

1 AN ACT relating to disclosure of interest in public matters.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO  
4 READ AS FOLLOWS:

5 *A contractor awarded a contract under this chapter shall disclose all individuals,*  
6 *corporations, or other business entities that have an interest in the contract to the*  
7 *cabinet within thirty (30) days of finalizing the contract and the disclosure shall be a*  
8 *public record.*

9 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO  
10 READ AS FOLLOWS:

11 *A contractor or lessor awarded a contract or lease under this chapter shall disclose all*  
12 *individuals, corporations, or other business entities that have an interest in the*  
13 *contract or lease to the cabinet within thirty (30) days of finalizing the contract or lease*  
14 *and the disclosure shall be a public record.*

15 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
16 READ AS FOLLOWS:

17 *A contractor or lessor awarded a contract or lease under this chapter shall disclose all*  
18 *individuals, corporations, or other business entities that have an interest in the*  
19 *contract or lease to the applicable local government within thirty (30) days of finalizing*  
20 *the contract or lease and the disclosure shall be a public record.*

21 ➔SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER  
22 154 IS CREATED TO READ AS FOLLOWS:

23 *A contractor or lessor awarded a contract or lease under this chapter shall disclose all*  
24 *individuals, corporations, or other business entities that have an interest in the*  
25 *contract or lease to the board within thirty (30) days of finalizing the contract or lease*  
26 *and the disclosure shall be a public record.*

27 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO

1 READ AS FOLLOWS:

2 *A contractor or lessor awarded a contract or lease under this chapter shall disclose all*  
 3 *individuals, corporations, or other business entities that have an interest in the*  
 4 *contract or lease to the applicable district within thirty (30) days of finalizing the*  
 5 *contract or lease and the disclosure shall be a public record.*

6 →SECTION 6. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO  
 7 READ AS FOLLOWS:

8 *A contractor or lessor awarded a contract or lease under this chapter shall disclose all*  
 9 *individuals, corporations, or other business entities that have an interest in the*  
 10 *contract or lease to the applicable governing board within thirty (30) days of finalizing*  
 11 *the contract or lease and the disclosure shall be a public record.*

12 →SECTION 7. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO  
 13 READ AS FOLLOWS:

14 *A contractor awarded a contract under this chapter shall disclose all individuals,*  
 15 *corporations, or other business entities that have an interest in the contract to the*  
 16 *department within thirty (30) days of finalizing the contract and the disclosure shall be*  
 17 *a public record.*

18 →Section 8. KRS 61.878 is amended to read as follows:

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

24 (a) Public records containing information of a personal nature where the public  
 25 disclosure thereof would constitute a clearly unwarranted invasion of personal  
 26 privacy. *This exception shall not apply to records:*

27 *1. Where matters have been finally concluded and those records:*

- 1                    **a. Relate to public service;**
- 2                    **b. Demonstrate a potential bias affecting the public; or**
- 3                    **c. Create a financial obligation for the public; or**
- 4                    **2. Of a private entity working under the authority of a public agency;**
- 5                    (b) Records confidentially disclosed to an agency and compiled and maintained
- 6                    for scientific research. This exemption shall not, however, apply to records the
- 7                    disclosure or publication of which is directed by another statute;
- 8                    (c) 1. Upon and after July 15, 1992, records confidentially disclosed to an
- 9                    agency or required by an agency to be disclosed to it, generally
- 10                    recognized as confidential or proprietary, which if openly disclosed
- 11                    would permit an unfair commercial advantage to competitors of the
- 12                    entity that disclosed the records;
- 13                    2. Upon and after July 15, 1992, records confidentially disclosed to an
- 14                    agency or required by an agency to be disclosed to it, generally
- 15                    recognized as confidential or proprietary, which are compiled and
- 16                    maintained:
- 17                    a. In conjunction with an application for or the administration of a
- 18                    loan or grant;
- 19                    b. In conjunction with an application for or the administration of
- 20                    assessments, incentives, inducements, and tax credits as described
- 21                    in KRS Chapter 154;
- 22                    c. In conjunction with the regulation of commercial enterprise,
- 23                    including mineral exploration records, unpatented, secret
- 24                    commercially valuable plans, appliances, formulae, or processes,
- 25                    which are used for the making, preparing, compounding, treating,
- 26                    or processing of articles or materials which are trade commodities
- 27                    obtained from a person; or

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

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

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

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

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

19 (l) Public records or information the disclosure of which is prohibited or  
20 restricted or otherwise made confidential by enactment of the General  
21 Assembly;

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

26 a. Criticality lists resulting from consequence assessments;

27 b. Vulnerability assessments;

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

1                   occupied, leased, or maintained by a public agency.

2           3.    On the same day that a public agency denies a request to inspect a public  
3           record for a reason identified in this paragraph, that public agency shall  
4           forward a copy of the written denial of the request, referred to in KRS  
5           61.880(1), to the executive director of the Kentucky Office of Homeland  
6           Security and the Attorney General.

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

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

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

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

24               1.    A contract is awarded; or

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

27          (p)   Communications of a purely personal nature unrelated to any governmental

1 function.

2 (2) No exemption in this section shall be construed to prohibit disclosure of statistical  
3 information not descriptive of any readily identifiable person.

4 (3) No exemption in this section shall be construed to deny, abridge, or impede the  
5 right of a public agency employee, including university employees, an applicant for  
6 employment, or an eligible on a register to inspect and to copy any record including  
7 preliminary and other supporting documentation that relates to him. The records  
8 shall include, but not be limited to, work plans, job performance, demotions,  
9 evaluations, promotions, compensation, classification, reallocation, transfers, lay-  
10 offs, disciplinary actions, examination scores, and preliminary and other supporting  
11 documentation. A public agency employee, including university employees,  
12 applicant, or eligible shall not have the right to inspect or to copy any examination  
13 or any documents relating to ongoing criminal or administrative investigations by  
14 an agency.

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

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