

1 AN ACT relating to the Commonwealth's property and casualty insurance fund and
2 declaring an emergency.

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

4 ➔ Section 1. KRS 56.065 is amended to read as follows:

5 As used in KRS 56.065~~[56.070]~~ to 56.180, unless the context requires otherwise:

6 (1) "Subject of risk" means any or all property reasonably considered to be subject to
7 loss or damage by any single occurrence of any event insured against.

8 (2) "Cabinet" means the Finance and Administration Cabinet.

9 ➔ Section 2. KRS 56.070 is amended to read as follows:

10 (1) The cabinet shall:

11 **(a)** Determine which state property shall be insured against loss by fire and other
12 hazards; **and** ~~[- The cabinet shall -]~~

13 **(b)** Insure with a responsible company or companies authorized to do business in
14 Kentucky all property financed under a statutory amortization plan, to the
15 extent of the lien indebtedness upon the property or to the extent of its
16 reasonable value, whichever is the lesser.

17 (2) Any officer or agent of the state having control or custody of any property
18 belonging to or controlled or used by the state or any agency of the state may, with
19 the approval of the secretary of the ~~[- Finance and Administration]~~ cabinet, from the
20 funds allotted to such agency, purchase insurance of an additional kind or kinds
21 which cannot properly be covered in the **Commonwealth's property and**
22 **casualty**~~[-state fire and tornado-]~~ insurance fund.

23 ➔ Section 3. KRS 56.095 is amended to read as follows:

24 Notwithstanding the provisions of any other law, KRS Chapter 45A shall apply to ~~[- fire~~
25 ~~and tornado-]~~ insurance contracts entered into by the cabinet **under KRS 56.065 to 56.180,**
26 except as provided in KRS 45A.022.

27 ➔ Section 4. KRS 56.100 is amended to read as follows:

1 (1) (a) 1. Each fiscal year, the State Treasurer shall deduct from any funds in the
 2 Treasury payable to an agency for the care and maintenance of public
 3 buildings or property an amount equal to the premiums certified to him
 4 or her as chargeable against that agency.

5 2. The amount so debited shall be credited to an account kept by the State
 6 Treasurer and known as the Commonwealth's property and
 7 casualty~~[state fire and tornado]~~ insurance fund.

8 (b) Notwithstanding KRS 56.090:

9 1. On and after the effective date of this Act~~[March 29, 2023]~~, until June
 10 30, 2030~~[2025]~~, a~~[no]~~ premium shall not be charged on any one (1)
 11 subject of risk upon a valuation of more than ten million dollars
 12 (\$10,000,000), unless the Office of the Controller in the ~~[Finance and~~
 13 ~~Administration]~~ cabinet has contracted for reinsurance that limits the
 14 liability of the fund to ten million dollars (\$10,000,000) upon that risk;
 15 and~~[.]~~

16 2.~~[(c)]~~ On and after July 1, 2030~~[2025]~~, a~~[no]~~ premium shall not be
 17 charged on any one (1) subject of risk upon a valuation of more than one
 18 million dollars (\$1,000,000), unless the Office of the Controller in the ~~[~~
 19 ~~Finance and Administration]~~ cabinet has contracted for reinsurance that
 20 limits the liability of the fund to one million dollars (\$1,000,000) upon
 21 that~~[such subject of]~~ risk.

22 (2) (a) The Office of the Controller in the ~~[Finance and Administration]~~ cabinet shall
 23 prescribe a certificate setting forth the terms and conditions of coverage under
 24 the Commonwealth's property and casualty~~[state fire and tornado]~~ insurance
 25 fund.

26 (b) Different forms of certificates may be used for different risks and the~~[. Such]~~
 27 certificates may contain such terms and conditions as the Office of the

1 Controller in the ~~[Finance and Administration]~~ cabinet may prescribe,
2 including but not limited to a deductible, in order that there be fair allocation
3 of significant losses and the elimination of unnecessary costs in administering
4 the **Commonwealth's property and casualty**~~[state fire and tornado]~~ insurance
5 fund.

6 ➔ Section 5. KRS 56.110 is amended to read as follows:

7 In case any building or other property belonging to the state or a state agency is damaged
8 by any of the perils insured against, except as otherwise provided in KRS **56.065**~~[56.070]~~
9 to 56.180, the agency having control or custody over the property shall within thirty (30)
10 days certify the event to the cabinet. After receiving in any manner knowledge of the
11 event, the cabinet shall ascertain and fix the amount of damage and file with the State
12 Treasurer a statement thereof. If the agency having control or custody of the property
13 disagrees with the estimate of damage, the agency and the cabinet shall each appoint one
14 (1) member of a board of appraisers, which two (2) members shall select a third member.
15 An award in writing, submitted by the board of appraisers to the State Treasurer, shall
16 determine the amount of damage.

17 ➔ Section 6. KRS 56.120 is amended to read as follows:

18 (1) **(a)** When the amount of damage has been determined, the State Treasurer shall
19 debit the account of the **Commonwealth's property and casualty**~~[state fire and~~
20 ~~tornado]~~ insurance fund by that amount and credit with an equal amount the
21 account of the agency that has control or custody of the property damaged,
22 and upon warrant from the ~~[Finance and Administration]~~ cabinet, the **State**
23 Treasurer shall pay to the agency the amount so credited to it, for the purpose
24 of repairing the damage or reconstructing or replacing the damaged or
25 destroyed property.

26 **(b)** If the agency deems it impracticable or undesirable to use the money for
27 repair, reconstruction, or replacement of the property damaged or destroyed, it

1 may, with the approval of the ~~Finance and Administration~~ cabinet, and
2 subject to the provisions of KRS 56.491, expend said funds for the
3 acquisition, repair, construction, or reconstruction of property similar to the
4 property damaged or destroyed.

5 (2) On and after the effective date of this Act ~~March 29, 2023~~, until June 30,
6 2030 ~~2025~~, a ~~no~~ debit, credit, or payment made on account of the damage to any
7 one (1) subject of risk, by any one (1) loss, shall **not** be in excess of ten million
8 dollars (\$10,000,000), unless the Office of the Controller in the ~~Finance and~~
9 ~~Administration~~ cabinet has effected reinsurance upon that risk to limit the liability
10 of the Commonwealth's property and casualty ~~state fire and tornado~~ insurance
11 fund to ten million dollars (\$10,000,000), and unless the excess over this amount
12 has actually been paid into the fund by the reinsuring company or companies.

13 (3) On and after July 1, 2030 ~~2025~~, a ~~no~~ debit, credit, or payment made on account of
14 the damage to any one (1) subject of risk, by any one (1) loss, shall **not** be in excess
15 of one million dollars (\$1,000,000), unless the Office of the Controller in the ~~Finance and Administration~~
16 cabinet has effected reinsurance upon that ~~the subject~~
17 ~~of~~ risk ~~such as~~ to limit the liability of the Commonwealth's property and
18 casualty ~~state fire and tornado~~ insurance fund to one million dollars (\$1,000,000),
19 and unless the excess over this amount has actually been paid into the fund by the
20 reinsuring company or companies.

21 ➔ Section 7. KRS 56.130 is amended to read as follows:

22 (1) If there is not in the account of the Commonwealth's property and casualty ~~state~~
23 ~~fire and tornado~~ insurance fund an amount sufficient to cover the damage, the State
24 Treasurer shall debit the fund only with the amount actually to its credit at the time,
25 and shall continue, subject to prior claims, to debit the fund by the amount of each
26 ensuing credit to the fund, until the total damage is covered.

27 (2) No payments shall be made on account of such damage to any agency of the state in

1 excess of the amount debited against the fund at the time of payment.

2 ➔ Section 8. KRS 56.140 is amended to read as follows:

- 3 (1) The State Treasurer, with approval of every investment by the ~~[Finance and~~
4 ~~Administration]~~ cabinet, may invest the **Commonwealth's property and**
5 **casualty**~~[state fire and tornado]~~ insurance fund in:
- 6 (a) Obligations of the United States government, its agencies, and Kentucky cities
7 of the first and home rule classes;
- 8 (b) Warrants issued on the State Treasurer;
- 9 (c) State bonds, including bridge revenue bonds issued under KRS 180.010 to
10 180.250;
- 11 (d) Bonds or other evidences of indebtedness of any domestic corporation that is
12 an agent or instrumentality of the state or of any city, county, or school district
13 of the state, secured by a mortgage on real estate in Kentucky that has been
14 conveyed to the corporation by any city, county, school district, or state
15 educational institution, and which the corporation has leased and given the
16 option to lease to the city, county, school district, or state educational
17 institution, with option in the lessee to purchase the property, or an interest
18 therein, on the payment of the aggregate sum of the bond issue, plus the
19 expenses incident to the issuance of the bonds and the formation and
20 dissolution of the corporation, subject to credit of the amounts paid as rental
21 for such property; and
- 22 (e) School bonds issued by cities under KRS 162.120 to 162.290.
- 23 (2) The ~~[Finance and Administration]~~ cabinet shall not approve investments on which
24 there has ever been a default in payment of principal or interest preceding the date
25 of acceptance by the State Treasurer.
- 26 (3) All income from investments credited to the **Commonwealth's property and**
27 **casualty**~~[state fire and tornado]~~ insurance fund shall be credited to that fund.

1 ➔ Section 9. KRS 56.150 is amended to read as follows:

- 2 **(1)** The cabinet and the State Treasurer may employ such assistance and incur such
3 expenses as are necessary to carry out the purposes of KRS 56.070 to 56.180.
- 4 **(2)** All such expenses may be debited against the **Commonwealth's property and**
5 **casualty**~~[state fire and tornado]~~ insurance fund, and paid on warrant of the cabinet,
6 but the total of such expenses during any fiscal year shall not exceed ten percent
7 (10%) of the total receipts of the fund during the same fiscal year.
- 8 **(3)** If such expenses are incurred at a time when there is not a sufficient amount in the
9 fund to pay them, they shall constitute a prior claim to be paid out of the first
10 receipts of the fund thereafter before any damages on account of insured losses are
11 paid.

12 ➔ Section 10. KRS 56.160 is amended to read as follows:

- 13 (1) **(a)** On ~~and for~~ after **the effective date of this Act**~~[March 29, 2023]~~, until June 30,
14 **2030**~~[2025]~~, the Office of the Controller in the~~[Finance and Administration]~~
15 cabinet may contract with any responsible~~[fire and tornado]~~ insurance or
16 reinsurance company authorized to do business in Kentucky to reinsure any
17 subject of risk of which the total valuation has been fixed at over ten million
18 dollars (\$10,000,000) in such a way as to limit the net liability of the
19 **Commonwealth's property and casualty**~~[state fire and tornado]~~ insurance
20 fund with respect to that risk to ten million dollars (\$10,000,000).
- 21 **(b)** The premium for reinsurance shall be paid out of the **Commonwealth's**
22 **property and casualty**~~[state fire and tornado]~~ insurance fund, on warrant of
23 the cabinet.
- 24 (2) **(a)** On ~~and for~~ after July 1, **2030**~~[2025]~~, the Office of the Controller in the~~[~~
25 ~~Finance and Administration]~~ cabinet may contract with any responsible~~[fire~~
26 ~~and tornado]~~ insurance or reinsurance company authorized to do business in
27 Kentucky to reinsure any subject of risk of which the total valuation has been

1 fixed at over one million dollars (\$1,000,000) in such a way as to limit the net
2 liability of the Commonwealth's property and casualty~~[state fire and tornado]~~
3 insurance fund with respect to that~~[such subject of]~~ risk to one million dollars
4 (\$1,000,000).

5 **(b)** The premium for reinsurance shall be paid out of the Commonwealth's
6 property and casualty~~[state fire and tornado]~~ insurance fund, on warrant of
7 the cabinet.

8 ➔ Section 11. KRS 56.180 is amended to read as follows:

9 (1) On and~~[or]~~ after the effective date of this Act~~[March 29, 2023]~~, until June 30,
10 2030~~[2025]~~, if at the end of any fiscal year the moneys and securities to the credit
11 of the Commonwealth's property and casualty~~[state fire and tornado]~~ insurance
12 fund exceed one hundred million dollars (\$100,000,000), that excess shall be
13 transferred to the general fund.

14 (2) On and~~[or]~~ after July 1, 2030~~[2025]~~, if at the end of any fiscal year the moneys and
15 securities to the credit of the Commonwealth's property and casualty~~[state fire and~~
16 ~~tornado]~~ insurance fund exceed ten million dollars (\$10,000,000), that~~[any such]~~
17 excess shall be transferred to the general fund.

18 (3) The moneys and securities to the credit of the Commonwealth's property and
19 casualty~~[state fire and tornado]~~ insurance fund shall not be used for any purpose
20 unrelated to fund operations.

21 ➔ Section 12. KRS 42.0651 is amended to read as follows:

22 (1) The Division of State Risk and Insurance Services shall:

23 (a) Oversee and assist the management of the Commonwealth's property and
24 casualty~~[state fire and tornado]~~ insurance fund established in KRS Chapter
25 56;

26 (b) Develop and manage programs of risk assessment and insurance for the
27 protection of state property not covered by the Commonwealth's property and

1 **casualty**~~[state fire and tornado]~~ insurance fund;

2 (c) Advise the secretary of the Finance and Administration Cabinet on the fiscal
3 management of programs relating to life insurance, workers' compensation,
4 and health care benefits for state employees;

5 (d) Serve as the central clearinghouse for coordinating and evaluating existing
6 and new risk management programs within all state agencies;

7 (e) Develop financing techniques for risk protection;

8 (f) Provide insurance for all state-owned and state-operated facilities and
9 vehicles; and

10 (g) Develop and implement other risk management, insurance, and self-insurance
11 programs or other functions and duties as the secretary of the Finance and
12 Administration Cabinet may direct the division to undertake and implement
13 within the general statutory authority and control of the Finance and
14 Administration Cabinet over state property and fiscal affairs of the executive
15 branch of state government, including, but not limited to, those areas
16 pertaining to tort and contractual liability, fidelity, and property risks.

17 (2) Nothing in this section shall be construed or interpreted as affecting the operation of
18 the employee benefit programs generally administered by the Office of Employee
19 Relations and Department of Employee Insurance within the Personnel Cabinet.
20 These agencies shall coordinate the operation of life insurance, workers'
21 compensation, health care benefit programs, and other self-insured programs with
22 the Division of State Risk and Insurance Services.

23 (3) All cabinets, departments, boards, commissions, and other state agencies shall
24 provide to the Division of State Risk and Insurance Services the technical advice
25 and other assistance the Division of State Risk and Insurance Services or the
26 secretary of the Finance and Administration Cabinet shall request in the
27 performance of the functions of the division as described in this section.

1 (4) **(a)** The secretary of the Finance and Administration Cabinet shall have the power
2 and authority to promulgate administrative regulations pursuant to KRS
3 Chapter 13A for purposes of implementing a risk management program for
4 the executive branch of state government.

5 **(b)** Any administrative regulations promulgated by the secretary shall be
6 administered by the Division of State Risk and Insurance Services.

7 ➔ Section 13. KRS 164A.577 is amended to read as follows:

8 (1) Notwithstanding KRS 56.065 to 56.180 and any other law to the contrary:

9 (a) Instead of insurance coverage provided through the **Commonwealth's**
10 **property and casualty**~~[state fire and tornado]~~ insurance fund, the governing
11 board of each institution may, subject to paragraph (b) of this subsection, elect
12 to obtain insurance under this section to cover all of the state property in the
13 institution's possession against loss by fire and other hazards;

14 (b) An institution whose governing board elects to obtain insurance under this
15 section shall:

16 1. Not be required to obtain approval by the Finance and Administration
17 Cabinet or any other state agency or official to terminate the institution's
18 insurance coverage through the **Commonwealth's property and**
19 **casualty**~~[state fire and tornado]~~ insurance fund;

20 2. Notify the secretary of the Finance and Administration Cabinet at least
21 sixty (60) days before terminating the institution's insurance coverage
22 through the **Commonwealth's property and casualty**~~[state fire and~~
23 ~~tornado]~~ insurance fund;

24 3. Ensure that the insurance is in place immediately following termination
25 of the institution's insurance coverage through the **Commonwealth's**
26 **property and casualty**~~[state fire and tornado]~~ insurance fund;

27 4. Comply with any bidding or advertising requirements under KRS

1 Chapters 45A and 424; and

2 5. Comply with subsection (2) of this section; and

3 (c) 1. An institution that terminates the institution's insurance coverage
4 through the **Commonwealth's property and casualty**~~[state fire and~~
5 ~~tornado]~~ insurance fund under this subsection shall be permitted to
6 resume that coverage, without any need for approval by the Finance and
7 Administration Cabinet or any other state agency or official, by
8 providing the following notices to the secretary of the Finance and
9 Administration Cabinet:

10 a. At least six (6) months prior to the effective date of the
11 institution's resumption of coverage through the **Commonwealth's**
12 **property and casualty**~~[state fire and tornado]~~ insurance fund, as
13 provided under subparagraph 2. of this paragraph, a notice that the
14 institution intends but is not obligated to resume coverage through
15 the fund; and

16 b. At least three (3) months prior to the effective date of the
17 institution's resumption of coverage through the **Commonwealth's**
18 **property and casualty**~~[state fire and tornado]~~ insurance fund, as
19 provided under subparagraph 2. of this paragraph, a notice that the
20 institution is resuming coverage through the fund.

21 2. Upon receipt of the notices required under subparagraph 1. of this
22 paragraph, the Finance and Administration Cabinet shall insure all of the
23 state property in the institution's possession against loss by fire and other
24 hazards through the **Commonwealth's property and casualty**~~[state fire~~
25 ~~and tornado]~~ insurance fund, and coverage shall become effective not
26 later than:

27 a. The next date of renewal of the coverage provided through the

1 fund; or

2 b. Any other date agreed upon by the institution and the cabinet.

3 (2) An institution that obtains insurance under this section shall ensure that an annual
4 inspection is made of each state building and its contents in the institution's
5 possession, for the purpose of determining the unnecessary causes of a fire hazard
6 therein, and recommendations are received for corrective actions, by either:

7 (a) 1. Allowing the Finance and Administration Cabinet to have the inspection
8 made and to make recommendations for corrective actions, consistent
9 with the inspections and recommendations made under KRS 56.170.

10 2. The institution shall pay a fee to the Finance and Administration Cabinet
11 for an inspection made under this paragraph if:

12 a. i. A fee is charged; and

13 ii. The fee is not in excess of the fee charged;

14 to agencies for an inspection made under KRS 56.170; and

15 b. The fee is reasonable; or

16 (b) 1. Having a qualified third party approved by the institution's insurer
17 conduct the inspection and make recommendations for corrective
18 actions.

19 2. The institution may pay a reasonable fee for an inspection made under
20 this paragraph if the fee is not included in the premium charged by the
21 insurer.

22 (3) Insurance obtained under this section:

23 (a) May be provided:

24 1. By an authorized insurer as defined in KRS 304.1-100; or

25 2. Through a self-insurance pool if the pool is:

26 a. Adequately reinsured by an authorized insurer as defined in KRS
27 304.1-100; and

- 1 b. Capable of insuring all of the state property in the institution's
2 possession;
- 3 (b) Shall state the following for each insured building and its contents:
- 4 1. Estimated replacement cost; and
- 5 2. The amount of coverage provided;
- 6 (c) 1. Except as provided in subsection (4) of this section, shall insure each
7 building and its contents for an amount equal to one hundred percent
8 (100%) of the replacement cost determined through a certified
9 replacement cost appraisal performed at the direction of the institution
10 by an appraiser:
- 11 a. Licensed to perform appraisal services under KRS Chapter 324A;
12 and
- 13 b. Experienced in appraising commercial or governmental property.
- 14 2. As used in this paragraph, "replacement cost" includes the increased
15 cost of construction brought about by code changes that:
- 16 a. Have occurred since the original structure was built; and
- 17 b. Are required to be incorporated within a rebuilt structure;
- 18 (d) Shall contain an agreed amount provision; and
- 19 (e) Shall include:
- 20 1. Ordinance and law coverage at not less than five million dollars
21 (\$5,000,000);
- 22 2. Debris removal coverage at not less than one million dollars
23 (\$1,000,000);
- 24 3. Extra expense coverage at not less than five million dollars
25 (\$5,000,000); and
- 26 4. For any building containing a steam boiler, boiler and machinery
27 coverage at not less than the total value of the real and personal property

1 in the building in which the steam boiler is located.

2 (4) A governing board may obtain actual cash value coverage of a building and its
3 contents if a certification signed by the governing board chair is attached to the
4 insurance policy or contract, or self-insurance pool contract, stating that it would
5 not be fiscally responsible to provide replacement cost coverage for the building
6 being insured.

7 ➔Section 14. Whereas it may be necessary to negotiate upcoming insurance rates
8 for the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes
9 effect upon its passage and approval by the Governor or upon its otherwise becoming a
10 law.