

39A.010 Legislative intent -- Necessity.

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

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

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 1, effective July 15, 1998.

39A.015 Definitions and chapter provisions applicable to KRS Chapters 39B to 39F.

The definitions and other provisions of this chapter shall apply to this chapter and to KRS Chapters 39B, 39C, 39D, 39E, and 39F unless the language or context of a particular statute requires otherwise.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 28, effective July 15, 1998.

39A.020 Definitions for KRS Chapters 39A to 39F.

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

- (1) "Adjutant General" means the executive head of the Department of Military Affairs vested with general direction and control authority for the department and the division of emergency management;
- (2) "Catastrophe" means a disaster or series of concurrent disasters which adversely affect the entire Commonwealth of Kentucky or a major geographical portion thereof;
- (3) "Chief executive officer" means a:
 - (a) County judge/executive of a county;
 - (b) Mayor of a consolidated local government;
 - (c) Mayor of an urban-county government;
 - (d) Chief executive officer of a charter county government;
 - (e) Chief executive officer of a unified local government; or
 - (f) Mayor of a city;
- (4) "Comprehensive emergency management program" means the public safety program developed, organized, implemented, administered, maintained, and coordinated by the Division of Emergency Management and local emergency management agencies created pursuant to the provisions of KRS Chapters 39A to 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency, declared emergency, disaster, or catastrophe, or threat of any of those, as contemplated in KRS 39A.010 or as defined in this section;
- (5) "Coordination" means having and exercising primary state or local executive branch oversight for the purpose of organizing, planning, and implementing;
- (6) "County" means a county, urban-county government, charter county government, consolidated local government, or unified local government;
- (7) "Declared emergency" means any incident or situation declared to be an emergency by executive order of the Governor, or a county judge/executive, or a mayor, or the chief executive of other local governments in the Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;
- (8) "Director" means the director of the Division of Emergency Management of the Department of Military Affairs;
- (9) "Disaster" means any incident or situation declared as such by executive order of the Governor, or the President of the United States, pursuant to federal law;
- (10) "Disaster and emergency response" means the performance of all emergency functions, other than war-related functions for which military forces are primarily responsible, including, but not limited to: direction and control, incident command, or management; communications; fire protection services; police services; medical and health services; ambulance services; rescue; search and rescue or recovery; urban search and rescue; engineering; alerting and warning services; resource management; public works services; nuclear, chemical, biological, or other

hazardous material or substance monitoring, containment, decontamination, neutralization, and disposal; emergency worker protection, site safety, site operations and response planning; evacuation of persons; emergency welfare services; emergency transportation; physical plant protection; temporary restoration of public utility services; emergency lighting and power services; emergency public information; incident investigation, hazards analysis, and damage assessment; and other functions related to effective reaction to a disaster or emergency or catastrophe, or the potential, threatened, or impending threat of any disaster or emergency or catastrophe, together with all other activities necessary or incidental to the preparation for and carrying out of the functions set out in this subsection;

- (11) "Division" means the Division of Emergency Management of the Department of Military Affairs;
- (12) "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its capabilities;
- (13) "Integrated emergency management system" means the unified and multidisciplinary disaster and emergency response infrastructure developed in the Commonwealth, under the coordination of the division, using methods which align state or local administrative, organizational, and operational resources, to accomplish the mission, goals, and objectives of the comprehensive emergency management program of the Commonwealth;
- (14) "Local disaster and emergency services organization" means that organization of public and private entities developed to carry out the multiagency disaster and emergency response of a city, county, urban-county or charter county pursuant to KRS Chapters 39A to 39F;
- (15) "Local emergency management agency" means the agency created, operated, and maintained to coordinate the local comprehensive emergency management program and disaster and emergency response of a city, county, and urban-county or charter county government pursuant to KRS Chapters 39A to 39F;
- (16) "Local emergency management director" or "Local director" means the executive head of the local emergency management agency, appointed pursuant to the provisions of KRS Chapters 39A to 39F;
- (17) "State emergency management agency" means the Division of Emergency Management of the Department of Military Affairs; and
- (18) "State emergency management director" means the director of the Division of Emergency Management.

Effective: July 15, 2014

History: Amended 2014 Ky. Acts ch. 99, sec. 2, effective July 15, 2014. -- Created 1998 Ky. Acts ch. 226, sec. 2, effective July 15, 1998.

39A.030 Rationale and purpose of program -- Division of Emergency Management.

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

- (1) A Division of Emergency Management is hereby created as the emergency management agency of state government which shall develop the comprehensive emergency management program of the Commonwealth on behalf of the Governor, and in consultation with the cabinet secretaries of state government, other appropriate state agency heads, local elected chief executives, local emergency management directors, and local emergency planning committees, for the purpose of developing and enhancing comprehensive emergency management program policies, plans, or procedures to provide for a coordinated responsive, and integrated emergency management system in the Commonwealth;
- (2) The division may accept on behalf of the Commonwealth any grant, contribution, or fund, federal or otherwise, made to assist in meeting the costs of carrying out the provisions and purposes of KRS Chapters 39A to 39F, and fully comply with all funding requirements imposed by the receipt and use of the grant, contribution, or fund; and
- (3) The term "Division of Emergency Management" shall constitute and designate the official name of the emergency management agency of state government created pursuant to subsection (1) of this section and "Division of Emergency Management," in the exact order or form as specified in this subsection, shall not be utilized by or assigned to any other agency of state or local government, or other state or local entity, or any political subdivision of the Commonwealth to constitute or designate the official name of any such agency, entity, or political subdivision.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 3, effective July 15, 1998.

39A.040 Administrative bodies attached to division.

The following administrative bodies shall be attached to the division for administrative purposes:

- (1) Governor's Earthquake Hazards and Safety Technical Advisory Panel; and
- (2) Kentucky Emergency Response Commission.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 4, effective July 15, 1998.

39A.050 Responsibility of division for coordinating disaster and emergency services -- Powers, authorities, and duties.

- (1) The Division of Emergency Management shall coordinate for the Governor all matters pertaining to the comprehensive emergency management program and disaster and emergency response of the Commonwealth. The division shall be the executive branch agency of state government having primary jurisdiction, responsibility, and authority for the planning and execution of disaster and emergency assessment, mitigation, preparedness, response, and recovery for the Commonwealth; the coordination of all disaster and emergency response by and between all state agencies, all agencies of city, county, and urban-county or charter county government, all local entities, and all political subdivisions of the Commonwealth for an emergency, declared emergency, disaster, or catastrophe as contemplated in KRS 39A.010, 39A.020, or 39A.030; the coordination of, and liaison with, related or concerned federal government agencies, elected officials of other states, private organizations or private sector companies dealing with disaster and emergency response; the coordination of all recovery operations and mitigation initiatives subsequent to disasters or emergencies; and the coordination of all public information activities regarding state government disaster and emergency response operations.
- (2) The Division of Emergency Management shall have and exercise the following powers, authorities, and duties:
 - (a) To develop, administer, and maintain a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system for the disaster and emergency response of the Commonwealth, which shall be coordinated with the emergency management programs, and other related public safety, emergency response, mitigation, or disaster recovery programs, of all appropriate federal government agencies including the Federal Emergency Management Agency, the federal Department of Homeland Security, the State Department, the Federal Aviation Administration, the Centers for Disease Control and Prevention, the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the National Transportation Safety Board, the Chemical Safety and Hazard Investigation Board, the Army Corps of Engineers, the National Security Council, the Department of Health and Human Services, the Federal Railroad Administration, the United States Geological Survey, the Department of Energy, the Nuclear Regulatory Commission, the Department of Agriculture, the Department of Housing and Urban Development, the American Red Cross, the other states, and other appropriate public or private agencies, to the fullest appropriate extent;
 - (b) To coordinate the development, implementation, and maintenance of comprehensive emergency management programs by local emergency

management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth to ensure that all such programs, agencies, and organizations are organized, administered, and operated as functional components of the integrated emergency management system of the Commonwealth;

- (c) To develop and maintain a comprehensive, risk-based, all-hazards disaster and emergency response plan entitled "Kentucky Emergency Operations Plan," the provisions of which shall establish the organizational structure to be utilized by state government for managing disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination and execution of all disaster and emergency response for an emergency, declared emergency, disaster, or catastrophe in the Commonwealth. The Kentucky Emergency Operations Plan shall be submitted to the Governor for approval when the Governor assumes office following each gubernatorial election, or at other times as the director deems appropriate. The Governor shall provide written approval of the Kentucky Emergency Operations Plan through issuance of an executive order, and the division shall file a copy of the executive order with the Legislative Research Commission. The Kentucky Emergency Operations Plan shall be the primary strategic disaster and emergency response planning component of the integrated emergency management system of the Commonwealth, and shall be utilized and followed by all state agencies, all local government agencies, all local public agencies or entities, and all other political subdivisions of the Commonwealth which may be involved in disaster and emergency response in the Commonwealth. The Kentucky Emergency Operations Plan shall be updated by the division not less than annually;
- (d) To maintain and operate the State Emergency Operations Center facility, which shall be the official and primary state government twenty-four (24) hour warning point, communications, and command center, from which the Governor, cabinet secretaries, department heads, and other state agency officials can, at any time, rapidly, adequately, and effectively manage the disaster and emergency response of the Commonwealth. The State Emergency Operations Center facility shall be the primary state direction and control component of the integrated emergency management system of the Commonwealth for the coordination of all disaster and emergency response in the Commonwealth;
- (e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis, the appropriate alerting or warning systems, public safety telecommunications systems, or radio networks; any state trunked, fiber, or interactive communication systems; computer, fax, other telecommunications or information networks; and systems needed for communication and coordination with all necessary or appropriate federal, state, or local public safety, law enforcement, emergency management, or other disaster and emergency response agencies, and state or local dispatch centers in the Commonwealth, and other appropriate interests, and through these agencies

and systems to receive or disseminate emergency information, or to receive timely notification of, and continual assessment of, all threatened or actual emergency incidents or disaster situations occurring anywhere in or near the Commonwealth;

- (f) To immediately notify the Governor, the adjutant general, and the executive director of the Kentucky Office of Homeland Security, or his or her designee, in the event of any major emergency incidents or disaster occurrences, or the threatened or impending occurrence of any of these events, and to keep the Governor, the adjutant general, and the executive director of the Kentucky Office of Homeland Security, or his or her designee, informed of all actions being taken in response to these events;
- (g) To respond to the scenes of emergencies or disasters, or their threatened or impending occurrence and to directly and immediately investigate, analyze, and assess the nature and seriousness of these situations; to convene meetings, gather information, conduct briefings, and evaluate ongoing emergency response activities; take actions to execute the appropriate provisions of the Kentucky Emergency Operations Plan; coordinate the establishment and operation of a state incident management system; establish or manage sub-state or area emergency operations centers, or on-scene command posts; and fully expedite and coordinate the disaster and emergency response of the Commonwealth;
- (h) To establish and operate area field offices of the division, each office to be headed by an area manager, responsible for administering the policies, plans, programs, and duties of the division in specific geographic areas of the Commonwealth, including the coordination of comprehensive emergency management programs developed by the cities, counties, urban-county, or charter county governments in the areas;
- (i) To provide funds to the cities, counties, and urban-county or charter county governments of the Commonwealth to support the development, administration, operation, and maintenance of local emergency management agencies created pursuant to KRS Chapters 39A to 39F;
- (j) To require the regular submission of program administration data, records, materials, reports, or documents from local emergency management agencies as may be necessary and sufficient to conduct performance reviews and assessments to ensure compliance with all state or federal funding and program requirements, and to ensure local program compatibility and consistency with the mission, goals, and objectives of the comprehensive emergency management program and integrated emergency management system of the Commonwealth;
- (k) To ascertain the requirements of the Commonwealth and its cities and counties for emergency resources and the necessities of life in the event of disaster or emergency; institute an emergency resource management plan and procure emergency supplies, materials, and equipment; and use or employ in time of emergency any of the property, services, and resources of state or local

government in the Commonwealth for the purposes set forth in KRS Chapters 39A to 39F;

- (l) To institute public information and education programs, emergency management training programs, and exercise programs to test and evaluate emergency operations plans and disaster and emergency response and recovery capabilities; and
- (m) To promulgate administrative regulations to carry out the provisions of KRS Chapters 39A to 39F.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 193, sec. 5, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 82, sec. 3, effective March 28, 2002. -- Created 1998 Ky. Acts ch. 226, sec. 5, effective July 15, 1998.

39A.060 Nature and scope of comprehensive program -- Director under direction of adjutant general.

The General Assembly recognizes that the nature and scope of the activities necessary to develop and to administer a statewide comprehensive emergency management program, together with an integrated emergency management system requires the full support, cooperation, and active participation of all cabinets, departments, divisions, offices, or agencies of state government, local elected officials, local public agencies or entities, special districts, political subdivisions of the Commonwealth, volunteer organizations, individual citizens, and the private sector in this Commonwealth. To provide effective executive leadership for a program area of such broad scope and to ensure the professional administration of the comprehensive emergency management program and integrated emergency management system of the Commonwealth, the General Assembly declares:

- (1) The Division of Emergency Management shall be headed by a director recommended by the Adjutant General and appointed by the Governor; and
- (2) The director shall have the powers, rights, responsibilities, and authorities, as provided in KRS Chapters 39A to 39F, or other laws, and shall carry out all duties under the general direction of the Adjutant General of the Department of Military Affairs.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 6, effective July 15, 1998.

39A.070 Powers, responsibilities, and duties of director.

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

- (1) To represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the Commonwealth;
- (2) To coordinate the development of a statewide comprehensive emergency management program, and through it, an integrated emergency management system for the disaster and emergency response of the Commonwealth;
- (3) To promulgate administrative regulations and issue orders, directives, standards, rules, procedures, guidance, or recommended practices necessary to coordinate the development, administration, organization, operation, implementation, and maintenance of the statewide comprehensive emergency management program and the integrated emergency management system of the Commonwealth;
- (4) To coordinate the development of comprehensive emergency management programs by the cities, counties, and urban-county or charter county governments as functional components of the integrated emergency management system of the Commonwealth;
- (5) To supervise the development and maintenance of the Kentucky Emergency Operations Plan, and to review and give concurrence to local emergency operations plans required pursuant to KRS Chapters 39A to 39F;
- (6) To coordinate the comprehensive emergency management program of the Commonwealth with the emergency management or other emergency response-related programs of the federal government, and of other states, to the fullest appropriate extent;
- (7) To advise the Governor and the adjutant general immediately of the occurrence or threatened or impending occurrence of any disaster or emergency, and to recommend to the Governor any emergency actions, written orders, emergency powers, or executive orders that the Governor should execute;
- (8) To serve as the Governor's primary liaison with local officials in the event of the occurrence, or threatened or impending occurrence, of any disaster or emergency in the cities, counties, urban-counties, or charter counties of the Commonwealth;
- (9) To take any other preparedness or response actions deemed necessary for adequate response to a disaster or emergency situation to include: requesting increased readiness activities by state or local agencies in advance of an actual disaster or emergency; requesting implementation of local emergency operations plans or the activation of local emergency operations centers; requesting reports from state or local agencies regarding emergency situations, damage assessments, or the taking of emergency response actions; and requesting the mobilization or deployment of any trained and equipped forces of state or local government for the disaster and emergency response purposes set forth in KRS Chapters 39A to 39F;
- (10) To request and utilize the personnel, equipment, services, and facilities of existing officers and agencies of the Commonwealth and of all political subdivisions and

special districts. All these officers and agencies shall fully cooperate with and extend their resources to the director as requested to the extent that local public safety is not unreasonably compromised;

- (11) To employ measures and give directions to the state or local boards of health as necessary for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or with the findings or recommendations of the boards of health, because of conditions arising from disasters, emergency situations, national security emergencies, or the threat thereof;
- (12) To request and utilize the services of state and local law enforcement officers for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or any order of the Governor pertaining to disaster and emergency response;
- (13) On behalf of this Commonwealth, with the approval of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide, local, county, or city basis, or with other states or a province of a foreign country. The mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; National Guard personnel and resources while under the control of the state; health, medical, and related services; firefighting; rescue; search and rescue or recovery; urban search and rescue; hazardous materials response services, transportation and construction services and equipment; personnel necessary to provide or conduct these services and other supplies, equipment, facilities, personnel, and services as needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, search and rescue, and police units, and health units; and on the terms and conditions deemed necessary;
- (14) To sponsor and develop mutual aid plans and agreements among the urban-county or charter county governments, counties, cities, and other political subdivisions and special districts of the Commonwealth, similar to the mutual aid arrangements with other states referred to in subsection (13) of this section;
- (15) To procure motor vehicles, radio and telecommunications equipment, protective clothing, safety equipment, and other necessary supplies and materials to meet the emergency response, operational, and administrative needs of the division;
- (16) To identify deficiencies existing in the emergency management program organization, facilities, and capabilities of the Commonwealth, including but not limited to: personnel and administrative resources; state, sub-state, area, or local emergency operations centers; mobile command posts; emergency telecommunications and computer systems; alerting and warning systems; stockpiles of critical resources; or any other necessary elements, and to recommend to the adjutant general, for consideration by the Governor or the General Assembly or other appropriate funding authority, the administrative or operational funding requirements, and long-range capital construction or improvement projects needed to meet the emergency management infrastructure needs of the Commonwealth;
- (17) To serve as the state coordinating officer and notify the Governor of the appropriations necessary to fund the expected emergency operational or response

costs of the division, and the Commonwealth's share of the grants provided by Pub.L.No. 93-288, Title V, Federal Disaster Assistance Programs as amended by Pub.L.No. 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or successor acts or titles, and further, take action necessary to ensure entitlement to all other federal relief or assistance programs;

- (18) To cooperate with the President of the United States, the Federal Emergency Management Agency, and other appropriate federal offices and agencies, and the offices and agencies of other states in matters pertaining to the comprehensive emergency management program of the Commonwealth and nation; and in connection with these, to take any measures considered necessary to implement any request of the President and the appropriate federal offices and agencies, for any action requiring effective disaster and emergency response, including the direction or control and mobilization of disaster and emergency response forces; tests and exercises, warnings, and signals for drills or other emergency response activities and the mechanical devices to be used in connection with these; the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to a drill, emergency, declared emergency, or disaster; public meetings or gatherings; and the evacuation and sheltering of the civilian population; and
- (19) To delegate any authority vested in the director under KRS Chapters 39A to 39F and to provide for the subdelegation of any such authority.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 193, sec. 7, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 82, sec. 4, effective March 28, 2002. -- Created 1998 Ky. Acts ch. 226, sec. 7, effective July 15, 1998.

39A.080 Seals and markings of Division of Emergency Management to be affixed on vehicles used and operated by division.

In lieu of the official seal of the Commonwealth of Kentucky, the division shall be authorized to design, display and affix the distinctive seal and markings of the Division of Emergency Management on any and all state vehicles owned, leased, or operated by the division for official purposes and operated by personnel of the division.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 115, effective July 15, 1998.

39A.090 Executive orders.

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

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 8, effective July 15, 1998.

39A.100 Emergency powers of Governor and local chief executive officers.

- (1) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the Governor may declare, in writing, that a state of emergency exists. The Governor shall have and may exercise the following emergency powers during the period in which the state of emergency exists:
 - (a) To enforce all laws, and administrative regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and activities in the Commonwealth;
 - (b) To require state agencies and to request local governments, local agencies, and special districts to respond to the emergency or disaster in the manner directed;
 - (c) To seize, take, or condemn property, excluding firearms and ammunition, components of firearms and ammunition, or a combination thereof, for the protection of the public or at the request of the President, the Armed Forces, or the Federal Emergency Management Agency of the United States, including:
 1. All means of transportation and communication;
 2. All stocks of fuel of whatever nature;
 3. Food, clothing, equipment, materials, medicines, and all supplies; and
 4. Facilities, including buildings and plants;
 - (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this subsection among the inhabitants of the Commonwealth and to account to the State Treasurer for any funds received for the property;
 - (e) To make compensation for the property seized, taken, or condemned under paragraph (c) of this subsection;
 - (f) To exclude all nonessential, unauthorized, disruptive, or otherwise uncooperative personnel from the scene of the emergency, and to command those persons or groups assembled at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
 - (g) To declare curfews and establish their limits;
 - (h) To prohibit or limit the sale or consumption of goods, excluding firearms and ammunition, components of firearms and ammunition, or a combination thereof, or commodities for the duration of the emergency;
 - (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the duration of the emergency;
 - (j) Except as prohibited by this section or other law, to perform and exercise

other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population;

- (k) To request any assistance from agencies of the United States as necessary and appropriate to meet the needs of the people of the Commonwealth; and
 - (l) Upon the recommendation of the Secretary of State, to declare by executive order a different time, place, or manner for holding elections in an election area for which a state of emergency has been declared for part or all of the election area. The election shall be held within thirty-five (35) days from the date of the suspended or delayed election. The State Board of Elections shall establish procedures for election officials to follow. Any procedures established under this paragraph shall be subject to the approval of the Secretary of State and the Governor by respective executive orders.
- (2) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in the judgment of a local chief executive officer is of such severity or complexity as to require the exercise of extraordinary emergency measures, the county judge/executive of a county other than an urban-county government, or mayor of a city or urban-county government, or chief executive of other local governments or their designees as provided by ordinance of the affected county, city, or urban-county may declare in writing that a state of emergency exists, and thereafter, subject to any orders of the Governor, shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:
- (a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces and operations in the affected county, city, urban-county, or charter county;
 - (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
 - (c) To declare curfews and establish their limits;
 - (d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services; and
 - (e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.

- (3) Nothing in this section shall be construed to allow any governmental entity to impose additional restrictions on the lawful possession, transfer, sale, transport, carrying, storage, display, or use of firearms and ammunition or components of firearms and ammunition.

Effective: April 15, 2020

History: Amended 2020 Ky. Acts ch. 91, sec. 74, effective April 15, 2020. -- Amended 2010 Ky. Acts ch. 22, sec. 3, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 7, sec. 1, effective March 8, 2006; and ch. 240, sec. 10, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 91, sec. 1, effective June 20, 2005. -- Created 1998 Ky. Acts ch. 226, sec. 9, effective July 15, 1998.

39A.110 Compensation for property taken for temporary use -- Notice to owner of property where title taken.

If property is taken for temporary use, pursuant to the provisions of this chapter, the Governor shall, within thirty (30) days of the taking, fix the amount of compensation to be paid for the property. If the property is returned to the owner in a damaged condition or is not returned to the owner, the Governor shall, within thirty (30) days after the taking, fix the amount of compensation to be paid for the damage or failure to return. When the Governor deems it advisable for the state to take title to property taken under this section, the owner shall be notified in writing by certified mail, return receipt requested, and a copy of the notice shall be filed with the Secretary of State.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 10, effective July 15, 1998.

39A.120 Procedure when owner refuses to accept compensation fixed by Governor.

If the owner of any property seized, taken, or condemned pursuant to KRS 39A.110 refuses to accept as adequate the compensation fixed by the Governor, the owner may present a claim to the Kentucky Claims Commission, which shall hear and determine it according to the provisions of KRS 49.040 to 49.180 and the administrative regulations of the commission.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 74, sec. 56, effective June 29, 2017. --
Created 1998 Ky. Acts ch. 226, sec. 11, effective July 15, 1998.

39A.130 Appeal from award of Kentucky Claims Commission.

- (1) The owner of property seized, taken, or condemned may appeal from the award of the Kentucky Claims Commission to the Circuit Court of the county of the owner's residence. The Rules of Civil Procedure shall, so far as applicable, govern the procedure on appeal. A trial de novo shall not be allowed unless the record on appeal is not sufficient to determine the matter from the record, but if the action is tried, it shall be tried according to the practice prescribed for the trial of jury cases.
- (2) An appeal from the judgment of Circuit Court may be taken to the Court of Appeals.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 74, sec. 57, effective June 29, 2017. --
Created 1998 Ky. Acts ch. 226, sec. 12, effective July 15, 1998.

39A.140 Procedure for payment of compensation.

- (1) If the owner of property seized, taken, or condemned accepts as adequate the compensation fixed by the Governor, the owner shall file a statement of the amount of compensation from the Governor with the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer for the amount of the compensation in favor of the person entitled to payment.
- (2) If the compensation is determined by award of the Kentucky Claims Commission or judgment of a court, as provided in KRS 39A.110, 39A.120, and 39A.130, a certified copy of the award or judgment shall be filed with the Finance and Administration Cabinet which shall draw a warrant on the State Treasurer for the amount of the award or judgment.
- (3) The State Treasurer shall pay the warrants out of any money in the Treasury not otherwise appropriated.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 74, sec. 58, effective June 29, 2017. --
Created 1998 Ky. Acts ch. 226, sec. 13, effective July 15, 1998.

39A.150 Traffic control plans -- Executive orders.

- (1) The Kentucky Emergency Operations Plan and local emergency operations plans shall include measures for, and the Governor for the state or portion thereof, the county judge/executive for a county other than an urban-county, or a portion thereof, and the mayor for a city or an urban-county or portion thereof, may issue written executive orders providing for:
 - (a) The control of traffic in order to provide for rapid and safe movement in evacuation over public highways and streets during any disaster or emergency;
 - (b) The control and alteration of speed limits and traffic regulations on public highways during any disaster or emergency; and
 - (c) The prohibition or limitation of use of motor vehicles on public highways during any disaster or emergency.
- (2) The Governor may extend the provisions of subsection (1) of this section to the public thoroughfares of any political subdivision of the Commonwealth.
- (3) The Governor may order agencies of state government and political subdivisions of the Commonwealth to take steps necessary to effectuate plans made or orders issued pursuant to this section.
- (4) During a declared emergency or disaster, the Governor, county judge/executive, or mayor, may, for their respective jurisdictions, place these plans in effect.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 14, effective July 15, 1998.

39A.160 Witnesses -- Production of records and documents.

For the purpose of making surveys and investigations and obtaining information which may be necessary to the operation or enforcement of KRS Chapters 39A to 39F, the Governor, or the director with the written approval of the Governor, may compel by subpoena the attendance of witnesses, and the production of books, papers, records, and documents of individuals, firms, associations, and corporations. All officers, boards, commissions, and divisions of the state, the political subdivisions thereof, and special districts, having information which is the subject of the investigation, shall cooperate with and assist the Governor or the director in making the investigation and surveys.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 15, effective July 15, 1998.

39A.170 Lease or loan of real or personal property of state government -- Disaster and emergency response activities of state employees.

- (1) Notwithstanding any inconsistent provision of law, the Governor may, when it is found to be in the public interest:
 - (a) Authorize any division or agency of the state to lease or lend, on such terms and conditions as deemed necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government to the President of the United States, the chiefs of the Armed Forces, or to the Federal Emergency Management Agency;
 - (b) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state on such terms and conditions as may be deemed necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state government, or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state; and
 - (c) Permit state employees to engage in disaster and emergency response activities, within or without the state, for the division, or for a local jurisdiction upon request of a local emergency management agency to the division. State employees assigned to or volunteering for this duty shall be considered as being employed by the agency by which they are regularly employed and shall continue to receive salary and benefits while engaging in disaster and emergency response work.
- (2) The permission of the Governor for the use of state employees in the manner specified in subsection (1)(c) of this section shall be presumed, and shall be automatic unless the Governor specifies otherwise with regard to the use of a specific employee or employees.
- (3) The Chief Justice for the Court of Justice and the Director of the Legislative Research Commission, with regard to employees of their respective branches of government, may permit Court of Justice and legislative employees to engage in disaster and emergency services work under the same terms and conditions as specified in subsections (1) and (2) of this section.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 16, effective July 15, 1998.

39A.180 Orders and administrative regulations of political subdivisions -- Enforcement.

- (1) The political subdivisions of the state and other agencies designated or appointed by the Governor may make, amend, and rescind orders and promulgate administrative regulations necessary for disaster and emergency response purposes, and to supplement the carrying out of the provisions of this chapter, if not inconsistent with any orders or administrative regulations promulgated by the Governor or by any state agency exercising a power delegated to it by the Governor.
- (2) All written orders and administrative regulations promulgated by the Governor, the director, or by any political subdivision or other agency authorized by KRS Chapters 39A to 39F to make orders and promulgate administrative regulations, shall have the full force of law, when, if issued by the Governor, the director, or any state agency, a copy is filed with the Legislative Research Commission, or, if promulgated by an agency or political subdivision of the state, when filed in the office of the clerk of that political subdivision or agency. All existing laws, ordinances, and administrative regulations inconsistent with the provisions of KRS Chapters 39A to 39F, or of any order or administrative regulation issued under the authority of KRS Chapters 39A to 39F, shall be suspended during the period of time and to the extent that the conflict exists.
- (3) The law enforcement authorities of the state and of its counties, urban-counties, charter counties, and cities shall enforce the written orders and administrative regulations issued pursuant to KRS Chapters 39A to 39F.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 17, effective July 15, 1998.

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

A peace officer, when in full and distinctive uniform or displaying a badge or other insignia of authority, may arrest without a warrant any person violating or attempting to violate in the officer's presence any order or administrative regulation made pursuant to this chapter, or KRS Chapter 39B, 39C, 39D, 39E, or 39F.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 18, effective July 15, 1998.

39A.200 Authority to receive services, equipment, supplies, materials, or funds from federal government.

When the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of disaster and emergency response, the state, acting through the Governor, or the political subdivision, acting through its chief executive or governing body, may accept the offer and upon acceptance the Governor of the state or chief executive or governing body of the political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or funds on behalf of the state or the political subdivision, and subject to the terms of the offer.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 19, effective July 15, 1998.

39A.210 Qualifications and oath of persons connected with disaster and emergency response organizations.

No person shall be employed or associated in any capacity in any disaster and emergency response organization established under this chapter who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for disaster and emergency response shall, before entering upon his or her duties, take an oath, in writing, before a person authorized to administer oaths in this Commonwealth, which shall be as follows:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this Commonwealth and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of emergency management director according to law;

And I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this state, have not fought a duel with deadly weapons within this state, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offended, so help me God."

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 20, effective July 15, 1998.

39A.220 Agency emergency operations procedures.

- (1) Each agency, board, or commission of state government, unless the requirement is waived, in writing, by the director, shall develop agency emergency operations procedures which are consistent with and which meet the requirements of the Kentucky Emergency Operations Plan. The agency emergency operations procedures shall be updated not less than yearly.
- (2) Each agency, board, or commission of state government shall take those measures necessary to ensure that it can continue to operate during times of disaster or emergency, that it can protect its vital records, and that it has designated at least four (4) persons, preferably by title, who may act for the agency, and for its major component operations, during an emergency or disaster if the primary person with the power to make necessary decisions is unavailable for any reason.
- (3) In carrying out the provisions of subsections (1) and (2) of this section, each agency, board, or commission of state government shall follow the general planning guidance of the division and the requirements of administrative regulations promulgated by the division.
- (4) Each agency, board, or commission of state government shall train its employees with regard to the contents of the agency emergency operations procedures, and shall give any additional training necessary to implement the procedures during times of emergency or disaster.
- (5) Each agency, board, or commission of state government shall, upon request of the director, send an employee of the agency with full authority to take any action on behalf of the agency to the State Emergency Operations Center, area offices of the division, state command posts or other designated location during periods of emergency or disaster.
- (6) As used in this section, agency, board, or commission means all agencies, unless the requirement is waived, in writing, by the director, listed in KRS 12.020, other state bodies created by executive order of the Governor, the Legislative Research Commission, and the Court of Justice and its agencies.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 21, effective July 15, 1998.

39A.230 Procedures for one multirisk, multiagency, unified incident command or management system.

- (1) The Kentucky Emergency Operations Plan shall include procedures for one multirisk, multiagency, unified incident command or management system to be used by all state agencies responding to the scene of an emergency, declared emergency, disaster, or catastrophe, as contemplated by KRS 39A.010, 39A.020, or 39A.030.
- (2) Local emergency operations plans shall include procedures for:
 - (a) An incident command or management system to be used by individual local agencies or departments when responding to the scene of day-to-day, routine emergency incidents; and
 - (b) One unified incident command or management system to be used by all local agencies or departments when responding to the scene of a multiagency or multijurisdictional emergency, declared emergency, disaster, or catastrophe, as contemplated by KRS 39A.010, 39A.020, or 39A.030.
- (3) All incident command or management system procedures required pursuant to subsections (1) or (2) of this section shall be based upon or utilize the five (5) functions of: command, operations, planning, logistics, and finance.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 22, effective July 15, 1998.

39A.240 State Emergency Operations Center -- Agency representatives.

- (1) The division shall maintain the State Emergency Operations Center and those alternate locations deemed necessary, and shall activate the State Emergency Operations Center when deemed necessary by the director, the Adjutant General, or the Governor.
- (2) Each cabinet of state government, and each independent agency of state government, and other organizations provided for in the Kentucky Emergency Operations Plan shall immediately send a designated person to the State Emergency Operations Center upon request of the director, during a time of emergency or disaster or the threatened or impending happening of such an incident. They shall remain at the State Emergency Operations Center until relieved and replaced, unless released by the director.
- (3) Persons representing agencies of state government or other organizations assigned to the State Emergency Operations Center during times of emergency or disaster or the threatened or impending happening thereof may obligate the funds, equipment, and personnel of the organization which they represent, and make decisions on behalf of the organization which they represent.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 23, effective July 15, 1998.

39A.250 Superseded by KRS 39A.280, 1998.

Effective: July 15, 1998

History: Superseded by 1998 Ky. Acts ch. 488, sec. 2, effective July 15, 1998. --
Created by 1998 Ky. Acts ch. 488, sec. 2.

39A.260 Mutual aid agreements with other states -- Workers' compensation.

- (1) The division may enter into agreements with other states with regard to mutual aid for routine provision of emergency management services or for mutual aid during times of emergency or disaster, or any combination of these.
- (2) Kentucky emergency management personnel, either working for the state or local government or affiliated with the state or a local government, paid or volunteer, shall, to the extent provided by the law of the host state, have the same rights and privileges as they have in Kentucky.
- (3) Emergency management personnel, either working for the state or a local government or affiliated with the state or a local government of another state, paid or volunteer, shall, to the extent provided by Kentucky law, have the same rights and privileges as do Kentucky emergency management personnel working for the state or local government or affiliated with the state or a local government, whether paid or volunteer. This provision shall not apply to the provision of peace officer services, unless approved in writing by the Governor, or the General Assembly, as appropriate for the specific incident.
- (4) Kentucky emergency management-provided workers' compensation shall apply to a state or local emergency management agency worker, paid or volunteer, or worker in an operating unit officially affiliated with the division, or worker in a local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization pursuant to KRS 39B.070, who is serving in another state pursuant to an agreement consummated under this section.
- (5) An emergency management worker from another state, paid or volunteer, who is working for or affiliated with the state emergency management agency and who is serving in Kentucky pursuant to an agreement consummated under this section may be accorded Kentucky emergency management workers' compensation coverage by action of the director.
- (6) The provisions of subsections (4) and (5) of this section shall not apply to hazardous materials emergency response operations defined in 29 C.F.R. 1910.120 which are above the first-responder operations level, on-scene incident commander level excluded.
- (7) An emergency management worker from another state, paid or volunteer, who is working for the state emergency management agency or a local emergency management agency or a worker in an organization affiliated with the state or local emergency management agency of another state who holds license or certification from the worker's state to practice a profession, or paraprofessional activity, or other activity for which a license or certification is required to practice that activity in Kentucky shall be, for the period of that work, under an agreement consummated pursuant to this chapter, considered as properly licensed or certified in Kentucky to perform the services granted by the worker's license or certification. The worker shall, however, while in Kentucky, be subject to discipline by the appropriate Kentucky licensing or certifying agency for acts of misconduct or negligence which are committed in Kentucky.

- (8) City, county, urban-county, or charter county emergency management agencies in Kentucky may make written agreements with similar local emergency management agencies in adjoining states if the agreements are submitted to the state emergency management agencies of both states and are approved in writing by the directors of both agencies. Agreements pursuant to this section shall be subject to the same rights and privileges as state agreements under this section, but shall be limited to two (2) years, unless renewed by submission of a new agreement for approval.
- (9) The provisions of this section shall be subject to the provisions of all applicable federal law.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 25, effective July 15, 1998.

39A.270 Use of publicly owned resources at impending, happening, or response phase of disaster or emergency.

- (1) During the threatened or impending happening of a disaster or emergency, the Governor, the Adjutant General, or the Director may authorize the use of public employees, equipment, supplies, materials, funds, or any other publicly owned or supported resources to assist in the mitigation of the potential effects of the disaster or emergency, regardless of whether the use is on public or private property.
- (2) During the actual happening of and any part of the response phase of a disaster or emergency the Governor, the Adjutant General, or the Director, shall, when necessary or desirable, authorize the use of public employees, equipment, supplies, materials, funds, or any other publicly owned or supported resource to assist in the operations of government, or the private sector, necessary to deal with the disaster or emergency, regardless of whether the use is on public or private property.
- (3) After the active or response phase of the disaster or emergency has passed and the recovery phase has begun, the Governor, the Adjutant General, or the Director may authorize the use of public employees, equipment, supplies, funds, or any other publicly owned or supported resources to assist in the recovery phase of the disaster or emergency, regardless of whether the use is on public or private property.
- (4) A formal declaration of disaster or emergency shall not be necessary to invoke the provisions of subsection (1) or (2) of this section.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 26, effective July 15, 1998.

39A.280 Nature of disaster and emergency response functions provided by state or local management agency, licensed professional engineer, or licensed architect -- Immunity, exceptions.

- (1) Disaster and emergency response functions provided by a state or local emergency management agency, or any emergency management agency-supervised operating units or personnel officially affiliated with a local disaster and emergency services organization pursuant to KRS 39B.070, shall not, in itself, be deemed to be the making of a promise, or the undertaking of a special duty, towards any person for the services, or any particular level of, or manner of providing, the services; nor shall the provision of or failure to provide these services be deemed to create a special relationship or duty towards any person upon which an action in negligence or other tort might be founded. Specifically:
 - (a) The failure to respond to a disaster or other emergency, or to undertake particular inspections or types of inspections, or to maintain any particular level of personnel, equipment, or facilities, shall not be a breach of any duty to persons affected by any disaster or other emergency.
 - (b) When a state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, does undertake to respond to a disaster or other emergency, the failure to provide the same level or manner of service, or equivalent availability or allocation of resources as may or could be provided, shall not be a breach of any duty to persons affected by that disaster or other emergency.
 - (c) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization shall not have or assume any duty towards any person to adopt, use, or avoid any particular strategy or tactic in responding to a disaster or other emergency.
 - (d) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, in undertaking disaster and emergency preparedness or prevention activities including inspections, or in undertaking to respond to a disaster or other emergency, shall not have voluntarily assumed any special duty with respect to any risks which were not created or caused by it, nor with respect to any risks which might have existed even in the absence of that activity or response, nor shall any person have a right to rely on such an assumption of duty.
- (2) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any of its political subdivisions, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management agency member, or disaster and emergency services member, or disaster and emergency response worker, or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity. The immunity provided by this

subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection. This immunity shall not affect the right of any person to receive benefits or compensation to which the person might otherwise be entitled under the Workers' Compensation Law, or this chapter, or any pension law, or any Act of Congress.

- (3) Subject to subsection (6) of this section, neither the state nor any political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any of its political divisions, nor any volunteer or auxiliary emergency management agency or disaster and emergency services organization member or disaster and emergency response worker or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity, complying with or reasonably attempting to comply with this chapter or any order or administrative regulation promulgated pursuant to the provisions of this chapter, or other precautionary measures enacted by any city of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of that activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.
- (4) Decisions of the director, his subordinates or employees, a local emergency management director, or the local director's subordinates or employees, a rescue chief or the chief's subordinates, concerning the allocation and assignment of personnel and equipment, and the strategies and tactics used, shall be the exercise of a discretionary, policy function for which neither the officer nor the state, county, urban-county, charter county, or city, or local emergency management agency-supervised operating unit formally affiliated with a local disaster and emergency services organization, shall be held liable in the absence of malice or bad faith, even when those decisions are made rapidly in response to the exigencies of an emergency.
- (5) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of the real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster or emergency, together with his or her successors in interest, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about the real estate or premises for loss of, or damage to, the property of that person. The immunity provided by this subsection shall not apply to the extent that

the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

- (6) Subsection (3) of this section shall apply to a volunteer or auxiliary disaster and emergency response worker only if the volunteer or worker is enrolled or registered with a local disaster and emergency services organization or with the division in accordance with the division's administrative regulations.
- (7) While engaged in disaster and emergency response activity, volunteers and auxiliary disaster and emergency response workers enrolled or registered with a local disaster and emergency service organization or with the division in accordance with subsection (6) of this section shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work, including the provisions of KRS 12.211, 12.212, and 12.215, allowing the Attorney General to provide defense of any civil action brought against a volunteer enrolled or registered with a local disaster or emergency service organization or with the division due to an act or omission made in the scope and course of a disaster and emergency response activity.
- (8) (a) Notwithstanding subsections (3) and (6) of this section, a licensed professional engineer as defined in KRS 322.010 or an architect licensed under KRS Chapter 323, who voluntarily and without compensation provides architectural, structural, electrical, mechanical, or other professional services at the scene of a declared emergency, disaster, or catastrophe, shall not be liable for any personal injury, wrongful death, property damage, or other loss of any nature related to the licensed professional engineer's or licensed architect's acts, errors, or omissions in the performance of the services carried out:
 1. At the request of or with the approval of a federal, state, or local:
 - a. Emergency management agency official with executive responsibility in the jurisdiction to coordinate disaster and emergency response activity;
 - b. Fire chief or his or her designee; or
 - c. Building inspection official;whom the licensed professional engineer or licensed architect believes to be acting in an official capacity;
 2. Within ninety (90) days following the end of the period for the declared emergency, disaster, or catastrophe, unless extended by the Governor under KRS 39A.100; and
 3. If the professional services arose out of the declared emergency, disaster, or catastrophe and if the licensed professional engineer or licensed

architect acted as an ordinary reasonably prudent member of the profession would have acted under the same or similar circumstances.

- (b) Nothing in this subsection shall provide immunity for wanton, willful, or intentional misconduct.

Effective: July 15, 2014

History: Amended 2014 Ky. Acts ch. 129, sec. 1, effective July 15, 2014. -- Created 1998 Ky. Acts ch. 488, sec. 2, effective July 15, 1998, superseding 1998 Ky. Acts ch. 226, sec. 24, effective July 15, 1998.

39A.283 Short title for KRS 39A.050, 39A.070, and 39A.285.

KRS 39A.050, 39A.070, and 39A.285 may be cited as the Antiterrorism Act of 2002.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 193, sec. 9, effective July 12, 2006. -- Created 2002 Ky. Acts ch. 82, sec. 1, effective March 28, 2002.

39A.285 Legislative findings.

The General Assembly hereby finds that:

- (1) No government by itself can guarantee perfect security from acts of war or terrorism.
- (2) The security and well-being of the public depend not just on government, but rest in large measure upon individual citizens of the Commonwealth and their level of understanding, preparation, and vigilance.
- (3) The safety and security of the Commonwealth cannot be achieved apart from reliance upon Almighty God as set forth in the public speeches and proclamations of American Presidents, including Abraham Lincoln's historic March 30, 1863, Presidential Proclamation urging Americans to pray and fast during one of the most dangerous hours in American history, and the text of President John F. Kennedy's November 22, 1963, national security speech which concluded: "For as was written long ago: 'Except the Lord keep the city, the watchman waketh but in vain.' "

Effective: March 28, 2002

History: Created 2002 Ky. Acts ch. 82, sec. 2, effective March 28, 2002.

39A.287 Repealed, 2006.

Catchline at repeal: Preparedness of Commonwealth to respond to acts of war or terrorism -- Annual assessment.

History: Repealed 2006 Ky. Acts ch. 193, sec. 16, effective July 12, 2006. -- Amended 2003 Ky. Acts ch. 68, sec. 2, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 82, sec. 5, effective March 28, 2002.

39A.295 Taking of property or rights guaranteed by KRS 237.102 or 237.104 not authorized -- Rights of relocated persons unaffected.

- (1) Nothing in KRS 39A.100, 39A.110, 39A.120, 39A.130, or 39A.140, or any other provision of this chapter, shall authorize a taking of property or the taking of any action which is in violation of KRS 237.102 or 237.104.
- (2) If a person is relocated to temporary housing before, during, or after a disaster or emergency, he or she shall still possess the rights guaranteed by KRS 237.102 and 237.104.

Effective: July 12, 2006

History: Created 2006 Ky. Acts ch. 240, sec. 9, effective July 12, 2006.

39A.300 Disaster Relief Funding Program.

- (1) The Disaster Relief Funding Program is established and shall be administered by the Division of Emergency Management in accordance with the provisions of this section.
- (2) A Disaster Relief Funding Program trust fund is established as a separate revolving fund. The trust fund shall be administered by the Division of Emergency Management and the proceeds shall be used to support the Disaster Relief Funding Program.
- (3)
 - (a)
 1. The Disaster Relief Funding Program trust fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.
 2. The Disaster Relief Funding Program trust fund shall not publicly advertise for or solicit contributions from the general public that could potentially impact fundraising efforts of not-for-profit disaster relief agencies.
 - (b) Trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.
 - (c) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.
 - (d) Any funds deposited in the trust fund are hereby appropriated for the purposes set forth in this section.
- (4) Eligibility for funds under the Disaster Relief Funding Program shall be limited to cities, counties, urban-counties, charter counties, and consolidated local governments of the Commonwealth and individuals who have disaster-related needs that cannot or will not be met by other relief agencies and who are residents of, and living in, the Commonwealth on the date of the emergency.
- (5)
 - (a) Eligible applicants located in an area where there has been a declared emergency by the Governor, as defined in KRS 39A.020, may receive financial assistance when federal authorities decline to issue a federal declaration of disaster and federal assistance will not be forthcoming.
 - (b) Cities, counties, urban-counties, charter counties, and consolidated local governments of the Commonwealth that are eligible applicants may receive financial assistance to pay the state contribution required by the federal government in cases where there has been a federal declaration of disaster.
- (6) The Division of Emergency Management shall promulgate administrative regulations necessary to carry out the provisions of this section.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 56, sec. 1, effective June 20, 2005.

39A.350 Definitions for KRS 39A.350 to 39A.366.

As used in KRS 39A.350 to 39A.366:

- (1) "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health services provided by volunteer health practitioners and that:
 - (a) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the Kentucky Division of Emergency Management; or
 - (b) Regularly plans and conducts its activities in coordination with an agency of the federal government or the Kentucky Division of Emergency Management;
- (2) "Emergency" has the same meaning as used in KRS 39A.020;
- (3) "Emergency declaration" has the same meaning as "declared emergency" as used in KRS 39A.020;
- (4) "Emergency Management Assistance Compact" means the interstate compact established under KRS 39A.950;
- (5) "Health facility" has the same meaning as used in KRS 216B.015;
- (6) "Health practitioner" means an individual licensed under the laws of this or another state to provide health services;
- (7) "Health services" means:
 - (a) The provision of treatment, care, advice or guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:
 1. The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:
 - a. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and
 - b. Counseling, assessment, procedures, or other services;
 2. Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and
 3. Funeral, cremation, cemetery, or other mortuary services; or
 - (b) The provision of treatment, care, advice or guidance, other services, or supplies related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:
 1. Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;
 2. Use of a procedure for reproductive management; and
 3. Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans;
- (8) "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency;

- (9) "License" means authorization by a state to engage in health services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health services based upon a national certification issued by a public or private entity;
- (10) "Scope of practice" means the extent of the authorization to provide health services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority; and
- (11) "Voluntary health practitioner" means a health practitioner who provides health services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 1, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.352 Volunteer health practitioners -- Application of KRS 39A.350 to 39A.366.

KRS 39A.350 to 39A.366 shall apply to volunteer health practitioners registered with a registration system that complies with KRS 39A.350 to 39A.366 and who provide health services in this state for a host entity while an emergency declaration is in effect.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 2, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.354 Regulation of practice of volunteer health practitioners during a medical emergency.

- (1) While an emergency declaration is in effect, the Cabinet for Health and Family Services in coordination with the Kentucky Division of Emergency Management and the appropriate Kentucky licensure boards may regulate:
 - (a) The duration and scope of practice by volunteer health practitioners;
 - (b) The geographical areas in which volunteer health practitioners may practice;
 - (c) The types of volunteer health practitioners who may practice; and
 - (d) Any other matters necessary to coordinate effectively the provision of health services during the emergency.
- (2) An order issued pursuant to subsection (1) of this section may take effect immediately, without prior notice or comment.
- (3) A host entity that uses volunteer health practitioners to provide health services in this state shall:
 - (a) Consult and coordinate its activities with the Cabinet for Health and Family Services to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and
 - (b) Comply with any laws relating to the management of emergency health services, in addition to KRS 39A.350 to 39A.366.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 3, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.356 Operation of emergency system for advanced registration of volunteer health practitioners -- Relationship between Cabinet for Health and Family Services and other organizations -- Funding.

- (1) The Cabinet for Health and Family Services shall operate the emergency system for advanced registration of volunteer health practitioners. The system shall:
 - (a) Accept applications for the registration of volunteer health practitioners before or during an emergency;
 - (b) Include information about the licensure and good standing of health practitioners that is accessible by authorized persons; and
 - (c) Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services are provided under KRS 39A.350 to 39A.366.
- (2) The following organizations may maintain a list consisting of trained and equipped emergency response, public health, and medical personnel:
 - (a) Local units formed under Section 300hh of Title 42 of the United States Code;
 - (b) Disaster relief organizations;
 - (c) Licensing boards;
 - (d) National or regional associations of licensing boards of health practitioners;
 - (e) Health facilities that provide comprehensive inpatient and outpatient health-care services, including a tertiary care and teaching hospital; or
 - (f) Governmental entities.
- (3) The organizations listed in subsection (2) of this section shall develop a collaborative relationship with the cabinet for the purposes of KRS 39A.350 to 39A.366 and for the purposes of being recognized by the cabinet as a voluntary response resource.
- (4) The cabinet may receive state appropriations, gifts, grants, federal funds, and any other public or private funds to establish or maintain the registration system established in subsection (1) of this section.
- (5) While an emergency declaration is in effect, representatives of the Cabinet for Health and Family Services or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with the registration system that complies with subsection (1) of this section. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.
- (6) Upon request of a person in this state authorized under subsection (2) of this section, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 4, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof.

However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.358 Volunteer practitioners to adhere to scope of practice for similarly licensed Kentucky practitioners.

A volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 5, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.360 Prohibition upon limitation of rights, privileges, or immunities provided to volunteer practitioners under other laws -- KRS 39A.350 to 39A.366 not to affect requirements of the Emergency Management Assistance Compact.

- (1) KRS 39A.350 to 39A.366 shall not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than KRS 39A.350 to 39A.366.
- (2) KRS 39A.350 to 39A.366 shall not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 6, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.362 Administrative regulations for implementation of KRS 39A.350 to 39A.366 -- Consultation among Cabinet for Health and Family Services, Kentucky Division of Emergency Management, and similarly empowered agencies in other states.

The Cabinet for Health and Family Services may promulgate administrative regulations to implement KRS 39A.350 to 39A.366. In doing so, the Cabinet for Health and Family Services shall consult with and consider the recommendations of the Kentucky Division of Emergency Management and shall also consult with and consider administrative regulations promulgated by similarly empowered agencies in other states to promote uniformity of application of KRS 39A.350 to 39A.366 and make the emergency response systems in the various states reasonably compatible.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 7, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.364 Application and construction of KRS 39A.350 to 39A.366 -- Need to promote uniformity of laws among enacting states.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 8, effective June 26, 2007.

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.366 39A.366 Good Samaritan Act of 2007 -- Short title for KRS 39A.350 to 39A.366.

KRS 39A.350 to 39A.366 shall be known as the Good Samaritan Act of 2007.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 96, sec. 9, effective June 26, 2007

Legislative Research Commission Note (6/26/2007) 2007 Ky. Acts ch. 96 (2007 House Bill 287) "established" KRS Chapter 39G and created new sections thereof. However, at the time that House Bill 287 was enacted another KRS Chapter 39G was already in existence. The Reviser of Statutes determined that the newly created sections would be more appropriately placed in KRS Chapter 39A and has placed Sections 1 to 9 of Acts ch. 96 within KRS Chapter 39A, under the authority of KRS 7.136(1)(a).

39A.950 Emergency Management Assistance Compact.

Emergency Management Assistance Compact

ARTICLE I. Purpose and Authorities.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II. General Implementation.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III. Party State Responsibilities.

- A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states,

insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;
 2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
 3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;
 4. Assist in warning communities adjacent to or crossing the state boundaries;
 5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;
 6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
 7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.
- B. The authorized representative of a party state may request assistance to another party state by contracting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:
1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
 2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed and;
 3. The specific place and time for staging of the assisting party's response and a point of contact at that location.
- C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV. Limitations.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the Governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any party state to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving state party, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI. Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

ARTICLE X. Evacuation.

Plans for the orderly evacuation and interstate reception for portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI. Implementation.

- A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.
- B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing

state from obligations assumed hereunder prior to the effective date of withdrawal.

- C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII. Validity.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

ARTICLE XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18 of the United States Code.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 117, sec. 1, effective July 15, 1998.

39A.990 Penalty.

Any person violating any provision of this chapter or any administrative regulation or order promulgated pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 226, sec. 27, effective July 15, 1998.