

1 AN ACT relating to the Department of Fish and Wildlife Resources and declaring
2 an emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) Notwithstanding any provision of law to the contrary, the department shall*
7 *conduct all procurements necessary for the performance of its duties in*
8 *accordance with KRS Chapter 45A and this chapter. Upon approval of the*
9 *commission, the commissioner shall be deemed the chief purchasing officer for*
10 *the purposes of conducting procurements for the department and shall have all of*
11 *the authority and responsibility with regard to the department's procurements as*
12 *the secretary for the Finance and Administration Cabinet has for procurements*
13 *under KRS Chapter 45A. All department personal service contracts, tax incentive*
14 *agreements, and memoranda of agreement shall be subject to review by the*
15 *Government Contract Review Committee established by KRS 45A.705.*

16 *(2) In its bidding and negotiation processes, the department, upon approval of the*
17 *commission, shall perform its own bidding and procurement in accordance with*
18 *the procedures established by KRS Chapter 45A.*

19 *(3) All members of the commission, the commissioner, and employees of the*
20 *department shall be subject to the requirements of the Executive Branch Code of*
21 *Ethics established under KRS Chapter 11A.*

22 ➔Section 2. KRS 45A.030 is amended to read as follows:

23 As used in this code, unless the context requires otherwise:

24 (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint
25 stock company, joint venture, or any other legal entity through which business is
26 conducted;

27 (2) "Change order" means a written order signed by the purchasing officer, directing the

- 1 contractor to make changes that the changes clause of the contract authorizes the
2 purchasing officer to order without the consent of the contractor;
- 3 (3) "Chief purchasing officer" means the secretary of the Finance and Administration
4 Cabinet, who shall be responsible for all procurement of the Commonwealth except
5 as provided by KRS Chapters 150, 175, 175B, 176, 177, and 180;
- 6 (4) "Construction" means the process of building, altering, repairing, improving, or
7 demolishing any public structures or buildings, or other public improvements of any
8 kind to any public real property. It does not include the routine maintenance of
9 existing structures, buildings, or real property;
- 10 (5) "Construction manager-agency" means services to assist the purchasing agency
11 manage construction that are procured through a contract that is qualifications-
12 based;
- 13 (6) "Construction management-at-risk" means a project delivery method in which the
14 purchasing officer enters into a single contract with an offeror that assumes the risk
15 for construction at a contracted guaranteed maximum price as a general contractor,
16 and provides consultation and collaboration regarding the construction during and
17 after design of a capital project. The contract shall be subject to the bonding
18 requirements of KRS 45A.190;
- 19 (7) "Construction manager-general contractor" means a project delivery method in
20 which the purchasing officer enters into a single contract with an offeror to provide
21 preconstruction and construction services. During the preconstruction phase, the
22 successful offeror provides design consulting services. During the construction
23 phase, the successful offeror acts as general contractor by:
- 24 (a) Contracting with subcontractors; and
25 (b) Providing for management and construction at a fixed price with a completion
26 deadline;
- 27 (8) "Contract" means all types of state agreements, including grants and orders, for the

1 acquisition, purchase, or disposal of supplies, services, construction, or any other
2 item. It includes: awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee,
3 contingency fee, or incentive type; contracts providing for the issuance of job or
4 task orders; leases; letter contracts; purchase orders; public-private partnership
5 agreements; and insurance contracts except as provided in KRS 45A.022. It
6 includes supplemental agreements with respect to any of the foregoing;

7 (9) "Contract modification" means any written alteration in the specifications, delivery
8 point, rate of delivery, contract period, price, quantity, or other contract provisions
9 of any existing contract, whether accomplished by unilateral action in accordance
10 with a contract provision or by mutual action of the parties to the contract. It
11 includes bilateral actions, such as supplemental agreements, and unilateral actions,
12 such as change orders, administrative changes, notices of termination, and notices
13 of the exercise of a contract option;

14 (10) "Contractor" means any person having a contract with a governmental body;

15 (11) "Data" means recorded information, regardless of form or characteristic;

16 (12) "Design-bid-build" means a project delivery method in which the purchasing officer
17 sequentially awards separate contracts, the first for architectural, engineering, or
18 engineering-related services to design the project and the second for construction of
19 the capital project according to the design. The contract shall be subject to the
20 bonding requirements of KRS 45A.185;

21 (13) "Design-build" means a project delivery method in which the purchasing officer
22 enters into a single contract for design and construction of a capital project. The
23 contract shall be subject to the bonding requirements of KRS 45A.190;

24 (14) "Designee" means a duly authorized representative of a person holding a superior
25 position;

26 (15) "Document" means any physical embodiment of information or ideas, regardless of
27 form or characteristic, including electronic versions thereof;

- 1 (16) "Employee" means an individual drawing a salary from a governmental body,
2 whether elected or not, and any nonsalaried individual performing personal services
3 for any governmental body;
- 4 (17) "Governmental body" means any department, commission, council, board, bureau,
5 committee, institution, legislative body, agency, government corporation, or other
6 establishment of the executive or legislative branch of the state government;
- 7 (18) "Meeting" means all gatherings of every kind, including video teleconferences;
- 8 (19) "Negotiation" means contracting by either the method set forth in KRS 45A.085,
9 45A.090, or 45A.095;
- 10 (20) "Person" means any business, individual, organization, or group of individuals;
- 11 (21) "Private partner" means any entity that is a partner in a public-private partnership
12 other than:
- 13 (a) The Commonwealth of Kentucky, or any agency or department thereof;
- 14 (b) The federal government;
- 15 (c) Any other state government; or
- 16 (d) Any agency of a state, federal, or local government;
- 17 (22) "Procurement" means the purchasing, buying, renting, leasing, or otherwise
18 obtaining of any supplies, services, or construction. It includes all functions that
19 pertain to the procurement of any supply, service, or construction item, including
20 description of requirements, selection and solicitation of sources, preparation and
21 award of contract, and all phases of contract administration;
- 22 (23) "Public-private partnership" means a project delivery method for construction or
23 financing of capital projects, as defined in KRS 45.750, or procurement of services,
24 pursuant to a written public-private partnership agreement entered into pursuant to
25 KRS 45A.077 and administrative regulations promulgated thereunder, between:
- 26 (a) At least one (1) private partner; and
- 27 (b) The Commonwealth of Kentucky, or any agency or department thereof;

- 1 (24) "Purchase request" or "purchase requisition" means that document whereby a using
2 agency requests that a contract be obtained for a specified need, and may include,
3 but is not limited to, the technical description of the requested item, delivery
4 schedule, transportation, criteria for evaluation of solicitees, suggested sources of
5 supply, and information supplied for the making of any written determination and
6 finding required by KRS 45A.025;
- 7 (25) "Purchasing agency" means any governmental body that is authorized by this code
8 or its implementing administrative regulations or by way of delegation from the
9 chief purchasing officer to contract on its own behalf rather than through the central
10 contracting authority of the chief purchasing officer;
- 11 (26) "Purchasing officer" means any person authorized by a governmental body in
12 accordance with procedures prescribed by administrative regulations to enter into
13 and administer contracts and make written determinations and findings with respect
14 thereto. The term includes an authorized representative acting within the limits of
15 authority;
- 16 (27) "Services" means the rendering by a contractor of its time and effort rather than the
17 furnishing of a specific end product, other than reports that are merely incidental to
18 the required performance of services;
- 19 (28) "Supplemental agreement" means any contract modification that is accomplished by
20 the mutual action of the parties;
- 21 (29) "Supplies" means all property, including but not limited to leases of real property,
22 printing, and insurance, except land or a permanent interest in land;
- 23 (30) "Using agency" means any governmental body of the state that utilizes any supplies,
24 services, or construction purchased under this code;
- 25 (31) "Video teleconference" means one (1) meeting, occurring in two (2) or more
26 locations, where individuals can see and hear each other by means of video and
27 audio equipment; and

1 (32) "Writing" or "written" means letters, words, or numbers, or their equivalent, set
 2 down by handwriting, typewriting, printing, photostating, photographing, magnetic
 3 impulse, mechanical or electronic recording, or other form of data compilation.

4 ➔Section 3. KRS 150.021 is amended to read as follows:

5 (1) The Department of Fish and Wildlife Resources shall constitute *an independent*^[a]
 6 department of state government within the meaning of KRS Chapter 12, *and shall*
 7 *be administratively attached to the Tourism, Arts and Heritage Cabinet only for*
 8 *those limited functions and purposes expressly requested by the department to be*
 9 *performed by the Tourism, Arts and Heritage Cabinet. The department shall have*
 10 *sole discretion as to which functions shall be deemed necessary for the efficient*
 11 *operation of the department and the properties in its custody and control.* The
 12 department shall consist of a commissioner, a Fish and Wildlife Resources
 13 Commission, the Division of Law Enforcement, and other agents and employees
 14 provided for in this chapter. The department shall enforce the laws and regulations
 15 adopted under this chapter relating to wildlife and shall exercise all powers
 16 necessarily incident thereto.

17 (2) ~~{Except with regard to the commissioner's authority to appoint and compensate a~~
 18 ~~commissioner under KRS 150.061, any powers conferred by this chapter upon~~
 19 ~~the Department of Fish and Wildlife Resources, the Fish and Wildlife~~
 20 ~~Resources Commission, or the commissioner of the Department of Fish and~~
 21 ~~Wildlife Resources, and any powers conferred by KRS Chapter 235 shall be~~
 22 ~~exercised subject to the provisions of KRS Chapters 42, 45, 45A, 56, and 64,~~
 23 ~~which chapters in all respects are controlling.~~

24 (3)—(a) The Finance and Administration Cabinet shall assess the Department of Fish
 25 and Wildlife Resources each fiscal year a fee in an amount equal to five
 26 percent (5%) of the debt service associated with all phases and
 27 implementation of the capital project to replace, repair, or maintain the two (2)

1 way radio system utilized by the Department of Kentucky State Police.

2 (b) The fee shall be assessed on each phase of the implementation of the two (2)
3 way radio system and shall continue to be assessed until all debt for the
4 system has been retired.

5 **(3) On the effective date of this Act, copies of any records, files, or documents,**
6 **including any legal documents or memoranda, associated with functions of the**
7 **Department of Fish and Wildlife Resources that were previously performed by the**
8 **Tourism, Arts and Heritage Cabinet but for which it is no longer deemed**
9 **responsible, shall be transmitted to the department.**

10 **(4) The department shall not be subject to reorganization under KRS Chapter 12.**

11 ➔Section 4. KRS 150.022 is amended to read as follows:

12 (1) The Department of Fish and Wildlife Resources Commission shall consist of nine
13 (9) members, one (1) from each **commission**~~[wildlife]~~ district, as set out by the
14 commissioner with the approval of the commission, and not more than five (5) of
15 the same political party.

16 (2) The Governor shall appoint the members of the commission subject to confirmation
17 by the Senate **as described in subsection (3) of this section.** Each of the members
18 shall be appointed for a term **ending on December 31 of the fourth calendar year**
19 **following his or her appointment, except that a member's term shall continue**
20 **until his or her successor is duly appointed and confirmed by the Senate, but no**
21 **later than one (1) year following the expiration of the member's term. If after one**
22 **(1) year a successor has not been duly appointed and confirmed by the Senate,**
23 **the commissioner's seat for that district shall be vacant until a successor is duly**
24 **appointed and confirmed by the Senate. A member shall serve no more than two**
25 **(2) full terms, not including any partial term that a member may additionally**
26 **serve**~~[of four (4) years and may be reappointed only once]. **A**~~[No]~~ person who has
27 been convicted of a felony offense, in Kentucky or under the law of any other state,~~

1 or any other law of the United States shall ***not*** be eligible to serve on the
2 commission.

3 (3) ***(a)*** Vacancies through the expiration of terms of the members of the commission
4 shall be filled by appointment by the Governor from a list of five (5) names
5 from each ***commission***~~[wildlife]~~ district, recommended and submitted by the
6 sportsmen of each respective district.

7 ***(b)*** When the term of a member expires, the commissioner shall call a meeting of
8 the sportsmen in that district not later than thirty (30) days prior to the
9 expiration of the member's term. Notice of the meeting shall be given by
10 publication pursuant to KRS Chapter 424.

11 ***(c)*** At the meeting, the sportsmen in attendance shall select and submit to the
12 Governor a list of five (5) residents and citizens of the district who ***have held***
13 ***hunting and fishing licenses in Kentucky or another state for at least the***
14 ***previous five (5) consecutive years, or who have been hunting and fishing in***
15 ***the Commonwealth for the previous five (5) consecutive years while license-***
16 ***exempt under KRS 150.170, and who*** are well informed on the subject of
17 wildlife conservation and restoration. Each sportsman may vote for one (1)
18 candidate only, and the list submitted to the Governor shall be made up of the
19 names of the five (5) candidates receiving the five (5) highest vote totals.

20 ***(d)*** The Governor shall appoint a successor to the member whose term ***has***
21 ***expired no later than January 20 of the year following the year in which the***
22 ***member's term expired***~~[is about to expire within sixty (60) days following the~~
23 ~~submission to him of the list referred to in this subsection, and in no event~~
24 ~~later than August 13].~~

25 (4) Upon appointment to the ~~[commission of the]~~Department of Fish and Wildlife
26 Resources ***Commission***, each commissioner shall execute a bond of one thousand
27 dollars (\$1,000) in favor of the Department of Fish and Wildlife Resources, the

- 1 premium on this bond to be paid out of department funds.
- 2 (5) In the event of vacancies other than by expiration, the Governor shall fill the
3 vacancy for the unexpired part of the term from the names remaining on the list
4 previously submitted for the district from which the vacancy arose.
- 5 (6) Each member of the commission shall take the constitutional oath of office.
- 6 (7) The Governor shall remove any member of the commission for cause under
7 subsection (2) of this section and may remove ~~a~~^{any} member of the commission
8 for nonfeasance~~[inefficiency]~~, neglect of duty, or misconduct in office; but shall
9 first deliver to the member a copy of all charges in writing and afford to him or her
10 an opportunity for an administrative hearing to be conducted in accordance with
11 KRS Chapter 13B~~[of being publicly heard in person or by counsel in defense of the~~
12 ~~charges, upon not less than ten (10) days' notice]~~. In order to remove~~[If]~~ a member
13 of the commission~~[shall be removed]~~, the Governor shall file in the office of the
14 Secretary of State a complete statement of all charges made against the member and
15 his or her findings thereon, together with a complete record of the proceedings.
- 16 (8) Each member of the commission shall be entitled to reimbursement for actual and
17 necessary traveling and other expenses incurred by him or her in the discharge of
18 his or her official duties and to be paid from the game and fish fund.
- 19 (9) A majority of the commission shall constitute a quorum for the transaction of any
20 business, for the performance of any duty or for the exercise of any power vested in
21 the commission.
- 22 (10) The department shall have its principal office in Franklin County, and is authorized
23 to purchase all supplies, equipment, and printed forms and to issue any notices and
24 publications as the commissioner may deem necessary to carry out the provisions of
25 this chapter.
- 26 (11) The word "sportsman" as used in this section shall mean a resident hunter or
27 fisherman who has been licensed in Kentucky for each of the past two (2)

1 consecutive years.

2 ➔Section 5. KRS 150.0241 is amended to read as follows:

3 (1) As used in this section unless the context otherwise requires:

4 (a) "Commission" has the same meaning as in KRS 150.010;

5 (b) "Commission-managed lands" means those lands owned by the commission,
6 those lands owned by the Commonwealth over which the commission holds
7 management authority, or those privately owned lands that are leased or
8 managed by the commission; and

9 (c) "Hunting" means the lawful pursuit, trapping, shooting, capture, collection, or
10 killing of wildlife or the lawful attempt to do the same.

11 (2) Commission-managed lands shall be open to access and use for hunting except as
12 limited by the commission for reasons of fish or wildlife management, or as
13 otherwise limited by a statute outside KRS Chapter 150 or 235.

14 (3) The commission, in exercising its authority under the Constitution of the
15 Commonwealth of Kentucky and statutes, shall exercise its authority consistent
16 with subsection (2) of this section, in a manner that supports, promotes, and
17 enhances hunting opportunities to the extent authorized by law.

18 (4) Commission land management decisions and actions, including decisions made by
19 private owners to close land managed by the commission, shall not result in any net
20 loss of habitat land acreage available for hunting opportunities on commission-
21 managed lands that exists on July 15, 2010. The commission shall expeditiously
22 find replacement acreage for hunting to compensate for closures of any existing
23 hunting land. Replacement lands shall, to the greatest extent possible, be located
24 within the same commission~~[wildlife]~~ district and shall be consistent with the
25 hunting discipline that the commission allowed on the closed land.

26 (5) Any state agency that owns or manages lands shall assist and coordinate and
27 cooperate with the commission to allow hunting on these lands if the lands are

1 determined by the commission and that agency to be suitable for hunting. To ensure
2 no net loss of land acreage available for hunting, state agencies shall cooperate with
3 the commission to open new, additional hunting lands to replace lost hunting
4 acreage. Lands officially designated as units within the state park system may be
5 considered for replacement hunting lands and may be open for hunting when
6 necessary as a wildlife control or management tool as determined by the
7 Department of Parks.

8 (6) By October 1 of each year, the commissioner shall submit to the Legislative
9 Research Commission and the Interim Joint Committee on Natural Resources and
10 Environment a written report describing:

11 (a) The acreage managed by the commission that was closed to hunting during the
12 previous fiscal year and the reasons for the closures; and

13 (b) The acreage managed by the commission that was opened to hunting to
14 compensate for closures of existing land pursuant to subsection (4) of this
15 section.

16 (7) By October 1 of each year, any state agency that owns or manages lands shall
17 submit a written report to the commission, the Legislative Research Commission,
18 and the Interim Joint Committee on Natural Resources and Environment describing:

19 (a) A list of properties that were open for hunting during the previous fiscal year;

20 (b) A list of properties that were not open for hunting during the previous fiscal
21 year; and

22 (c) 1. The acreage for each property and the county where each property is
23 located, including lands on which a right-of-way exists which make the
24 lands unsuitable for hunting, and an explanation of why the right-of-way
25 makes the land unsuitable for hunting; and

26 2. Parcels under fifty (50) acres. No agency shall subdivide land it owns or
27 manages into parcels under fifty (50) acres in an attempt to avoid

1 compliance with the provisions of this section.

2 (8) The first report under this section shall be due no later than October 1, 2010.

3 ➔Section 6. KRS 150.061 is amended to read as follows:

4 (1) Notwithstanding any provisions of KRS Chapter 18A, 42, 45, 45A, 56, or 64 to the
5 contrary, the commission shall have the sole authority to appoint a commissioner of
6 the Department of Fish and Wildlife Resources, who shall be a person with
7 knowledge of and experience in the requirements for the protection, conservation
8 and restoration of the wildlife resources of the state. The commission shall be the
9 sole contracting body for the purposes of KRS Chapter 45A and shall submit any
10 proposed personal service contract with a commissioner to the Government Contact
11 Review Committee for its review pursuant to KRS 45A.690 to 45A.725. The
12 commissioner shall serve for a defined employment contract term not to exceed four
13 (4) years and shall be subject to:

14 (a) Annual review by the commission in closed, executive session;

15 (b) Removal by the commission for the same cause and in the same manner in
16 which the Governor may remove a member of the commission; and

17 (c) Reappointment by the commission.

18 (2) The commissioner shall receive such compensation as the commission may solely
19 determine, and shall be reimbursed for all actual and necessary travel and other
20 expenses incurred by him or her in the performance of his or her official duties.

21 (3) Before entering upon the duties of his or her office, the commissioner shall take and
22 subscribe to the constitutional oath of office, and shall, in addition thereto, swear or
23 affirm that he or she holds no other public office, nor any position upon or under
24 any political committee or party. Upon appointment by the commission, the
25 commissioner shall execute a bond of five thousand dollars (\$5,000) in favor of the
26 Department of Fish and Wildlife Resources, the premium on said bond to be paid
27 out of department funds.

1 (4) Notwithstanding any provision of law to the contrary, the commissioner shall be
 2 the sole appointing authority for the department for the purposes of KRS Chapter
 3 18A and shall have general supervision and control of all activities, functions,
 4 appointments, and employees of the department~~[of Fish and Wildlife Resources]~~.
 5 He or she shall enforce all provisions of the laws of the state relating to wild
 6 animals, birds, fish and amphibians, and shall exercise all powers necessarily
 7 incident thereto not specifically conferred on the commission. The commissioner
 8 shall make an annual report of all receipts and disbursements and file same with the
 9 Secretary of State of the Commonwealth of Kentucky.

10 (5) If federal or other grant funds become available to pay their salaries, the
 11 commissioner may appoint and employ other persons that he or she may deem
 12 necessary or desirable to accomplish the purposes of this chapter. The
 13 commissioner shall determine the compensation, duties, and terms of employment
 14 of these employees, and grant funded, time-limited positions shall be approved by
 15 the commission as needed. Employees whose salaries are funded through federal or
 16 other grant funds shall not be counted in any tally of permanent employees made for
 17 employee cap or budgetary purposes.

18 ➔Section 7. KRS 150.152 is amended to read as follows:

19 Each year when the Auditor of Public Accounts conducts the statewide single audit of the
 20 Commonwealth of Kentucky, the Auditor of Public Accounts shall with respect to the
 21 Department of Fish and Wildlife Resources:

- 22 (1) Examine the separate revenue streams of each account within the game and fish
 23 fund to ensure compliance with the prohibition against commingling of funds;
 24 (2) Disaggregate and report the revenue and expenditures, by type, within the program
 25 income fund of the fish and game fund;
 26 (3) Identify internal controls, weaknesses, operating inefficiencies, and make
 27 recommendations for improvements;~~[and]~~

1 (4) *Examine all department procurement procedures and procurements made by the*
 2 *department since the previous annual statewide audit to ensure compliance with*
 3 *the requirements of KRS Chapter 45A and Section 1 of this Act; and*

4 (5) Submit a written report to the Interim Joint Committee on Natural Resources and
 5 *Energy*~~Environment~~ in conjunction with the release of the statewide single audit
 6 of the Commonwealth of Kentucky.

7 ➔Section 8. KRS 235.010 is amended to read as follows:

8 As used in this chapter, unless the context clearly requires a different meaning:

- 9 (1) "Vessel" means every description of watercraft, other than a seaplane on the water;
- 10 (2) "Motorboat" means any vessel propelled by machinery, whether or not such
 11 machinery is the principal source of propulsion, except for the following:
- 12 (a) Boats or vessels propelled totally by a direct current battery-powered motor
 13 when used on private waters;
- 14 (b) Boats propelled by human power employing the use of hand or foot operation;
 15 and
- 16 (c) Federally regulated commercial vessels;
- 17 (3) "Owner" means a person, other than a lienholder, having the property in or title to a
 18 motorboat. The term includes a person entitled to the use or possession of a
 19 motorboat subject to an interest in another person, reserved or created by agreement
 20 and securing payment or performance of an obligation, but the term excludes a
 21 lessee under a lease not intended as security;
- 22 (4) "Personal watercraft" means a vessel which uses an internal combustion engine to
 23 power a jet pump for its primary source of propulsion and is designed to be operated
 24 by a person sitting, standing, or kneeling on the vessel rather than to be operated by
 25 a person sitting or standing inside the vessel;
- 26 (5) "Safe boating certificate" means a document attesting the successful completion of
 27 instruction, approved by the department or given by the United States Coast Guard

- 1 or Coast Guard Auxiliary or the United States Power Squadron, to prepare an
2 individual to safely operate a motorboat or personal watercraft on the waters of the
3 Commonwealth;
- 4 (6) "Waters of this state" means any waters within the territorial limits of this state;
- 5 (7) "Person" means an individual, partnership, firm, corporation, association, or other
6 entity;
- 7 (8) "Operate" means to navigate or otherwise use a motorboat or a vessel;
- 8 (9) "Cabinet" means the Tourism, Arts and Heritage Cabinet;
- 9 (10) "Department" means the Department of Fish and Wildlife Resources;
- 10 (11) "License" and "certificate of number" as used herein are synonymous;
- 11 (12) "Clerk" means county clerk;
- 12 (13) "Division of Law Enforcement" means the Division of Law Enforcement,
13 Department of Fish and Wildlife Resources administratively attached to the~~within~~
14 ~~the~~ Tourism, Arts and Heritage Cabinet;
- 15 (14) "Title" means the certificate of title;
- 16 (15) "Commissioner" means the commissioner of the Department of Fish and Wildlife
17 Resources;
- 18 (16) "Federally regulated commercial vessel" means any vessel holding a United States
19 certificate of documentation with a coastwise trade endorsement;
- 20 (17) "Marina" means a dock or basin providing moorings for motorboats and offering
21 supply, repair, or other services for remuneration; and
- 22 (18) "Marine sanitation device" means equipment that is identified by the United States
23 Coast Guard as meeting the standards of the United States Environmental
24 Protection Agency or that is approved by the Energy and Environment Cabinet, to
25 eliminate the discharge of untreated sewage from vessels into the waters of the
26 Commonwealth and is a device that receives, treats, retains, or discharges sewage.
- 27 ➔Section 9. KRS 235.030 is amended to read as follows:

1 This chapter shall be known as the State Boating Act and shall be administered by the
2 Department of Fish and Wildlife Resources, *which is administratively attached to the*
3 *Tourism, Arts and Heritage Cabinet only for those limited functions and purposes*
4 *expressly requested by the department to be performed by the Tourism, Arts and*
5 *Heritage Cabinet. The department shall have sole discretion as to which functions*
6 *shall be deemed necessary for the efficient operation of the department and the*
7 *properties in its custody and control.* [~~in the Tourism, Arts and Heritage Cabinet, except~~]

8 The Transportation Cabinet shall be responsible for administering the boat numbering,
9 registration, and titling requirements.

10 ➔Section 10. KRS 235.130 is amended to read as follows:

11 (1) No person acting for himself or another shall buy or trade for any motorboat without
12 receiving the certificate of title issued for that boat with a certificate of transfer
13 endorsed thereon. If the motorboat has not been issued a certificate of title as noted
14 on the certificate of registration, the person shall receive a completed assignment of
15 title on a boat transaction record and the certificate of registration.

16 (2) It shall be the duty of the purchaser to promptly submit the endorsed certificate of
17 title or boat transaction record and certificate of registration to the county clerk of
18 the county of the purchaser's residence or in which the motorboat is to be principally
19 operated. The purchaser shall apply for a new certificate of title and registration
20 pursuant to KRS 235.050. The county clerk shall thereupon issue to the purchaser a
21 transfer of registration bearing the same data and information. The clerk shall
22 forward the endorsed certificate of title or boat transaction record and certificate of
23 registration and new application for title and registration to the Transportation
24 Cabinet. Except when registration is prohibited by law, any unexpired registration
25 shall remain valid after transfer until expiration occurs according to law.

26 (3) For transferring the registration, the clerk shall collect a fee of five dollars (\$5). The
27 clerk shall retain two dollars (\$2), the Transportation Cabinet shall receive two

1 dollars (\$2) and the Department of Fish and Wildlife Resources administratively
2 attached to~~[within]~~ the Tourism, Arts and Heritage Cabinet shall receive one dollar
3 (\$1). The fee received by the Transportation Cabinet shall be deposited in a trust
4 and agency account for use by the Transportation Cabinet in defraying the cost of
5 implementing and operating the boat titling and registration program. The fee for
6 transferring the title shall be as required by KRS 235.085.

7 (4) If a transferee does not promptly submit the necessary documents to the county
8 clerk as required by law in order to complete the transfer transaction, a transferor
9 may submit to the county clerk, after the passage of fifteen (15) calendar days, in his
10 county of residence, an affidavit that he has transferred his interest in a specific
11 motorboat and the clerk may enter appropriate data into the AVIS system which
12 would restrict any registration transaction from occurring on that vehicle until the
13 transfer was processed.

14 (5) If the owner junks or otherwise renders a motorboat unfit for future use, he shall
15 deliver the title to the county clerk of the county in which the motorboat is junked.
16 The county clerk shall immediately return the title to the Transportation Cabinet.
17 The owner shall pay to the county clerk fifty cents (\$0.50) for his services.

18 ➔Section 11. (1) The Finance and Administration Cabinet is directed to
19 acquire perpetual conservation easements for the benefit of the Department of Fish and
20 Wildlife Resources on approximately 54,000 acres of real property in Knox, Bell, and
21 Leslie Counties, that was conveyed by Ataya Hardwoods LLC to Cumberland Forest LP,
22 which is a fund established by The Nature Conservancy, by special warranty deeds dated
23 December 17, 2007, and recorded in:

24 (a) Knox County on December 26, 2007, in deed book D368, pages 615 to 700,
25 and by correction deed dated February 13, 2008, and recorded in Knox County, deed
26 book 369, page 716;

27 (b) Bell County on December 21, 2007, deed book 339, page 533, and by

1 correction deed dated February 13, 2008, and recorded in Bell County, deed book 340,
2 page 518; and

3 (c) Leslie County on December 26, 2007, in deed book 177, page 20, and by
4 correction deed dated February 13, 2008, and recorded in Leslie County, deed book 177,
5 page 520.

6 (2) The Finance and Administration Cabinet shall procure outside legal counsel
7 who has real property acquisition expertise and who does not currently have a contract to
8 render legal service to the Commonwealth to advise the Department of Fish and Wildlife
9 Resources on all issues related to the transaction.

10 (3) The terms of the conservation easements acquired pursuant to subsection (1)
11 of this section shall protect the Commonwealth from all liability arising from conditions
12 of the properties as they were prior to the acquisition of the conservation easements,
13 including but not limited to conditions that resulted from prior mining, oil and gas
14 drilling, or other natural resource extraction activities.

15 (4) The cost of the acquisition of the conservation easements directed by
16 subsection (1) of this section shall be paid from federal funds, grants, and gifts made
17 available to the Department of Fish and Wildlife Resources. The purchase price shall not
18 exceed \$250 per acre and shall be substantiated by an appraisal paid for by Cumberland
19 Forest LP or The Nature Conservancy.

20 (5) The terms of the conservations easements acquired pursuant to subsection (1)
21 of this section shall set forth, in a comprehensive manner, the rights and obligations of the
22 parties.

23 (6) Acquisition of the conservation easements as provided for in this section shall
24 follow a reasonable time for due diligence and negotiation, but all transactions for the
25 acquisition of conservation easements shall close no later than 18 months after the
26 effective date of this Act.

27 ➔Section 12. Whereas it is critical to the proper management and administration

1 of the Department of Fish and Wildlife Resources that it is able to exercise independent
2 authority in managing the natural resources under its jurisdiction, an emergency is
3 declared to exist, and this Act takes effect upon its passage and approval by the Governor
4 or upon its otherwise becoming a law.