

1 AN ACT relating to emergency medical services and making an appropriation
2 therefor.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO
5 READ AS FOLLOWS:

6 *For the purposes of Sections 1 to 4 of this Act:*

7 *(1) "Ambulance service" means a Kentucky-based Class I ground ambulance*
8 *provider licensed pursuant to KRS Chapter 311A, an ambulance service district*
9 *created under KRS Chapter 75, an emergency ambulance service district*
10 *established under KRS 108.080 to 108.180, or any ambulance service established*
11 *by a local government, operating under KRS Chapter 75A, or operating as a*
12 *registered nonprofit under KRS Chapter 273;*

13 *(2) "EMS professional" means any employee licensed as an EMT, AEMT,*
14 *paramedic, or advanced practice paramedic of an ambulance service;*

15 *(3) "Established work schedule" means a work schedule adopted by or required of*
16 *an ambulance service setting a recurring pattern for time on and off duty for an*
17 *EMS professional employed by the ambulance service. An established work*
18 *schedule includes but is not limited to a schedule of twenty-four (24) consecutive*
19 *hours of duty followed by forty-eight (48) hours off duty;*

20 *(4) "Fund" means the EMS Professionals Foundation Program fund created in*
21 *Section 2 of this Act;*

22 *(5) "Local government" means any city, county, urban-county government, charter*
23 *county government, unified local government, consolidated local government, air*
24 *board created under KRS Chapter 183, or any combination thereof in the*
25 *Commonwealth;*

26 *(6) "Scheduled overtime" means work by an EMS professional in excess of forty (40)*
27 *hours per week which regularly recurs as part of an established work schedule;*

1 and

2 (7) "Unscheduled overtime" means work by an EMS professional in excess of forty
3 (40) hours per week which does not regularly recur as part of an established work
4 schedule.

5 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO
6 READ AS FOLLOWS:

7 (1) The EMS Professionals Foundation Program fund is hereby established as a
8 trust and agency account, which shall be administered by the board. The fund
9 shall consist of appropriations from the general fund of the Commonwealth of
10 Kentucky, insurance premium surcharge proceeds, and earnings on the
11 investments of those moneys which accrue to the fund under Sections 5 and 6 of
12 this Act. The fund may also receive any other funds, gifts, or grants made
13 available to the state for distribution to ambulance services.

14 (2) Notwithstanding KRS 45.229, all moneys in the fund at the close of a fiscal year
15 shall not lapse but shall be carried forward into the next fiscal year.

16 (3) Moneys in the fund are hereby appropriated by the General Assembly for the
17 purposes provided in Sections 1 to 4, 5, and 6 of this Act.

18 (4) Funds made available to the board shall be received, held, and expended in
19 accordance with the provisions of this chapter and administrative regulations
20 promulgated by the board.

21 (5) (a) 1. An EMS professional who is diagnosed by a psychiatrist, psychologist,
22 or professional counselor credentialed under KRS 335.500 to 335.599
23 with a post-traumatic stress injury or post-traumatic stress disorder, as
24 defined in the most recent edition of the American Psychiatric
25 Association's Diagnostic and Statistical Manual of Mental Disorders,
26 caused by an event or an accumulation of events that occurred in the
27 course and scope of employment as an EMS professional shall be

1 eligible for reimbursement from the fund for his or her out-of-pocket
2 costs for mental health treatment, regardless of an initial physical
3 injury.

4 2. Notwithstanding subparagraph 1. of this paragraph, a post-traumatic
5 stress injury, as defined in the most recent edition of the American
6 Psychiatric Association's Diagnostic and Statistical Manual of Mental
7 Disorders, that arises solely from a legitimate personnel action such as
8 transfer, promotion, demotion, or termination shall not be considered
9 a compensable injury that qualifies an EMS professional for
10 reimbursement benefits under this subsection.

11 (b) If an EMS professional seeks mental health treatment for a post-traumatic
12 stress injury or post-traumatic stress disorder:

13 1. After in-network health insurance has been utilized, he or she may
14 submit corresponding receipts for medical bills paid by the EMS
15 professional to the board for reimbursement from the fund to the EMS
16 professional for out-of-pocket costs incurred, to the extent that funds
17 are available and allocated in the board's budget for EMS
18 professional mental health treatment;

19 2. He or she shall pay his or her out-of-pocket costs for the mental health
20 treatment before submitting receipts for reimbursement; and

21 3. He or she shall submit receipts evidencing payment of out-of-pocket
22 costs within twelve (12) months of the payment date to be eligible for
23 reimbursement under this subsection.

24 (6) Each ambulance service shall be eligible to share in the distribution of the fund if
25 the ambulance service:

26 (a) Operates or contracts with an ambulance service that provides basic life
27 support or advanced life support services when responding to emergency

1 911 service calls;

2 (b) Employs two (2) or more full-time EMS professionals;

3 (c) Pays every EMS professional not less than the minimum federal wage;

4 (d) Requires all employed EMS professionals to successfully complete, in each
5 calendar year, an in-service training program of one hundred (100) hours
6 or a lesser duration as established by the board. The requirement shall be
7 waived while an EMS professional is serving on active duty in the United
8 States Armed Forces; and

9 (e) Maintains compliance with all provisions of law applicable to EMS
10 professionals.

11 (7) Each EMS professional shall be eligible to share in the distribution of the fund if
12 he or she:

13 (a) Is employed as an EMS professional by an ambulance service, which meets
14 the requirements in subsection (6) of this section, as a full-time employee,
15 and is regularly involved in patient care;

16 (b) Obtains the minimum educational requirement of a high school diploma or
17 its equivalent, as determined by the board;

18 (c) If employed as an EMS professional on or after the effective date of this
19 Act, successfully completes a training course sufficient for licensure as an
20 EMT, AEMT, paramedic, or advanced practice paramedic, as set by the
21 board;

22 (d) Successfully completes, in each calendar year, an in-service training
23 program of one hundred (100) hours or a lesser duration as established by
24 the board. The requirement shall be waived while an EMS professional is
25 serving on active duty in the United States Armed Forces; and

26 (e) Maintains compliance with all provisions of law applicable to EMS
27 professionals.

1 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO
2 READ AS FOLLOWS:

3 (1) The board shall administer the fund pursuant to Sections 1 to 4 of this Act, and
4 may promulgate administrative regulations in accordance with KRS Chapter 13A
5 to facilitate the administration of the fund.

6 (2) The board shall determine which ambulance services are eligible to share in the
7 fund and may withhold or terminate payments to any ambulance service that does
8 not comply with the requirements set forth in Sections 1 to 4 of this Act.

9 (3) The board shall, from the moneys appropriated to and accruing to the fund from
10 any source, provide staffing for administering these funds, including but not
11 limited to the expenses and costs of board operations. Annual administration
12 costs shall not exceed five percent (5%) of the total amount of moneys accruing to
13 the fund which are allotted for the purposes specified in this section during any
14 fiscal year.

15 (4) Upon receipt of the written request by the Finance and Administration Cabinet
16 for cost projections of the EMS Professionals Foundation Program fund as
17 prescribed in Section 5 of this Act, the board shall certify, in writing, within
18 twenty-one (21) calendar days the projections to the Finance and Administration
19 Cabinet.

20 ➔ SECTION 4. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO
21 READ AS FOLLOWS:

22 (1) An eligible ambulance service shall be entitled to receive an annual supplement
23 of four thousand eight hundred dollars (\$4,800) for each qualified, full-time
24 EMS professional it employs, plus an amount equal to the required employer's
25 contribution on the supplement to the defined benefit pension plan, or to a plan
26 qualified under 26 U.S.C. sec. 401(a) or 457.

27 (2) Qualified EMS professionals receiving a supplement from the Firefighters

1 Foundation Program fund under KRS 95A.200 to 95A.300 or the Law
2 Enforcement Foundation Program fund under KRS 15.410 to 15.510 shall not be
3 eligible to participate in the EMS Professionals Foundation Program fund.

4 (3) The amount of the employer's contribution to any retirement plan calculated
5 from the supplement shall not exceed the amount of the required employer's
6 contribution to the County Employees Retirement System pursuant to KRS
7 Chapter 78 for the hazardous duty category. The pension contribution on the
8 supplement shall be paid whether the EMS professional entered the system under
9 hazardous duty coverage or nonhazardous coverage.

10 (4) The ambulance service shall pay the amount received for retirement coverage to
11 the appropriate retirement system to cover the required employer contribution on
12 the supplement.

13 (5) If program funds are insufficient to pay employer contributions to the system,
14 then the total amount available for pension payments shall be prorated to each
15 eligible ambulance service so that each receives the same percentage of required
16 pension costs attributable to the supplement.

17 (6) The eligible EMS professional shall receive the distribution of the supplement
18 from the ambulance service in twelve (12) monthly installments with his or her
19 pay for the last pay period of each month. The monthly distribution shall be
20 calculated by dividing the supplement amount established in this section by twelve
21 (12).

22 (7) The supplement disbursed to a qualified EMS professional pursuant to Sections 1
23 to 4 of this Act shall not be considered wages as defined in KRS 337.010 and shall
24 not be included in the hourly wage rate for calculation of overtime pursuant to
25 KRS 337.285 for scheduled overtime. The supplement shall be included in the
26 hourly wage rates for calculation of overtime for unscheduled overtime pursuant
27 to KRS 337.285.

1 **(8) To determine the addition to the hourly wage rate for calculation of overtime on**
2 **unscheduled overtime, the annual supplement shall be divided by two thousand**
3 **eighty (2,080). The overtime rate for unscheduled overtime shall be calculated by**
4 **adding the quotient, which is the amount of the annual supplement divided by**
5 **two thousand eighty (2,080), to the hourly wage rate and multiplying the total by**
6 **one and one-half (1.5). The enhanced overtime rate shall be paid only for**
7 **unscheduled overtime. Scheduled overtime shall be paid at one and one-half (1.5)**
8 **times the regular hourly wage rate, excluding the supplement.**

9 ➔ Section 5. KRS 42.190 is amended to read as follows:

- 10 (1) ~~{On June 1, 1982, and then}~~ On or before the first day of each December, March,
11 June, and September~~[thereafter]~~, the cabinet shall request in writing of the
12 administrator of the Firefighters Foundation Program fund, which is established by
13 KRS 95A.220, **the administrator of the EMS Professionals Foundation Program**
14 **fund, which is established by Section 2 of this Act,** and of the administrator of the
15 Law Enforcement Foundation Program fund, which is established by KRS 15.430,
16 cost projections of their respective funds for the next quarter. Based on these
17 projections, the cabinet shall determine the proportionate share of total insurance
18 premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.
- 19 (2) On or before the first day of each quarter, the cabinet shall certify to the State
20 Treasurer a distribution schedule describing the proportionate share of total
21 insurance premium surcharge proceeds accruing to each fund during such quarter,
22 and the State Treasurer shall pay into each fund's trust and agency account its
23 proportionate share of all deposited tax moneys as set forth and in the manner as
24 prescribed in KRS 136.392.
- 25 (3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency
26 account, **the EMS Professionals Foundation Program fund's trust and agency**
27 **account,** and in the Law Enforcement Foundation Program fund's trust and agency

1 account, shall be invested by the state in accordance with state investment practices,
2 and all earnings from ~~the~~^[such] investments shall accrue to, and be paid into the
3 respective account from which such investments are made.~~[All moneys remaining~~
4 ~~on deposit at the close of the state's fiscal year in the Firefighters Foundation~~
5 ~~Program fund's trust and agency account and all earnings from investments made~~
6 ~~from moneys in this account in excess of three million dollars (\$3,000,000),~~
7 ~~beginning with fiscal year 1994-95, through June 30, 1999, shall lapse, except that~~
8 ~~moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. All~~
9 ~~moneys remaining on deposit at the close of the state's fiscal year in the Law~~
10 ~~Enforcement Foundation Program fund's trust and agency account, and all earnings~~
11 ~~from investments made from moneys in this account, in excess of three million~~
12 ~~dollars (\$3,000,000), beginning with fiscal year 1994-95, through June 30, 1999,~~
13 ~~shall lapse. On and after July 1, 1999,]~~ Moneys in these accounts shall not lapse.

14 (4) The cabinet shall provide monthly financial reports to the administrator of the
15 Firefighters Foundation Program fund, **the administrator of the EMS Professionals**
16 **Foundation Program fund,** and the administrator of the Law Enforcement
17 Foundation Program fund respecting the amount of funds received and on deposit in
18 each fund and the amount of earnings accruing to each fund from their investment.

19 ➔Section 6. KRS 136.392 is amended to read as follows:

20 (1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers,
21 which is either subject to or exempted from Kentucky premium taxes as
22 levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or
23 136.390, shall charge and collect a surcharge of one dollar and eighty cents
24 (\$1.80) upon each one hundred dollars (\$100) of premium, assessments, or
25 other charges, except for those municipal premium taxes, made by it for
26 insurance coverage provided to its policyholders, on risk located in this state,
27 whether the charges are designated as premiums, assessments, or otherwise.

1 The premium surcharge shall be collected by the insurer from its
2 policyholders at the same time and in the same manner that its premium or
3 other charge for the insurance coverage is collected. The premium surcharge
4 shall be disclosed to policyholders pursuant to administrative regulations
5 promulgated by the commissioner of insurance. However, no insurer or its
6 agent shall be entitled to any portion of any premium surcharge as a fee or
7 commission for its collection. On or before the twentieth day of each month,
8 each insurer shall report and remit to the Department of Revenue, on forms as
9 it may require, all premium surcharge moneys collected by it during its
10 preceding monthly accounting period less any moneys returned to
11 policyholders as applicable to the unearned portion of the premium on
12 policies terminated by either the insured or the insurer. Insurers with an
13 annual liability of less than one thousand dollars (\$1,000) for each of the
14 previous two (2) calendar years may report and remit to the Department of
15 Revenue all premium surcharge moneys collected on a calendar year basis on
16 or before the twentieth day of January of the following calendar year. The
17 funds derived from the premium surcharge shall be deposited in the State
18 Treasury, and shall constitute a fund allocated for the uses and purposes of the
19 Firefighters Foundation Program fund, KRS 95A.220 and 95A.262, **the EMS**
20 **Professionals Foundation Program fund, Section 2 of this Act,** and the Law
21 Enforcement Foundation Program fund, KRS 15.430.

22 (b) Effective July 1, 2019, the surcharge rate in paragraph (a) of this subsection
23 shall only be adjusted by an Act of the General Assembly, and the adjusted
24 rate shall be applied beginning ninety (90) days after the effective date of the
25 Act.

26 (2) Within five (5) days after the end of each month, all insurance premium surcharge
27 proceeds deposited in the State Treasury as set forth in this section shall be paid by

1 the State Treasurer into the Firefighters Foundation Program fund trust and agency
2 account, the EMS Professionals Foundation Program fund trust and agency
3 account, and the Law Enforcement Foundation Program fund trust and agency
4 account. The amount paid into each account shall be proportionate to each fund's
5 respective share of the total deposits, pursuant to KRS 42.190. ~~Moneys deposited to~~
6 ~~the Law Enforcement Foundation Program fund trust and agency account shall not~~
7 ~~be disbursed, expended, encumbered, or transferred by any state official for uses~~
8 ~~and purposes other than those prescribed by KRS 15.410 to 15.500, except that~~
9 ~~beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in~~
10 ~~the account at the end of the fiscal year in excess of three million dollars~~
11 ~~(\$3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not~~
12 ~~lapse. Money deposited to the Firefighters Foundation Program fund trust and~~
13 ~~agency account shall not be disbursed, expended, encumbered, or transferred by any~~
14 ~~state official for uses and purposes other than those prescribed by KRS 95A.200 to~~
15 ~~95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999,~~
16 ~~moneys remaining in the account at the end of the fiscal year in excess of three~~
17 ~~million dollars (\$3,000,000) shall lapse, but moneys in the revolving loan fund~~
18 ~~established in KRS 95A.262 shall not lapse. On and after July 1, 1999,] Moneys in~~
19 this account shall not lapse.

- 20 (3) Insurance premium surcharge funds collected from the policyholders of any
21 domestic mutual company, cooperative, or assessment fire insurance company shall
22 be deposited in the State Treasury, and shall be paid monthly by the State Treasurer
23 into the Firefighters Foundation Program fund trust and agency account as provided
24 in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds
25 collected from policyholders of any mutual company, cooperative, or assessment
26 fire insurance company which transfers its corporate domicile to this state from
27 another state after July 15, 1994, shall continue to be paid into the Firefighters

1 Foundation Program fund, the EMS Professionals Foundation Program fund, and
2 the Law Enforcement Foundation Program fund as prescribed.

3 (4) No later than July 1 of each year, the Department of Insurance shall provide the
4 Department of Revenue with a list of all Kentucky-licensed property and casualty
5 insurers and the amount of premium volume collected by the insurer for the
6 preceding calendar year as set forth on the annual statement of the insurer. No later
7 than September 1 of each year, the Department of Revenue shall calculate an
8 estimate of the premium surcharge due from each insurer subject to the insurance
9 premium surcharge imposed pursuant to this section, based upon the surcharge rate
10 imposed pursuant to this section and the amount of the premium volume for each
11 insurer as reported by the Department of Insurance. The Department of Revenue
12 shall compare the results of this estimate with the premium surcharge paid by each
13 insurer during the preceding year and shall provide the Legislative Research
14 Commission, the Kentucky Fire Commission, the Kentucky Board of Emergency
15 Medical Services, the Kentucky Law Enforcement Council, and the Department of
16 Insurance with a report detailing its findings on a cumulative basis. In accordance
17 with KRS 131.190, the Department of Revenue shall not identify or divulge the
18 confidential tax information of any individual insurer in this report.

19 (5) The insurance premiums surcharge provided in this section shall not apply to
20 premiums collected from the following:

- 21 (a) The federal government;
- 22 (b) Resident educational and charitable institutions qualifying under Section
23 501(c)(3) of the Internal Revenue Code;
- 24 (c) Resident nonprofit religious institutions for real, tangible, and intangible
25 property coverage only;
- 26 (d) State government for coverage of real property; or
- 27 (e) Local governments for coverage of real property.

1 (6) Pursuant to the Non-Admitted and Reinsurance Reform Act of 2010, Title V,
2 Subtitle B, of the Dodd-Frank Wall Street Reform and Consumer Protection Act,
3 Pub. L. No. 111-203, the insurance premium surcharge on non-admitted insurance
4 for multistate risks shall be exempt from the provisions of this section but shall be
5 subject to the provisions of KRS 304.10-180.