnish the prospective consumer/investor with a notice in at least ten  
8 (10) point bold-face type, stating that registration with the office[division] does not  
9 directly or indirectly imply approval by the office[division] or the Commonwealth  
10 of Kentucky of the business opportunity or any of the activities of representatives  
11 selling such business opportunities.

12 ➔Section 24. KRS 367.815 is amended to read as follows:

- 13 (1) Any person who offers a business opportunity and makes representations that are  
14 false, misleading, or deceptive shall be liable to the consumer/investor of such  
15 business opportunity in an amount equal to the sum of his actual damages or fifteen  
16 hundred dollars (\$1,500), whichever is greater, as well as the cost of the action  
17 together with reasonable attorney's fees, as determined by the court.
- 18 (2) (a) All persons registering pursuant to KRS 367.805 shall either furnish a bond  
19 by a surety company authorized to do business in the Commonwealth or  
20 establish a full cash certificate of deposit with a licensed and insured bank or  
21 savings institution located in the Commonwealth to insure the veracity of all  
22 statements contained in the registration. The amount of the bond or certificate  
23 of deposit shall be in an amount equal to the total amount of the initial  
24 payments under all business opportunity agreements the offeror has entered  
25 into in the Commonwealth during the previous year but in no case shall the  
26 amount be less than seventy-five thousand dollars (\$75,000). The bond or  
27 certificate of deposit shall be in the favor of the Attorney General of

1 Kentucky.

2 (b) Any person who is damaged by any violation of KRS 367.801 to 367.819, or  
3 by the offeror's breach of contract for the business opportunity sale, or of any  
4 obligation arising therefrom may bring an action against the bond or  
5 certificate of deposit to recover damages suffered, provided that the aggregate  
6 liability of the surety or trustee shall be only for the actual damages and shall  
7 not exceed the amount of the bond or trust account.

8 (3) A person who has furnished a bond described in subsection (2) of this section may  
9 petition the office[~~division~~] for release of the bond by submitting a verified  
10 statement that such person has not offered business opportunities in the state for the  
11 last five (5) years.

12 (4) Any offeror of a business opportunity who has offered or sold in this state shall  
13 maintain a complete set of books, records, and accounts of its business opportunity  
14 sales. The sale documents shall be maintained on each transaction for a period of  
15 four (4) years after the date of agreement. The offeror shall make the books and  
16 records available to the office[~~division~~] upon demand at a location within the state.

17 ➔Section 25. KRS 367.905 is amended to read as follows:

18 (1) Any person, corporation, partnership, association, or group intending to open or  
19 operate a health spa within the Commonwealth, shall:

20 (a) File a registration statement, accompanied by a one hundred dollar (\$100)  
21 initial registration fee, with the Attorney General's Office[~~Division~~] of  
22 Consumer Protection prior to the sale of any memberships in the  
23 Commonwealth of Kentucky. Such a registration statement shall contain the  
24 name and address of the health spa; the names and addresses of the officers,  
25 directors, and stockholders of the health spa and its parent corporation, if such  
26 an entity exists; the type of available facilities; approximate size of the health  
27 spa measured in square feet; whether or not a shower area is provided; the

1 names and addresses of employees and their respective qualifications for  
2 employment in the health spa field; type of membership plans to be offered  
3 and their cost; and a full and complete disclosure of any completed or pending  
4 litigation initiated against the health spa and any of its officers or directors  
5 within the last three (3) years.

6 (b) Prior to the sale of any memberships in the Commonwealth of Kentucky,  
7 provide the Attorney General's Office~~[Division]~~ of Consumer Protection with  
8 a surety bond meeting the requirements of KRS 367.906.

9 (2) A new registration statement, accompanied by an annual registration fee of fifty  
10 dollars (\$50), shall be filed with the Attorney General's Office~~[Division]~~ of  
11 Consumer Protection on or before July 1 of each year following the opening of the  
12 health spa.

13 (3) Each health spa selling contracts on a prepayment basis shall deposit all funds  
14 received from such contracts in an escrow account until the health spa has remained  
15 open for a period of thirty (30) days. At the end of this thirty (30) day period, such  
16 prepayment funds shall be eligible for withdrawal at the depositor's discretion.

17 (4) Each health spa registering pursuant to this statute shall maintain in the files of the  
18 health spa, a copy of its registration statement filed pursuant to this section. This  
19 registration statement shall be made available for inspection by current health spa  
20 members or prospective purchasers of health spa memberships.

21 (5) The registration fees required by this section shall be credited to a trust or agency  
22 account for the administrative purposes of the Attorney General's Office~~[Division]~~  
23 of Consumer Protection, as set forth in KRS 367.900 to 367.930.

24 (6) Each separate location where health spa services are offered shall be considered a  
25 separate health spa and shall file a separate registration statement and surety bond,  
26 even though the separate locations are owned or operated by the same owner.

27 ➔Section 26. KRS 367.906 is amended to read as follows:



1 (1) The surety bond required by KRS 367.905(1)(b) shall be in favor of the Attorney  
 2 General's Office~~[Division]~~ of Consumer Protection and shall be held for  
 3 compensation to any member who suffers loss of money paid due to the insolvency  
 4 of the health spa, cessation of operation of the health spa, or failure of the health spa  
 5 to open for business within ninety (90) days from the sale of the first contract.

6 (2) The bond shall be in a form prescribed by the Attorney General's Office~~[Division]~~  
 7 of Consumer Protection and shall be issued by a company authorized to transact  
 8 business in the Commonwealth of Kentucky.

9 (3) The amount of the bond shall be computed as follows:

Number of	Amount of bond
unexpired contracts	
150 or fewer	\$10,000
151 to 300	\$25,000
301 or more	\$50,000

15 (4) The Attorney General's Office~~[Division]~~ of Consumer Protection shall exempt a spa  
 16 from the bonding requirement if all of its unexpired contracts and present  
 17 membership plans meet the following criteria:

18 (a) No initiation fee, or similar nonrecurring fee, is charged at or near the  
 19 beginning of the contract term or renewal period, and

20 (b) At no time is any member charged for use of facilities or services more than  
 21 thirty-one (31) days in advance.

22 (5) If, because of an increase in membership or change in membership plans, a spa is  
 23 required to file a bond or increase the amount of its bond, it shall notify the  
 24 Attorney General's Office~~[Division]~~ of Consumer Protection in writing at least  
 25 thirty (30) days prior to the expected change. No contract in excess of the limits  
 26 stated in subsection (3) of this section or not in compliance with subsection (4) of  
 27 this section shall be sold until a new bond in the required amount has been

1 provided.

2 (6) A change in ownership shall not release, cancel or terminate liability under any  
3 bond previously filed unless the Attorney General's Office of Consumer Protection  
4 ~~{Division}~~ agrees in writing to the release, cancellation or termination because the  
5 new owner has filed a new bond for the benefit of the previous owner's members, or  
6 because the former owner has paid the required refunds to its members.

7 ➔Section 27. KRS 367.932 is amended to read as follows:

8 As used in KRS 367.934 to 367.974 and 367.991 ~~{, unless the context requires otherwise}~~:

9 (1) "Attorney General" means the Office~~{Division}~~ of Consumer Protection in the  
10 office of the Attorney General;~~{,}~~

11 (2) "Financial institution" means a bank, trust company, federally chartered credit  
12 union, or savings and loan association authorized by law to do business in this  
13 state;~~{,}~~

14 (3) "Preneed burial contract" means a contract, which has for a purpose the furnishing  
15 or performance of funeral services, or the furnishing or delivery of personal  
16 property, merchandise, or services of any nature in connection with the final  
17 disposition of a dead human body, for future use at a time determinable by the death  
18 of the person whose body is to be disposed of; but does not mean the furnishing of a  
19 cemetery lot or mausoleum;~~{,}~~

20 (4) "Agent" means the licensee who is the person, partnership, association or  
21 corporation receiving any payments on a preneed funeral contract;~~{,}~~

22 (5) "Trustee" means the financial institution;~~{,}~~

23 (6) "Person" means an individual, corporation, partnership, joint venture, association,  
24 business trust, or any other form of business organization; provided, however, that  
25 an individual employee of an entity registered pursuant to KRS 367.934 to 367.974  
26 and 367.991 shall not be required to comply with the registration requirement  
27 herein;~~{,}~~

- 1 (7) "Remains" means the bodies of deceased persons, in whatever stage of  
2 decomposition, and cremated remains;[ ]
- 3 (8) "Cemetery" means any one (1) or combination of more than one (1) of the  
4 following in a place used or to be used and dedicated or designated for such  
5 purposes:
- 6 (a) A burial park, for earth interment;[ ]
- 7 (b) A mausoleum, for entombment;[ ]
- 8 (c) A columbarium, for inurnment;[ ]
- 9 (9) "Mausoleum" means a building or structure substantially exposed above ground  
10 used or intended to be used for the entombment of human remains, which is sold or  
11 offered for sale to the public;[ ]
- 12 (10) "Columbarium" means a structure or building substantially exposed above ground  
13 intended to be used for the inurnment of cremated remains and sold or offered for  
14 sale to the public;[ ]
- 15 (11) "Columbarium niche" means an inurnment space in a columbarium as defined  
16 herein;[ ]
- 17 (12) "Cemetery company" means any person who conducts the business of a cemetery.  
18 Excepted are small community cemeteries, their agents, lessees and otherwise that  
19 operate nonprofit; have no salaried employees, directors, officers or managers other  
20 than maintenance caretakers; are owned, controlled by lot owners; and do not sell  
21 any preneed merchandise or services;[ ]
- 22 (13) "Grave space" means a space of ground in a cemetery intended to be used for the  
23 interment in the ground of the remains of one (1) human being;[ ]
- 24 (14) "Underground crypt" means a single unit entombment space in preplaced chambers  
25 below ground and also known as lawn crypt, westminister turftop mausoleum or  
26 below ground crypt;[ ]
- 27 (15) "Bank of underground crypts" means any construction unit of twenty (20) or more

1 underground crypts designed as a part of a below ground crypt program, whether  
2 physically connected or not, having a common drainage system;[-]

3 (16) "Mausoleum crypt" means an entombment space in a mausoleum as defined  
4 herein;[-]

5 (17) "Cemetery merchandise" means urns, memorials, monuments, markers, vases,  
6 foundations, memorial bases, and other similar personal property commonly sold by  
7 or used in cemeteries; and[-]

8 (18) "Preneed cemetery merchandise contract" means any agreement or contract, or any  
9 series or combination of agreements or contracts, which has for a purpose the  
10 furnishing or delivery of cemetery merchandise, which within six (6) months of the  
11 date of the contract is not attached to the realty and permanently installed or which  
12 is not stored in a bonded warehouse with the receipt of ownership issued by the  
13 manufacturer in the name of the purchaser and transmitted to the purchaser.

14 ➔Section 28. KRS 367.954 is amended to read as follows:

15 (1) Forty percent (40%), not including interest or finance charges, of all payments of  
16 money made to any person, partnership, association, or corporation upon any  
17 agreement or contract, or any series or combination of agreements or contracts,  
18 which has for a purpose the furnishing or delivery of cemetery merchandise, which  
19 within six (6) months of the date of the contract is not delivered by attachment to  
20 the realty and permanent installation or which is not stored in a bonded warehouse  
21 with the receipt of ownership issued by the manufacturer in the name of the  
22 purchaser and transmitted to the purchaser are held to be trust funds. The person,  
23 partnership, association, or corporation receiving the payments shall deposit forty  
24 percent (40%) of all payments received on a preneed cemetery merchandise  
25 contract in a trust fund account within six (6) months of the date of contract, and  
26 forty percent (40%) of all payments received thereafter on said contract shall be  
27 deposited in the trust fund account within thirty (30) days after each calendar

1 quarter of operation. The trustee shall be the financial institution holding said funds.  
2 All of the interest, dividends, increases, or accretions of whatever nature earned by  
3 the funds deposited in a trust account shall remain with the principal of such  
4 account and become a part thereof, subject to all of the regulations concerning the  
5 principal of said fund herein contained.

6 (2) All trust funds mentioned in this section shall be deposited in the name of the  
7 person making said deposits, with the financial institution as trustee, and shall be  
8 held together with the interest, dividends, or accretions thereon, in trust, subject to  
9 the provisions of KRS 367.932 to 367.974 and 367.991. The person at the time of  
10 making deposit or investment shall furnish to the financial institution the name of  
11 each payor, and the amount of payment on each account for which the deposit or  
12 investment is being made.

13 (3) Forty percent (40%) of all payments, not including interest or finance charges,  
14 made under the agreement, contract, or plan are and shall remain trust funds with  
15 the financial institution, until the financial institution receives a sworn affidavit  
16 from the depositor stating one of the following:

17 (a) That the delivery of all merchandise by attachment to the realty, or permanent  
18 installation of the merchandise has been completed and that there has been  
19 full performance of all services called for by the agreement, contract or plan;  
20 or

21 (b) That there has been delivery of all of the merchandise called for by the  
22 agreement by storing the same in a bonded warehouse with the receipt of  
23 ownership issued by the manufacturer in the name of the purchaser and  
24 transmitted to the purchaser.

25 Upon receiving said affidavit, the financial institution shall remit the funds on  
26 deposit for the performed contract, plus interest, to the depositor. Release of funds  
27 may also be made pursuant to a request for a refund or cancellation under KRS

1           367.932 to 367.974 and 367.991.

2       (4) In the event that a purchaser is in default of a preneed cemetery merchandise  
3       contract, the financial institution shall release to the depositor the funds, plus  
4       interest, deposited on behalf of the defaulted contract upon receiving from the  
5       depositor a sworn affidavit stating that the purchaser is in default of the preneed  
6       cemetery merchandise agreement, the date of the default, an explanation of the  
7       default, and that the depositor has mailed a copy of the affidavit to the purchaser's  
8       last known address at least thirty (30) days prior to said request for release.

9       (5) Deposits to such funds and the amounts deposited may be commingled, but the  
10      accounting records shall establish a separate account for each prepaid contract and  
11      shall show amounts deposited and the income and loss occurring thereon with  
12      respect to each contract.

13      (6) The trustee may rely upon all certifications and affidavits made pursuant to or  
14      required by the provisions of KRS 367.932 to 367.974 and 367.991, and shall not  
15      be liable to any person for such reliance.

16      (7) In lieu of the trust fund deposits required herein, the person may post with the  
17      Attorney General's Office~~[General, Division]~~ of Consumer Protection, a good and  
18      sufficient bond by a surety company licensed to do business in Kentucky and in an  
19      amount sufficient to cover all payments made by or on account of purchasers who  
20      have not received the purchased property and services. This bond shall be held for  
21      the benefit of a purchaser, or his or her heir or assign or duly authorized  
22      representative, who suffers a loss of money paid pursuant to a preneed cemetery  
23      merchandise contract entered into after July 13, 1984, due to the insolvency of the  
24      registrant, or failure to provide the cemetery merchandise called for by contract that  
25      has been paid in full and not provided after a ninety (90) day request in writing to  
26      do so. If a bond is posted, the Attorney General's office shall receive sixty (60)  
27      days' written notice in the event of cancellation. On or before the cancellation date,

1 the person shall comply with the trust fund requirements herein or post another  
2 good and sufficient bond.

3 (8) Any person selling a preneed cemetery merchandise contract shall pay to the  
4 Attorney General five dollars (\$5), for each said contract entered into and all of  
5 which fees shall be remitted by the person collecting them to the Attorney General  
6 at least once each month, and such funds shall be used by the Attorney General in  
7 administering this chapter.

8 ➔Section 29. KRS 367.958 is amended to read as follows:

9 (1) Every person before engaging in a sale, contract for sale, reservation for sale or  
10 agreement for sale of a mausoleum crypt within a mausoleum, underground crypt  
11 within a crypt section, or columbarium niche within a mausoleum prior to the  
12 completion of the construction thereof, shall give notice in writing to the Attorney  
13 General of the commencement of such sale at least thirty (30) days prior thereto and  
14 register with the Attorney General. Such registration shall be on forms provided by  
15 the Attorney General.

16 (2) Every person engaged in the sale of a mausoleum crypt, underground crypt or  
17 columbarium niche shall commence construction thereof within twenty-four (24)  
18 months of the date of such sale and shall complete such construction within sixty  
19 (60) months of the date of such sale. A delay caused by strike, national emergency,  
20 shortage of materials, civil disorder, natural disaster or any like occurrence beyond  
21 the control of such person shall extend the time of such commencement and  
22 completion by the length of such delay. This subsection shall not apply to the sale  
23 of mausoleum crypts, underground crypts or columbarium niches if there has been  
24 any sale in the same project prior to July 13, 1984. Prior projects shall have  
25 commenced construction thereof within thirty-six (36) months of the date of such  
26 sale and shall complete construction within seventy-two (72) months of the date of  
27 such sale.

- 1 (3) Every person who plans to offer for sale space in a section of a mausoleum or bank  
2 of underground crypts prior to its construction shall establish a preconstruction trust  
3 account. The trust account shall be administered and operated in the same manner  
4 as the merchandise trust account provided for in this chapter and shall be exclusive  
5 of the merchandise trust account or such other trust accounts or funds that may be  
6 required by law.
- 7 (4) Every person shall place thirty-six percent (36%), not including interest or finance  
8 charges, of all payments of money made to any person pursuant to any agreement,  
9 contract or any series or combination of agreements or contracts which are for the  
10 purchase of sections in a mausoleum, columbarium, or any kind of underground  
11 crypt which at the time of the payment of money have not been completely and  
12 totally constructed, in a trust fund account in a financial institution within thirty  
13 (30) days after each calendar quarter of operations. Excepted therefrom, however,  
14 are persons who have constructed in the past their own mausoleum using primarily  
15 equipment owned by the self-constructing person and their own personnel with a  
16 minimum of subcontracting, and in that event there shall be deposited a minimum  
17 of twenty percent (20%) of all payments of money, subject, however, to the actual  
18 cost. If, from project to project, their actual cost is in excess of twenty percent  
19 (20%), the full cost percentage shall be deposited from project to project, not to  
20 exceed thirty-six percent (36%). At the time of notification to the Attorney  
21 General's office the self-constructing mausoleum person shall also notify the  
22 Attorney General that he intends to self-construct and the percentage of  
23 contribution of trust that is required.
- 24 (5) All trust funds mentioned in this section shall be deposited in the name of the  
25 person depositing said funds, with the financial institution as trustee, and shall be  
26 held together with the interest, dividends, or accretions thereon, in trust, subject to  
27 the provisions of KRS 367.932 to 367.974 and 367.991. The person at the time of



1 making deposit or investment shall furnish to the financial institution the name of  
2 each payor, and the amount of payment on each account for which the deposit or  
3 investment is being made.

4 (6) Deposits to such funds and the amounts deposited may be commingled, but the  
5 accounting records shall establish a separate account for each prepaid contract and  
6 shall show amounts deposited and the income and loss occurring thereon with  
7 respect to each contract.

8 (7) All payments made to the preconstruction trust fund account shall remain in the  
9 trust fund with the financial institution until the financial institution receives a  
10 certified statement from the depositor stating that the particular project for which  
11 the preconstruction trust fund has been established is totally completed. During the  
12 construction stage, trust funds may be withdrawn by presenting the trustee with  
13 appropriate evidence of expenditure for construction cost. The trustee shall  
14 thereupon disburse moneys from the trust fund to pay for the expenses of  
15 construction presented for payment.

16 (8) A trustee may rely upon all certifications and affidavits made pursuant to or  
17 required by the provisions of KRS 367.932 to 367.974 and 367.991, and shall not  
18 be liable to any person for such reliance.

19 (9) If a mausoleum section or bank of underground crypts is not completed within the  
20 time limits set out in KRS 367.932 to 367.974 and 367.991, the financial institution  
21 acting as trustee, if any, may contract for and cause said project to be completed  
22 and paid therefor from the trust account funds deposited to the project's account,  
23 paying any balance, less cost and expenses, to the depositor. In the event there is no  
24 corporate trustee, or the trustee chooses not to serve in the capacity to complete  
25 construction, the Attorney General shall appoint a committee to serve as trustees to  
26 trust account funds deposited to the project's account, paying any balance, less cost  
27 and expenses, to the cemetery company.

- 1 (10) If it is determined by the trustee after the expiration of the time of construction set  
2 out above that there is not enough money in the trust fund account to complete the  
3 project, the trustee shall make a refund of all moneys held to all purchasers, or his  
4 heirs or assigns, in the amount of the deposit to the credit of their particular contract  
5 and all income those funds have earned. The purchasers shall be entitled to receive  
6 any remainder of the purchase price paid from the depositor. However, nothing  
7 herein contained shall relieve any person from any liability for nonperformance of  
8 the contract terms.
- 9 (11) If temporary entombment or inurnment is not used, upon written notification to the  
10 seller, the personal representative or any purchaser of such space who dies before  
11 completion of construction shall be entitled to a refund of all moneys paid into the  
12 preconstruction trust fund for such space, including any income earned thereon, and  
13 from the seller, the remainder of the purchase price paid.
- 14 (12) In lieu of the trust fund deposits required herein, the person may post with the  
15 Attorney General's Office~~[General, Division]~~ of Consumer Protection, a good and  
16 sufficient bond by a surety company licensed to do business in Kentucky and in an  
17 amount sufficient to cover all payments made by or on account of purchasers who  
18 have not received the purchased property and services. This bond shall be held for  
19 the benefit of any purchaser, or his or her heir or assign or duly authorized  
20 representative, who suffers a loss of money paid for a preconstructed mausoleum  
21 crypt or niche or underground crypt after July 13, 1984, due to the insolvency of the  
22 registrant, or failure to construct within the time limits set out herein. If a bond is  
23 posted, the Attorney General's office shall receive sixty (60) days' written notice in  
24 the event of cancellation. On or before the cancellation date, the person shall  
25 comply with the trust fund requirements herein or post another good and sufficient  
26 bond.
- 27 (13) Any person selling preconstruction mausoleum, columbarium or underground crypt

1 contracts shall pay to the Attorney General five dollars (\$5) for each sale of said  
2 contract and all of which fees shall be remitted by the person collecting them to the  
3 Attorney General at least once each month, and such funds shall be used by the  
4 Attorney General in administering this chapter.

5 ➔Section 30. KRS 367.976 is amended to read as follows:

6 As used in KRS 367.976 to 367.985~~[-, unless the context otherwise requires]:~~

- 7 (1) "Advertisement" means a commercial message in any medium that aids, promotes,  
8 or assists directly or indirectly a rental-purchase agreement, excluding in-store  
9 merchandising aids;~~[-]~~
- 10 (2) "Cash price" means the price at which the lessor would have sold the property to  
11 the consumer for cash on the date of the rental-purchase agreement;~~[-]~~
- 12 (3) "Consumer" means a natural person who rents personal property under a rental-  
13 purchase agreement;~~[-]~~
- 14 (4) "Consummation" means the time a consumer becomes contractually obligated on a  
15 rental-purchase agreement;~~[-]~~
- 16 (5) **"Office"**~~["Division"]~~ means the **Office**~~Division~~ of Consumer Protection in the  
17 Office of the Attorney General;~~[-]~~
- 18 (6) "Lessor" means a person who, in the ordinary course of business, regularly leases,  
19 offers to lease, or arranges for the leasing of property under a rental-purchase  
20 agreement; **and**~~[-]~~
- 21 (7) "Rental-purchase agreement" means an agreement for the use of personal property  
22 by a natural person primarily for personal, family, or household purposes, for an  
23 initial period of four (4) months or less, whether or not there is any obligation  
24 beyond the initial period, that is automatically renewable with each payment and  
25 that permits the consumer to become the owner of the property. The term rental-  
26 purchase agreement shall not be construed to be, nor be governed by, any of the  
27 following:

- 1 (a) A lease or agreement which constitutes a credit sale as defined in 12 C.F.R.  
2 part 226.2(a)(16) and Section 1602(g) of the Truth in Lending Act, 15 U.S.C.  
3 secs. 1601 et seq.;
- 4 (b) A lease which constitutes a consumer lease as defined in 12 C.F.R. part  
5 213.2(a)(6);
- 6 (c) Any lease for agricultural, business, or commercial purposes;
- 7 (d) Any lease made to an organization;
- 8 (e) A lease or agreement which constitutes a retail installment transaction or retail  
9 installment contract as defined in KRS 371.210;
- 10 (f) A security interest as defined in KRS 355.1-201(37); or
- 11 (g) A home solicitation sale as that term is defined in KRS 367.410.

12 ➔Section 31. KRS 367.981 is amended to read as follows:

13 (1) A renegotiation shall occur when an existing rental-purchase agreement is satisfied  
14 and replaced by a new lease agreement undertaken by the same consumer. A  
15 renegotiation shall be a new agreement covered by KRS 367.976 to 367.985.  
16 However, events such as the following shall not be treated as a renegotiation:

- 17 (a) The addition or return of property in a multiple item agreement or the  
18 substitution of lease property, if in either case the average payment allocable  
19 to a payment period is not changed by more than twenty-five percent (25%);
- 20 (b) A deferral or extension of one (1) or more periodic payments, or portions of a  
21 periodic payment;
- 22 (c) A reduction in charges in the agreement;
- 23 (d) An agreement involving a court proceeding; or
- 24 (e) Any other event described in administrative regulations prescribed by the  
25 office~~[division]~~.

26 (2) No disclosures shall be required for any extension of a rental-purchase agreement.

27 ➔Section 32. KRS 367.985 is amended to read as follows:

1 (1) A lessor shall not be liable under KRS 367.983 for a violation of KRS 367.976 to  
2 367.985 if the lessor shows by a preponderance of the evidence that the violation  
3 was not intentional and resulted from a bona fide error, such as a clerical  
4 miscalculation, computer malfunctions, programming error, or printing error, even  
5 though the lessor maintained procedures reasonably adapted to avoid such an error.  
6 An error of legal judgment with respect to requirements of this title shall not be  
7 considered a bona fide error.

8 (2) A lessor shall not be liable under KRS 367.983 for any act done or omitted in good  
9 faith in conformity with any administrative regulation or interpretation promulgated  
10 by the Attorney General or by the ~~office~~[division] or by an official duly authorized  
11 by the Attorney General or by the ~~office~~[division]. This rule shall apply even if,  
12 after the act or omission has occurred, the regulation or interpretation is amended,  
13 rescinded, or determined by judicial or other authority to be invalid for any reason.

14 (3) A lessor shall not be liable under KRS 367.983 for any error if, before the thirty-  
15 first day after the date the merchant discovers the error and before an action against  
16 the lessor has been filed or written notice of the error received by the lessor, the  
17 lessor gives the consumer written notice of the error and makes adjustments in the  
18 consumer's account as necessary to assure that the consumer will not be required to  
19 pay an amount in excess of the amount disclosed and that the agreement otherwise  
20 complies with KRS 367.976 to 367.985.

21 ➔Section 33. KRS 367.990 is amended to read as follows:

22 (1) Any person who violates the terms of a temporary or permanent injunction issued  
23 under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of  
24 not more than twenty-five thousand dollars (\$25,000) per violation. For the  
25 purposes of this section, the Circuit Court issuing an injunction shall retain  
26 jurisdiction, and the cause shall be continued, and in such cases the Attorney  
27 General acting in the name of the Commonwealth may petition for recovery of civil

- 1 penalties.
- 2 (2) In any action brought under KRS 367.190, if the court finds that a person is  
3 willfully using or has willfully used a method, act, or practice declared unlawful by  
4 KRS 367.170, the Attorney General, upon petition to the court, may recover, on  
5 behalf of the Commonwealth, a civil penalty of not more than two thousand dollars  
6 (\$2,000) per violation, or where the defendant's conduct is directed at a person aged  
7 sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000)  
8 per violation, if the trier of fact determines that the defendant knew or should have  
9 known that the person aged sixty (60) or older is substantially more vulnerable than  
10 other members of the public.
- 11 (3) Any person with actual notice that an investigation has begun or is about to begin  
12 pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys,  
13 or falsifies documentary material is guilty of a Class A misdemeanor.
- 14 (4) Any person who, in response to a subpoena or demand as provided in KRS 367.240  
15 or 367.250, intentionally falsifies or withholds documents, records, or pertinent  
16 materials that are not privileged shall be subject to a fine as provided in subsection  
17 (3) of this section.
- 18 (5) The Circuit Court of any county in which any plan described in KRS 367.350 is  
19 proposed, operated, or promoted may grant an injunction without bond, upon  
20 complaint filed by the Attorney General to enjoin the further operation thereof, and  
21 the Attorney General may ask for and the court may assess civil penalties against  
22 the defendant in an amount not to exceed the sum of five thousand dollars (\$5,000)  
23 which shall be for the benefit of the Commonwealth of Kentucky.
- 24 (6) Any person, business, or corporation who knowingly violates the provisions of  
25 KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense  
26 each time a magazine is mailed into the state; but it shall be considered only one (1)  
27 offense for any quantity of the same issue of a magazine mailed into Kentucky.

1 (7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be  
2 guilty of a Class A misdemeanor.

3 (8) In addition to the penalties contained in this section, the Attorney General, upon  
4 petition to the court, may recover, on behalf of the Commonwealth a civil penalty  
5 of not more than the greater of five thousand dollars (\$5,000) or two hundred  
6 dollars (\$200) per day for each and every violation of KRS 367.175.

7 (9) Any person who shall willfully and intentionally violate any provision of KRS  
8 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

9 (10) (a) Any person who violates the terms of a temporary or permanent injunction  
10 issued under KRS 367.665 shall forfeit and pay to the Commonwealth a  
11 penalty of not more than five thousand dollars (\$5,000) per violation. For the  
12 purposes of this section, the Circuit Court issuing an injunction shall retain  
13 jurisdiction, and the cause shall be continued, and in such cases the Attorney  
14 General acting in the name of the Commonwealth may petition for recovery  
15 of civil penalties.

16 (b) 1. The Attorney General may, upon petition to a court having jurisdiction  
17 under KRS 367.190, recover on behalf of the Commonwealth from any  
18 person found to have willfully committed an act declared unlawful by  
19 KRS 367.667 a penalty of not more than five thousand dollars (\$5,000)  
20 per violation.

21 2. In addition to any other penalties provided for the commission of the  
22 offense, any person found guilty of violating KRS 367.667(1)(c):

23 a. Shall be punished by a fine of no less than five hundred dollars  
24 (\$500) for the first offense and no less than five thousand dollars  
25 (\$5,000) for any subsequent offense; and

26 b. Pay restitution of any financial benefit secured through conduct  
27 proscribed by KRS 367.667(1)(c).

- 1           3.    The Office of the Attorney General or the appropriate Commonwealth's  
2                   attorney shall have concurrent enforcement powers as to fines, felonies,  
3                   and misdemeanors under this paragraph.
- 4           (c)   Any person who knowingly violates any provision of KRS 367.652, 367.653,  
5                   367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false  
6                   or incorrect information to the Attorney General in filing statements or reports  
7                   required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.
- 8   (11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under  
9           KRS 367.765 shall be liable for a penalty of one hundred dollars (\$100) per  
10           violation to be collected in the name of the Commonwealth upon action of the  
11           Attorney General.
- 12   (12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be  
13           liable for a penalty not exceeding one thousand dollars (\$1,000) to be collected in  
14           the name of the Commonwealth upon action by the Attorney General.
- 15   (13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or  
16           367.816 shall be guilty of a Class C felony.
- 17   (14) Either the Attorney General or the appropriate Commonwealth's attorney shall have  
18           authority to prosecute violations of KRS 367.801 to 367.819.
- 19   (15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the  
20           Attorney General or the appropriate Commonwealth's attorney shall have authority  
21           to prosecute violators of KRS 367.474 to 367.478 and 367.482.
- 22   (16) Any person who violates KRS 367.310 shall be guilty of a violation.
- 23   (17) Any person, partnership, or corporation who violates the provisions of KRS  
24           367.850 shall be guilty of a Class A misdemeanor.
- 25   (18) Any dealer in motor vehicles or any other person who fraudulently changes, sets  
26           back, disconnects, fails to connect, or causes to be changed, set back, or  
27           disconnected, the speedometer or odometer of any motor vehicle, to effect the sale



1 of the motor vehicle shall be guilty of a Class D felony.

2 (19) Any person who negotiates a contract of membership on behalf of a club without  
3 having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty  
4 of a Class D felony.

5 (20) Any person or corporation who operates or attempts to operate a health spa in  
6 violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

7 (21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony;  
8 and

9 (b) The appropriate Commonwealth's attorney shall have authority to prosecute  
10 felony violations of KRS 367.832.

11 (22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be  
12 guilty of a violation. Either the Attorney General or the appropriate county  
13 health department may prosecute violators of KRS 367.855 or 367.857.

14 (b) The provisions of this subsection shall not apply to any retail establishment if  
15 the wholesaler, distributor, or processor fails to comply with the provisions of  
16 KRS 367.857.

17 (23) Notwithstanding any other provision of law, any telemarketing company,  
18 telemarketer, caller, or merchant shall be guilty of a Class D felony when that  
19 telemarketing company, telemarketer, caller, or merchant three (3) times in one (1)  
20 calendar year knowingly and willfully violates KRS 367.46955(15) by making or  
21 causing to be made an unsolicited telephone solicitation call to a telephone number  
22 that appears in the current publication of the zero call list maintained by the Office  
23 of the Attorney General's Office~~[General, Division]~~ of Consumer Protection.

24 (24) Notwithstanding any other provision of law, any telemarketing company,  
25 telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when  
26 that telemarketing company, telemarketer, caller, or merchant uses a zero call list  
27 identified in KRS 367.46955(15) for any purpose other than complying with the

1 provisions of KRS 367.46951 to 367.46999.

- 2 (25) (a) Notwithstanding any other provision of law, any telemarketing company,  
3 telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999  
4 shall be assessed a civil penalty of not more than five thousand dollars  
5 (\$5,000) for each offense.
- 6 (b) The Attorney General, or any person authorized to act in his or her behalf,  
7 shall initiate enforcement of a civil penalty imposed under paragraph (a) of  
8 this subsection.
- 9 (c) Any civil penalty imposed under paragraph (a) of this subsection may be  
10 compromised by the Attorney General or his or her designated representative.  
11 In determining the amount of the penalty or the amount agreed upon in  
12 compromise, the Attorney General, or his or her designated representative,  
13 shall consider the appropriateness of the penalty to the financial resources of  
14 the telemarketing company, telemarketer, caller, or merchant charged, the  
15 gravity of the violation, the number of times the telemarketing company,  
16 telemarketer, caller, or merchant charged has been cited, and the good faith of  
17 the telemarketing company, telemarketer, caller, or merchant charged in  
18 attempting to achieve compliance, after notification of the violation.
- 19 (d) If a civil penalty is imposed under this subsection, a citation shall be issued  
20 which describes the violation which has occurred and states the penalty for the  
21 violation. If, within fifteen (15) working days from the receipt of the citation,  
22 the affected party fails to pay the penalty imposed, the Attorney General, or  
23 any person authorized to act in his or her behalf, shall initiate a civil action to  
24 collect the penalty. The civil action shall be taken in the court which has  
25 jurisdiction over the location in which the violation occurred.
- 26 (26) Any person who violates KRS 367.500 shall be liable for a penalty of two thousand  
27 five hundred dollars (\$2,500) per violation. Either the Attorney General or the

1 appropriate Commonwealth's attorney may prosecute violations of KRS 367.500.

2 ➔Section 34. KRS 380.040 is amended to read as follows:

- 3 (1) Subject to subsection (3) of this section, a person, whether or not located in this  
4 state, who is engaged in debt adjusting and actually or constructively receives any  
5 money or other thing of value, other than the fees permitted by this chapter, for the  
6 purpose of disbursing the money or thing of value to the debtor's creditors, shall do  
7 both of the following:
- 8 (a) Unless specifically instructed otherwise by a debtor, disburse to the  
9 appropriate creditors all funds received from the debtor, less any contributions  
10 or fees not prohibited by subsection (2) of this section, within thirty (30) days  
11 of receipt of the funds from the debtor; and
  - 12 (b) Maintain a separate trust account for the receipt of any funds from debtors and  
13 the disbursement of the funds to creditors on behalf of the debtors.
- 14 (2) If a fee, contribution, or other consideration for engaging in debt adjusting is  
15 accepted, directly or indirectly, a person engaged in debt adjusting shall not do any  
16 of the following:
- 17 (a) Accept a fee, contribution, or other consideration exceeding seventy-five  
18 dollars (\$75) from a debtor residing in this state for an initial set up;
  - 19 (b) Accept a fee, contribution, or other consideration exceeding fifty dollars (\$50)  
20 per calendar year from a debtor residing in this state for consultation;
  - 21 (c) If money or anything else of value is received and held by the person engaged  
22 in debt adjusting for the purpose of disbursing the money or thing of value to  
23 the debtor's unsecured creditors, accept a periodic fee, contribution, or other  
24 consideration from a debtor who resides in this state that exceeds the greater  
25 of eight and one-half percent (8.5%) of the amount paid by the debtor each  
26 month for distribution to the debtor's creditors or thirty dollars (\$30); or
  - 27 (d) Accept any other fee, contribution, or other consideration in advance of the

1 complete performance of all promised services in relation to secured debt.  
2 Acceptance of a fee, contribution, or other consideration in advance of the  
3 complete performance of all promised services in relation to secured debt,  
4 including the placement of the fee, contribution, or other consideration into an  
5 escrow account to be paid upon completion of the services, is specifically  
6 prohibited. For purposes of this paragraph, "secured debt" means any debt  
7 primarily for personal, family, or household use that is secured by a mortgage,  
8 deed of trust, other equivalent consensual security interest on residential real  
9 property, or collateral that has a mortgage lien interest in residential real  
10 property.

11 (3) Subsections (1) and (2) of this section shall not prohibit a person engaged in debt  
12 adjusting for a debtor who resides in this state from charging the debtor a bad check  
13 charge of twenty dollars (\$20) or the amount passed on from the debt adjuster's  
14 bank, whichever is greater, in addition to fees, contributions, or other consideration  
15 not prohibited by subsection (2) of this section.

16 (4) Fees, contributions, or other consideration permitted in subsections (1), (2), and (3)  
17 of this section may be adjusted on an annual basis by the amount equivalent to any  
18 increase in the consumer price index, published by the United States Department of  
19 Labor, Bureau of Labor Statistics.

20 (5) Any person that engages in debt adjusting shall file an initial registration form,  
21 accompanied by an initial registration fee of two hundred fifty dollars (\$250), and  
22 the registration shall be renewed each year thereafter for a fee of two hundred fifty  
23 dollars (\$250) to cover the actual cost of filing the registration, in accordance with  
24 administrative regulations promulgated by the Attorney General.

25 (6) Any person that engages in debt adjusting shall arrange for and undergo an annual  
26 audit of the person's business, including any trust funds deposited and distributed to  
27 creditors on behalf of debtors, which shall be conducted by an independent, third-

1 party certified public accountant. Both of the following shall apply to an audit  
2 performed under this subsection:

3 (a) The person shall file the results of the audit and the auditor's opinion with the  
4 Office of Consumer Protection ~~in~~~~Division of~~ the Office of the Attorney  
5 General within thirty (30) days of the anniversary date of filing the initial  
6 registration; and

7 (b) The Attorney General shall make available a summary of the results of the  
8 audit and the auditor's opinion upon written request of any person and  
9 payment of a fee not to exceed the cost of copying the summary and opinion.

10 (7) (a) A person engaged in debt adjusting shall obtain and at all times maintain  
11 insurance coverage for errors and omissions, employee dishonesty, depositor's  
12 forgery, computer fraud, and violations of this chapter in the amount of ten  
13 percent (10%) of the monthly average for the immediately preceding six (6)  
14 months of the aggregate amount of all deposits made with the person by all  
15 debtors. The insurance coverage shall comply with all of the following:

16 1. The minimum limit of the insurance coverage shall not be less than one  
17 hundred thousand dollars (\$100,000), and the maximum limit of the  
18 insurance coverage shall not be more than two hundred fifty thousand  
19 dollars (\$250,000);

20 2. The insurance coverage shall not include a deductible in excess of ten  
21 percent (10%) of the face amount of the policy coverage;

22 3. The insurance coverage shall be issued by an insurer and rated at least  
23 A-, or its equivalent, by a nationally recognized rating organization; and

24 4. The insurance coverage shall provide that the Office of Consumer  
25 Protection ~~in~~~~Division of~~ the Office of the Attorney General shall be  
26 named as an additional interested party.

27 (b) If the debt adjuster engages in debt adjusting in relation to any debt that is

1 primarily for personal, family, or household use that is secured by a mortgage,  
2 deed of trust, other equivalent consensual security interest on residential real  
3 property, or collateral that has a mortgage lien interest in residential real  
4 property, the amount of insurance coverage required in paragraph (a) of this  
5 subsection shall be increased by two hundred fifty thousand dollars  
6 (\$250,000).

7 (8) (a) A debt adjuster shall maintain a bond issued by a surety company admitted to  
8 do business in this Commonwealth. The bond shall be in the amount of  
9 twenty-five thousand dollars (\$25,000) in favor of the Attorney General for  
10 the benefit of the Commonwealth for any violation of this chapter or any  
11 person suffering injury or loss by reason of any violation of this chapter. A  
12 copy of the bond shall be filed with the Attorney General.

13 (b) The bond required by paragraph (a) of this subsection shall be in effect during  
14 the period of the debt adjuster's registration as well as for two (2) years after  
15 the debt adjuster ceases to provide debt-adjusting services to debtors.

16 (c) A change in ownership of a debt adjuster shall not release, cancel, or  
17 terminate liability under any bond previously filed unless the Attorney  
18 General agrees in writing to the release, cancellation, or termination because  
19 the debt adjuster has filed a new bond meeting the requirements of paragraph  
20 (a) of this subsection.

21 (d) The proceeds of the bond required by paragraph (a) of this subsection shall be  
22 paid to any person suffering injury or loss by reason of any violation of this  
23 chapter or to the Attorney General for any violation of this chapter or shall be  
24 paid pursuant to the terms of any order of a court of competent jurisdiction.  
25 Any person who is damaged by any violation of this chapter may bring an  
26 action against the bond to recover damages pursuant to this paragraph,  
27 provided the aggregate liability of the surety shall not exceed the amount of

1 the bond.

2 (e) In lieu of the bond required by paragraph (a) of this subsection, a debt adjuster  
3 may, with the written approval of the Attorney General, deliver to the  
4 Attorney General an irrevocable letter of credit issued or confirmed by a  
5 financial institution authorized by law to transact business in the  
6 Commonwealth. The irrevocable letter of credit shall be in the amount of  
7 twenty-five thousand dollars (\$25,000) in favor of the Attorney General for  
8 the benefit of the Commonwealth or any person suffering injury or loss by  
9 reason of any violation of this chapter.

10 (f) If the debt adjuster engages in debt adjusting in relation to any debt that is  
11 primarily for personal, family, or household use that is secured by a mortgage,  
12 deed of trust, other equivalent consensual security interest on residential real  
13 property, or collateral that has a mortgage lien interest in residential real  
14 property, the amount of the bond required in paragraph (a) of this subsection  
15 or the irrevocable letter of credit approved pursuant to paragraph (e) of this  
16 subsection shall be increased by fifty thousand dollars (\$50,000).

17 (9) A debt adjuster may not, directly or indirectly:

18 (a) Misappropriate or misapply money held in trust;

19 (b) Settle a debtor's debt if the amount the debtor will owe after settlement is  
20 equal to or more than fifty percent (50%) of the amount of the debt prior to  
21 settlement unless, after the creditor has assented, the debtor assents to a  
22 settlement for which the amount the debtor will owe after settlement is equal  
23 to or more than fifty percent (50%) of the amount of the debt prior to  
24 settlement;

25 (c) Take a power of attorney that authorizes the debt adjuster to settle a debt,  
26 unless the power of attorney is expressly limited to the debtor's debts and  
27 grants authority to settle debts only if the amount the debtor will owe after

- 1 settlement is less than fifty percent (50%) of the amount of the debt prior to  
2 settlement. However, in no event shall an agreement confer on a debt adjuster  
3 a power of attorney to negotiate or settle any of the debtor's debt that is  
4 primarily for personal, family, or household use that is secured by a mortgage,  
5 deed of trust, other equivalent consensual security interest on residential real  
6 property, or collateral that has a mortgage lien interest in residential real  
7 property;
- 8 (d) Exercise or attempt to exercise a power of attorney after a debtor has  
9 terminated an agreement;
- 10 (e) Initiate a transfer from a debtor's account at a bank or with another person  
11 unless the transfer is:
- 12 1. A return of money to the debtor; or  
13 2. Before termination of an agreement, properly authorized by the  
14 agreement and this chapter, and for payment to one (1) or more creditors  
15 pursuant to a plan or payment of a fee;
- 16 (f) Structure a plan in a manner that would result in a negative amortization of  
17 any of a debtor's debts, unless a creditor that is owed a negatively amortizing  
18 debt agrees to refund or waive the finance charge upon payment of the  
19 principal amount of the debt;
- 20 (g) Settle a debt or lead a debtor to believe that a payment to a creditor is in  
21 settlement of a debt to the creditor unless, at the time of settlement, the debtor  
22 receives a certification by the creditor that the payment is in full settlement of  
23 the debt or is part of a payment plan, the terms of which are included in the  
24 certification, that upon completion will lead to full settlement of the debt;
- 25 (h) Make a representation that:
- 26 1. The debt adjuster will furnish money to pay bills or prevent attachments;  
27 2. Payment of a certain amount will permit satisfaction of a certain amount



- 1 or range of indebtedness;
- 2 3. Participation in a plan will or may prevent litigation, garnishment,  
3 attachment, repossession, foreclosure, eviction, or loss of employment,  
4 and will or may stop efforts to collect a debt from the debtor;
- 5 4. Failure to make required minimum payments to creditors will not or  
6 may not break the terms of agreements with creditors, will not or may  
7 not lead creditors to increase finance charges and pursue litigation, will  
8 not or may not be reported to consumer reporting agencies, or will not or  
9 may not have an adverse effect on the debtor's credit report and credit  
10 score; or
- 11 5. Fees paid to a debt adjuster will be used to pay creditors;
- 12 (i) Misrepresent that it is authorized or competent to furnish legal advice or  
13 perform legal services;
- 14 (j) Take a confession of judgment or power of attorney to confess judgment  
15 against a debtor;
- 16 (k) Purchase a debt or obligation of the debtor;
- 17 (l) Receive from or on behalf of the debtor:
- 18 1. A promissory note or other negotiable instrument other than a check or a  
19 demand draft; or
- 20 2. A postdated check or demand draft;
- 21 (m) Lend money or provide credit to the debtor, except as a deferral of a  
22 settlement fee at no additional expense to the debtor;
- 23 (n) Obtain a mortgage or other security interest from any person in connection  
24 with the services provided to the debtor;
- 25 (o) Provide the debtor less than the full benefit of a compromise of a debt  
26 arranged by the debt adjuster; or
- 27 (p) Charge the debtor for or provide credit or other insurance, coupons for goods

1 or services, membership in a club, access to computers or the Internet, or any  
2 other matter not directly related to debt adjusting services or educational  
3 services concerning personal finance.

4 (10) Any unfair, false, misleading, or deceptive act or practice in the conduct of debt  
5 adjusting is prohibited. For purposes of this subsection, "unfair" shall be construed  
6 to mean unconscionable.

7 ➔Section 35. KRS 403.707 is amended to read as follows:

8 (1) The Sexual Assault Response Team Advisory Committee is established.

9 (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the  
10 executive director of the Kentucky Association of Sexual Assault Programs and the  
11 commissioner of the Department of Kentucky State Police or the commissioner's  
12 designee.

13 (3) The membership of the Sexual Assault Response Team Advisory Committee shall  
14 consist of the following:

15 (a) The executive director of the Kentucky Board of Nursing or the executive  
16 director's designee;

17 (b) The executive director of the Kentucky Nurses Association or the executive  
18 director's designee;

19 (c) The executive director of the Kentucky Hospital Association or the executive  
20 director's designee;

21 (d) The executive director of the Kentucky Association of Children's Advocacy  
22 Centers;

23 (e) The director of the Department of Kentucky State Police Crime Lab;

24 (f) The commissioner of the Department for Community Based Services or the  
25 commissioner's designee;

26 (g) The director of the Office of Victims ~~[Victims]~~ Advocacy ~~in~~ ~~[Division of]~~ the  
27 Office of the Attorney General or the director's designee;

- 1 (h) A sexual assault nurse examiner appointed by the secretary of the Cabinet for  
2 Health and Family Services;
- 3 (i) A representative from a sexual assault response team appointed by the  
4 executive director of the Kentucky Association of Sexual Assault Programs;
- 5 (j) A physician appointed by the secretary of the Cabinet for Health and Family  
6 Services; and
- 7 (k) A Commonwealth's attorney or an assistant Commonwealth's attorney  
8 appointed by the Attorney General.
- 9 (4) Members appointed under subsection (3)(h) to (k) of this section shall serve at the  
10 pleasure of the appointing authority and shall not serve longer than four (4) years  
11 without reappointment.
- 12 (5) The Sexual Assault Response Team Advisory Committee shall:
- 13 (a) Serve in an advisory capacity to the Kentucky Board of Nursing in  
14 accomplishing the duties set forth under KRS 314.142;
- 15 (b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the  
16 development of the statewide sexual assault protocol required under KRS  
17 216B.400(4);
- 18 (c) Develop a model protocol for the operation of sexual assault response teams  
19 which shall include the roles of sexual assault nurse examiners, physicians,  
20 law enforcement, prosecutors, and victim advocates;
- 21 (d) Provide assistance to each regional rape crisis center, as designated by the  
22 Cabinet for Health and Family Services, in establishing a regional sexual  
23 assault response team;
- 24 (e) Develop model policies for law enforcement agencies related to handling  
25 sexual assault examination kits and investigating sexual assaults with a  
26 victim-centered, evidence-based approach;
- 27 (f) By January 1, 2018, report to the General Assembly on the results of the

1 analysis of previously untested sexual assault examination kits submitted to  
2 the Department of Kentucky State Police forensic laboratory pursuant to 2016  
3 Ky. Acts ch. 58, sec. 1, including whether analysis of those kits led to the  
4 identification and prosecution of suspects and the cost to society of the  
5 offenses committed by the suspects identified;

6 (g) By July 1, 2018, and by each July 1 thereafter, report to the General Assembly  
7 and to the secretary of the Justice and Public Safety Cabinet on the number of  
8 sexual assaults reported, the number of sexual assault examination kits  
9 submitted to the Department of Kentucky State Police forensic laboratory, the  
10 number of kits tested, and the number of charges filed and convictions  
11 obtained in sexual assault cases in the previous calendar year;

12 (h) Provide information and recommendations concerning the activities of the  
13 agency or organization represented by each individual committee member as  
14 related to sexual assault issues and programs within the purview of the agency  
15 or organization; and

16 (i) Recommend to the appropriate state agency any changes in statute,  
17 administrative regulation, training, policy, and budget to promote a  
18 multidisciplinary response to sexual assault.

19 ➔Section 36. Whereas it is critical to the proper management and administration  
20 of the Department of Law that reorganization take place as soon as possible, an  
21 emergency is declared to exist, and this Act takes effect upon its passage and approval by  
22 the Governor or upon its otherwise becoming a law.