

11A.040 Acts prohibited for public servant or officer -- Exceptions.

- (1) A public servant, in order to further his or her own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his or her official duties.
- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his or her hands or to be raised through any state agency.
- (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself or herself, or with any business in which he or she or a member of his or her family has any interest greater than five percent (5%) of the total value thereof.
- (4) A public servant shall not knowingly himself or herself or through any business in which he or she owns or controls an interest of more than five percent (5%), or by any other person for his or her use or benefit or on his or her account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he or she is employed or which he or she supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:
 - (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or
 - (b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or
 - (c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or
 - (d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; or
 - (e) Sales of craft items to a state park by interim state employees designated as craftspersons under KRS 148.257.
- (5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his or her official duties without the prior approval of the commission.
- (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within one (1) year of termination of his or her employment, knowingly by himself or herself or through any business in which he or she owns or controls an interest of at least five percent (5%), or by any other person for his or her use or benefit or on his or her account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he or she was employed. This provision shall not apply to a contract, purchase, or good-faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This

provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

- (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within one (1) year following termination of his or her office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he or she was directly involved during the last thirty-six (36) months of his or her tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he or she was involved prior to taking office or beginning his or her term of employment, or for which he or she received, prior to his or her state employment, a professional degree or license, provided that, for a period of one (1) year, he or she personally refrains from working on any matter in which he or she was directly involved during the last thirty-six (36) months of his or her tenure in state government. This subsection shall not prohibit the performance of ministerial functions, including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.
- (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he or she was directly involved during the last thirty-six (36) months of his or her tenure for a period of one (1) year after the latter of:
 - (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.
- (9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his or her tenure, for a period of one (1) year after the latter of:
 - (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.
- (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he or she supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
 - (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
 - (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public

servant seeks outside employment or compensation.

- (c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.
- (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.
- (12) The prohibitions imposed by subsections (6) to (10) of this section shall not apply to members of the Kentucky Horse Racing Commission.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 200, sec. 6, effective June 29, 2021. -- Amended 2019 Ky. Acts ch. 74, sec. 1, effective June 27, 2019. -- Amended 2006 Ky. Acts ch. 68, sec. 1, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 417, sec. 4, effective December 1, 2000; and ch. 475, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 381, sec. 2, effective July 15, 1998; ch. 429, sec. 2, effective July 15, 1998; ch. 430, sec. 1, effective July 15, 1998; and ch. 602, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 367, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 434, sec. 3, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 287, sec. 6, effective July 14, 1992.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/15/98). A reference to "KRS 11A.010(9)(a) to (i)" in the former subsection (6) of this statute (now subsection (7)) has been changed in codification to "KRS 11A.010(9)(a) to (h)" under KRS 7.136(1)(e) and (h). 1998 Ky. Acts ch. 429, sec. 1, eliminated the former paragraph (g) of KRS 11A.010(9) and renumbered the remaining subsections accordingly. Other actions within Acts Chapter 429 used the "(a) to (h)" range in new language and modified existing language to use the "(a) to (h)" range. It seems clear from context, and this has been confirmed by the drafter of the bill, that this change was intended here as well but was inadvertently overlooked.