

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

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

3 ➔Section 1. KRS 39A.100 is amended to read as follows:

4 (1) In the event of the occurrence or threatened or impending occurrence of any of the  
5 situations or events enumerated in KRS 39A.010, 39A.020, or 39A.030, the  
6 Governor may declare, in writing, that a state of emergency exists. The Governor  
7 shall have and may exercise the following emergency powers during the period in  
8 which the state of emergency exists:

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

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

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

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

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

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

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

27 ~~—Compensation for property seized, taken, or condemned under this paragraph~~

- 1           ~~shall be determined using the process in KRS 416.540 to 416.670 to~~
- 2           ~~determine value;~~
- 3           ~~(d) To sell, lend, give, or distribute any of the property under paragraph (c) of this~~
- 4           ~~subsection among the inhabitants of the Commonwealth and to account to the~~
- 5           ~~State Treasurer for any funds received for the property;~~
- 6           ~~(e) To make compensation for the property seized, taken, or condemned under~~
- 7           ~~paragraph (c) of this subsection;~~
- 8           ~~(f)~~ To exclude all nonessential, unauthorized, disruptive, or otherwise
- 9           uncooperative personnel from the *immediate* scene of the emergency, and to
- 10          command those persons or groups assembled at the scene to disperse. A
- 11          person who refuses to leave an area in which a written order of evacuation has
- 12          been issued in accordance with a written declaration of emergency or a
- 13          disaster may be forcibly removed to a place of safety or shelter, or may, if this
- 14          is resisted, be arrested by a peace officer. Forcible removal or arrest shall not
- 15          be exercised as options until all reasonable efforts for voluntary compliance
- 16          have been exhausted;
- 17          ~~[(g) To declare curfews and establish their limits;~~
- 18          ~~(h) To prohibit or limit the sale or consumption of goods, in the event of a~~
- 19          ~~shortage of goods, excluding firearms and ammunition, components of~~
- 20          ~~firearms and ammunition, or a combination thereof, or commodities for the~~
- 21          ~~duration of the emergency;]~~
- 22          ~~(d)~~~~(i)~~ To grant emergency authority to pharmacists pursuant to KRS 315.500,
- 23          for the duration of the emergency; *and*
- 24          ~~(e)~~~~(j)~~ To request any assistance from agencies of the United States as
- 25          necessary and appropriate to meet the needs of the people of the
- 26          Commonwealth;
- 27          ~~(k) Upon the recommendation of the Secretary of State, to declare by executive~~

1           ~~order a different time or place for holding elections in an election area for~~  
2           ~~which a state of emergency has been declared for part or all of the election~~  
3           ~~area. The election shall be held within thirty five (35) days from the date of~~  
4           ~~the suspended or delayed election. The executive order shall remain in effect~~  
5           ~~until the date of the suspended or delayed election regardless of the time~~  
6           ~~limitations in KRS 39A.090 and shall not be changed except by action of the~~  
7           ~~General Assembly. The State Board of Elections shall establish procedures for~~  
8           ~~election officials to follow. Any procedures established under this paragraph~~  
9           ~~shall be subject to the approval of the Secretary of State and the Governor by~~  
10           ~~respective executive orders; and~~

11           ~~(l) Except as prohibited by this section or other law, to take action necessary to~~  
12           ~~execute those powers enumerated in paragraphs (a) to (k) of this subsection].~~

13           (2) Within thirty (30) days of a declared emergency, and every thirty (30) days  
14           thereafter, the Governor shall report to the General Assembly, if in session, or to the  
15           Legislative Research Commission if the General Assembly is not in session, on a  
16           form provided by the Commission detailing:

17           (a) All expenditures relating to contracts issued during the emergency under KRS  
18           45A.085 or 45A.095, or under any provision for which a state agency does not  
19           solicit bids or proposals for a contract; and

20           (b) All revenues received from the federal government in response to the declared  
21           emergency, any expenditures or expenditure plan for the federal funds by  
22           federal program, the state agency or program that was allocated the federal  
23           funds, and any state fund expenditures required to match the federal funds.

24           (3) In the event of the occurrence or threatened or impending occurrence of any of the  
25           situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in  
26           the judgment of a local chief executive officer is of such severity or complexity as  
27           to require the exercise of extraordinary emergency measures, the county

1 judge/executive of a county other than an urban-county government, or mayor of a  
2 city or urban-county government, or chief executive of other local governments or  
3 their designees as provided by ordinance of the affected county, city, or urban-  
4 county may declare in writing that a state of emergency exists, and thereafter,  
5 subject to any orders of the Governor, shall have and may exercise for the period as  
6 the state of emergency exists or continues, the following emergency powers:

7 (a) To enforce all laws and administrative regulations relating to disaster and  
8 emergency response and to direct all local disaster and emergency response  
9 forces and operations in the affected county, city, urban-county, or charter  
10 county;

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

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

21 ~~(d)]~~ To order immediate purchase or rental of, contract for, or otherwise procure,  
22 without regard to procurement codes or budget requirements, the goods and  
23 services essential for protection of public health and safety or to maintain or  
24 to restore essential public services; and

25 ~~(d)](e)]~~ To request emergency assistance from any local government or special  
26 district and, through the Governor, to request emergency assistance from any  
27 state agency and to initiate requests for federal assistance as are necessary for

1 protection of public health and safety or for continuation of essential public  
2 services.

3 (4) Nothing in this section shall be construed to allow any governmental entity to  
4 impose additional restrictions on:

5 (a) The lawful possession, transfer, sale, transport, carrying, storage, display, or  
6 use of firearms and ammunition or components of firearms and ammunition;

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

10 (c) The right of the people to worship, worship in person, or to act or refuse to act  
11 in a manner motivated by a sincerely held religious belief; or ~~or~~

12 ~~(5) Nothing in this section shall be construed to allow any governmental entity to  
13 impose restrictions on the right of the people to:~~

14 ~~(d){(a)}~~ **The right of the people to** peaceably assemble; ~~or~~

15 ~~(b) Worship, worship in person, or to act or refuse to act in a manner motivated  
16 by a sincerely held religious belief}.~~

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

22 (b) Paragraph (a) of this subsection shall not prohibit the Governor from requiring  
23 religious organizations to comply with neutral health, safety, or occupancy  
24 requirements that are applicable to all organizations and businesses that  
25 provide essential services. However, no health, safety, or occupancy  
26 requirement may impose a substantial burden on a religious organization or its  
27 services unless applying the burden to the religion or religious service in the

1 particular instance is essential to further a compelling governmental interest  
2 and is the least restrictive means of furthering that compelling governmental  
3 interest.

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

6 (7) As used in this section:

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

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

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

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

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

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

25 b. Entitlement or benefit under a state benefit program from or to a  
26 religious organization; or

27 c. License, certification, accreditation, recognition, or other similar

1 benefit, position, or status from or to any religious organization;

2 (b) "Governmental entity" means:

- 3 1. The Commonwealth or any of its political subdivisions;
- 4 2. Any agency of the state described in KRS 12.020;
- 5 3. Any person acting under color of state law; and
- 6 4. Any private person suing under or attempting to enforce a law, rule, or
- 7 administrative regulation adopted by the state or any of its political
- 8 subdivisions;

9 (c) "Religious organization" means:

- 10 1. A house of worship, including churches, synagogues, shrines, mosques,
- 11 and temples;
- 12 2. A religious group, corporation, association, educational institution,
- 13 ministry, order, society, or similar entity, regardless of whether it is
- 14 integrated or affiliated with a church or other house of worship; or
- 15 3. Any officer, owner, employee, manager, religious leader, clergy, or
- 16 minister of an entity or organization described in this paragraph; and

17 (d) "Religious services" means a meeting, gathering, or assembly of two (2) or

18 more persons organized by a religious organization for the purpose of

19 worship, teaching, training, providing educational services, conducting

20 religious rituals, or other activities that are deemed necessary by the religious

21 organization for the exercise of religion.

22 (8) A religious organization may assert a violation of subsection (4)(c)~~[(5)(b)]~~ or (6)

23 of this section as a claim against a governmental entity in any judicial or

24 administrative proceeding or as a defense in any judicial or administrative

25 proceeding without regard to whether the proceeding is brought by or in the name

26 of the governmental entity, any private person, or any other party. Sovereign,

27 governmental, and qualified immunity are waived to the extent of liability created

1 under this section. An action asserting a violation of this section may be  
2 commenced, and relief may be granted, without regard to whether the religious  
3 organization commencing the action has sought or exhausted administrative  
4 remedies.

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

7 (a) Declaratory relief;

8 (b) Injunctive relief to prevent or remedy a violation of this section or the effects  
9 of such violation;

10 (c) Compensatory damages for pecuniary and nonpecuniary losses;

11 (d) Reasonable attorneys' fees and costs; and

12 (e) Any other appropriate relief.

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

16 (11) This section:

17 (a) Shall be construed in favor of a broad protection of free exercise of religion;

18 (b) Shall be in addition to the protections provided under state and federal laws  
19 and constitutions. Nothing in this section shall be construed to:

20 1. Preempt or repeal any state law or local ordinance that is equally or  
21 more protective of free exercise of religion; or

22 2. Narrow the meaning or application of any state law or local ordinance  
23 protecting free exercise of religion; and

24 (c) Applies to, and in cases of conflict, supersedes:

25 1. Each statute of the Commonwealth that infringes upon the free exercise  
26 of religion protected by this section, unless a conflicting statute is  
27 expressly made exempt from the application of this section; and



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

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

8           ➔Section 2. KRS 117.015 is amended to read as follows:

9 (1) There shall be a State Board of Elections that is an independent agency of state  
10          government, which shall administer the election laws of the state and supervise  
11          registration and purgation of voters within the state. The board:

12 (a) May promulgate administrative regulations necessary to properly carry out its  
13          duties; and

14 (b) ~~[Shall promulgate administrative regulations establishing a procedure for~~  
15          ~~elections officials to follow when an election has been suspended or delayed~~  
16          ~~as described in KRS 39A.100; and~~

17 ~~(c)~~ Shall be prohibited from accepting any private monetary funds for election  
18          administration unless accepted as a part of a valid contract for goods and  
19          services.

20 (2) The State Board of Elections shall consist of the following:

21 (a) The Secretary of State, who shall be:

22          1. A nonvoting member, except in cases of casting a determinative vote, if  
23          a vote taken by the board would otherwise result in a tie;

24          2. The chief election official for the Commonwealth; and

25          3. The chair of the board who shall preside at the meetings of the board;

26 (b) Two (2) voting members appointed by the Governor as provided in subsection  
27          (5) of this section;

- 1 (c) Six (6) voting members appointed by the Governor as provided in subsection  
2 (4) of this section; and
- 3 (d) An executive director appointed in accordance with KRS 117.025 who is a  
4 nonvoting member.
- 5 (3) The appointed members shall serve for a term of four (4) years or until their  
6 successors are appointed. Members shall be at least twenty-five (25) years of age  
7 and qualified voters of this state. No appointed member shall be a candidate for  
8 public office or have been a candidate for public office for two (2) years prior to his  
9 or her appointment, except as provided in subsection (2)(b) of this section. No  
10 member of the board shall have been convicted of any election law offense.
- 11 (4) Two (2) members shall be appointed by the Governor from a separate list of at least  
12 five (5) names submitted by the state central executive committee of each of the  
13 two (2) political parties that polled the largest vote in the last preceding election for  
14 state officials. The list shall be submitted to the Governor by February 15 of 1992,  
15 and the appointments of the Governor shall be made by April 1 of the same year.  
16 Two (2) separate lists shall be submitted to the Governor by August 15 of 1990 and  
17 every four (4) years thereafter, and two (2) appointments shall be made from these  
18 lists by September 15 of each year in which the lists are received.
- 19 (5) Two (2) members shall be appointed by the Governor from a separate list of at least  
20 four (4) names submitted by the Kentucky County Clerk's Association of each of  
21 the two (2) political parties that polled the largest vote in the last preceding regular  
22 election for state officials. Each of the two (2) members appointed under this  
23 subsection shall be former county clerks. The lists required under this subsection  
24 shall be submitted to the Governor by July 15, 2019, and every four (4) years  
25 thereafter. The appointments made by the Governor under this subsection shall be  
26 made by August 15, 2019, and every four (4) years thereafter.
- 27 (6) Vacancies shall be filled in the same manner as provided for original appointments,

1 and the person appointed to fill the vacancy shall be of the same political party as  
2 his or her predecessor.

3 (7) The board shall meet as often as necessary to carry out its duties and shall keep a  
4 record of its acts, orders, findings, and proceedings. A majority of the board shall  
5 constitute a quorum.

6 (8) The members of the board shall be paid a reasonable sum to be fixed by the  
7 secretary of the Personnel Cabinet, with the approval of the secretary of the Finance  
8 and Administration Cabinet, and in addition, their expenses in attending board  
9 meetings. The compensation shall be paid out of the State Treasury upon requisition  
10 signed by the chair of the board and approved by the secretary of the Finance and  
11 Administration Cabinet.

12 ➔Section 3. KRS 117.345 is amended to read as follows:

13 (1) The cost of all elections held in any county shall be allowed by the fiscal court or  
14 legislative body of any urban-county government, charter county, consolidated  
15 local government, or unified local government and paid by the county treasurer,  
16 except as otherwise provided by law.

17 (2) When the cost of any election has been allowed by the fiscal court or legislative  
18 body of any urban-county government, charter county, consolidated local  
19 government, or unified local government and paid by the county treasurer, within  
20 sixty (60) days following the date of the election, the county treasurer shall certify a  
21 statement of the number of precincts in the county, the date, and kind of election to  
22 the State Board of Elections, ~~including an election that was delayed or postponed~~  
23 ~~in accordance with KRS 39A.100].~~ The certification shall be filed within ninety  
24 (90) days after the election. Upon receipt of the certification and upon being  
25 satisfied as to the correctness thereof, the State Board of Elections shall issue its  
26 warrant upon the State Treasurer in favor of the county treasurer for the amount of  
27 two hundred fifty-five dollars (\$255) for each precinct in the county.

1 (3) Payments to any county under the provisions of subsection (2) of this section shall  
2 be terminated if and whenever it fails to renew a lease, contract, or lease and option  
3 with the Finance and Administration Cabinet executed in connection with the  
4 acquisition of voting systems by the cabinet for the use of the county; and payments  
5 to any county shall be terminated whenever the county fails to pay any part of the  
6 rentals required for any effective period of the lease or if a county board of  
7 elections fails to provide training to precinct election officers required by KRS  
8 117.187(2). As used in this subsection, "county" includes urban-county  
9 government, charter county government, consolidated local government, and  
10 unified local government.

11 ➔Section 4. KRS 118.027 is amended to read as follows:

12 ~~[Except as required by KRS 39A.100 related to the emergency powers granted to the~~  
13 ~~Governor and Secretary of State as to the time and place for holding elections, ]No~~  
14 government official other than the General Assembly may suspend or revise any statute  
15 pertaining to elections.