

1 AN ACT relating to emergencies and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) Except as provided in subsection (2) of this section, an owner who either directly*  
6 *or indirectly invites or permits another person to enter the owner's premises while*  
7 *a declared emergency affecting the premises remains in effect or continues, does*  
8 *not:*

9 *(a) Extend any assurance that the premises are safe from any risk of exposure*  
10 *to conditions caused by the declared emergency;*

11 *(b) Owe a duty to protect from or warn about any risk related to the declared*  
12 *emergency; or*

13 *(c) Assume responsibility, or incur liability, for any alleged injury, loss, or*  
14 *damage to persons or property related to the conditions that are the subject*  
15 *of, or caused by, the declared emergency.*

16 *(2) Nothing in this section limits any liability of an owner for wanton, willful,*  
17 *malicious, grossly negligent, or intentional failure to adhere to executive actions*  
18 *while the declared emergency continues.*

19 *(3) Nothing in this section shall:*

20 *(a) Create a duty of care or ground of liability for injury to persons or property;*

21 *(b) Relieve any person entering a premise from any obligation that he or she*  
22 *may have in the absence of this section to exercise care in his or her use of*  
23 *the premises, or from the legal consequences of the failure to employ such*  
24 *care;*

25 *(c) Affect the right of persons to receive benefits to which he or she would*  
26 *otherwise be entitled under KRS Chapter 342, nor does it affect the*  
27 *exclusive application of that chapter; or*

- 1        (d) Affect the applicability of KRS Chapter 338.
- 2        (4) Any liability claim for personal injury made against an owner during a declared  
 3        emergency and related to the emergency shall be brought within the time set out  
 4        in KRS 413.140 if it is a claim for personal injury. Such claim shall be deemed to  
 5        have accrued at the time the injury is first discovered, or in the exercise of  
 6        reasonable care should have been discovered. The right to compensation for any  
 7        personal injury related to a declared emergency covered by this section shall be  
 8        forever barred unless the action is filed within two (2) years after the injury is  
 9        first discovered, or in the exercise of reasonable care should have been  
 10       discovered.

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

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

- 13       (1) "Adjutant General" means the executive head of the Department of Military Affairs  
 14       vested with general direction and control authority for the department and the  
 15       division of emergency management;
- 16       (2) "Catastrophe" means a disaster or series of concurrent disasters which adversely  
 17       affect the entire Commonwealth of Kentucky or a major geographical portion  
 18       thereof;
- 19       (3) "Chief executive officer" means a:
- 20       (a) County judge/executive of a county;
- 21       (b) Mayor of a consolidated local government;
- 22       (c) Mayor of an urban-county government;
- 23       (d) Chief executive officer of a charter county government;
- 24       (e) Chief executive officer of a unified local government; or
- 25       (f) Mayor of a city;
- 26       (4) "Comprehensive emergency management program" means the public safety  
 27       program developed, organized, implemented, administered, maintained, and

- 1 coordinated by the Division of Emergency Management and local emergency  
2 management agencies created pursuant to the provisions of KRS Chapters 39A to  
3 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency,  
4 declared emergency, disaster, or catastrophe, or threat of any of those, as  
5 contemplated in KRS 39A.010 or as defined in this section;
- 6 (5) "Coordination" means having and exercising primary state or local executive branch  
7 oversight for the purpose of organizing, planning, and implementing;
- 8 (6) "County" means a county, urban-county government, charter county government,  
9 consolidated local government, or unified local government;
- 10 (7) "Declared emergency" means any incident or situation declared to be an emergency,  
11 disaster, or catastrophe by executive order of the Governor, or a county  
12 judge/executive, or a mayor, or the chief executive of other local governments in the  
13 Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;
- 14 (8) "Director" means the director of the Division of Emergency Management of the  
15 Department of Military Affairs;
- 16 (9) "Disaster" means any incident or situation declared as such by executive  
17 action~~order~~ of the Governor, or the President of the United States, pursuant to  
18 federal law;
- 19 (10) "Disaster and emergency response" means the performance of all emergency  
20 functions, other than war-related functions for which military forces are primarily  
21 responsible, including, but not limited to: direction and control, incident command,  
22 or management; communications; fire protection services; police services; medical  
23 and health services; ambulance services; rescue; search and rescue or recovery;  
24 urban search and rescue; engineering; alerting and warning services; resource  
25 management; public works services; nuclear, chemical, biological, or other  
26 hazardous material or substance monitoring, containment, decontamination,  
27 neutralization, and disposal; emergency worker protection, site safety, site

1 operations and response planning; evacuation of persons; emergency welfare  
2 services; emergency transportation; physical plant protection; temporary restoration  
3 of public utility services; emergency lighting and power services; emergency public  
4 information; incident investigation, hazards analysis, and damage assessment; and  
5 other functions related to effective reaction to a disaster or emergency or  
6 catastrophe, or the potential, threatened, or impending threat of any disaster or  
7 emergency or catastrophe, together with all other activities necessary or incidental  
8 to the preparation for and carrying out of the functions set out in this subsection;

9 (11) "Division" means the Division of Emergency Management of the Department of  
10 Military Affairs;

11 (12) "Emergency" means any incident or situation which poses a major threat to public  
12 safety so as to cause, or threaten to cause, loss of life, serious injury, significant  
13 damage to property, or major harm to public health or the environment and which a  
14 local emergency response agency determines is beyond its capabilities;

15 (13) "Essential services" means any service offered or provided by any person,  
16 business, public or private service provider, retailer, wholesaler, or political  
17 subdivision that, depending on the nature of the declared emergency:

18 (a) Remains open and operating in order to protect the life and health of  
19 Kentucky citizens;

20 (b) Is engaged in conduct, business, or activity that otherwise constitutes a  
21 critical infrastructure sector as determined by the United States Department  
22 of Homeland Security's Cybersecurity and Infrastructure Security Agency,  
23 or its successor; or

24 (c) Is charged with responsibility for a governmental function related to a  
25 declared emergency;

26 (14) (a) "Executive action" means:

27 1. All orders and guidelines related to a declared emergency issued by

1 the Governor or any state agency, the President of the United States or  
 2 any federal agency, or a local governmental agency; and

3 2. Industry-specific guidelines adopted by a state agency that govern the  
 4 industry; and

5 (b) "Executive action":

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

8 2. Does not create a duty of care;

9 (15) "Health care provider" means:

10 (a) Any health facility as defined in KRS 216B.015;

11 (b) Any person or entity providing health care or health services, including  
 12 those licensed, certified, or registered under, or subject to, KRS 194A.700 to  
 13 194A.729 or KRS Chapters 310, 311, 311A, 311B, 312, 313, 314, 314A, 315,  
 14 319, 319A, 319B, 319C, 320, 327, 333, 334A, or 335;

15 (c) The current and former employers, officers, directors, administrators,  
 16 agents, or employees of those entities listed in paragraphs (a) and (b) of this  
 17 subsection; or

18 (d) Any person acting within the course and scope of his or her office,  
 19 employment, or agency relating to a health care provider;

20 (16) "Integrated emergency management system" means the unified and  
 21 multidisciplinary disaster and emergency response infrastructure developed in the  
 22 Commonwealth, under the coordination of the division, using methods which align  
 23 state or local administrative, organizational, and operational resources, to  
 24 accomplish the mission, goals, and objectives of the comprehensive emergency  
 25 management program of the Commonwealth;

26 (17)~~(14)~~ "Local disaster and emergency services organization" means that organization  
 27 of public and private entities developed to carry out the multiagency disaster and

1 emergency response of a city, county, urban-county or charter county pursuant to  
2 KRS Chapters 39A to 39F;

3 ~~(18)~~~~(15)~~ "Local emergency management agency" means the agency created, operated,  
4 and maintained to coordinate the local comprehensive emergency management  
5 program and disaster and emergency response of a city, county, and urban-county or  
6 charter county government pursuant to KRS Chapters 39A to 39F;

7 ~~(19)~~~~(16)~~ "Local emergency management director" or "Local director" means the  
8 executive head of the local emergency management agency, appointed pursuant to  
9 the provisions of KRS Chapters 39A to 39F;

10 (20) "Owner" means:

11 (a) The possessor of a fee simple, reversionary, or easement interest, a tenant,  
12 lessee, occupant, or person in control of a premise, and his or her  
13 employees and agents; or

14 (b) The possessor of an ownership interest, lessee, occupant, or person in  
15 control of an automobile, bus, train, boat, or aircraft, whether or not  
16 licensed as a common carrier or motor carrier, and his or her employees  
17 and agents;

18 (21) "Person" has the same meaning as in KRS 446.010, any other profit or nonprofit  
19 institution or legal entity, and any employer or employee;

20 (22) "Political subdivision" has the same meaning as "governmental entity" in KRS  
21 341.069;

22 (23) "Premises" means:

23 (a) Private or public roads, walking or cycling paths, sidewalks, hiking or  
24 multi-use trails, watercourses, or water ways;

25 (b) Buildings and structures, including houses of worship, schools, homes,  
26 parks, restaurants, shops, stadiums, arenas, gyms, medical facilities, long-  
27 term care facilities, retail facilities, and facilities in which individuals

- 1                    **charged with or convicted of a crime are incarcerated;**  
 2                    **(c) Aircraft, automobiles, trains, buses, watercraft, whether or not licensed as a**  
 3                    **common carrier or motor carrier; or**  
 4                    **(d) Any other location where members of the public may engage in personal,**  
 5                    **commercial, social, religious, or other activities;**

6 ~~(24)~~~~(17)~~ "State emergency management agency" means the Division of Emergency  
 7 Management of the Department of Military Affairs; and

8 ~~(25)~~~~(18)~~ "State emergency management director" means the director of the Division of  
 9 Emergency Management.

10                    ➔Section 3. KRS 39A.070 is amended to read as follows:

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

- 13 (1) To represent the Governor on all matters pertaining to the comprehensive  
 14 emergency management program and the disaster and emergency response of the  
 15 Commonwealth;
- 16 (2) To coordinate the development of a statewide comprehensive emergency  
 17 management program, and through it, an integrated emergency management system  
 18 for the disaster and emergency response of the Commonwealth;
- 19 (3) To promulgate administrative regulations and issue orders, directives, standards,  
 20 rules, procedures, guidance, or recommended practices necessary to coordinate the  
 21 development, administration, organization, operation, implementation, and  
 22 maintenance of the statewide comprehensive emergency management program and  
 23 the integrated emergency management system of the Commonwealth;
- 24 (4) To coordinate the development of comprehensive emergency management  
 25 programs by the cities, counties, and urban-county or charter county governments as  
 26 functional components of the integrated emergency management system of the  
 27 Commonwealth;

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



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

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

1 or control and mobilization of disaster and emergency response forces; tests and  
2 exercises, warnings, and signals for drills or other emergency response activities  
3 and the mechanical devices to be used in connection with these; the shutting off of  
4 water mains, gas mains, electric power connections, and the suspension of all other  
5 utility services; the conduct of civilians and the movement and cessation of  
6 movement of pedestrians and vehicular traffic during, prior, and subsequent to a  
7 drill, emergency, declared emergency, or disaster; public meetings or gatherings;  
8 and the evacuation and sheltering of the civilian population; and

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

11 ➔Section 4. KRS 39A.090 is amended to read as follows:

12 The Governor may make, amend, and rescind any executive action~~[orders]~~ as deemed  
13 necessary to carry out the provisions of KRS Chapters 39A to 39F.

14 ➔Section 5. KRS 39A.280 is amended to read as follows:

15 (1) Disaster and emergency response functions provided by a state or local emergency  
16 management agency, or any emergency management agency-supervised operating  
17 units or personnel officially affiliated with a local disaster and emergency services  
18 organization pursuant to KRS 39B.070, shall not, in itself, be deemed to be the  
19 making of a promise, or the undertaking of a special duty, towards any person for  
20 the services, or any particular level of, or manner of providing, the services; nor  
21 shall the provision of or failure to provide these services be deemed to create a  
22 special relationship or duty towards any person upon which an action in negligence  
23 or other tort might be founded. Specifically:

24 (a) The failure to respond to a disaster or other emergency, or to undertake  
25 particular inspections or types of inspections, or to maintain any particular  
26 level of personnel, equipment, or facilities, shall not be a breach of any duty to  
27 persons affected by any disaster or other emergency.

- 1 (b) When a state or local emergency management agency, or local emergency  
2 management agency-supervised operating unit officially affiliated with a local  
3 disaster and emergency services organization, does undertake to respond to a  
4 disaster or other emergency, the failure to provide the same level or manner of  
5 service, or equivalent availability or allocation of resources as may or could be  
6 provided, shall not be a breach of any duty to persons affected by that disaster  
7 or other emergency.
- 8 (c) A state or local emergency management agency, or local emergency  
9 management agency-supervised operating unit officially affiliated with a local  
10 disaster and emergency services organization shall not have or assume any  
11 duty towards any person to adopt, use, or avoid any particular strategy or  
12 tactic in responding to a disaster or other emergency.
- 13 (d) A state or local emergency management agency, or local emergency  
14 management agency-supervised operating unit officially affiliated with a local  
15 disaster and emergency services organization, in undertaking disaster and  
16 emergency preparedness or prevention activities including inspections, or in  
17 undertaking to respond to a disaster or other emergency, shall not have  
18 voluntarily assumed any special duty with respect to any risks which were not  
19 created or caused by it, nor with respect to any risks which might have existed  
20 even in the absence of that activity or response, nor shall any person have a  
21 right to rely on such an assumption of duty.
- 22 (2) Neither the state nor any political subdivision of the state, nor the agents or  
23 representatives of the state or any of its political subdivisions, shall be liable for  
24 personal injury or property damage sustained by any person appointed or acting as a  
25 volunteer emergency management agency member, or disaster and emergency  
26 services member, or disaster and emergency response worker, or member of any  
27 agency engaged in any emergency management or disaster and emergency services

1 or disaster and emergency response activity. ~~{The immunity provided by this~~  
2 ~~subsection shall not apply to the extent that the state, a political subdivision of the~~  
3 ~~state, or a person or organization maintains liability insurance or self insurance for~~  
4 ~~an act or omission covered by this subsection. To the extent that the state, a political~~  
5 ~~subdivision of the state, or a person or an organization maintains liability insurance~~  
6 ~~or self insurance, sovereign immunity shall not be claimed with regard to an act or~~  
7 ~~omission covered by this subsection.}~~ This immunity shall not affect the right of any  
8 person to receive benefits or compensation to which the person might otherwise be  
9 entitled under the Workers' Compensation Law, or this chapter, or any pension law,  
10 or any Act of Congress.

11 (3) Subject to subsection (6) of this section, neither the state nor any political  
12 subdivision of the state nor, except in cases of **wanton, willful, malicious, grossly**  
13 **negligent, or intentional**~~{willful}~~ misconduct, ~~{gross negligence, or bad faith,}~~ the  
14 employees, agents, or representatives of the state or any of its political divisions, nor  
15 any volunteer or auxiliary emergency management agency or disaster and  
16 emergency services organization member or disaster and emergency response  
17 worker or member of any agency engaged in any emergency management or  
18 disaster and emergency services or disaster and emergency response activity,  
19 complying with or reasonably attempting to comply with this chapter or any  
20 **executive action**~~{order}~~ or administrative regulation promulgated pursuant to the  
21 provisions of this chapter, or other ~~{precautionary}~~ measures enacted by any city  
22 **or**~~{of}~~ the state, shall be liable for the death of or injury to persons, or for damage to  
23 property, as a result of that activity.~~{The immunity provided by this subsection~~  
24 ~~shall not apply to the extent that the state, a political subdivision of the state, or a~~  
25 ~~person or organization maintains liability insurance or self insurance for an act or~~  
26 ~~omission covered by this subsection. To the extent that the state, a political~~  
27 ~~subdivision of the state, or a person or an organization maintains liability insurance~~

1 ~~or self insurance, sovereign immunity shall not be claimed with regard to an act or~~  
2 ~~omission covered by this subsection.]~~

3 (4) Decisions of the director, his subordinates or employees, a local emergency  
4 management director, or the local director's subordinates or employees, a rescue  
5 chief or the chief's subordinates, concerning the allocation and assignment of  
6 personnel and equipment, and the strategies and tactics used, shall be the exercise of  
7 a discretionary, policy function for which neither the officer nor the state, county,  
8 urban-county, charter county, or city, or local emergency management agency-  
9 supervised operating unit formally affiliated with a local disaster and emergency  
10 services organization, shall be held liable in the absence of wanton, willful,  
11 malicious, grossly negligent, or intentional misconduct ~~[malice or bad faith]~~, even  
12 when those decisions are made rapidly in response to the exigencies of an  
13 emergency.

14 (5) Any person owning or controlling real estate or other premises who ~~[voluntarily and~~  
15 ~~without compensation]~~ grants a license or privilege, or otherwise permits the  
16 designation or use of the whole or any part of the real estate or premises for the  
17 purpose of sheltering persons during an actual, impending, mock, or practice  
18 disaster or emergency, together with his or her successors in interest, shall not be  
19 civilly liable for negligently causing the death of, or injury to, any person on or  
20 about the real estate or premises for loss of, or damage to, the property of that  
21 person. ~~[The immunity provided by this subsection shall not apply to the extent that~~  
22 ~~the state, a political subdivision of the state, or a person or organization maintains~~  
23 ~~liability insurance or self insurance for an act or omission covered by this~~  
24 ~~subsection. To the extent that the state, a political subdivision of the state, or a~~  
25 ~~person or organization maintains liability insurance or self insurance, sovereign~~  
26 ~~immunity shall not be claimed with regard to an act or omission covered by this~~  
27 ~~subsection.]~~

- 1 (6) Subsection (3) of this section shall apply to a volunteer or auxiliary disaster and  
2 emergency response worker **if the worker is enrolled or registered under KRS**  
3 **39A.356,** ~~only if the volunteer or worker is enrolled or registered with a local~~  
4 ~~disaster and emergency services organization~~ or with the **political**  
5 **subdivision**~~[division]~~ in accordance with the **political subdivision's**~~[division's]~~  
6 administrative regulations **and as provided in KRS 39F.020.**
- 7 (7) While engaged in disaster and emergency response activity, volunteers and auxiliary  
8 disaster and emergency response workers enrolled or registered with a local disaster  
9 and emergency service organization or with the division in accordance with  
10 subsection (6) of this section shall have the same degree of responsibility for their  
11 actions and enjoy the same immunities as officers and employees of the state and its  
12 political subdivisions performing similar work, including the provisions of KRS  
13 12.211, 12.212, and 12.215, allowing the Attorney General to provide defense of  
14 any civil action brought against a volunteer enrolled or registered~~[with a local~~  
15 ~~disaster or emergency service organization or with the division]~~ due to an act or  
16 omission made in the scope and course of a disaster and emergency response  
17 activity.
- 18 (8) (a) ~~[Notwithstanding subsections (3) and (6) of this section, ]~~A licensed  
19 professional engineer as defined in KRS 322.010 or an architect licensed  
20 under KRS Chapter 323, who ~~[voluntarily and without compensation~~  
21 ~~]provides architectural, structural, electrical, mechanical, or other professional~~  
22 services at the scene of a declared emergency, disaster, or catastrophe, shall  
23 not be liable for any personal injury, wrongful death, property damage, or  
24 other loss of any nature related to the licensed professional engineer's or  
25 licensed architect's acts, errors, or omissions in the performance of the  
26 services carried out:
- 27 1. At the request of or with the approval of a federal, state, or local:

- 1 a. Emergency management agency official with executive  
2 responsibility in the jurisdiction to coordinate disaster and  
3 emergency response activity;
- 4 b. Fire chief or his or her designee; or
- 5 c. Building inspection official;
- 6 whom the licensed professional engineer or licensed architect believes to  
7 be acting in an official capacity;
- 8 2. Within ninety (90) days following the end of the period for the declared  
9 emergency, disaster, or catastrophe, unless extended by the Governor or  
10 General Assembly under KRS 39A.100; and
- 11 3. If the professional services arose out of the declared emergency, disaster,  
12 or catastrophe and if the licensed professional engineer or licensed  
13 architect acted as an ordinary reasonably prudent member of the  
14 profession would have acted under the same or similar circumstances.
- 15 (b) Nothing in this subsection shall provide immunity for wanton, willful, grossly  
16 negligent, or intentional misconduct.
- 17 **(9) Those persons providing essential services related to, or impacted by, a declared**  
18 **emergency during the period from when an emergency is declared until one (1)**  
19 **year after the emergency declaration is withdrawn, revoked, or lapses, shall not,**  
20 **except in cases of willful, grossly negligent, or intentional misconduct, be liable**  
21 **for an act or omission related to the provision of an essential service that results**  
22 **in:**
- 23 **(a) The death of or injury to an individual;**
- 24 **(b) Damage to property; or**
- 25 **(c) Any other harm or injury alleged to have resulted from, or that is related to,**  
26 **in whole or in part, the facilities, premises, or work of an essential services**  
27 **provider or changes in the medical, manufacturing, or educational**



1                   *environment made in response to a declared emergency.*

2                   *(10) All decisions made by an essential service provider in carrying out executive*  
3                   *actions shall be considered discretionary.*

4                   *(11) Nothing in KRS Chapters 39A to 39F amends, repeals, or alters any immunity,*  
5                   *defense, limitation of liability, or procedure available or required under any other*  
6                   *law or contract.*

7                   ➔Section 6. Whereas the need for the citizens of Kentucky who are providing  
8 essential services during the SARS-COV-2 virus pandemic, or who are taking precautions  
9 to protect and rehabilitate the Kentucky economy, to immediately be protected from  
10 unnecessary legal action is a compelling and immediate requirement, an emergency is  
11 declared to exist, and this Act takes effect upon its passage and approval by the Governor  
12 or upon its otherwise becoming a law.

13                   ➔Section 7. Whereas Sections 1, 2, and 5 of this Act provide liability protection  
14 and immunity and set forth the legal requirements for bringing suit against any owner or  
15 person providing essential services during an emergency, disaster, or catastrophe, and  
16 whereas the SARS-COV-2 virus pandemic appeared in Kentucky in early March 2020,  
17 leading to executive actions that altered the relationships and interactions among  
18 members of the public beginning with the declaration of an emergency on March 6, 2020,  
19 Sections 1, 2, and 5 of this Act shall be retroactive to March 6, 2020.

20                   ➔Section 8. It is the intent of the General Assembly that if any part of this Act be  
21 held unconstitutional, the remaining parts shall remain in force.