

1 AN ACT relating to revenue, making an appropriation therefor, and declaring an
2 emergency.

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

4 ➔Section 1. KRS 131.081 is amended to read as follows:

5 The following rules, principles, or requirements shall apply in the administration of all
6 taxes subject to the jurisdiction of the department~~[of Revenue]~~.

7 (1) The department shall develop and implement a Kentucky tax education and
8 information program directed at new taxpayers, taxpayer and industry groups, and
9 department employees to enhance the understanding of and compliance with
10 Kentucky tax laws, including the application of new tax legislation to taxpayer
11 activities and areas of recurrent taxpayer noncompliance or inconsistency of
12 administration.

13 (2) The department shall publish brief statements in simple and nontechnical language
14 which explain procedures, remedies, and the rights and obligations of taxpayers and
15 the department. These statements shall be provided to taxpayers with the initial
16 notice of audit; each original notice of tax due; each denial or reduction of a refund
17 or credit claimed by a taxpayer; each denial, cancellation, or revocation of any
18 license, permit, or other required authorization applied for or held by a taxpayer;
19 and, if practical and appropriate, in informational publications by the department
20 distributed to the public.

21 (3) Taxpayers shall have the right to be assisted or represented by an attorney,
22 accountant, or other person in any conference, hearing, or other matter before the
23 department. The taxpayer shall be informed of this right prior to conduct of any
24 conference or hearing.

25 (4) The department shall perform audits and conduct conferences and hearings only at
26 reasonable times and places.

27 (5) Taxpayers shall have the right to make audio recordings of any conference with or

1 hearing by the department. The department may make similar audio recordings if
2 prior written notice is given to the taxpayer or if the taxpayer records the conference
3 or hearing. The taxpayer shall be entitled to a copy of this department recording or a
4 transcript as provided in KRS 61.874.

5 (6) If any taxpayer's failure to submit a timely return or payment to the department is
6 due to the taxpayer's reasonable reliance on written advice from the department, the
7 taxpayer shall be relieved of any penalty or interest with respect thereto, provided
8 the taxpayer requested the advice in writing from the department and the specific
9 facts and circumstances of the activity or transaction were fully described in the
10 taxpayer's request, the department did not subsequently rescind or modify the advice
11 in writing, and there were no subsequent changes in applicable laws or regulations
12 or a final decision of a court which rendered the department's earlier written advice
13 no longer valid.

14 (7) Taxpayers shall have the right to receive a copy of any audit of the department by
15 the Auditor of Public Accounts relating to the department's compliance with the
16 provisions of KRS 131.041 to 131.081.

17 (8) (a) The department shall include with each notice of tax due a clear and concise
18 description of the basis and amount of any tax, penalty, and interest assessed
19 against the taxpayer~~[-, and copies of the agent's audit workpapers]~~ and the
20 agent's written narrative setting forth the grounds upon which the assessment
21 is made.

22 **(b) Copies of the agent's audit workpapers shall be:**

23 **1. Included with the notice of tax due; or**

24 **2. Delivered electronically to the taxpayer.**

25 (c) Taxpayers shall be similarly notified regarding the denial or reduction of any
26 refund or credit claim filed by a taxpayer.

27 (9) (a) Taxpayers shall have the right to an installment payment agreement for the

1 payment of delinquent taxes, penalties, and interest owed, provided the
2 taxpayer requests the agreement in writing clearly demonstrating:

- 3 1. His or her inability to pay in full; and
- 4 2. That the agreement will facilitate collection by the department of the
5 amounts owed.

6 (b) The department may modify or terminate an installment payment agreement
7 and may pursue statutory remedies against the taxpayer if it determines that:

- 8 1. The taxpayer has not complied with the terms of the agreement,
9 including minimum payment requirements established by the agreement;
- 10 2. The taxpayers' financial condition has sufficiently changed;
- 11 3. The taxpayer fails to provide any requested financial condition update
12 information;
- 13 4. The taxpayer gave false or misleading information in securing the
14 agreement; or
- 15 5. The taxpayer fails to timely report and pay any other tax due the
16 Commonwealth.

17 (c) The department shall give written notice to the taxpayer at least thirty (30)
18 days prior to modifying or terminating an installment payment agreement
19 unless the department has reason to believe that collection of the amounts
20 owed will be jeopardized in whole or in part by delay.

21 (10) The department shall not knowingly authorize, require, or conduct any investigation
22 or surveillance of any person for nontax administration related purposes, except
23 internal security related investigations involving department~~[of Revenue]~~
24 personnel.

25 (11) In addition to the circumstances under which an extension of time for filing reports
26 or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to
27 the same extension of the due date of any comparable Kentucky tax report or return

1 for which the taxpayer has secured a written extension from the Internal Revenue
2 Service provided the taxpayer notifies the department in writing and provides a
3 copy of the extension at the time and in the manner which the department may
4 require.

5 (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the
6 taxpayer for recording or bank charges as the direct result of any erroneous lien or
7 levy by the department, provided the erroneous lien or levy was caused by
8 department error and, prior to issuance of the erroneous lien or levy, the taxpayer
9 timely responded to all contacts by the department and provided information or
10 documentation sufficient to establish his or her position. When the department
11 releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer
12 and, if requested by the taxpayer, a copy of the release, together with an
13 explanation, shall be mailed to the major credit reporting companies located in the
14 county where it was filed.

15 (13) (a) The department shall not evaluate individual officers or employees on the
16 basis of taxes assessed or collected or impose or suggest tax assessment or
17 collection quotas or goals.

18 (b) No arrangement or contract shall be entered into for the service to:

- 19 1. Examine a taxpayer's books and records;
- 20 2. Collect a tax from a taxpayer; or
- 21 3. Provide legal representation of the department;

22 if any part of the compensation or other benefits paid or payable for the
23 service is contingent upon or otherwise related to the amount of tax, interest,
24 fee, or penalty assessed against or collected from the taxpayer. Any such
25 arrangement or contract shall be void and unenforceable.

26 (14) Taxpayers shall have the right to bring an action for damages against the
27 Commonwealth to the Kentucky Claims Commission for actual and direct monetary

1 damages sustained by the taxpayer as a result of willful, reckless, or intentional
2 disregard by department employees of the rights of taxpayers as set out in KRS
3 131.041 to 131.081 or in the tax laws administered by the department. In the
4 awarding of damages pursuant to this subsection, the commission shall take into
5 consideration the negligence or omissions, if any, on the part of the taxpayer which
6 contributed to the damages. If any proceeding brought by a taxpayer is ruled
7 frivolous by the commission, the department shall be reimbursed by the taxpayer for
8 its costs in defending the action. Any claims brought pursuant to this subsection
9 shall be in accordance with KRS 49.040 to 49.180.

10 (15) Taxpayers shall have the right to privacy with regard to the information provided on
11 their Kentucky tax returns and reports, including any attached information or
12 documents. Except as provided in KRS 131.190, no information pertaining to the
13 returns, reports, or the affairs of a person's business shall be divulged by the
14 department to any person or be intentionally and without authorization inspected by
15 any present or former commissioner or employee of the department~~[of Revenue]~~,
16 member of a county board of assessment appeals, property valuation administrator
17 or employee, or any other person.

18 ➔Section 2. KRS 132.590 is amended to read as follows:

19 (1) The compensation of the property valuation administrator shall be based on the
20 schedule contained in subsection (2) of this section as modified by subsection (3) of
21 this section. The compensation of the property valuation administrator shall be
22 calculated by the department~~[of Revenue]~~ annually. Should a property valuation
23 administrator for any reason vacate the office in any year during his term of office,
24 he shall be paid only for the calendar days actually served during the year.

25 (2) The salary schedule for property valuation administrators provides for nine (9)
26 levels of salary based upon the population of the county in the prior year as
27 determined by the United States Department of Commerce, Bureau of the Census

1 annual estimates. To implement the salary schedule, the department shall, by
 2 November 1 of each year, certify for each county the population group applicable to
 3 each county based on the most recent estimates of the United States Department of
 4 Commerce, Bureau of the Census. The salary schedule provides four (4) steps for
 5 yearly increments within each population group. Property valuation administrators
 6 shall be paid according to the first step within their population group for the first
 7 year or portion thereof they serve in office. Thereafter, each property valuation
 8 administrator, on January 1 of each subsequent year, shall be advanced
 9 automatically to the next step in the salary schedule until the maximum salary figure
 10 for the population group is reached. If the county population as certified by the
 11 department increases to a new group level, the property valuation administrator's
 12 salary shall be computed from the new group level at the beginning of the next year.
 13 A change in group level shall have no affect on the annual change in step. Prior to
 14 assuming office, any person who has previously served as a property valuation
 15 administrator must certify to the department~~[of Revenue]~~ the total number of years,
 16 not to exceed four (4) years, that the person has previously served in the office. The
 17 department shall place the person in the proper step based upon a formula of one (1)
 18 incremental step per full calendar year of service:

19 SALARY SCHEDULE

20 County Population	21 Steps and Salary			
22 by Group	23 for Property Valuation Administrators			
24 Group I	25 Step 1	26 Step 2	27 Step 3	Step 4
28 0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
29 Group II				
30 5,000-9,999	49,513	50,888	52,263	53,639
31 Group III				
32 10,000-19,999	53,639	55,014	56,389	57,765

1	Group IV				
2	20,000-29,999	55,702	57,765	59,828	61,891
3	Group V				
4	30,000-44,999	59,828	61,891	63,954	66,017
5	Group VI				
6	45,000-59,999	61,891	64,641	67,392	70,143
7	Group VII				
8	60,000-89,999	66,017	68,768	71,518	74,269
9	Group VIII				
10	90,000-499,999	68,080	71,518	74,957	78,395
11	Group IX				
12	500,000 and up	72,206	75,644	79,083	82,521

13 (3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section
 14 shall be increased by the amount of increase in the annual consumer price
 15 index as published by the United States Department of Commerce for the year
 16 ended December 31, 1999. This salary adjustment shall take effect on July 14,
 17 2000, and shall not be retroactive to the preceding January 1.

18 (b) For each calendar year beginning after December 31, 2000, upon publication
 19 of the annual consumer price index by the United States Department of
 20 Commerce, the annual rate of salary for the property valuation administrator
 21 shall be determined by applying the increase in the consumer price index to
 22 the salary in effect for the previous year. This salary determination shall be
 23 retroactive to the preceding January 1.

24 (c) In addition to the step increases based on service in office, each property
 25 valuation administrator shall be paid an annual incentive of six hundred
 26 eighty-seven dollars and sixty-seven cents (\$687.67) per calendar year for
 27 each forty (40) hour training unit successfully completed based on continuing

- 1 service in that office and, except as provided in this subsection, completion of
2 at least forty (40) hours of approved training in each subsequent calendar year.
3 If a property valuation administrator fails without good cause, as determined
4 by the commissioner of the ~~Kentucky~~ department ~~of Revenue~~, to obtain the
5 minimum amount of approved training in any year, the officer shall lose all
6 training incentives previously accumulated. No property valuation
7 administrator shall receive more than one (1) training unit per calendar year
8 nor more than four (4) incentive payments per calendar year. Each property
9 valuation administrator shall be allowed to carry forward up to forty (40)
10 hours of training credit into the following calendar year for the purpose of
11 satisfying the minimum amount of training for that year. This amount shall be
12 increased by the consumer price index adjustments prescribed in paragraphs
13 (a) and (b) of this subsection. Each training unit shall be approved and
14 certified by the ~~Kentucky~~ department ~~of Revenue~~. Each unit shall be
15 available to property valuation administrators in each office based on
16 continuing service in that office. The ~~Kentucky~~ department ~~of Revenue~~
17 shall promulgate administrative regulations in accordance with KRS Chapter
18 13A to establish guidelines for the approval and certification of training units.
- 19 (4) Notwithstanding any provision contained in this section, no property valuation
20 administrator holding office on July 14, 2000, shall receive any reduction in salary
21 or reduction in adjustment to salary otherwise allowable by the statutes in force on
22 July 14, 2000.
- 23 (5) Deputy property valuation administrators and other authorized personnel may be
24 advanced one (1) step in grade upon completion of twelve (12) months' continuous
25 service. The department ~~of Revenue~~ may make grade classification changes
26 corresponding to any approved for department employees in comparable positions,
27 so long as the changes do not violate the integrity of the classification system.

1 Subject to availability of funds, the department may extend cost-of-living increases
2 approved for department employees to deputy property valuation administrators and
3 other authorized personnel, by advancement in grade.

4 (6) Beginning with the 1990-1992 biennium, the department~~[of Revenue]~~ shall prepare
5 a biennial budget request for the staffing of property valuation administrators'
6 offices. An equitable allocation of employee positions to each property valuation
7 administrator's office in the state shall be made on the basis of comparative
8 assessment work units. Assessment work units shall be determined from the most
9 current objective information available from the United States Bureau of the Census
10 and other similar sources of unbiased information. Beginning with the 1996-1998
11 biennium, assessment work units shall be based on parcel count per employee. The
12 total sum allowed by the state to any property valuation administrator's office as
13 compensation for deputies, other authorized personnel, and for other authorized
14 expenditures shall not exceed the amount fixed by the department~~[of Revenue]~~.
15 However, each property valuation administrator's office shall be allowed as a
16 minimum such funds that are required to meet the federal minimum wage
17 requirements for two (2) full-time deputies.

18 (7) Beginning with the 1990-1992 biennium each property valuation administrator shall
19 submit by June 1 of each year for the following fiscal year to the department~~[of~~
20 ~~Revenue]~~ a budget request for his office which shall be based upon the number of
21 employee positions allocated to his office under subsection (6) of this section and
22 upon the county and city funds available to his office and show the amount to be
23 expended for deputy and other authorized personnel including employer's share of
24 FICA and state retirement, and other authorized expenses of the office. The
25 department~~[of Revenue]~~ shall return to each property valuation administrator, no
26 later than July 1, an approved budget for the fiscal year.

27 (8) Each property valuation administrator may appoint any persons approved by the

1 department~~[of Revenue]~~ to assist him in the discharge of his duties. Each deputy
 2 shall be more than twenty-one (21) years of age and may be removed at the pleasure
 3 of the property valuation administrator. The salaries of deputies and other
 4 authorized personnel shall be fixed by the property valuation administrator in
 5 accordance with the grade classification system established by the department~~[of~~
 6 ~~Revenue]~~ and shall be subject to the approval of the department~~[of Revenue]~~. The
 7 Personnel Cabinet shall provide advice and technical assistance to the department~~[~~
 8 ~~of Revenue]~~ in the revision and updating of the personnel classification system,
 9 which shall be equitable in all respects to the personnel classification systems
 10 maintained for other state employees. Any deputy property valuation administrator
 11 employed or promoted to a higher position may be examined by the department~~[of~~
 12 ~~Revenue]~~ in accordance with standards of the Personnel Cabinet, for the position to
 13 which he is being appointed or promoted. No state funds available to any property
 14 valuation administrator's office as compensation for deputies and other authorized
 15 personnel or for other authorized expenditures shall be paid without authorization of
 16 the department~~[of Revenue]~~ prior to the employment by the property valuation
 17 administrator of deputies or other authorized personnel or the incurring of other
 18 authorized expenditures.

19 (9) Each county fiscal court shall annually appropriate and pay each fiscal year to the
 20 office of the property valuation administrator as its cost for use of the assessment, as
 21 required by KRS 132.280, an amount determined as follows:

22	Assessment Subject to		
23	County Tax of:		
24	At Least	But Less Than	Amount
25	----	\$100,000,000	\$0.005 for each \$100 of the first
26			\$50,000,000 and \$0.002 for
27			each \$100 over \$50,000,000.

1	\$100,000,000	150,000,000	\$0.004 for each \$100 of the first
2			\$100,000,000 and \$0.002 for
3			each \$100 over \$100,000,000.
4	150,000,000	300,000,000	\$0.004 for each \$100 of the first
5			\$150,000,000 and \$0.003 for
6			each \$100 over \$150,000,000.
7	300,000,000	----	\$0.004 for each \$100.

8 (10) The total sum to be paid by the fiscal court to any property valuation administrator's
 9 office under the provisions of subsection (9) of this section shall not exceed the
 10 limits set forth in the following table:

11	Assessed Value of Property Subject to		
12	County Tax of:		
13	At Least	But Less Than	Limit
14	----	\$700,000,000	\$25,000
15	\$700,000,000	1,000,000,000	35,000
16	1,000,000,000	2,000,000,000	50,000
17	2,000,000,000	2,500,000,000	75,000
18	2,500,000,000	5,000,000,000	100,000
19	5,000,000,000	7,500,000,000	175,000
20	7,500,000,000	<u>30,000,000,000</u> [15,000,000,000]	
21	250,000		
22	<u>30,000,000,000</u> [15,000,000,000]	-----	
23	400,000		

24 This allowance shall be based on the assessment as of the previous January 1 and
 25 shall be used for deputy and other personnel allowance, supplies, maps and
 26 equipment, travel allowance for the property valuation administrator and his
 27 deputies and other authorized personnel, and other authorized expenses of the

1 office.

2 (11) Annually, after appropriation by the county of funds required of it by subsection (9)
3 of this section, and no later than August 1, the property valuation administrator shall
4 file a claim with the county for that amount of the appropriation specified in his
5 approved budget for compensation of deputies and assistants, including employer's
6 shares of FICA and state retirement, for the fiscal year. The amount so requested
7 shall be paid by the county into the State Treasury by September 1, or paid to the
8 property valuation administrator and be submitted to the State Treasury by
9 September 1. These funds shall be expended by the department~~[of Revenue]~~ only
10 for compensation of approved deputies and assistants and the employer's share of
11 FICA and state retirement in the appropriating county. Any funds paid into the State
12 Treasury in accordance with this provision but unexpended by the close of the fiscal
13 year for which they were appropriated shall be returned to the county from which
14 they were received.

15 (12) After submission to the State Treasury or to the property valuation administrator of
16 the county funds budgeted for personnel compensation under subsection (11) of this
17 section, the fiscal court shall pay the remainder of the county appropriation to the
18 office of the property valuation administrator on a quarterly basis. Four (4) equal
19 payments shall be made on or before September 1, December 1, March 1, and June
20 1 respectively. Any unexpended county funds at the close of each fiscal year shall
21 be retained by the property valuation administrator, except as provided in KRS
22 132.601(2). During county election years the property valuation administrator shall
23 not expend in excess of forty percent (40%) of the allowances available to his office
24 from county funds during the first five (5) months of the fiscal year in which the
25 general election is held.

26 (13) The provisions of this section shall apply to urban-county governments and
27 consolidated local governments. In an urban-county government and a consolidated

1 local government, all the rights and obligations conferred on fiscal courts or
2 consolidated local governments by the provisions of this section shall be exercised
3 by the urban-county government or consolidated local government.

4 (14) When an urban-county form of government is established through merger of
5 existing city and county governments as provided in KRS Chapter 67A or when a
6 consolidated local government is established through merger of existing city and
7 county governments as provided by KRS Chapter 67C, the annual county
8 assessment shall be presumed to have been adopted as if the city had exercised the
9 option to adopt as provided in KRS 132.285. For purposes of this subsection, the
10 amount to be considered as the assessment for purposes of KRS 132.285 shall be
11 the amount subject to taxation for full urban services.

12 (15) Notwithstanding the provisions of subsection (9) of this section, the amount
13 appropriated and paid by each county fiscal court to the office of the property
14 valuation administrator for 1996 and subsequent years shall be equal to the amount
15 paid to the office of the property valuation administrator for 1995, or the amount
16 required by the provisions of subsections (9) and (10) of this section, whichever is
17 greater.

18 ➔Section 3. KRS 138.140 is amended to read as follows:

19 (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate
20 rate of three cents (\$0.03) on each twenty (20) cigarettes.

21 (b) Effective July 1, 2018, a surtax shall be paid in addition to the tax levied in
22 paragraph (a) of this subsection at a proportionate rate of one dollar and six
23 cents (\$1.06) on each twenty (20) cigarettes.

24 (c) A surtax shall be paid in addition to the tax levied in paragraph (a) of this
25 subsection and in addition to the surtax levied by paragraph (b) of this
26 subsection, at a proportionate rate of one cent (\$0.01) on each twenty (20)
27 cigarettes. The revenues from this surtax shall be deposited in the cancer

1 research institutions matching fund created in KRS 164.043.

2 (d) The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be
3 paid at the time that the tax imposed by paragraph (a) of this subsection is
4 paid.

5 (2) (a) An excise tax is hereby imposed upon every distributor for the privilege of
6 selling tobacco products in this state at the following rates:

7 1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-
8 half (1-1/2) ounces or portion thereof by net weight sold;

9 2. Upon chewing tobacco at the rate of:

10 a. Nineteen cents (\$0.19) per each single unit sold;

11 b. Forty cents (\$0.40) per each half-pound unit sold; or

12 c. Sixty-five cents (\$0.65) per each pound unit sold.

13 If the container, pouch, or package on which the tax is levied contains
14 more than sixteen (16) ounces by net weight, the rate that shall be
15 applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus
16 nineteen cents (\$0.19) for each increment of four (4) ounces or portion
17 thereof exceeding sixteen (16) ounces sold;

18 3. Upon tobacco products sold, at the rate of fifteen percent (15%) of the
19 actual price for which the distributor sells tobacco products, except snuff
20 and chewing tobacco, within the Commonwealth;

21 4. Upon closed vapor cartridges, one dollar and fifty cents (\$1.50) per
22 cartridge; and

23 5. Upon open vaping systems, fifteen percent (15%) of the actual price
24 for which the distributor sells:

25 a. The open vaping system when the actual price includes the items
26 described in both KRS 138.130(10)(a)1. and 2.; or

27 b. The liquid solution described in KRS 138.130(10)(a)2. when the

1 *solution is sold separately* [~~Upon open vaping systems, fifteen~~
2 percent (15%) of the actual price for which the distributor sells the
3 ~~open vaping system~~].

4 (b) The net weight posted by the manufacturer on the container, pouch, or
5 package or on the manufacturer's invoice shall be used to calculate the tax due
6 on snuff or chewing tobacco.

7 (c) 1. A retailer located in this state shall not purchase tobacco products for
8 resale to consumers from any person within or outside this state unless
9 that person is a distributor licensed under KRS 138.195(7)(a) or the
10 retailer applies for and is granted a retail distributor's license under KRS
11 138.195(7)(b) for the privilege of purchasing untax-paid tobacco
12 products and remitting the tax as provided in this paragraph.

13 2. A licensed retail distributor of tobacco products shall be subject to the
14 excise tax as follows:

15 a. On purchases of untax-paid snuff, at the same rate levied by
16 paragraph (a)1. of this subsection;

17 b. On purchases of untax-paid chewing tobacco, at the same rates
18 levied by paragraph (a)2. of this subsection;

19 c. On purchases of untax-paid tobacco products, except snuff and
20 chewing tobacco, fifteen percent (15%) of the total purchase price
21 as invoiced by the retail distributor's supplier;

22 d. On purchases of untax-paid closed vapor cartridges, at the same
23 rate levied by paragraph (a)4. of this subsection; and

24 e. On purchases of untax-paid open vaping systems, fifteen percent
25 (15%) of the total purchase price as invoiced by the retail
26 distributor's supplier *as described in paragraph (a)5. of this*
27 *subsection.*

- 1 (b) The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this
2 section shall be reduced by:
- 3 1. Fifty percent (50%) on any product as to which a modified risk tobacco
4 product order is issued under 21 U.S.C. sec. 387k(g)(1); or
 - 5 2. Twenty-five percent (25%) for any product as to which a modified risk
6 tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).
- 7 (4) A reference product shall carry a marking labeling the contents as a research
8 cigarette, research vapor product, or a research tobacco product to be used only for
9 tobacco-health research and experimental purposes and shall not be offered for sale,
10 sold, or distributed to consumers.
- 11 (5) The department may prescribe forms and promulgate administrative regulations to
12 execute and administer the provisions of this section.
- 13 (6) The General Assembly recognizes that increasing taxes on tobacco products should
14 reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The
15 relative taxes on tobacco products proposed in this section reflect the growing data
16 from scientific studies suggesting that although smokeless tobacco poses some
17 risks, those health risks are significantly less than the risks posed by other forms of
18 tobacco products. Moreover, the General Assembly acknowledges that some in the
19 public health community recognize that tobacco harm reduction should be a
20 complementary public health strategy regarding tobacco products. Taxing tobacco
21 products according to relative risk is a rational tax policy and may well serve the
22 public health goal of reducing smoking-related mortality and morbidity and
23 lowering health care costs associated with tobacco-related disease.
- 24 (7) Any person subject to the taxes imposed under subsections (1) and (2) of this
25 section that:
- 26 (a) Files an application related to a modified risk tobacco product shall report to
27 the department that an application has been filed within thirty (30) days of that

1 filing; and

2 (b) Receives an order authorizing the marketing of a modified risk tobacco
3 product shall report to the department that an authorizing order has been
4 received.

5 (8) Upon receipt of the information required by subsection (7)(b) of this section, the
6 department shall reduce the tax imposed on the modified risk tobacco product as
7 required by subsection (3)(b) of this section on the first day of the calendar month
8 following the expiration of forty-five (45) days following receipt of the information
9 required by subsection (7)(b) of this section.

10 ➔Section 4. KRS 138.146 is amended to read as follows:

11 (1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer
12 takes possession within this state of untax-paid cigarettes.

13 (2) (a) The cigarette tax shall be paid by the purchase of stamps by a resident
14 wholesaler within forty-eight (48) hours after the wholesaler receives the
15 cigarettes.

16 (b) A stamp shall be affixed to each package of an aggregate denomination not
17 less than the amount of the cigarette tax on the package.

18 (c) The affixed stamp shall be prima facie evidence of payment of the cigarette
19 tax.

20 (d) Unless stamps have been previously affixed, they shall be affixed by each
21 resident wholesaler prior to the delivery of any cigarettes to a retail location or
22 any person in this state.

23 (e) The evidence of cigarette tax payment shall be affixed to each individual
24 package of cigarettes by a nonresident wholesaler prior to the introduction or
25 importation of the cigarettes into the territorial limits of this state.

26 (f) The evidence of cigarette tax payment shall be affixed by an unclassified
27 acquirer within twenty-four (24) hours after the cigarettes are received by the

- 1 unclassified acquirer.
- 2 (3) (a) The department shall by regulation prescribe the form of cigarette tax
3 evidence, the method and manner of the sale and distribution of cigarette tax
4 evidence, and the method and manner that tax evidence shall be affixed to the
5 cigarettes.
- 6 (b) All cigarette tax evidence prescribed by the department shall be designed and
7 furnished in a fashion to permit identification of the person that affixed the
8 cigarette tax evidence to the particular package of cigarettes, by means of
9 numerical rolls or other mark on the cigarette tax evidence.
- 10 (c) The department shall maintain for at least three (3) years information
11 identifying the person that affixed the cigarette tax evidence to each package
12 of cigarettes. This information shall not be kept confidential or exempt from
13 disclosure to the public through open records.
- 14 (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the
15 department shall allow as compensation to any licensed wholesaler an amount
16 of tax evidence equal to thirty cents (\$0.30) face value for each three dollars
17 (\$3) of tax evidence purchased at face value and attributable to the tax
18 assessed in KRS 138.140(1)(a). No compensation shall be allowed for tax
19 evidence purchased at face value attributable to the surtaxes imposed in KRS
20 138.140(1)(b) or (c).
- 21 (b) The department shall have the power to withhold compensation as provided in
22 paragraph (a) of this subsection from any licensed wholesaler for failure to
23 abide by any provisions of KRS 138.130 to 138.205 or any administrative
24 regulations promulgated thereunder. Any refund or credit for unused cigarette
25 tax evidence shall be reduced by the amount allowed as compensation at the
26 time of purchase.
- 27 (5) (a) Payment for units of cigarette tax evidence shall be made at the time the units

1 are sold, unless the licensed wholesaler:

2 1. Has filed with the department a bond, issued by a corporation authorized
3 to do surety business in Kentucky, in an amount:

4 **a. Not less than the amount of the payment for units of cigarette**
5 **tax evidence which may be delayed under paragraph (b) of this**
6 **subsection; and**

7 **b. No greater than ten million dollars (\$10,000,000)** ~~equal to or~~
8 ~~greater than the amount of payment for the units of cigarette tax~~
9 ~~evidence purchased, plus all penalties, interest, and collection fees~~
10 ~~applicable to that amount, should the taxpayer default on the~~
11 ~~payment]; and~~

12 2. Has registered and agrees to make the payment of tax to the department
13 electronically.

14 (b) Except as provided in paragraph (c) of this subsection, if the licensed
15 wholesaler qualifies under paragraph (a) of this subsection, the licensed
16 wholesaler shall have ten (10) days from the date of purchase to remit
17 payment of cigarette tax, without the assessment of civil penalties under KRS
18 131.180 or interest under KRS 131.183 during the ten (10) day period.

19 (c) 1. The ten (10) day payment period under paragraph (b) of this subsection
20 shall not apply to the payment for units of cigarette tax evidence during
21 the last ten (10) days of the month of June during each fiscal year.

22 2. All payments for units of cigarette tax evidence made under paragraph
23 (b) of this subsection during the month of June shall be made the earlier
24 of:

25 a. The ten (10) day period; or

26 b. June 25.

27 (d) If the licensed wholesaler does not make the payment of cigarette tax within

1 the ten (10) day period, or within the period of time under paragraph (c) of
2 this subsection, the department shall:

- 3 1. Revoke the license required under KRS 138.195;
- 4 2. Issue a demand for payment in an amount equal to the cigarette tax
5 evidence purchased, plus all penalties, interest, and collection fees
6 applicable, up to ~~the~~ that amount ***of the required bond***; and
- 7 3. Require immediate payment of the bond.

8 (6) (a) The bond required under subsection (5) of this section shall be on a form and
9 with a surety approved by the department.

10 (b) The licensed wholesaler shall be named as the principal obligor and the
11 department shall be named as the obligee within the bond.

12 (c) The bond shall be conditioned upon the payment by the licensed wholesaler of
13 all cigarette tax imposed by the Commonwealth.

14 (d) The provisions of KRS 131.110 shall not apply to the demand for payment
15 required under subsection (5)(c)2. of this section.

16 (7) (a) No tax evidence may be affixed, or used in any way, by any person other than
17 the person purchasing the evidence from the department.

18 (b) Tax evidence may not be transferred or negotiated, and may not, by any
19 scheme or device, be given, bartered, sold, traded, or loaned to any other
20 person.

21 (c) Unaffixed tax evidence may be returned to the department for credit or refund
22 for any reason satisfactory to the department.

23 (8) (a) In the event any retailer receives into his possession cigarettes to which
24 evidence of Kentucky tax payment is not properly affixed, the retailer shall,
25 within twenty-four (24) hours, notify the department of the receipt.

26 (b) The notification to the department shall be in writing, stating the name of the
27 person from whom the cigarettes were received and the quantity of those

1 cigarettes.

2 (c) The written notice may be:

3 1. Given to any field agent of the department; or

4 2. Directed to the commissioner of the Department of Revenue, Frankfort,
5 Kentucky.

6 (d) If the notice is given by means of the United States mail, it shall be sent by
7 certified mail.

8 (e) Any such cigarettes shall be retained by the retailer, and not sold, for a period
9 of fifteen (15) days after giving the notice provided in this subsection.

10 (f) The retailer may, at his option, pay the tax due on those cigarettes according to
11 administrative regulations prescribed by the department, and proceed to sell
12 those cigarettes after the payment.

13 (9) (a) Cigarettes stamped with the cigarette tax evidence of another state shall at no
14 time be commingled with cigarettes on which the Kentucky cigarette tax
15 evidence has been affixed.

16 (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine
17 operator may hold cigarettes stamped with the tax evidence of another state
18 for any period of time, subsection (2) of this section notwithstanding.

19 ➔Section 5. KRS 138.463 is amended to read as follows:

20 (1) A holder of a certificate as required under KRS 281.630 to operate as a U-Drive-It
21 as defined in KRS 281.010:

22 (a) May pay the motor vehicle usage tax imposed under~~[as provided in]~~ KRS
23 138.460 upon the retail price of the motor vehicle; or~~[-, subject to the~~
24 ~~provisions of this section,]~~

25 (b) May pay the motor vehicle~~[a]~~ usage tax of six percent (6%) ~~[levied]~~ upon the
26 amount of the gross rental or lease charges paid by a customer or lessee
27 renting or leasing a motor vehicle from such holder of the certificate, subject

1 *to the provisions of this section and Section 6 of this Act.*

- 2 (2) The provisions of KRS 138.462 and this section shall apply to all rental and
3 leasehold contracts entered into after March 9, 1990.
- 4 (3) A holder of a certificate shall pay the usage tax as provided in KRS 138.460 unless
5 he shows to the satisfaction of the cabinet that he is regularly engaged in the renting
6 or leasing of motor vehicles to retail customers as a part of an established business.
7 The issuance of a U-Drive-It certificate under the provisions of KRS Chapter 281
8 shall create a rebuttable presumption that the holder of a certificate is regularly
9 engaged in renting or leasing. Persons first engaging in the renting or leasing of
10 motor vehicles to retail customers shall, in addition to obtaining a certificate
11 required under KRS 281.630, demonstrate to the satisfaction of the cabinet that they
12 are prepared to qualify under the standards set forth in this subsection.
- 13 (4) In the event the holder of such certificate qualifies under subsection (3) of this
14 section and elects to pay the *motor vehicle* usage tax by the alternate method as
15 provided in subsection (1)(*b*) of this section, or is required by subsection (8) of this
16 section to pay by the alternate method, he shall pay the fee imposed by KRS
17 281.631(3) and in addition shall pay the monthly tax authorized by subsection (1) of
18 this section.
- 19 (5) The tax authorized by subsection (1) of this section shall be the direct obligation of
20 the holder of the certificate but it may be charged to and collected from the
21 customer in addition to the rental or lease charges. The tax due shall be remitted to
22 the cabinet each month on forms and pursuant to regulations promulgated by the
23 cabinet.
- 24 (6) (a) As soon as practicable after each return is received, the cabinet shall examine
25 and audit it. If the amount of tax computed by the cabinet is greater than the
26 amount returned by the taxpayer, the excess shall be assessed by the cabinet
27 within four (4) years from the date the return was filed, except as provided in

- 1 paragraph (c) of this subsection, and except that in the case of a failure to file
2 a return or of a fraudulent return the excess may be assessed at any time. A
3 notice of such assessment shall be mailed to the taxpayer. The time herein
4 provided may be extended by agreement between the taxpayer and the cabinet.
- 5 (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed
6 before the last day prescribed by law for the filing thereof shall be considered
7 as filed on such last day.
- 8 (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this
9 subsection, in the case of a return where the tax computed by the cabinet is
10 greater by twenty-five percent (25%) or more than the amount returned by the
11 taxpayer, the excess shall be assessed by the cabinet within six (6) years from
12 the date the return was filed.
- 13 (7) Failure of the holder of the certificate to remit the taxes applicable to the rental
14 charges as provided herein shall be sufficient cause for the Department of Vehicle
15 Regulation to void the certificate issued to such holder and the usage tax on each of
16 the motor vehicles which had been registered by the holder under the certificate
17 shall be due and payable on the retail price of each such motor vehicle when it was
18 first purchased by the holder.
- 19 (8) Notwithstanding the provisions of KRS 138.460 and subsection (1) of this section, a
20 holder of a certificate operating a fleet of rental passenger cars which has been
21 registered pursuant to an allocation formula approved by the cabinet shall pay the
22 tax by the method provided in this section. The provisions of this section shall apply
23 to all vehicles rented by the holder in this state.
- 24 (9) The usage tax reported and paid on every rental or lease of a vehicle registered
25 pursuant to this section shall be based on the fair market rental or lease value of the
26 vehicle. Fair market rental or lease value shall be based on standards established by
27 administrative regulation promulgated by the cabinet. The cabinet may remove a

1 vehicle from the U-Drive-It program without a hearing if it is determined by the
2 cabinet that no taxes have been remitted on that vehicle during the registration
3 period. However, the tax reported and paid to the Transportation Cabinet shall not
4 be less than the amount due based on the actual terms of a rental or lease agreement.
5 The burden of proving that the consideration charged by the holder satisfies this
6 subsection is on the holder.

7 ➔Section 6. KRS 138.470 is amended to read as follows:

8 There is expressly exempted from the tax imposed by KRS 138.460:

- 9 (1) (a) Motor vehicles titled or registered to the United States, or to the
10 Commonwealth of Kentucky or any of its political subdivisions; and
11 (b) *The gross rental or lease charges for the rental or lease of a motor vehicle*
12 *paid by the United States, or the Commonwealth of Kentucky or any of its*
13 *political subdivisions;*
- 14 (2) Motor vehicles titled or registered to institutions of purely public charity and
15 institutions of education not used or employed for gain by any person or
16 corporation;
- 17 (3) Motor vehicles which have been previously titled in Kentucky on or after July 1,
18 2005, or previously registered and titled in any state or by the federal government
19 when being sold or transferred to licensed motor vehicle dealers for resale. The
20 motor vehicles shall not be leased, rented, or loaned to any person and shall be held
21 for resale only;
- 22 (4) Motor vehicles sold by or transferred from dealers registered and licensed in
23 compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to
24 members of the Armed Forces on duty in this Commonwealth under orders from the
25 United States government;
- 26 (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity
27 for nine (9) persons or less, owned by nonresident owners and used primarily in

- 1 interstate commerce and based in a state other than Kentucky which are required to
2 be registered in Kentucky by reason of operational requirements or fleet proration
3 agreements and are registered pursuant to KRS 186.145;
- 4 (6) Motor vehicles titled in Kentucky on or after July 1, 2005, or previously registered
5 in Kentucky, transferred between husband and wife, parent and child, stepparent
6 and stepchild, or grandparent and grandchild;
- 7 (7) Motor vehicles transferred when a business changes its name and no other
8 transaction has taken place or an individual changes his or her name;
- 9 (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability
10 company, to a limited liability company from a corporation or proprietorship, or
11 from a corporation or limited liability company to a proprietorship, within six (6)
12 months from the time that the business is incorporated, organized, or dissolved, if
13 the transferor and the transferee are the same business entity except for a change in
14 legal form;
- 15 (9) Motor vehicles transferred by will, court order, or under the statutes covering
16 descent and distribution of property, if the vehicles were titled in Kentucky on or
17 after July 1, 2005, or previously registered in Kentucky;
- 18 (10) Motor vehicles transferred between a subsidiary corporation and its parent
19 corporation if there is no consideration, or nominal consideration, or in sole
20 consideration of the cancellation or surrender of stock;
- 21 (11) Motor vehicles transferred between a limited liability company and any of its
22 members, if there is no consideration, or nominal consideration, or in sole
23 consideration of the cancellation or surrender of stock;
- 24 (12) The interest of a partner in a motor vehicle when other interests are transferred to
25 him;
- 26 (13) Motor vehicles repossessed by a secured party who has a security interest in effect
27 at the time of repossession and a repossession affidavit as required by KRS

- 1 186.045(6). The reposessor shall hold the vehicle for resale only and not for
2 personal use, unless he has previously paid the motor vehicle usage tax on the
3 vehicle;
- 4 (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles
5 shall be junked or held for resale only;
- 6 (15) Motor carriers operating under a charter bus certificate issued by the Transportation
7 Cabinet under KRS Chapter 281;
- 8 (16) (a) 1. Motor vehicles registered under KRS 186.050 that have a declared gross
9 vehicle weight with any towed unit of forty-four thousand and one
10 (44,001) pounds or greater; and
- 11 2. Farm trucks registered under KRS 186.050(4) that have a declared gross
12 vehicle weight with any towed unit of forty-four thousand and one
13 (44,001) pounds or greater;
- 14 (b) To be eligible for the exemption established in paragraph (a) of this
15 subsection, motor vehicles shall be registered at the appropriate range for the
16 declared gross weight of the vehicle established in KRS 186.050(3)(b) and
17 shall be prohibited from registering at a higher weight range. If a motor
18 vehicle is initially registered in one (1) declared gross weight range and
19 subsequently is registered at a declared gross weight range lower than forty-
20 four thousand and one (44,001) pounds, the person registering the vehicle
21 shall be required to pay the county clerk the usage tax due on the vehicle
22 unless the person can provide written proof to the clerk that the tax has been
23 previously paid;
- 24 (17) Motor vehicles transferred to a trustee to be held in trust, or from a trustee to a
25 beneficiary of the trust, if a direct transfer from the grantor of the trust to all
26 individual beneficiaries of the trust would have qualified for an exemption from the
27 tax pursuant to subsection (6) or (9) of this section;

- 1 (18) Motor vehicles transferred to a trustee to be held in trust, if the grantor of the trust is
2 a natural person and is treated as the owner of any portion of the trust for federal
3 income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679;
- 4 (19) Motor vehicles transferred from a trustee of a trust to another person if:
- 5 (a) The grantor of the trust is a natural person and is treated as the owner of any
6 portion of the trust for federal income tax purposes under the provisions of 26
7 U.S.C. secs. 671 to 679; and
- 8 (b) A direct transfer from the grantor of the trust to the person would have
9 qualified for an exemption from the tax pursuant to subsection (6) or (9) of
10 this section; and
- 11 (20) Motor vehicles under a manufacturer's statement of origin in possession of a
12 licensed new motor vehicle dealer that are titled and transferred to a licensed used
13 motor vehicle dealer and held for sale.

14 ➔Section 7. KRS 139.340 is amended to read as follows:

- 15 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
16 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
17 give to the purchaser a receipt therefor in the manner and form prescribed by the
18 department. The taxes collected or required to be collected by the retailer under this
19 section shall be deemed to be held in trust for and on account of the
20 Commonwealth.
- 21 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section
22 includes any of the following:
- 23 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
24 directly or indirectly, or through a subsidiary or any other related entity,
25 representative, or agent, by whatever name called, an office, place of
26 distribution, sales or sample room or place, warehouse or storage place, or
27 other place of business. Property owned by a person who has contracted with a

1 printer for printing, which consists of the final printed product, property which
2 becomes a part of the final printed product, or copy from which the printed
3 product is produced, and which is located at the premises of the printer, shall
4 not be deemed to be an office, place of distribution, sales or sample room or
5 place, warehouse or storage place, or other place of business maintained,
6 occupied, or used by the person;

7 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
8 operating in this state under the authority of the retailer or its subsidiary for
9 the purpose of selling, delivering, or the taking of orders for any tangible
10 personal property, digital property, or an extended warranty service. An
11 unrelated printer with which a person has contracted for printing shall not be
12 deemed to be a representative, agent, salesman, canvasser, or solicitor for the
13 person;

14 (c) Any retailer soliciting orders for tangible personal property, digital property,
15 or an extended warranty service from residents of this state on a continuous,
16 regular, or systematic basis in which the solicitation of the order, placement of
17 the order by the customer or the payment for the order utilizes the services of
18 any financial institution, telecommunication system, radio or television
19 station, cable television service, print media, or other facility or service
20 located in this state;

21 (d) Any retailer deriving receipts from the lease or rental of tangible personal
22 property situated in this state;

23 (e) Any retailer soliciting orders for tangible personal property, digital property,
24 or an extended warranty service from residents of this state on a continuous,
25 regular, systematic basis if the retailer benefits from an agent or representative
26 operating in this state under the authority of the retailer to repair or service
27 tangible personal property or digital property sold by the retailer;

- 1 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
2 either full-time or part-time, if the representative performs any activities that
3 help establish or maintain a marketplace for the retailer, including receiving or
4 exchanging returned merchandise; or
- 5 (g) 1. Any remote retailer selling tangible personal property or digital property
6 delivered or transferred electronically to a purchaser in this state,
7 including retail sales facilitated by a marketplace provider on behalf of
8 the remote retailer, if:
- 9 a. The remote retailer sold tangible personal property or digital
10 property that was delivered or transferred electronically to a
11 purchaser in this state in two hundred (200) or more separate
12 transactions in the previous calendar year or the current calendar
13 year; or
- 14 b. The remote retailer's gross receipts derived from the sale of
15 tangible personal property or digital property delivered or
16 transferred electronically to a purchaser in this state in the previous
17 calendar year or current calendar year exceeds one hundred
18 thousand dollars (\$100,000).
- 19 2. Any remote retailer that meets either threshold provided in subparagraph
20 1. of this paragraph shall register for a sales and use tax permit and
21 collect the tax imposed by KRS 139.310 from the purchaser **no later**
22 **than**~~by~~ the first day of the calendar month that **is at the most sixty**
23 **(60)**~~begins no later than thirty (30)~~ days after either threshold is
24 reached.

25 ➔Section 8. KRS 139.450 is amended to read as follows:

- 26 (1) It shall be presumed that:
- 27 (a) Tangible personal property shipped or brought to this state by the purchaser;

1 or

2 (b) Digital property delivered or transferred electronically into this state;
3 was purchased from a retailer for storage, use, or other consumption in this state.

4 (2) (a) A marketplace provider that makes retail sales on its own behalf or facilitates
5 retail sales of tangible personal property, digital property, or services that are
6 delivered or transferred electronically to a purchaser in this state for one (1) or
7 more marketplace retailers that in any sales combination exceeds one hundred
8 thousand dollars (\$100,000) or reaches two hundred (200) or more separate
9 transactions in the immediately preceding calendar year or current calendar
10 year shall be subject to this section.

11 (b) The marketplace provider shall:

- 12 1. Register for a sales and use tax permit number to report and remit the
13 tax due ~~on the marketplace provider's sales~~; **and**
- 14 2. ~~Register for a separate sales and use tax permit number to report and~~
15 ~~remit the tax due on all of the sales it facilitates for one (1) or more~~
16 ~~marketplace retailers; and~~
- 17 3. ~~Collect tax imposed under this chapter;~~
18 **no later than** ~~by~~ the first day of the calendar month that **is at the most sixty**
19 **(60)** ~~begins no later than thirty (30)~~ days after either threshold in paragraph
20 (a) of this subsection is reached.

21 (c) **The marketplace provider may register for:**

- 22 **1. A single sales and use tax permit number to report and remit all the**
23 **tax due on the marketplace provider's direct sales and sales the**
24 **marketplace provider facilitates for one (1) or more marketplace**
25 **retailers; or**
- 26 **2. a. One (1) sales and use tax permit number to report and remit the**
27 **tax due on the marketplace provider's direct sales; and**

1 **b. One (1) additional sales and use tax permit number to report and**
2 **remit the tax due on all sales the marketplace provider facilitates**
3 **for one (1) or more marketplace retailers.**

4 **(d) 1. If the marketplace provider elects to report and remit the tax due on a**
5 **single sales and use tax permit number as provided in paragraph (c)1.**
6 **of this subsection, the marketplace provider shall, upon request of the**
7 **department, provide a separate breakdown of receipts from the**
8 **marketplace provider's direct sales and the sales the marketplace**
9 **provider facilitates for the preceding fiscal year ending June 30.**
10 **2. The department may request the breakdown of receipts no more than**
11 **once annually.**

12 **(e)** The marketplace provider shall collect Kentucky tax on the entire sales price
13 or purchase price paid by a purchaser on each retail sale subject to tax under
14 this chapter that is made on its own behalf or that is facilitated by the
15 marketplace provider, regardless of whether the seller would have been
16 required to collect the tax had the retail sale not been facilitated by the
17 marketplace provider.

18 (3) Nothing in this section shall be construed to relieve the marketplace provider of
19 liability for collecting but failing to remit the taxes imposed under this chapter.

20 (4) (a) The marketplace provider shall be subject to audit on all sales made on its
21 own behalf and on all sales facilitated by the marketplace provider.

22 (b) The marketplace retailer shall be relieved of all liability for the collection and
23 remittance of the sales or use tax on sales facilitated by the marketplace
24 provider.

25 (5) No class action may be brought against a marketplace provider on behalf of
26 purchasers arising from or in any way related to an overpayment of tax collected by
27 the marketplace provider.

1 ➔Section 9. KRS 141.206 is amended to read as follows:

- 2 (1) Every pass-through entity doing business in this state shall, on or before the
3 fifteenth day of the fourth month following the close of its annual accounting
4 period, file a copy of its federal tax return with the form prescribed and furnished by
5 the department.
- 6 (2) (a) Pass-through entities shall calculate net income in the same manner as in the
7 case of an individual under KRS 141.019 and the adjustment required under
8 Sections 703(a) and 1363(b) of the Internal Revenue Code.
- 9 (b) Computation of net income under this section and the computation of the
10 partner's, member's, or shareholder's distributive share shall be computed as
11 nearly as practicable identical with those required for federal income tax
12 purposes except to the extent required by differences between this chapter and
13 the federal income tax law and regulations.
- 14 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
15 member, or shareholder in a pass-through entity shall be liable for income tax only
16 in their individual, fiduciary, or corporate capacities, and no income tax shall be
17 assessed against the net income of any pass-through entity, except as required:
- 18 (a) For S corporations under KRS 141.040; and
- 19 (b) For a partnership level audit under KRS 141.211.
- 20 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
21 section, except publicly traded partnerships as described in KRS
22 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the
23 distributive share, whether distributed or undistributed, of each ~~[-~~
24 ~~1.—]nonresident individual partner, member, or shareholder[-; and~~
25 ~~2.—Corporate partner or member that is doing business in Kentucky only~~
26 ~~through its ownership interest in a pass-through entity].~~
- 27 (b) Withholding shall be at the maximum rate provided in KRS 141.020~~[- or~~

1 ~~141.040~~].

2 (5) (a) ~~[Effective for taxable years beginning after December 31, 2018,] Every pass-~~
3 through entity required to withhold Kentucky income tax as provided by
4 subsection (4) of this section shall pay estimated tax for the taxable year, ~~if~~ ~~[-~~
5 ~~1.—]for a nonresident individual partner, member, or shareholder, the estimated~~
6 tax liability can reasonably be expected to exceed five hundred dollars
7 (\$500)~~[- or~~
8 ~~2.— For a corporate partner or member that is doing business in Kentucky~~
9 ~~only through its ownership interest in a pass-through entity, the~~
10 ~~estimated tax liability can reasonably be expected to exceed five~~
11 ~~thousand dollars (\$5,000)].~~

12 (b) The payment of estimated tax shall contain the information and shall be filed
13 as provided in KRS 141.207.

14 (6) (a) If a pass-through entity demonstrates to the department that a partner,
15 member, or shareholder has filed an appropriate tax return for the prior year
16 with the department, then the pass-through entity shall not be required to
17 withhold on that partner, member, or shareholder for the current year unless
18 the exemption from withholding has been revoked pursuant to paragraph (b)
19 of this subsection.

20 (b) 1. An exemption from withholding shall be considered revoked if the
21 partner, member, or shareholder does not file and pay all taxes due in a
22 timely manner.

23 2. An exemption so revoked shall be reinstated only with permission of the
24 department.

25 3. If a partner, member, or shareholder who has been exempted from
26 withholding does not file a return or pay the tax due, the department may
27 require the pass-through entity to pay to the department the amount that

1 should have been withheld, up to the amount of the partner's, member's,
2 or shareholder's ownership interest in the entity.

3 4. The pass-through entity shall be entitled to recover a payment made
4 pursuant to this paragraph from the partner, member, or shareholder on
5 whose behalf the payment was made.

6 (7) In determining the tax under this chapter, a resident individual, estate, or trust that is
7 a partner, member, or shareholder in a pass-through entity shall take into account
8 the partner's, member's, or shareholder's total distributive share of the pass-through
9 entity's items of income, loss, deduction, and credit.

10 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
11 that is a partner, member, or shareholder in a pass-through entity required to file a
12 return under subsection (1) of this section shall take into account:

13 (a) 1. If the pass-through entity is doing business only in this state, the
14 partner's, member's, or shareholder's total distributive share of the pass-
15 through entity's items of income, loss, and deduction; or

16 2. If the pass-through entity is doing business both within and without this
17 state, the partner's, member's, or shareholder's distributive share of the
18 pass-through entity's items of income, loss, and deduction multiplied by
19 the apportionment fraction of the pass-through entity as prescribed in
20 subsection (11) of this section; and

21 (b) The partner's, member's, or shareholder's total distributive share of credits of
22 the pass-through entity.

23 (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member
24 in a pass-through entity shall take into account the corporation's distributive share of
25 the pass-through entity's items of income, loss, and deduction and:

26 (a) 1. For taxable years beginning on or after January 1, 2007, but prior to
27 January 1, 2018, shall include the proportionate share of the sales,

- 1 property, and payroll of the limited liability pass-through entity or
2 general partnership in computing its own apportionment factor; and
- 3 2. For taxable years beginning on or after January 1, 2018, shall include the
4 proportionate share of the sales of the limited liability pass-through
5 entity or general partnership in computing its own apportionment factor;
6 and
- 7 (b) Credits from the partnership.
- 8 (10) (a) If a pass-through entity is doing business both within and without this state,
9 the pass-through entity shall compute and furnish to each partner, member, or
10 shareholder the numerator and denominator of each factor of the
11 apportionment fraction determined in accordance with subsection (11) of this
12 section.
- 13 (b) For purposes of determining an apportionment fraction under paragraph (a) of
14 this subsection, if the pass-through entity is:
- 15 1. Doing business both within and without this state; and
16 2. A partner or member in another pass-through entity;
- 17 then the pass-through entity shall be deemed to own the pro rata share of the
18 property owned or leased by the other pass-through entity, and shall also
19 include its pro rata share of the other pass-through entity's payroll and sales.
- 20 (c) The phrases "a partner or member in another pass-through entity" and "doing
21 business both within and without this state" shall extend to each level of
22 multiple-tiered pass-through entities.
- 23 (d) The attribution to the pass-through entity of the pro rata share of property,
24 payroll and sales from its role as a partner or member in another pass-through
25 entity will also apply when determining the pass-through entity's ultimate
26 apportionment factor for property, payroll and sales as required under
27 subsection (11) of this section.

- 1 (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity
2 doing business within and without the state shall compute an apportionment
3 fraction, the numerator of which is the property factor, representing twenty-
4 five percent (25%) of the fraction, plus the payroll factor, representing twenty-
5 five percent (25%) of the fraction, plus the sales factor, representing fifty
6 percent (50%) of the fraction, with each factor determined in the same manner
7 as provided in KRS 141.901, and the denominator of which is four (4),
8 reduced by the number of factors, if any, having no denominator, provided
9 that if the sales factor has no denominator, then the denominator shall be
10 reduced by two (2).
- 11 (b) For taxable years beginning on or after January 1, 2018, a pass-through entity
12 doing business within and without the state shall compute an apportionment
13 fraction as provided in KRS 141.120.
- 14 (12) Resident individuals, estates, or trusts that are partners in a partnership, members of
15 a limited liability company electing partnership tax treatment for federal income tax
16 purposes, owners of single member limited liability companies, or shareholders in
17 an S corporation which does not do business in this state are subject to tax under
18 KRS 141.020 on federal net income, gain, deduction, or loss passed through the
19 partnership, limited liability company, or S corporation.
- 20 (13) An S corporation election made in accordance with Section 1362 of the Internal
21 Revenue Code for federal tax purposes is a binding election for Kentucky tax
22 purposes.
- 23 (14) (a) Nonresident individuals shall not be taxable on investment income distributed
24 by a qualified investment partnership. For purposes of this subsection, a
25 "qualified investment partnership" means a pass-through entity that, during the
26 taxable year, holds only investments that produce income that would not be
27 taxable to a nonresident individual if held or owned individually.

1 (b) A qualified investment partnership shall be subject to all other provisions
2 relating to a pass-through entity under this section and shall not be subject to
3 the tax imposed under KRS 141.040 or 141.0401.

4 (15) (a) ~~1.— A pass-through entity may file a composite income tax return on behalf
5 of electing nonresident individual partners, members, or shareholders.~~

6 ~~2.— The pass-through entity shall report and pay on the composite income tax
7 return income tax at the highest marginal rate provided in this chapter on any
8 portion of the partners', members', or shareholders' pro rata or distributive
9 shares of income of the pass-through entity from doing business in this state
10 or deriving income from sources within this state. Payments made pursuant to
11 subsection (5) of this section shall be credited against any tax due.~~

12 ~~3.— The pass-through entity filing a composite return shall still make estimated tax
13 payments if required to do so by subsection (5) of this section, and shall
14 remain subject to any penalty under KRS 141.044 and 141.305 for any
15 underpayment of estimated tax determined under KRS 141.044 or 141.305.~~

16 ~~4.— The partners', members', or shareholders' pro rata or distributive share of
17 income shall include all items of income or deduction used to compute
18 adjusted gross income on the Kentucky return that is passed through to the
19 partner, member, or shareholder by the pass-through entity, including but not
20 limited to interest, dividend, capital gains and losses, guaranteed payments,
21 and rents.~~

22 ~~(b) A nonresident individual partner, member, or shareholder whose only source
23 of income within this state is distributive share income from one (1) or more
24 pass-through entities may elect to be included in a composite return filed
25 pursuant to this section.~~

26 ~~(c) A nonresident individual partner, member, or shareholder that has been
27 included in a composite return may file an individual income tax return and~~

1 shall receive credit for tax paid on the partner's behalf by the pass-through
2 entity.

3 ~~(d)~~ A pass-through entity shall deliver to the department a return upon a form
4 prescribed by the department showing the total amounts paid or credited to its
5 ~~[electing]~~ nonresident individual partners, members, or shareholders, the
6 amount paid in accordance with this subsection, and any other information the
7 department may require.

8 **(b)** A pass-through entity shall furnish to its nonresident partner, member, or
9 shareholder annually, but not later than the fifteenth day of the fourth month
10 after the end of its taxable year, a record of the amount of tax paid on behalf
11 of the partner, member, or shareholder on a form prescribed by the
12 department.

13 ➔Section 10. KRS 141.207 is amended to read as follows:

14 (1) **For a nonresident individual partner, member, or shareholder,** the payment of
15 estimated tax required by KRS 141.206 shall **be**~~[contain the following information:~~

16 ~~(a) For a nonresident individual partner, member, or shareholder, the amount of~~
17 ~~estimated tax]~~ calculated under KRS 141.020 and 141.305 for the taxable
18 year~~]; and~~

19 ~~(b) For a corporate partner or member that is doing business in Kentucky only~~
20 ~~through its ownership interest in a pass-through entity, the amount of~~
21 ~~estimated tax calculated under KRS 141.040 and 141.044 for the taxable~~
22 ~~year].~~

23 (2) The payment of estimated tax shall be made in installments by the pass-through
24 entity in the same manner and at the same times as provided by ~~]:~~

25 ~~(a)]KRS 141.305, for a nonresident individual partner, member, or shareholder];~~
26 ~~and~~

27 ~~(b) KRS 141.044, for a corporate partner or member].~~

1 (3) A pass-through entity required to make a payment of estimated tax shall be subject
2 to the penalty provisions for any underpayment of estimated tax.

3 ➔Section 11. KRS 224.60-142 is amended to read as follows:

4 (1) To be eligible to participate in the fund, the owner of any petroleum storage tank
5 containing motor fuels installed and placed in operation after July 15, 2004, shall
6 register the petroleum storage tank with the cabinet as required by KRS 224.60-105
7 prior to applying for participation in the financial responsibility account.

8 (2) The owner of any petroleum storage tank containing motor fuels currently existing,
9 or removed from the ground after January 1, 1974, shall register the petroleum
10 storage tank containing motor fuels with the cabinet prior to applying to the fund,
11 and shall register the petroleum storage tank containing motor fuels by July 15,
12 2025~~[2021]~~. Owners or operators may submit affidavits and applications relevant to
13 current petroleum storage tank accounts through July 15, 2025.

14 ➔Section 12. KRS 141.390 is amended to read as follows:

15 (1) As used in this section:

16 (a) "Postconsumer waste" means any product generated by a business or
17 consumer which has served its intended end use, and which has been
18 separated from solid waste for the purposes of collection, recycling,
19 composting, and disposition and which does not include secondary waste
20 material or demolition waste;

21 (b) "Recycling equipment" means any machinery or apparatus used exclusively to
22 process postconsumer waste material and manufacturing machinery used
23 exclusively to produce finished products composed of substantial
24 postconsumer waste materials;

25 (c) "Composting equipment" means equipment used in a process by which
26 biological decomposition of organic solid waste is carried out under controlled
27 aerobic conditions, and which stabilizes the organic fraction into a material

1 which can easily and safely be stored, handled, and used in an~~[a]~~
2 environmentally acceptable manner;

3 (d) "Recapture period" means:

4 1. For qualified equipment with a useful life of five (5) or more years, the
5 period from the date the equipment is purchased to five (5) full years
6 from that date; or

7 2. For qualified equipment with a useful life of less than five (5) years, the
8 period from the date the equipment is purchased to three (3) full years
9 from that date;

10 (e) "Useful life" means the period determined under Section 168 of the Internal
11 Revenue Code; and

12 (f) "Major recycling project" means a project location where the taxpayer:

13 1. Invests more than ten million dollars (\$10,000,000) in recycling or
14 composting equipment to be used exclusively in this state;

15 2. Has at least~~[more than]~~ four hundred (400) full-time employees with an
16 average hourly wage of more than three hundred percent (300%) of the
17 federal minimum wage; and

18 3. Has plant and equipment with a total cost of more than five hundred
19 million dollars (\$500,000,000).

20 (2) (a) 1. A taxpayer that purchases recycling or composting equipment to be used
21 exclusively within this state for recycling or composting postconsumer
22 waste materials shall be entitled to a credit against the:

23 a. Income taxes under KRS 141.020 or 141.040; and

24 b. Limited liability entity tax under KRS 141.0401;

25 with the ordering of the credits under KRS 141.0205.

26 2. The total tax credit shall be an amount equal to fifty percent (50%) of
27 the installed cost of the recycling or composting equipment.

- 1 3. The amount of credit claimed in the taxable year during which the
2 recycling equipment is purchased shall not exceed:
- 3 a. Ten percent (10%) of the amount of the total credit allowable; or
4 b. Twenty-five percent (25%) of the total of each tax liability which
5 would be otherwise due for that taxable year.
- 6 4. The amount of credit claimed in a taxable year subsequent to the taxable
7 year during which the recycling equipment is purchased shall not exceed
8 twenty-five percent (25%) of the total of each tax liability, which would
9 be otherwise due for that taxable year.
- 10 (b) 1. For taxable years beginning after December 31, 2019, a taxpayer that has
11 a major recycling project containing recycling or composting equipment
12 to be used exclusively within this state for recycling or composting
13 postconsumer waste material shall be entitled to a credit against the:
- 14 a. Income taxes under KRS 141.020 or 141.040; and
15 b. Limited liability entity tax under KRS 141.0401;
16 with the ordering of the credits under KRS 141.0205.
- 17 2. The total tax credit shall be an amount equal to twenty-five percent
18 (25%) of the installed cost of the recycling or composting equipment.
- 19 3. The credit described in this paragraph shall be limited to a period of
20 thirty (30) years commencing with the approval of the recycling credit
21 application.
- 22 4. The amount of credit claimed in the taxable year during which the
23 recycling equipment is purchased shall not exceed seventy-five percent
24 (75%) of the total of each tax liability which would be otherwise due for
25 that taxable year.
- 26 5. The amount of credit claimed in a taxable year subsequent to the taxable
27 year during which the recycling equipment is purchased shall not exceed

1 seventy-five percent (75%) of the total of each tax liability, which would
2 be otherwise due for that taxable year.

3 (c) A taxpayer with one (1) or more major recycling projects shall be entitled to a
4 total credit including the amount computed in paragraph (a) of this subsection
5 plus the amount of credit computed in paragraph (b) of this subsection, except
6 that the total amount of credits under paragraphs (a) and (b) of this subsection
7 claimed in a taxable year shall not exceed seventy-five percent (75%) of the
8 total of each tax liability which would be otherwise due for that taxable year.

9 (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph
10 (a) of this subsection and a credit computed under paragraph (b) of this
11 subsection on the same recycling or composting equipment.

12 (3) (a) **1. Except as provided in subparagraph 2. of this paragraph,** application
13 for a tax credit shall be made to the department on or before the first day
14 of the seventh month following the close of the taxable year in which the
15 recycling or composting equipment is purchased or placed in service.

16 **2. For taxable years beginning on or after January 1, 2020, but before**
17 **January 1, 2024, application for a tax credit related to a major**
18 **recycling project may be made to the department on or before the first**
19 **day of the seventh month following either:**

20 **a. The close of the taxable year in which the recycling or**
21 **composting equipment is purchased or placed in service; or**

22 **b. The close of the taxable year immediately following the taxable**
23 **year in which the recycling or composting equipment is**
24 **purchased or placed in service.**

25 (b) The application shall include a description of each item of recycling
26 equipment purchased, the date of purchase and the installed cost of the
27 recycling equipment, a statement of where the recycling equipment is to be

1 used, and any other information as the department may require to fulfill the
2 reporting requirements under subsection (8) of this section.

3 (c) The department shall review all applications received to determine whether
4 expenditures for which credits are required meet the requirements of this
5 section and shall advise the taxpayer of the amount of credit for which the
6 taxpayer is eligible under this section.

7 (4) (a) Except as provided in subsection (6) of this section, if a taxpayer that receives
8 a tax credit under this section sells, transfers, or otherwise disposes of the
9 qualifying recycling or composting equipment before the end of the recapture
10 period, the tax credit shall be redetermined under subsection (5) of this
11 section.

12 (b) If the total credit taken in prior taxable years exceeds the redetermined credit,
13 the difference shall be added to the taxpayer's tax liability under this chapter
14 for the taxable year in which the sale, transfer, or disposition occurs.

15 (c) If the redetermined credit exceeds the total credit already taken in prior
16 taxable years, the taxpayer shall be entitled to use the difference to reduce the
17 taxpayer's tax liability under this chapter for the taxable year in which the sale,
18 transfer, or disposition occurs.

19 (5) The total tax credit allowable under subsection (2) of this section for equipment that
20 is sold, transferred, or otherwise disposed of before the end of the recapture period
21 shall be adjusted as follows:

22 (a) For equipment with a useful life of five (5) or more years that is sold,
23 transferred, or otherwise disposed of:

- 24 1. One (1) year or less after the purchase, no credit shall be allowed.
- 25 2. Between one (1) year and two (2) years after the purchase, twenty
26 percent (20%) of the total allowable credit shall be allowed.
- 27 3. Between two (2) and three (3) years after the purchase, forty percent

- 1 (40%) of the total allowable credit shall be allowed.
- 2 4. Between three (3) and four (4) years after the purchase, sixty percent
3 (60%) of the total allowable credit shall be allowed.
- 4 5. Between four (4) and five (5) years after the purchase, eighty percent
5 (80%) of the total allowable credit shall be allowed.
- 6 (b) For equipment with a useful life of less than five (5) years that is sold,
7 transferred, or otherwise disposed of:
- 8 1. One (1) year or less after the purchase, no credit shall be allowed.
- 9 2. Between one (1) year and two (2) years after the purchase, thirty-three
10 percent (33%) of the total allowable credit shall be allowed.
- 11 3. Between two (2) and three (3) years after the purchase, sixty-seven
12 percent (67%) of the total allowable credit shall be allowed.
- 13 (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or
14 transfers due merely to a change in business ownership or organization as long as
15 the equipment continues to be used exclusively in recycling or composting, or
16 transactions to which Section 381(a) of the Internal Revenue Code applies.
- 17 (7) The department may promulgate administrative regulations to carry out the
18 provisions of this section.
- 19 (8) (a) The purpose of expanding the tax credit for a major recycling project is to
20 encourage more recycling and composting by businesses within the
21 Commonwealth.
- 22 (b) In order for the General Assembly to evaluate the fulfillment of the purpose
23 stated in paragraph (a) of this subsection, the department shall provide the
24 following information on a cumulative basis for each taxable year to provide a
25 historical impact of the tax credit to the Commonwealth:
- 26 1. A narrative for each major recycling project approved for a tax credit,
27 describing:

- 1 a. The taxpayer claiming the tax credit;
- 2 b. The industry sector within which the taxpayer operates in this
- 3 state, including the NAICS code for the taxpayer; and
- 4 c. The type of recycling or composting equipment purchased by the
- 5 taxpayer;
- 6 2. The location, by county, of the major recycling project;
- 7 3. The installed cost of the recycling or composting equipment;
- 8 4. The total amount of tax credit approved for the major recycling project;
- 9 5. The amount of tax credit allowed for the major recycling project for
- 10 each taxable year; and
- 11 6. a. In the case of all taxpayers other than corporations, based on
- 12 ranges of adjusted gross income of no larger than five thousand
- 13 dollars (\$5,000) for the taxable year, the total amount of tax credits
- 14 claimed and the number of returns claiming a tax credit for each
- 15 adjusted gross income range; and
- 16 b. In the case of all corporations, based on ranges of net income no
- 17 larger than fifty thousand dollars (\$50,000) for the taxable year, the
- 18 total amount of tax credit claimed and the number of returns
- 19 claiming a tax credit for each net income range.
- 20 (c) The report required by paragraph (b) of this subsection shall be submitted to
- 21 the Interim Joint Committee on Appropriations and Revenue beginning no
- 22 later than November 1, 2021, and no later than each November 1 thereafter, as
- 23 long as the credit is claimed on any return processed by the department.

24 ➔Section 13. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER

25 154 IS CREATED TO READ AS FOLLOWS:

26 *During the review of applications under subchapters 12, 22, 23, 24, 25, 26, 27, 28, 32,*

27 *or 34 of KRS Chapter 154, the Secretary of the Cabinet for Economic Development*

1 shall have the authority to consider a resident of one (1) of Kentucky's seven (7)
 2 contiguous bordering states as a qualified employee for a new, full-time position
 3 essential to an approved economic development project, as long as the development for
 4 the approved project is no more than twenty-five (25) miles from the boundary line of
 5 the bordering state.

6 →Section 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO
 7 READ AS FOLLOWS:

8 Notwithstanding any legal restrictions or limitations to the contrary, a tax district as
 9 defined in KRS 67.750(10) may share a refund application and any related information
 10 that is submitted to it by an employee seeking a refund of any amount of tax withheld
 11 and paid by his or her employer to the tax district under KRS 67.750 to 67.795 with any
 12 other tax district that is referenced in the refund application or related information.

13 →Section 15. KRS 190.030 is amended to read as follows:

14 (1) (a) A motor vehicle dealer, new, used, or auction motor vehicle dealer, nonprofit
 15 motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle
 16 dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer,
 17 new recreational vehicle dealer, a salesperson of motor vehicles, or a
 18 salesperson of new recreational vehicles shall not engage in business in this
 19 state at any location without a license issued for that location as provided in
 20 KRS 190.010 to 190.080.

21 (b) If a person licensed as a motor vehicle dealer or new recreational vehicle
 22 dealer acts as a motor vehicle salesperson or a new recreational vehicle
 23 salesperson, that person~~he~~ shall secure a motor vehicle salesperson's license
 24 or a new recreational vehicle salesperson's license in addition to a license for a
 25 motor vehicle dealer or for a new recreational vehicle dealer.

26 (c) In addition to the authority granted under subsection (6) of this section, the
 27 motor vehicle commission may promulgate~~provide by~~ administrative

1 regulations under KRS Chapter 13A to establish licenses and appropriate
 2 fees~~[regulation]~~ for other licensee activities~~[and an appropriate fee]~~.

3 (2) A manufacturer of motor vehicles, recreational vehicles, factory branch, distributor,
 4 distributor branch, or wholesaler shall not engage in business in this state without a
 5 license as provided in KRS 190.010 to 190.080.

6 (3) A factory representative or distributor representative shall not engage in business in
 7 this state without a license as provided in KRS 190.010 to 190.080.

8 (4) Application for license shall be made to the licensor, at a time, in a form, and
 9 containing information the licensor shall require and shall be accompanied by the
 10 required fee. The licensor may require, as part of~~[in]~~ the application process,~~[or~~
 11 ~~otherwise,]~~ information relating to the applicant's solvency,~~[his]~~ financial standing,
 12 or other pertinent matter commensurate with the safeguarding of the public interest
 13 in the locality in which the applicant proposes to engage in business. The
 14 information may be considered by the licensor in determining the fitness of the
 15 applicant to engage in business as set forth in this section.

16 (5) All licenses shall be granted or refused within thirty (30) days after submission of a
 17 complete application and shall expire, unless revoked or suspended, on December
 18 31 of the calendar year for which they are granted. If a complaint of unfair
 19 cancellation of dealer franchise is in the process of being heard, a replacement
 20 application for the franchise shall not be considered until a decision is rendered by
 21 the commission.

22 (6) (a) The commission shall promulgate administrative regulations under KRS
 23 Chapter 13A to establish license fees~~[fee]~~ for:

24 1. New motor vehicle dealers;

25 2. Used motor vehicle dealers;

26 3. Motor vehicle leasing dealers;

27 4. Restricted motor vehicle dealers;

- 1 **5. Motorcycle dealers;**
 2 **6. Motor vehicle manufacturers and factory branches;**
 3 **7. Distributors, motor vehicle auction dealers, and wholesalers;**
 4 **8. Motor vehicle or recreational vehicle salespersons;**
 5 **9. Factory representatives and distributor branch representatives;**
 6 **10. Automotive mobility dealers;**
 7 **11. Nonprofit motor vehicle dealers;**
 8 **12. Recreational vehicle manufacturers and distributors; and**
 9 **13. New recreational vehicle dealers.**

10 **(b) The license fee imposed on motor vehicle or recreational vehicle**
 11 **salespersons shall be paid by the licensed dealer for every salesperson the**
 12 **dealer employs.**

13 **(c) A license fee shall not be imposed on nonprofit motor vehicle dealer**
 14 **salespersons** ~~for a calendar year, or part thereof, shall be as follows:~~

15 ~~(a) For new motor vehicle dealers, one hundred dollars (\$100) for each office or~~
 16 ~~branch or agent thereof, plus one hundred dollars (\$100) for a supplemental~~
 17 ~~license for each used car lot not immediately adjacent to the office or to a~~
 18 ~~branch;~~

19 ~~(b) For used motor vehicle dealers, one hundred dollars (\$100) for each office or~~
 20 ~~branch or agent thereof;~~

21 ~~(c) For motor vehicle leasing dealers, one hundred dollars (\$100) for each office~~
 22 ~~or branch or agent thereof;~~

23 ~~(d) For restricted motor vehicle dealers, one hundred dollars (\$100) for each~~
 24 ~~office or branch or agent thereof;~~

25 ~~(e) For motorcycle dealers, one hundred dollars (\$100) for each office, branch, or~~
 26 ~~agent thereof;~~

27 ~~(f) For motor vehicle manufacturers, one hundred dollars (\$100); and for each~~

- 1 ~~factory branch in this state, one hundred dollars (\$100);~~
- 2 ~~(g) For distributors, motor vehicle auction dealers or wholesalers, the same as for~~
- 3 ~~dealers;~~
- 4 ~~(h) For motor vehicle or recreational vehicle salespersons, twenty dollars (\$20), to~~
- 5 ~~be paid by the licensed dealer for every salesperson the dealer employs;~~
- 6 ~~(i) For factory representatives, or distributor branch representatives, one hundred~~
- 7 ~~dollars (\$100);~~
- 8 ~~(j) For automotive mobility dealers, one hundred dollars (\$100);~~
- 9 ~~(k) For nonprofit motor vehicle dealers, one hundred dollars (\$100);~~
- 10 ~~(l) For nonprofit motor vehicle dealer salespersons, a license fee shall not be~~
- 11 ~~imposed;~~
- 12 ~~(m) For recreational vehicle manufacturers or distributors, one hundred dollars~~
- 13 ~~(\$100); and~~
- 14 ~~(n) For new recreational vehicle dealers, one hundred dollars (\$100)].~~
- 15 (7) (a) The licenses of dealers, manufacturers, factory branches, distributors, and
- 16 distributor branches shall specify the location of the office or branch and shall
- 17 be conspicuously displayed there. If the location is changed, the licensor shall
- 18 endorse the change of location on the license. A licensee shall not be charged
- 19 a fee for changing locations. A change of location shall require a new
- 20 application.
- 21 (b) 1. A motor vehicle dealer who is not a new motor vehicle dealer may
- 22 conduct a temporary sale or display in the county where the dealer is
- 23 licensed to conduct business.
- 24 2. A new motor vehicle dealer may conduct a temporary sale or display in
- 25 the dealer's market as defined in KRS 190.047(6).
- 26 3. A recreational vehicle dealer may conduct a temporary sale or display in
- 27 the county where the dealer is licensed to conduct business or in any

1 other county where there is no licensed recreational vehicle dealer.

2 (c) A temporary sale or display may be conducted under this subsection if the
3 temporary sale or display is permitted under an enabling ordinance enacted by
4 the city, county, urban-county, or consolidated local government within whose
5 boundaries the temporary sale or display is to be conducted. A temporary sale
6 or display shall be advertised as temporary in nature and shall consist of a
7 representative sampling of the inventory of each participating licensee.

8 (d) The provisions of this subsection shall not apply to a nonprofit motor vehicle
9 dealer.

10 (8) Every salesperson, factory representative, or distributor representative shall carry
11 his license when engaged in business, and display it upon request. The license shall
12 name his employer; and in case of a change of employer, the salesperson shall
13 immediately mail his license to the licensor who shall endorse the change on the
14 license without charge.

15 (9) If the licensor has reasonable cause to doubt the financial responsibility or the
16 compliance by the applicant or licensee with the provisions of this statute, the
17 licensor may require the applicant or licensee to furnish and maintain a bond in a
18 form, amount and with sureties up to one hundred thousand dollars (\$100,000),
19 conditioned upon the applicant or licensee complying with the provisions of the
20 statutes applicable to the licensee. The bonds shall be executed in the name of the
21 State of Kentucky for the benefit of any aggrieved parties, but the penalty of the
22 bond shall not be invoked except after a court adjudication. The commission may
23 promulgate administrative regulations to permit the applicant to submit evidence, in
24 lieu of posting bond, that reliable financial arrangements, deposits, or commitments
25 exist providing assurance, substantially equivalent to that afforded by a bond
26 complying with this subsection, for payment on conditions and indemnity set forth
27 in this subsection. The bonding requirements of this subsection shall not apply to

1 manufacturers, factory branches, and their agents.

2 (10) Application for dealer's license shall be submitted to the commission and contain
3 information the commission may require. A motor vehicle dealer, unless licensed
4 under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use
5 any motor vehicle registration plates.

6 (11) Every motor vehicle dealer or new recreational vehicle dealer licensed in
7 accordance with the provisions of this section shall make reports to the licensor at
8 intervals and show information the licensor may require.

9 ➔Section 16. KRS 141.383 is amended to read as follows:

10 (1) As used in this section:

11 (a) "Above-the-line production crew" **has the same meaning as in Section 17 of**
12 **this Act**~~[means the same as defined in KRS 148.542];~~

13 (b) "Approved company" **has the same meaning as in Section 17 of this**
14 **Act**~~[means the same as defined in KRS 148.542];~~

15 (c) **"Authority" has the same meaning as in Section 17 of this Act;**

16 **(d)** "Below-the-line production crew" **has the same meaning as in Section 17 of**
17 **this Act**~~[means the same as defined in KRS 148.542];~~

18 ~~(d)~~—"Cabinet" ~~[means the same as defined in KRS 148.542];~~

19 ~~(e)~~ ["Office" ~~means the same as defined in KRS 148.542;~~

20 ~~(f)~~ "Qualifying expenditure" **has the same meaning as in Section 17 of this**
21 **Act**~~[means the same as defined in KRS 148.542];~~

22 ~~(f)~~~~(g)~~ "Qualifying payroll expenditure" **has the same meaning as in Section**
23 **17 of this Act**~~[means the same as defined in KRS 148.542];~~

24 ~~(g)~~~~(h)~~ "Secretary" **has the same meaning as in Section 17 of this Act**~~[means~~
25 ~~the same as defined in KRS 148.542];~~ and

26 ~~(h)~~~~(i)~~ "Tax incentive agreement" **has the same meaning as in Section 17 of**
27 **this Act**~~[means the same as defined in KRS 148.542].~~

- 1 (2) (a) There is hereby created a tax credit against the tax imposed under KRS
 2 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in
 3 KRS 141.0205.
- 4 (b) The incentive available under paragraph (a) of this section is:
- 5 1. A refundable credit for applications approved prior to April 27, 2018;[
 6 and]
 7 2. A nonrefundable and nontransferable credit for applications approved on
 8 or after April 27, 2018, **but before January 1, 2022; and**
 9 **3. A refundable credit for applications approved on or after January 1,**
 10 **2022, if the provisions of paragraph (c) of this subsection are met.**
- 11 (c) 1. [~~Beginning on April 27, 2018,~~]The total tax incentive approved under
 12 **Section 18 of this Act**[~~KRS 148.544~~] shall be limited to:
- 13 **a.** One hundred million dollars (\$100,000,000) for calendar year
 14 2018 and each calendar year **through the calendar year 2021;**
 15 **and**[~~thereafter.~~]
- 16 **b. Seventy-five million dollar (\$75,000,000) for the calendar year**
 17 **2022 and each calendar year thereafter.**
- 18 2. **Beginning January 1, 2022, to qualify for the refundable credit, all**
 19 **applicants shall:**
- 20 **a. Begin production within six (6) months of filing an application**
 21 **with the authority; and**
- 22 **b. Complete production within two (2) years of their production**
 23 **start date.**[~~On April 27, 2018, if applications have been approved~~
 24 ~~during the 2018 calendar year which exceed the amount in~~
 25 ~~subparagraph 1. of this paragraph, the Kentucky Film Office shall~~
 26 ~~immediately cease in approving any further applications for tax~~
 27 ~~incentives.]~~

- 1 (3) **Beginning January 1, 2022,** an approved company may receive a refundable tax
 2 credit~~[on and after July 1, 2010, but only for applications approved prior to April~~
 3 ~~27, 2018,]~~ if:
- 4 (a) The **department**~~[cabinet]~~ has received notification from the **authority**~~[office]~~
 5 that the approved company has satisfied all requirements of **Sections 18 and**
 6 **19 of this Act**~~[KRS 148.542 to 148.546]~~; and
- 7 (b) The approved company has provided a detailed cost report and sufficient
 8 documentation to the **authority**~~[office]~~, which has been forwarded by the
 9 **authority**~~[office]~~ to the **department**~~[cabinet]~~, that:
- 10 1. The purchases of qualifying expenditures were made after the execution
 11 of the tax incentive agreement; and
- 12 2. The approved company has withheld income tax as required by KRS
 13 141.310 on all qualified payroll expenditures.
- 14 (4) Interest shall not be allowed or paid on any refundable credits provided under this
 15 section.
- 16 (5) The **department may**~~[cabinet shall]~~ promulgate administrative regulations **under**~~[in~~
 17 ~~accordance with]~~ KRS Chapter 13A to administer this section.
- 18 (6) On or before September 1, 2010, and on or before each September 1 thereafter, for
 19 the immediately preceding fiscal year, the **department**~~[cabinet]~~ shall report to the
 20 **authority and the Interim Joint Committee on Appropriations and**
 21 **Revenue**~~[office]~~ the names of the approved companies and the amounts of
 22 refundable income tax credit claimed.
- 23 **(7) No later than September 1, 2021, and by September 1 every four (4) years**
 24 **thereafter, the department and the Cabinet for Economic Development shall**
 25 **cooperatively provide historical data related to the tax credit allowed in this**
 26 **section and Sections 18 and 19 of this Act, including data items beginning with**
 27 **tax credits claimed for taxable years beginning on or after January 1, 2018:**

- 1 (a) The name of the taxpayer claiming the tax credit;
- 2 (b) The date that the application was approved and the date the filming or
- 3 production was completed;
- 4 (c) The taxable year in which the taxpayer claimed the tax credit;
- 5 (d) The total amount of the tax credit, including any amount denied, any
- 6 amount applied against a tax liability, any amount refunded, and any
- 7 amount remaining that may be claimed on a return filed in the future;
- 8 (e) Whether the taxpayer is a Kentucky-based company as defined in Section 17
- 9 of this Act;
- 10 (f) Whether the taxpayer films or produces a:
- 11 1. Feature-length film, television program, or industrial film;
- 12 2. National touring production of a Broadway show; or
- 13 3. Documentary;
- 14 (g) Whether the filming or production was performed:
- 15 1. Entirely in an enhanced county; or
- 16 2. In whole or in part in any Kentucky county other than in an enhanced
- 17 incentive county;
- 18 (h) The amount of qualifying expenditures incurred by the taxpayer;
- 19 (i) The amount of qualifying payroll expenditures paid to:
- 20 1. Resident below-the-line crew; and
- 21 2. Nonresident below-the-line production crew;
- 22 including the number of crew members in each category;
- 23 (j) The amount of qualifying payroll expenditures paid to:
- 24 1. Resident above-the-line crew; and
- 25 2. Nonresident above-the-line crew;
- 26 including the number of crew members in each category; and
- 27 (k) A brief description of the type of motion picture or entertainment

1 production project.

2 (8) The information required to be reported under this section shall not be
3 considered confidential taxpayer information and shall not be subject to KRS
4 Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting
5 disclosure or reporting of information.

6 ➔SECTION 17. SUBCHAPTER 61 OF KRS CHAPTER 154 IS
7 ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS
8 FOLLOWS:

9 As used in this subchapter:

10 (1) "Above-the-line production crew" means employees involved with the production
11 of a motion picture or entertainment production whose salaries are negotiated
12 prior to commencement of production, such as actors, directors, producers, and
13 writers;

14 (2) "Animated production" means a nationally distributed feature-length film
15 created with the rapid display of a sequence of images using 2-D or 3-D graphics
16 of artwork or model positions in order to create an illusion of movement;

17 (3) "Approved company" means an eligible company approved for incentives
18 provided under Section 16 and Section 18 of this Act;

19 (4) "Authority" means the Kentucky Economic Development Finance authority
20 created in KRS 154.20-010;

21 (5) "Below-the-line production crew" means employees involved with the production
22 of a motion picture or entertainment production except above-the-line production
23 crew. "Below-the-line production crew" includes but is not limited to:

24 (a) Casting assistants;

25 (b) Costume design;

26 (c) Extras;

27 (d) Gaffers;

- 1 (e) Grips;
- 2 (f) Location managers;
- 3 (g) Production assistants;
- 4 (h) Set construction staff; and
- 5 (i) Set design staff;
- 6 (6) "Commonwealth" means the Commonwealth of Kentucky;
- 7 (7) "Compensation" means compensation included in adjusted gross income as
- 8 defined in KRS 141.010;
- 9 (8) "Documentary" means a production based upon factual information and not
- 10 subjective interjections;
- 11 (9) "Eligible company" means any person that intends to film or produce a motion
- 12 picture or entertainment production in the Commonwealth;
- 13 (10) "Employee" has the same meaning as in KRS 141.010;
- 14 (11) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- 15 (12) "Feature-length film" means a live-action or animated production that is:
- 16 (a) More than thirty (30) minutes in length; and
- 17 (b) Produced for distribution in theaters or via digital format, including but not
- 18 limited to DVD, Internet, or mobile electronic devices;
- 19 (13) "Industrial film" means a business-to-business film that may be viewed by the
- 20 public, including but not limited to videos used for training or for viewing at a
- 21 trade show;
- 22 (14) "Kentucky-based company" has the same meaning as in KRS 164.6011;
- 23 (15) (a) "Motion picture or entertainment production" means:
- 24 1. The following if filmed in whole or in part, or produced in whole or in
- 25 part, in the Commonwealth:
- 26 a. A feature-length film;
- 27 b. A television program;

1 c. An industrial film; or

2 d. A documentary; or

3 2. A national touring production of a Broadway show produced in
4 Kentucky.

5 (b) "Motion picture or entertainment production" does not include the filming
6 or production of obscene material or television coverage of news or athletic
7 events;

8 (16) "Obscene" has the same meaning as in KRS 531.010;

9 (17) "Person" has the same meaning as in KRS 141.010;

10 (18) (a) "Qualifying expenditure" means expenditures made in the Commonwealth
11 for the following if directly used in or for a motion picture or entertainment
12 production:

13 1. The production script and synopsis;

14 2. Set construction and operations, wardrobe, accessories, and related
15 services;

16 3. Lease or rental of real property in Kentucky as a set location;

17 4. Photography, sound synchronization, lighting, and related services;

18 5. Editing and related services;

19 6. Rental of facilities and equipment;

20 7. Vehicle leases;

21 8. Food; and

22 9. Accommodations.

23 (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid
24 by the approved company on the qualifying expenditure;

25 (19) "Qualifying payroll expenditure" means compensation paid to above-the-line
26 crew and below-the line crew while working on a motion picture or entertainment
27 production in the Commonwealth if the compensation is for services performed

1 in the Commonwealth;

2 (20) "Resident" has the same meaning as in KRS 141.010;

3 (21) "Secretary" means the secretary of the Cabinet for Economic Development;

4 (22) "Tax incentive agreement" means the agreement entered into pursuant to
5 Section 19 of this Act between the authority and the approved company; and

6 (24) "Television program" means any live-action or animated production or
7 documentary, including but not limited to:

8 (a) An episodic series;

9 (b) A miniseries;

10 (c) A television movie; or

11 (d) A television pilot;

12 that is produced for distribution on television via broadcast, cable, or any digital
13 format, including but not limited to cable, satellite, Internet, or mobile electronic
14 devices.

15 ➔SECTION 18. A NEW SECTION OF SUBCHAPTER 61 OF KRS CHAPTER
16 154 IS CREATED TO READ AS FOLLOWS:

17 (1) The purposes of KRS 141.383 and this subchapter are to encourage:

18 (a) The film and entertainment industry to choose locations in the
19 Commonwealth for the filming and production of motion picture or
20 entertainment productions;

21 (b) The development of a film and entertainment industry in Kentucky;

22 (c) Increased employment opportunities for the citizens of the Commonwealth
23 within the film and entertainment industry; and

24 (d) The development of a production and postproduction infrastructure in the
25 Commonwealth for film production and touring Broadway show production
26 facilities containing state-of-the-art technologies.

27 (2) The authority, together with the Department of Revenue, shall administer the tax

1 credit established by KRS 141.383, this section, and Section 19 of this Act.

2 (3) To qualify for the tax incentive provided in subsection (5) of this section, the
3 following requirements shall be met:

4 (a) For an approved company that is also a Kentucky-based company that:

5 1. Films or produces a feature-length film, television program, or
6 industrial film in whole or in part in the Commonwealth, the
7 minimum combined total of qualifying expenditures and qualifying
8 payroll expenditures shall be one hundred twenty-five thousand
9 dollars (\$125,000);

10 2. Produces a national touring production of a Broadway show in whole
11 or in part in the Commonwealth, the minimum combined total of
12 qualifying expenditures and qualifying payroll expenditures shall be
13 twenty thousand dollars (\$20,000); or

14 3. Films or produces a documentary in whole or in part in the
15 Commonwealth, the minimum combined total of qualifying
16 expenditures and qualifying payroll expenditures shall be ten
17 thousand dollars (\$10,000); and

18 (b) For an approved company that is not a Kentucky-based company that:

19 1. Films or produces a feature-length film, television program, or
20 industrial film in whole or in part in the Commonwealth, the
21 minimum combined total of qualifying expenditures and qualifying
22 payroll expenditures shall be two hundred fifty thousand dollars
23 (\$250,000); or

24 2. Films or produces a documentary in whole or in part in the
25 Commonwealth or that produces a national touring production of a
26 Broadway show, the minimum combined total of qualifying
27 expenditures and qualifying payroll expenditures shall be twenty

1 thousand dollars (\$20,000).

2 (4) Beginning on January 1, 2022, the total tax incentive approved under KRS
3 141.383 and this subchapter shall be limited to seventy-five million dollars
4 (\$75,000,000) for calendar year 2022 and each calendar year thereafter.

5 (5) (a) To qualify for the tax incentive available under KRS 141.383 and this
6 subchapter all applicants shall:

7 1. Begin filming or production within six (6) months of filing an
8 application with the authority; and

9 2. Complete filming or production within two (2) years of the filming or
10 production start date.

11 (b) The tax credit shall be against the Kentucky income tax imposed under KRS
12 141.020 or 141.040, and the limited liability entity tax imposed under KRS
13 141.0401, and shall be refundable as provided in KRS 141.383.

14 (c) 1. For a motion picture or entertainment production filmed or produced
15 in its entirety in an enhanced incentive county, the amount of the
16 incentive shall be equal to thirty-five percent (35%) of the approved
17 company's:

18 a. Qualifying expenditures;

19 b. Qualifying payroll expenditures paid to resident and nonresident
20 below-the-line production crew; and

21 c. Qualifying payroll expenditures paid to resident and nonresident
22 above-the-line production crew not to exceed one million dollars
23 (\$1,000,000) in payroll expenditures per employee.

24 2. a. To the extent the approved company films or produces a motion
25 picture or entertainment production in part in an enhanced
26 incentive county and in part a Kentucky county that is not an
27 enhanced incentive county, the approved company shall be

1 eligible to receive the incentives provided in this paragraph for
 2 those expenditures incurred in the enhanced incentive county
 3 and all other expenditures shall be subject to the incentives
 4 provided in paragraph (c) of this subsection.

5 b. The approved company shall track the requisite expenditures by
 6 county. If the approved company can demonstrate to the
 7 satisfaction of the cabinet that it is not practical to use a separate
 8 accounting method to determine the expenditures by county, the
 9 approved company shall determine the correct expenditures by
 10 county using an alternative method approved by the cabinet.

11 (c) For a motion picture or entertainment production filmed or produced in
 12 whole or in part in any Kentucky county other than in an enhanced
 13 incentive county, the amount of the incentive shall be equal to:

14 1. Thirty percent (30%) of the approved company's:

15 a. Qualifying expenditures;

16 b. Qualifying payroll expenditures paid to below-the-line
 17 production crew that are not residents; and

18 c. Qualifying payroll expenditures paid to above-the-line
 19 production crew that are not residents, not to exceed one million
 20 dollars (\$1,000,000) in payroll expenditures per employee; and

21 2. Thirty-five percent (35%) of the approved company's:

22 a. Qualifying payroll expenditures paid to resident below-the-line
 23 production crew; and

24 b. Qualifying payroll expenditures paid to resident above-the-line
 25 production crew not to exceed one million dollars (\$1,000,000)
 26 in payroll expenditures per employee.

27 ➔SECTION 19. A NEW SECTION OF SUBCHAPTER 61 OF KRS CHAPTER

1 154 IS CREATED TO READ AS FOLLOWS:

- 2 (1) An eligible company shall, at least thirty (30) days prior to incurring any
3 expenditure for which recovery will be sought, file an application for tax
4 incentives with the authority. The application shall include:
- 5 (a) The name and address of the applicant;
 - 6 (b) Verification that the applicant is a Kentucky-based company;
 - 7 (c) The production script or a detailed synopsis of the script;
 - 8 (d) The locations where the filming or production will occur;
 - 9 (e) The anticipated date on which filming or production shall begin;
 - 10 (f) The anticipated date on which the production will be completed;
 - 11 (g) The total anticipated qualifying expenditures;
 - 12 (h) The total anticipated qualifying payroll expenditures for resident and
13 nonresident above-the-line crew by county;
 - 14 (i) The total anticipated qualifying payroll expenditures for resident and
15 nonresident below-the-line crew by county;
 - 16 (j) The address of a Kentucky location at which records of the production will
17 be kept;
 - 18 (k) An affirmation that if not for the incentive offered under this subchapter,
19 the eligible company would not film or produce the production in the
20 Commonwealth; and
 - 21 (l) Any other information the authority may require.
- 22 (2) The authority shall notify the eligible company within thirty (30) days after
23 receiving the application of its status.
- 24 (3) Upon receipt of the application and any additional information submitted, the
25 authority shall consider all submitted information and, if appropriate, authorize
26 the execution of a tax incentive agreement between the authority and the
27 approved company, if the amount of anticipated tax credit from the application

1 would not make the total tax credit approved for the calendar year exceed the
2 annual tax credit cap under subsection (4) of Section 18 of this Act.

3 (4) The tax incentive agreement shall include the following provisions:

4 (a) The duties and responsibilities of the parties;

5 (b) A detailed description of the motion picture or entertainment production for
6 which incentives are requested;

7 (c) The anticipated qualifying expenditures and qualifying payroll expenditures
8 for resident and nonresident above-the-line and below-the-line crews by
9 county;

10 (d) The minimum combined total of qualifying expenditures and qualifying
11 payroll expenditures necessary for the approved company to qualify for
12 incentives;

13 (e) That the approved company shall:

14 1. Begin production within six (6) months of filing an application with
15 the authority; and

16 2. Complete production within two (2) years of their production start
17 date.

18 (f) That the motion picture or entertainment production shall not include
19 obscene materials and shall not negatively impact the economy or the
20 tourism industry of the Commonwealth;

21 (g) That the execution of the agreement is not a guarantee of tax incentives and
22 that actual receipt of the incentives shall be contingent upon the approved
23 company meeting the requirements established by the tax incentive
24 agreement;

25 (h) That the approved company shall submit to the authority within one
26 hundred eighty (180) days of the completion of the motion picture or
27 entertainment production a detailed cost report of the qualifying

- 1 expenditures, qualifying payroll expenditures, and final script;
- 2 (i) That the approved company shall provide the authority with documentation
- 3 that the approved company has withheld income tax as required by KRS
- 4 141.310 on all qualified payroll expenditures for which an incentive under
- 5 this subchapter is sought;
- 6 (j) That, if the authority determines that the approved company has failed to
- 7 comply with any of its obligations under the tax incentive agreement:
- 8 1. The authority may deny the incentives available to the approved
- 9 company;
- 10 2. Both the authority and the Department of Revenue may pursue any
- 11 remedy provided under the tax incentive agreement;
- 12 3. The authority may terminate the tax incentive agreement; and
- 13 4. Both the authority and the Department of Revenue may pursue any
- 14 other remedy at law to which it may be entitled;
- 15 (k) That the authority and the Department of Revenue shall monitor the tax
- 16 incentive agreement;
- 17 (l) That the approved company shall provide to the authority and the
- 18 Department of Revenue all information necessary to monitor the tax
- 19 incentive agreement;
- 20 (m) That the authority may share information with the Department of Revenue
- 21 and the Interim Joint Committee on Appropriations and Revenue or any
- 22 other entity the authority determines is necessary for the purposes of
- 23 monitoring and enforcing the terms of the tax incentive agreement;
- 24 (n) That the motion picture or entertainment production shall contain an
- 25 acknowledgment that the motion picture or entertainment production was
- 26 produced or filmed in the Commonwealth of Kentucky;
- 27 (o) That the approved company shall include screen credits in its final

- 1 production, indicating the approved company received tax incentives from
2 the Commonwealth of Kentucky;
- 3 (p) Terms of default;
- 4 (q) The method and procedures by which the approved company shall request
5 and receive the incentive provided under Section 16 and Section 18 of this
6 Act;
- 7 (r) That the approved company may be required to pay an administrative fee as
8 authorized under subsection (5) of this section; and
- 9 (s) Any other provisions deemed necessary or appropriate by the parties to the
10 tax incentive agreement.
- 11 (5) The authority may require the approved company to pay an administrative fee,
12 the amount of which shall be established by administrative regulation
13 promulgated in accordance with KRS Chapter 13A. The administrative fee shall
14 not exceed one-half of one percent (0.5%) of the estimated amount of tax
15 incentive sought or five hundred dollars (\$500), whichever is greater.
- 16 (6) Prior to commencement of activity as provided in a tax incentive agreement, the
17 tax incentive agreement shall be submitted to the Government Contract Review
18 Committee established by KRS 45A.705 for review, as provided in KRS 45A.695,
19 45A.705, and 45A.725.
- 20 (7) The authority shall notify the Department of Revenue upon approval of an
21 approved company. The notification shall include the name of the approved
22 company, the name of the motion picture or entertainment production, the
23 estimated amount of qualifying expenditures, the estimated date on which the
24 approved company will complete filming or production, and any other
25 information required by the department.
- 26 (8) Within one hundred eighty days (180) days of completion of the motion picture or
27 entertainment production, the approved company shall submit to the authority a

1 detailed cost report of:

2 (a) Qualifying expenditures;

3 (b) Qualifying payroll expenditures for resident and nonresident above-the-line
4 crew by county;

5 (c) Qualifying payroll expenditures for resident and nonresident below-the-line
6 crew by county; and

7 (d) The final script.

8 (9) (a) The authority, together with the secretary, shall review all information
9 submitted for accuracy and shall confirm that all relevant provisions of the
10 tax incentive agreement have been met.

11 (b) Upon confirmation that all requirements of the tax incentive agreement
12 have been met, the authority and the secretary shall review the final script,
13 and if they determine that the motion picture or entertainment production
14 does not:

15 1. Contain visual or implied scenes that are obscene; or

16 2. Negatively impact the economy or the tourism industry of the
17 Commonwealth;

18 the authority shall forward the detailed cost report to the Department of
19 Revenue for calculation of the refundable credit.

20 (10) The Department of Revenue shall:

21 (a) Verify that the approved company withheld the proper amount of income
22 tax on qualifying payroll expenditures; and

23 (b) Notify the authority of the total amount of refundable credit available on
24 qualifying expenditures and qualifying payroll expenditures.

25 ➔Section 20. KRS 131.190 is amended to read as follows:

26 (1) No present or former commissioner or employee of the department, present or
27 former member of a county board of assessment appeals, present or former property

1 valuation administrator or employee, present or former secretary or employee of the
2 Finance and Administration Cabinet, former secretary or employee of the Revenue
3 Cabinet, or any other person, shall intentionally and without authorization inspect or
4 divulge any information acquired by him of the affairs of any person, or information
5 regarding the tax schedules, returns, or reports required to be filed with the
6 department or other proper officer, or any information produced by a hearing or
7 investigation, insofar as the information may have to do with the affairs of the
8 person's business.

9 (2) The prohibition established by subsection (1) of this section shall not extend to:

- 10 (a) Information required in prosecutions for making false reports or returns of
11 property for taxation, or any other infraction of the tax laws;
- 12 (b) Any matter properly entered upon any assessment record, or in any way made
13 a matter of public record;
- 14 (c) Furnishing any taxpayer or his properly authorized agent with information
15 respecting his own return;
- 16 (d) Testimony provided by the commissioner or any employee of the department
17 in any court, or the introduction as evidence of returns or reports filed with the
18 department, in an action for violation of state or federal tax laws or in any
19 action challenging state or federal tax laws;
- 20 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
21 energy resources assessed under KRS 132.820, or owners of surface land
22 under which the unmined minerals lie, factual information about the owner's
23 property derived from third-party returns filed for that owner's property, under
24 the provisions of KRS 132.820, that is used to determine the owner's
25 assessment. This information shall be provided to the owner on a confidential
26 basis, and the owner shall be subject to the penalties provided in KRS
27 131.990(2). The third-party filer shall be given prior notice of any disclosure

- 1 of information to the owner that was provided by the third-party filer;
- 2 (f) Providing to a third-party purchaser pursuant to an order entered in a
3 foreclosure action filed in a court of competent jurisdiction, factual
4 information related to the owner or lessee of coal, oil, gas reserves, or any
5 other mineral resources assessed under KRS 132.820. The department may
6 promulgate an administrative regulation establishing a fee schedule for the
7 provision of the information described in this paragraph. Any fee imposed
8 shall not exceed the greater of the actual cost of providing the information or
9 ten dollars (\$10);
- 10 (g) Providing information to a licensing agency, the Transportation Cabinet, or
11 the Kentucky Supreme Court under KRS 131.1817;
- 12 (h) Statistics of gasoline and special fuels gallonage reported to the department
13 under KRS 138.210 to 138.448;
- 14 (i) Providing any utility gross receipts license tax return information that is
15 necessary to administer the provisions of KRS 160.613 to 160.617 to
16 applicable school districts on a confidential basis;
- 17 (j) Providing documents, data, or other information to a third party pursuant to an
18 order issued by a court of competent jurisdiction; or
- 19 (k) Providing information to the Legislative Research Commission under:
- 20 1. KRS 139.519 for purposes of the sales and use tax refund on building
21 materials used for disaster recovery;
- 22 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 23 3. KRS 141.437 for purposes of the ENERGY STAR home and the
24 ENERGY STAR manufactured home credits;
- 25 4. Section 16 of this Act~~[KRS 148.544]~~ for purposes of the film industry
26 incentives;
- 27 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization

- 1 tax credits and the job assessment fees;
- 2 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 3 7. KRS 141.396 for purposes of the angel investor tax credit;
- 4 8. KRS 141.389 for purposes of the distilled spirits credit;
- 5 9. KRS 141.408 for purposes of the inventory credit;
- 6 10. KRS 141.390 for purposes of the recycling and composting credit;
- 7 11. KRS 141.3841 for purposes of the selling farmer tax credit; and
- 8 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 9 credit.
- 10 (3) The commissioner shall make available any information for official use only and on
- 11 a confidential basis to the proper officer, agency, board or commission of this state,
- 12 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 13 under reciprocal agreements whereby the department shall receive similar or useful
- 14 information in return.
- 15 (4) Access to and inspection of information received from the Internal Revenue Service
- 16 is for department use only, and is restricted to tax administration purposes.
- 17 Information received from the Internal Revenue Service shall not be made available
- 18 to any other agency of state government, or any county, city, or other state, and shall
- 19 not be inspected intentionally and without authorization by any present secretary or
- 20 employee of the Finance and Administration Cabinet, commissioner or employee of
- 21 the department, or any other person.
- 22 (5) Statistics of crude oil as reported to the department~~[of Revenue]~~ under the crude oil
- 23 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
- 24 as reported to the department~~[of Revenue]~~ under the natural resources severance
- 25 tax requirements of KRS Chapter 143A may be made public by the department by
- 26 release to the Energy and Environment Cabinet, Department for Natural Resources.
- 27 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map

1 submissions for the 1989 tax year, the department may make public or divulge only
2 those portions of mine maps submitted by taxpayers to the department pursuant to
3 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
4 out parcel areas. These electronic maps shall not be relied upon to determine actual
5 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
6 required under KRS Chapters 350 and 352 shall not be construed to constitute land
7 surveying or boundary surveys as defined by KRS 322.010 and any administrative
8 regulations promulgated thereto.

9 ➔Section 21. KRS 45A.690 is amended to read as follows:

10 (1) As used in KRS 45A.690 to 45A.725:

11 (a) "Committee" means the Government Contract Review Committee of the
12 Legislative Research Commission;

13 (b) "Contracting body" means each state board, bureau, commission, department,
14 division, authority, university, college, officer, or other entity, except the
15 Legislature, authorized by law to contract for personal services. "Contracting
16 body" includes the Tourism Development Finance Authority with regard to
17 tax incentive agreements;

18 (c) "Governmental emergency" means an unforeseen event or set of
19 circumstances that creates an emergency condition as determined by the
20 committee by promulgation of an administrative regulation;

21 (d) "Memorandum of agreement" means any memorandum of agreement,
22 memorandum of understanding, program administration contract, interlocal
23 agreement to which the Commonwealth is a party, privatization contract, or
24 similar device relating to services between a state agency and any other
25 governmental body or political subdivision of the Commonwealth or entity
26 qualified as nonprofit under 26 U.S.C. sec. 501(c)(3) not authorized under
27 KRS Chapter 65 that involves an exchange of resources or responsibilities to

1 carry out a governmental function. It includes agreements by regional
2 cooperative organizations formed by local boards of education or other public
3 educational institutions for the purpose of providing professional educational
4 services to the participating organizations and agreements with Kentucky
5 Distinguished Educators pursuant to KRS 158.782. This definition does not
6 apply to:

- 7 1. Agreements between the Transportation Cabinet and any political
8 subdivision of the Commonwealth for road and road-related projects;
- 9 2. Agreements between the Auditor of Public Accounts and any other
10 governmental agency or political subdivision of the Commonwealth for
11 auditing services;
- 12 3. Agreements between state agencies as required by federal or state law;
- 13 4. Agreements between state agencies and state universities or colleges
14 only when the subject of the agreement does not result in the use of an
15 employee or employees of a state university or college by a state agency
16 to fill a position or perform a duty that an employee or employees of
17 state government could perform if hired, and agreements between state
18 universities or colleges and employers of students in the Commonwealth
19 work-study program sponsored by the Kentucky Higher Education
20 Assistance Authority;
- 21 5. Agreements involving child support collections and enforcement;
- 22 6. Agreements with public utilities, providers of direct Medicaid health
23 care to individuals except for any health maintenance organization or
24 other entity primarily responsible for administration of any program or
25 system of Medicaid managed health care services established by law or
26 by agreement with the Cabinet for Health and Family Services, and
27 transit authorities;

- 1 7. Nonfinancial agreements;
- 2 8. Any obligation or payment for reimbursement of the cost of corrective
- 3 action made pursuant to KRS 224.60-140;
- 4 9. Exchanges of confidential personal information between agencies;
- 5 10. Agreements between state agencies and rural concentrated employment
- 6 programs; or
- 7 11. Any other agreement that the committee deems inappropriate for
- 8 consideration;
- 9 (e) "Motion picture or entertainment production" means the same as defined in
- 10 Section 17 of this Act~~[KRS 148.542]~~;
- 11 (f) "Multicontract" means a group of personal service contracts between a
- 12 contracting body and individual vendors providing the same or substantially
- 13 similar services to the contracting body that, for purposes of the committee,
- 14 are treated as one (1) contract;
- 15 (g) "Nurse aide" means an individual who has successfully completed the nurse
- 16 aide training and competency evaluation program and may include a nursing
- 17 student, medication aide, or a person employed through a nursing pool who
- 18 provides nursing or nursing-related services to a resident in a nursing facility,
- 19 excluding:
- 20 (a) An individual who is a licensed health professional;
- 21 (b) A volunteer who provides the nursing or nursing-related services
- 22 without monetary compensation; or
- 23 (c) A person who is hired by the resident or family to sit with the resident
- 24 and who does not perform nursing or nursing-related services.;
- 25 (h) "Personal service contract" means an agreement whereby an individual, firm,
- 26 partnership, or corporation is to perform certain services requiring
- 27 professional skill or professional judgment for a specified period of time at a

1 price agreed upon. It includes all price contracts for personal services between
2 a governmental body or political subdivision of the Commonwealth and any
3 other entity in any amount. This definition does not apply to:

- 4 1. Agreements between the Department of Parks and a performing artist or
5 artists for less than five thousand dollars (\$5,000) per fiscal year per
6 artist or artists;
- 7 2. Agreements with public utilities, foster care parents, providers of direct
8 Medicaid health care to individuals except for any health maintenance
9 organization or other entity primarily responsible for administration of
10 any program or system of Medicaid managed health care services
11 established by law or by agreement with the Cabinet for Health and
12 Family Services, individuals performing homemaker services, and
13 transit authorities;
- 14 3. Agreements between state universities or colleges and employers of
15 students in the Commonwealth work study program sponsored by the
16 Kentucky Higher Education Assistance Authority;
- 17 4. Agreements between a state agency and rural concentrated employment
18 programs;
- 19 5. Agreements between the State Fair Board and judges, officials, and
20 entertainers contracted for events promoted by the State Fair Board;
- 21 6. Agreements between the Department of Public Advocacy and attorneys
22 for the representation of indigent clients who are entitled to
23 representation under KRS Chapter 31 and who, by reason of conflict or
24 otherwise, cannot be represented by the department, subject to quarterly
25 reports of all such agreements to the committee;
- 26 7. Agreements between the Office of Kentucky Veterans' Centers and
27 licensed nurses and nurse aides in order to provide critically needed

1 long-term care to Kentucky veterans who are residents in state veterans'
2 nursing homes pursuant to KRS 40.325; or

3 8. Any other contract that the committee deems inappropriate for
4 consideration;

5 (i) "Tax incentive agreement" means an agreement executed under Section 19 of
6 this Act~~[KRS 148.546]~~; and

7 (j) "Tourism Development Finance Authority" means the authority established by
8 KRS 148.850.

9 (2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense
10 with the requirements of any other law necessary to make the personal service
11 contract or memorandum of agreement valid.

12 ➔Section 22. KRS 12.020 is amended to read as follows:

13 Departments, program cabinets and their departments, and the respective major
14 administrative bodies that they include are enumerated in this section. It is not intended
15 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
16 bureau, interstate compact, commission, committee, conference, council, office, or any
17 other form of organization shall be included in or attached to the department or program
18 cabinet in which they are included or to which they are attached by statute or statutorily
19 authorized executive order; except in the case of the Personnel Board and where the
20 attached department or administrative body is headed by a constitutionally elected officer,
21 the attachment shall be solely for the purpose of dissemination of information and
22 coordination of activities and shall not include any authority over the functions,
23 personnel, funds, equipment, facilities, or records of the department or administrative
24 body.

25 I. Cabinet for General Government - Departments headed by elected officers:

26 (1) The Governor.

27 (2) Lieutenant Governor.

- 1 (3) Department of State.
- 2 (a) Secretary of State.
- 3 (b) Board of Elections.
- 4 (c) Registry of Election Finance.
- 5 (4) Department of Law.
- 6 (a) Attorney General.
- 7 (5) Department of the Treasury.
- 8 (a) Treasurer.
- 9 (6) Department of Agriculture.
- 10 (a) Commissioner of Agriculture.
- 11 (b) Kentucky Council on Agriculture.
- 12 (7) Auditor of Public Accounts.
- 13 II. Program cabinets headed by appointed officers:
- 14 (1) Justice and Public Safety Cabinet:
- 15 (a) Department of Kentucky State Police.
- 16 (b) Department of Criminal Justice Training.
- 17 (c) Department of Corrections.
- 18 (d) Department of Juvenile Justice.
- 19 (e) Office of the Secretary.
- 20 (f) Office of Drug Control Policy.
- 21 (g) Office of Legal Services.
- 22 (h) Office of the Kentucky State Medical Examiner.
- 23 (i) Parole Board.
- 24 (j) Kentucky State Corrections Commission.
- 25 (k) Office of Legislative and Intergovernmental Services.
- 26 (l) Office of Management and Administrative Services.
- 27 (m) Department of Public Advocacy.

- 1 (2) Education and Workforce Development Cabinet:
- 2 (a) Office of the Secretary.
- 3 1. Governor's Scholars Program.
- 4 2. Governor's School for Entrepreneurs Program.
- 5 3. Office of the Kentucky Workforce Innovation Board.
- 6 4. Foundation for Adult Education.
- 7 5. Early Childhood Advisory Council.
- 8 (b) Office of Legal and Legislative Services.
- 9 1. Client Assistance Program.
- 10 (c) Office of Communication.
- 11 (d) Office of Administrative Services.
- 12 1. Division of Human Resources.
- 13 2. Division of Operations and Support Services.
- 14 3. Division of Fiscal Management.
- 15 (e) Office of Technology Services.
- 16 (f) Office of Educational Programs.
- 17 (g) Office of the Kentucky Center for Statistics.
- 18 (h) Board of the Kentucky Center for Statistics.
- 19 (i) Board of Directors for the Center for School Safety.
- 20 (j) Department of Education.
- 21 1. Kentucky Board of Education.
- 22 2. Kentucky Technical Education Personnel Board.
- 23 (k) Department for Libraries and Archives.
- 24 (l) Department of Workforce Investment.
- 25 1. Office of Vocational Rehabilitation.
- 26 a. Division of Kentucky Business Enterprise.
- 27 b. Division of the Carl D. Perkins Vocational Training Center.

- 1 c. Division of Blind Services.
- 2 d. Division of Field Services.
- 3 e. Statewide Council for Vocational Rehabilitation.
- 4 2. Office of Unemployment Insurance.
- 5 3. Office of Employer and Apprenticeship Services.
- 6 a. Division of Apprenticeship.
- 7 4. Office of Career Development.
- 8 5. Office of Adult Education.
- 9 6. Unemployment Insurance Commission.
- 10 7. Kentucky Apprenticeship Council.
- 11 (m) Foundation for Workforce Development.
- 12 (n) Kentucky Workforce Investment Board.
- 13 (o) Education Professional Standards Board.
- 14 1. Division of Educator Preparation.
- 15 2. Division of Certification.
- 16 3. Division of Professional Learning and Assessment.
- 17 4. Division of Legal Services.
- 18 (p) Kentucky Commission on the Deaf and Hard of Hearing.
- 19 (q) Kentucky Educational Television.
- 20 (r) Kentucky Environmental Education Council.
- 21 (3) Energy and Environment Cabinet:
- 22 (a) Office of the Secretary.
- 23 1. Office of Legislative and Intergovernmental Affairs.
- 24 2. Office of Legal Services.
- 25 a. Legal Division I.
- 26 b. Legal Division II.
- 27 3. Office of Administrative Hearings.

- 1 4. Office of Communication.
- 2 5. Mine Safety Review Commission.
- 3 6. Office of Kentucky Nature Preserves.
- 4 7. Kentucky Public Service Commission.
- 5 (b) Department for Environmental Protection.
- 6 1. Office of the Commissioner.
- 7 2. Division for Air Quality.
- 8 3. Division of Water.
- 9 4. Division of Environmental Program Support.
- 10 5. Division of Waste Management.
- 11 6. Division of Enforcement.
- 12 7. Division of Compliance Assistance.
- 13 (c) Department for Natural Resources.
- 14 1. Office of the Commissioner.
- 15 2. Division of Mine Permits.
- 16 3. Division of Mine Reclamation and Enforcement.
- 17 4. Division of Abandoned Mine Lands.
- 18 5. Division of Oil and Gas.
- 19 6. Division of Mine Safety.
- 20 7. Division of Forestry.
- 21 8. Division of Conservation.
- 22 9. Office of the Reclamation Guaranty Fund.
- 23 (d) Office of Energy Policy.
- 24 1. Division of Energy Assistance.
- 25 (e) Office of Administrative Services.
- 26 1. Division of Human Resources Management.
- 27 2. Division of Financial Management.

- 1 3. Division of Information Services.
- 2 (4) Public Protection Cabinet.
- 3 (a) Office of the Secretary.
- 4 1. Office of Communications and Public Outreach.
- 5 2. Office of Legal Services.
- 6 a. Insurance Legal Division.
- 7 b. Charitable Gaming Legal Division.
- 8 c. Alcoholic Beverage Control Legal Division.
- 9 d. Housing, Buildings and Construction Legal Division.
- 10 e. Financial Institutions Legal Division.
- 11 f. Professional Licensing Legal Division.
- 12 3. Office of Administrative Hearings.
- 13 4. Office of Administrative Services.
- 14 a. Division of Human Resources.
- 15 b. Division of Fiscal Responsibility.
- 16 (b) Kentucky Claims Commission.
- 17 (c) Kentucky Boxing and Wrestling Commission.
- 18 (d) Kentucky Horse Racing Commission.
- 19 1. Office of Executive Director.
- 20 a. Division of Pari-mutuel Wagering and Compliance.
- 21 b. Division of Stewards.
- 22 c. Division of Licensing.
- 23 d. Division of Enforcement.
- 24 e. Division of Incentives and Development.
- 25 f. Division of Veterinary Services.
- 26 (e) Department of Alcoholic Beverage Control.
- 27 1. Division of Distilled Spirits.

- 1 2. Division of Malt Beverages.
- 2 3. Division of Enforcement.
- 3 (f) Department of Charitable Gaming.
- 4 1. Division of Licensing and Compliance.
- 5 2. Division of Enforcement.
- 6 (g) Department of Financial Institutions.
- 7 1. Division of Depository Institutions.
- 8 2. Division of Non-Depository Institutions.
- 9 3. Division of Securities.
- 10 (h) Department of Housing, Buildings and Construction.
- 11 1. Division of Fire Prevention.
- 12 2. Division of Plumbing.
- 13 3. Division of Heating, Ventilation, and Air Conditioning.
- 14 4. Division of Building Code Enforcement.
- 15 (i) Department of Insurance.
- 16 1. Division of Insurance Product Regulation.
- 17 2. Division of Administrative Services.
- 18 3. Division of Financial Standards and Examination.
- 19 4. Division of Agent Licensing.
- 20 5. Division of Insurance Fraud Investigation.
- 21 6. Division of Consumer Protection.
- 22 (j) Department of Professional Licensing.
- 23 1. Real Estate Authority.
- 24 (5) Labor Cabinet.
- 25 (a) Office of the Secretary.
- 26 1. Office of General Counsel.
- 27 a. Workplace Standards Legal Division.

- 1 b. Workers' Claims Legal Division.
- 2 2. Office of Administrative Services.
- 3 a. Division of Human Resources Management.
- 4 b. Division of Fiscal Management.
- 5 c. Division of Professional Development and Organizational
- 6 Management.
- 7 d. Division of Information Technology and Support Services.
- 8 3. Office of Inspector General.
- 9 (b) Department of Workplace Standards.
- 10 1. Division of Occupational Safety and Health Compliance.
- 11 2. Division of Occupational Safety and Health Education and
- 12 Training.
- 13 3. Division of Wages and Hours.
- 14 (c) Department of Workers' Claims.
- 15 1. Division of Workers' Compensation Funds.
- 16 2. Office of Administrative Law Judges.
- 17 3. Division of Claims Processing.
- 18 4. Division of Security and Compliance.
- 19 5. Division of Information Services.
- 20 6. Division of Specialist and Medical Services.
- 21 7. Workers' Compensation Board.
- 22 (d) Workers' Compensation Funding Commission.
- 23 (e) Occupational Safety and Health Standards Board.
- 24 (f) State Labor Relations Board.
- 25 (g) Employers' Mutual Insurance Authority.
- 26 (h) Kentucky Occupational Safety and Health Review Commission.
- 27 (i) Workers' Compensation Nominating Committee.

- 1 (6) Transportation Cabinet:
- 2 (a) Department of Highways.
- 3 1. Office of Project Development.
- 4 2. Office of Project Delivery and Preservation.
- 5 3. Office of Highway Safety.
- 6 4. Highway District Offices One through Twelve.
- 7 (b) Department of Vehicle Regulation.
- 8 (c) Department of Aviation.
- 9 (d) Department of Rural and Municipal Aid.
- 10 1. Office of Local Programs.
- 11 2. Office of Rural and Secondary Roads.
- 12 (e) Office of the Secretary.
- 13 1. Office of Public Affairs.
- 14 2. Office for Civil Rights and Small Business Development.
- 15 3. Office of Budget and Fiscal Management.
- 16 4. Office of Inspector General.
- 17 (f) Office of Support Services.
- 18 (g) Office of Transportation Delivery.
- 19 (h) Office of Audits.
- 20 (i) Office of Human Resource Management.
- 21 (j) Office of Information Technology.
- 22 (k) Office of Legal Services.
- 23 (7) Cabinet for Economic Development:
- 24 (a) Office of the Secretary.
- 25 1. Office of Legal Services.
- 26 2. Department for Business Development.
- 27 3. Department for Financial Services.

- 1 a. Kentucky Economic Development Finance Authority.
- 2 b. Finance and Personnel Division.
- 3 c. IT and Resource Management Division.
- 4 d. Compliance Division.
- 5 e. Incentive Administration Division.
- 6 f. Bluegrass State Skills Corporation.
- 7 4. Office of Marketing and Public Affairs.
- 8 a. Communications Division.
- 9 b. Graphics Design Division.
- 10 5. Office of Workforce, Community Development, and Research.
- 11 6. Office of Entrepreneurship.
- 12 a. Commission on Small Business Advocacy.
- 13 (8) Cabinet for Health and Family Services:
- 14 (a) Office of the Secretary.
- 15 1. Office of the Ombudsman and Administrative Review.
- 16 2. Office of Public Affairs.
- 17 3. Office of Legal Services.
- 18 4. Office of Inspector General.
- 19 5. Office of Human Resource Management.
- 20 6. Office of Finance and Budget.
- 21 7. Office of Legislative and Regulatory Affairs.
- 22 8. Office of Administrative Services.
- 23 9. Office of Application Technology Services.
- 24 (b) Department for Public Health.
- 25 (c) Department for Medicaid Services.
- 26 (d) Department for Behavioral Health, Developmental and Intellectual
- 27 Disabilities.

- 1 (e) Department for Aging and Independent Living.
- 2 (f) Department for Community Based Services.
- 3 (g) Department for Income Support.
- 4 (h) Department for Family Resource Centers and Volunteer Services.
- 5 (i) Office for Children with Special Health Care Needs.
- 6 (j) Office of Health Data and Analytics.
- 7 (9) Finance and Administration Cabinet:
- 8 (a) Office of the Secretary.
- 9 (b) Office of the Inspector General.
- 10 (c) Office of Legislative and Intergovernmental Affairs.
- 11 (d) Office of General Counsel.
- 12 (e) Office of the Controller.
- 13 (f) Office of Administrative Services.
- 14 (g) Office of Policy and Audit.
- 15 (h) Department for Facilities and Support Services.
- 16 (i) Department of Revenue.
- 17 (j) Commonwealth Office of Technology.
- 18 (k) State Property and Buildings Commission.
- 19 (l) Office of Equal Employment Opportunity and Contract Compliance.
- 20 (m) Kentucky Employees Retirement Systems.
- 21 (n) Commonwealth Credit Union.
- 22 (o) State Investment Commission.
- 23 (p) Kentucky Housing Corporation.
- 24 (q) Kentucky Local Correctional Facilities Construction Authority.
- 25 (r) Kentucky Turnpike Authority.
- 26 (s) Historic Properties Advisory Commission.
- 27 (t) Kentucky Tobacco Settlement Trust Corporation.

- 1 (u) Kentucky Higher Education Assistance Authority.
- 2 (v) Kentucky River Authority.
- 3 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 4 (x) Executive Branch Ethics Commission.
- 5 (10) Tourism, Arts and Heritage Cabinet:
- 6 (a) Kentucky Department of Tourism.
- 7 1. Division of Tourism Services.
- 8 2. Division of Marketing and Administration.
- 9 3. Division of Communications and Promotions.
- 10 (b) Kentucky Department of Parks.
- 11 1. Division of Information Technology.
- 12 2. Division of Human Resources.
- 13 3. Division of Financial Operations.
- 14 4. Division of Facilities Management.
- 15 5. Division of Facilities Maintenance.
- 16 6. Division of Customer Services.
- 17 7. Division of Recreation.
- 18 8. Division of Golf Courses.
- 19 9. Division of Food Services.
- 20 10. Division of Rangers.
- 21 11. Division of Resort Parks.
- 22 12. Division of Recreational Parks and Historic Sites.
- 23 (c) Department of Fish and Wildlife Resources.
- 24 1. Division of Law Enforcement.
- 25 2. Division of Administrative Services.
- 26 3. Division of Engineering, Infrastructure, and Technology.
- 27 4. Division of Fisheries.

- 1 5. Division of Information and Education.
- 2 6. Division of Wildlife.
- 3 7. Division of Marketing.
- 4 (d) Kentucky Horse Park.
 - 5 1. Division of Support Services.
 - 6 2. Division of Buildings and Grounds.
 - 7 3. Division of Operational Services.
- 8 (e) Kentucky State Fair Board.
 - 9 1. Office of Administrative and Information Technology Services.
 - 10 2. Office of Human Resources and Access Control.
 - 11 3. Division of Expositions.
 - 12 4. Division of Kentucky Exposition Center Operations.
 - 13 5. Division of Kentucky International Convention Center.
 - 14 6. Division of Public Relations and Media.
 - 15 7. Division of Venue Services.
 - 16 8. Division of Personnel Management and Staff Development.
 - 17 9. Division of Sales.
 - 18 10. Division of Security and Traffic Control.
 - 19 11. Division of Information Technology.
 - 20 12. Division of the Louisville Arena.
 - 21 13. Division of Fiscal and Contract Management.
 - 22 14. Division of Access Control.
- 23 (f) Office of the Secretary.
 - 24 1. Office of Finance.
 - 25 2. Office of Government Relations and Administration.
 - 26 ~~{3. Office of Film and Tourism Development.}~~
- 27 (g) Office of Legal Affairs.

- 1 (h) Office of Human Resources.
- 2 (i) Office of Public Affairs and Constituent Services.
- 3 (j) Office of Arts and Cultural Heritage.
- 4 (k) Kentucky African-American Heritage Commission.
- 5 (l) Kentucky Foundation for the Arts.
- 6 (m) Kentucky Humanities Council.
- 7 (n) Kentucky Heritage Council.
- 8 (o) Kentucky Arts Council.
- 9 (p) Kentucky Historical Society.
- 10 1. Division of Museums.
- 11 2. Division of Oral History and Educational Outreach.
- 12 3. Division of Research and Publications.
- 13 4. Division of Administration.
- 14 (q) Kentucky Center for the Arts.
- 15 1. Division of Governor's School for the Arts.
- 16 (r) Kentucky Artisans Center at Berea.
- 17 (s) Northern Kentucky Convention Center.
- 18 (t) Eastern Kentucky Exposition Center.
- 19 (11) Personnel Cabinet:
- 20 (a) Office of the Secretary.
- 21 (b) Department of Human Resources Administration.
- 22 (c) Office of Employee Relations.
- 23 (d) Kentucky Public Employees Deferred Compensation Authority.
- 24 (e) Office of Administrative Services.
- 25 (f) Office of Legal Services.
- 26 (g) Governmental Services Center.
- 27 (h) Department of Employee Insurance.

1 (i) Office of Diversity, Equality, and Training.

2 (j) Office of Public Affairs.

3 III. Other departments headed by appointed officers:

4 (1) Council on Postsecondary Education.

5 (2) Department of Military Affairs.

6 (3) Department for Local Government.

7 (4) Kentucky Commission on Human Rights.

8 (5) Kentucky Commission on Women.

9 (6) Department of Veterans' Affairs.

10 (7) Kentucky Commission on Military Affairs.

11 (8) Office of Minority Empowerment.

12 (9) Governor's Council on Wellness and Physical Activity.

13 (10) Kentucky Communications Network Authority.

14 ➔Section 23. KRS 148.522 is amended to read as follows:

15 (1) The Tourism, Arts and Heritage Cabinet shall consist of the Office of the Secretary,
 16 the Office of Legal Affairs, the Office of Finance, the Office of Government
 17 Relations and Administration, the Office of Human Resources, the Office of Public
 18 Affairs and Constituent Services, the Office of Arts and Cultural Heritage,~~the~~
 19 ~~Office of Film and Tourism Development,~~ the Kentucky Department of Tourism,
 20 the Kentucky Department of Parks, the Tourism Development Finance Authority,
 21 and such other divisions and sections as are from time to time deemed necessary for
 22 the proper and efficient operation of the cabinet subject to the provisions of KRS
 23 Chapter 12.

24 ~~(2) The Tourism, Arts and Heritage Cabinet shall encourage the development of the~~
 25 ~~film industry in Kentucky and shall perform all film promotional functions.~~

26 ~~(3)~~ The Office of Legal Affairs shall be headed by a general counsel appointed by the
 27 secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and

1 shall be directly responsible to the secretary.

2 ~~(3)~~~~(4)~~ The Kentucky Department of Tourism shall be headed by a commissioner
3 appointed by the Governor pursuant to the provisions of KRS 12.040. The
4 commissioner shall have the authority and responsibility for the promotion,
5 development, and support services for the tourism industry within the
6 Commonwealth.

7 ~~(4)~~~~(5)~~ The Divisions of Tourism Services, Marketing and Administration, and
8 Communications and Promotions are created within the Kentucky Department of
9 Tourism. Each division shall be headed by a division director who shall be
10 appointed by the commissioner of the department pursuant to the provisions of KRS
11 12.050.

12 ➔Section 24. KRS 148.850 is amended to read as follows:

13 (1) The Tourism Development Finance Authority is created within the Tourism, Arts
14 and Heritage Cabinet. The authority shall consist of nine (9) members appointed by
15 the Governor,~~at least one (1) of whom shall represent the film industry and~~ at
16 least one (1) of whom shall represent individuals with professional experience in
17 financial management or economic development. The members of the authority
18 shall serve without compensation but shall be entitled to reimbursement for their
19 necessary expenses incurred in performing their duties. Of the members initially
20 appointed to the authority, two (2) members shall be appointed for terms of one (1)
21 year, three (3) members shall be appointed for terms of two (2) years, and two (2)
22 members shall be appointed for terms of three (3) years. Thereafter, the members of
23 the authority shall be appointed for terms of four (4) years.

24 (2) The Governor shall appoint one (1) member as chairperson of the Tourism
25 Development Finance Authority. The members of the authority may elect other
26 officers as they deem necessary.

27 (3) No member of the Tourism Development Finance Authority shall either directly or

1 indirectly be a party to, or be in any manner interested in, any contract or agreement
2 with the authority for any matter, cause, or thing that creates any liability or
3 indebtedness against the authority.

4 (4) The Tourism Development Finance Authority shall have the powers necessary to
5 carry out the purposes of this section, KRS 139.536, and KRS 148.851 to 148.860,
6 including but not limited to the power to:

7 (a) Employ fiscal consultants, attorneys, appraisers, and other agents on behalf of
8 the authority whom the authority deems necessary or convenient for the
9 preparation and administration of agreements and documents necessary or
10 incidental to any project. The fees for the services provided by persons
11 employed on behalf of the authority shall be paid by the beneficiary of a loan
12 under this program directly to the person providing consultation, advisory,
13 legal, or other services; and

14 (b) Impose and collect fees and charges in connection with any transaction and
15 provide for reasonable penalties for delinquent payment of fees and charges.

16 ➔Section 25. KRS 68.197 is amended to read as follows:

17 (1) The fiscal court of each county having a population of thirty thousand (30,000) or
18 more may by ordinance impose license fees on franchises, provide for licensing any
19 business, trade, occupation, or profession, and the using, holding, or exhibiting of
20 any animal, article, or other thing.

21 (2) License fees on business, trade, occupation, or profession for revenue purposes,
22 except those of the common schools, may be imposed at a percentage rate not to
23 exceed one percent (1%) of:

24 (a) Salaries, wages, commissions, and other compensation earned by persons
25 within the county for work done and services performed or rendered in the
26 county;

27 (b) The net profits of self-employed individuals, partnerships, professional

1 associations, or joint ventures resulting from trades, professions, occupations,
2 businesses, or activities conducted in the county; and

3 (c) The net profits of corporations resulting from trades, professions, occupations,
4 businesses, or activities conducted in the county.

5 (3) In order to reduce administrative costs and minimize paperwork for employers,
6 employees, and businesses, the fiscal court may provide:

7 (a) For an annual fixed amount license fee which a person may elect to pay in lieu
8 of reporting and paying the percentage rate as provided in this subsection on
9 salaries, wages, commissions, and other compensation earned within the
10 county for work done and services performed or rendered in the county; and

11 (b) For an annual fixed amount license fee which an individual, partnership,
12 professional association, joint venture, or corporation may elect to pay in lieu
13 of reporting and paying the percentage rate as provided in this subsection on
14 net profits of businesses, trades, professions, or occupations from activities
15 conducted in the county.

16 (4) (a) Licenses imposed for regulatory purposes are not subject to limitations as to
17 form and amount.

18 (b) No public service company that pays an ad valorem tax is required to pay a
19 license tax.

20 (c) 1. It is the intent of the General Assembly to continue the exemption from
21 local license fees and occupational taxes that existed on January 1, 2006,
22 for providers of multichannel video programming services or
23 communications services as defined in KRS 136.602 that were taxed
24 under KRS 136.120 prior to the effective date of this section.

25 2. To further this intent, no company providing multichannel video
26 programming services or communications services as defined in KRS
27 136.602 shall be required to pay a license tax. If only a portion of an

1 entity's business is providing multichannel video programming services
2 including products or services that are related to and provided in support
3 of the multichannel video programming services or communications
4 services, this exclusion applies only to that portion of the business that
5 provides multichannel video programming services or communications
6 services, including products or services that are related to and provided
7 in support of the multichannel video programming services or
8 communications services.

9 (d) No license tax shall be imposed upon or collected from any insurance
10 company except as provided in KRS 91A.080, bank, trust company, combined
11 bank and trust company, combined trust, banking, and title business in this
12 state, or any savings and loan association whether state or federally chartered,
13 or in other cases where the county is prohibited by law from imposing a
14 license fee.

15 (5) No license fee shall be imposed or collected on income received by members of the
16 Kentucky National Guard for active duty training, unit training assemblies, and
17 annual field training, or on income received by precinct workers for election
18 training or work at election booths in state, county, and local primary, regular, or
19 special elections, or upon any profits, earnings, or distributions of an investment
20 fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any
21 profits, earnings, or distributions would not be taxable to an individual investor.

22 (6) Persons who pay a county license fee pursuant to this section and who also pay a
23 license fee to a city contained in the county may, upon agreement between the
24 county and the city, credit their city license fee against their county license fee. As
25 used in this subsection, "city contained in the county" shall include a city that is in
26 more than one (1) county.

27 (7) The provisions of subsection (6) of this section notwithstanding, effective with

1 license fees imposed under the provisions of subsection (1) of this section on or
2 after July 15, 1986, persons who pay a county license fee and a license fee to a city
3 contained in the county shall be allowed to credit their city license fee against their
4 county license fee. As used in this subsection, "city contained in the county" shall
5 include a city that is in more than one (1) county.

6 (8) Notwithstanding any statute to the contrary, the provisions of subsection (7) of this
7 section shall apply as follows from March 14, 2012, through July 15, 2014:

8 (a) Any set-off or credit of city license fees against county license fees that exists
9 between a city and county as of March 15, 2012, shall remain in effect as it is
10 on March 15, 2012; and

11 (b) The provisions of subsection (7) of this section shall not apply to a city and
12 county unless both the city and the county have both levied and are collecting
13 license fees on March 15, 2012.

14 (9) A county that enacted an occupational license fee under the authority of KRS
15 67.083 shall not be required to reduce its occupational tax rate when it is
16 determined that the population of the county exceeds thirty thousand (30,000).

17 (10) Notwithstanding any statute to the contrary:

18 (a) In those counties where a license fee has been authorized by a public question
19 approved by the voters, there shall be no credit of a city license fee against a
20 county license fee except by agreement between the county and the city in
21 accordance with subsection (6) of this section;

22 (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall
23 be refunded or credited for any overpayment of a license tax paid to any
24 county to the extent the overpayment is attributable to or derives from this
25 section as it existed at any time subsequent to July 15, 1986, and the taxpayer
26 seeks a credit for a license tax paid to a city located within such county, if
27 such refund claim or amended tax return claim was filed or perfected after

1 November 18, 2004, except by agreement between the city and county in
2 accordance with subsection (6) of this section;

3 (c) In those counties where a license fee has been authorized by a public question
4 approved by the voters, the percentage rate of the license fee in effect on or
5 after January 1, 2005, and any maximum salary limit upon which the license
6 fee is calculated may be increased or decreased in~~shall remain unchanged~~
7 ~~for~~ subsequent fiscal years with the approval of the fiscal court through the
8 passage of an ordinance.~~[A percentage rate higher than the percentage rate in~~
9 ~~effect on January 1, 2005, or any change in the maximum salary limit upon~~
10 ~~which a license fee is calculated shall be prohibited unless approved by the~~
11 ~~voters at a public referendum.]~~ The percentage rate of a license fee in such
12 counties shall at no time exceed one percent (1%) and the maximum salary
13 limit shall at no time exceed an amount equal to the maximum social
14 security contribution and benefit base established under subsection (b) of 42
15 U.S.C. sec. 430. Notwithstanding subsection (7) of this section, there shall
16 be no credit of any license fee increased or decreased under this paragraph
17 except by agreement between the county and the city in accordance with
18 subsection (6) of this section.~~[Any question to be placed before the voters as~~
19 ~~a result of this paragraph shall be placed on the ballot at a regular election or~~
20 ~~nominating primary].~~

21 (d) This subsection shall have retroactive application; and

22 (e) If any provision of this subsection or the application thereof to any person or
23 circumstance is held invalid, the invalidity shall not affect other provisions or
24 application of this section that can be given effect without the invalid
25 provision or application, and to this end the provisions of this subsection are
26 severable.

27 (11) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in

1 which any duly ordained, commissioned, or denominationally licensed minister of
 2 religion may perform his or her duties and activities as a minister of religion. Duly
 3 ordained, commissioned, or denominationally licensed ministers of religion shall be
 4 subject to the same license fees imposed on others in the county on salaries, wages,
 5 commissions, and other compensation earned for work done and services performed or
 6 rendered.

7 →Section 26. KRS 243.029 is amended to read as follows:

- 8 (1) For purposes of this section, "taxes" associated with the purchase of alcoholic
 9 beverages includes any applicable:
- 10 (a) Sales tax;
 - 11 (b) Use tax;
 - 12 (c) Excise tax;
 - 13 (d) Wholesale tax equivalent at the rate set out in KRS 243.884. If a wholesale
 14 price is not readily available, the direct shipper licensee shall calculate the
 15 wholesale cost to be seventy percent (70%) of the retail price of the alcoholic
 16 beverages;
 - 17 (e) Regulatory license fees; and
 - 18 (f) Other assessments.
- 19 (2) For purposes of this section and for other tax purposes, each sale and delivery of
 20 alcoholic beverages under a direct shipper license is a sale occurring at the address
 21 of the consumer. For each tax remittance or collected group of tax remittances, the
 22 direct shipper licensee shall include its federal tax identification number.
- 23 (3) **Except for the regulatory license fee imposed under Section 27 of this Act, the**
 24 **applicable taxes shall be collected by the direct shipper licensee from the**
 25 **consumer. The regulatory license fee and all other applicable taxes shall be**
 26 **separately stated on the invoice, bill of sale, or similar document given to the**
 27 **consumer**~~[A direct shipper licensee that sells alcoholic beverages under its direct~~

1 ~~shipper license for shipment to a consumer shall charge the consumer all applicable~~
2 ~~taxes and shall sell the alcoholic beverages with all applicable taxes included in the~~
3 ~~selling price. The applicable taxes shall be separately identified on the consumer's~~
4 ~~invoice. The taxes shall be collected by the direct shipper licensee from the~~
5 ~~consumer].~~

6 (4) The amount of the taxes to be paid by the direct shipper licensee under this section
7 shall be calculated based on the sale of the alcoholic beverages occurring at the
8 location identified as the consumer's address on the shipping label.

9 (5) For taxes owed by a direct shipper licensee under this section, the direct shipper
10 licensee shall meet the standards of the destination state, including filing a return
11 that contains its license number and federal tax identification number.

12 ➔Section 27. KRS 243.075 is amended to read as follows:

13 (1) (a) A city with a population of less than twenty thousand (20,000) based upon the
14 most recent federal decennial census, or a county that does not contain a city
15 with a population equal to or greater than twenty thousand (20,000) based
16 upon the most recent federal decennial census, that is wet through a local
17 option election held under KRS Chapter 242 is authorized to impose a
18 regulatory license fee not to exceed five percent (5%) upon the gross receipts
19 of the sale of alcoholic beverages of each establishment located in the city or
20 county licensed to sell alcoholic beverages.

21 (b) The regulatory license fee may be levied at the beginning of each budget
22 period at a percentage rate that is reasonably estimated to fully reimburse the
23 local government for the estimated costs of any additional policing,
24 regulatory, or administrative expenses related to the sale of alcoholic
25 beverages in the city and county.

26 (c) The regulatory license fee shall be in addition to any other taxes, fees, or
27 licenses permitted by law, except:

- 1 1. A credit against a regulatory license fee shall be allowed in an amount
2 equal to any licenses or fees imposed by the city or county pursuant to
3 KRS 243.060 or 243.070; and
- 4 2. In a county in which the city and county both levy a regulatory license
5 fee, the county license fee shall only be applicable outside the
6 jurisdictional boundaries of those cities which levy a license fee.
- 7 (2) (a) A city or county that is moist through a local option election held under KRS
8 242.1244 may by ordinance impose a regulatory license fee upon the gross
9 receipts of the sale of alcoholic beverages of each establishment located in the
10 city or county and licensed to sell alcoholic beverages by the drink for
11 consumption on the premises.
- 12 (b) The regulatory license fee may be levied annually at a rate that is reasonably
13 estimated to fully reimburse the city or county for the estimated costs for any
14 additional policing, regulatory, or administrative related expenses.
- 15 (c) The regulatory license fee shall be in addition to any other taxes, fees, or
16 licenses permitted by law, but a credit against the fee shall be allowed in an
17 amount equal to any licenses or fees imposed by the city or county pursuant to
18 KRS 243.060 or 243.070.
- 19 (d) In a county in which the city and county both levy a regulatory license fee, the
20 county license fee shall only be applicable outside the jurisdictional
21 boundaries of those cities which levy a license fee.
- 22 (3) For any election held after July 15, 2014, any new fee authorized under subsection
23 (1) or (2) of this section shall be enacted by the city or county no later than two (2)
24 years from the date of the local option election held under KRS Chapter 242.
- 25 (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section
26 shall be established at a rate that will generate revenue that does not exceed the total
27 of the reasonable expenses actually incurred by the city or county in the

1 immediately previous fiscal year for the additional cost, as demonstrated by
2 reasonable evidence, of:

- 3 (a) Policing;
- 4 (b) Regulation; and
- 5 (c) Administration;

6 as a result of the sale of alcoholic beverages within the city or county.

7 (5) (a) The Alcoholic Beverage Control Board shall promulgate administrative
8 regulations which set forth the process by which a city or county, in the first
9 year following the discontinuance of prohibition, may estimate any additional
10 policing, regulation, and administrative expenses by a city or county directly
11 and solely related to the discontinuance of prohibition. This subsection shall
12 apply to any discontinuance of prohibition occurring after the promulgation of
13 administrative regulations required by this subsection.

14 (b) After the first year, the regulatory license fee for each subsequent year shall
15 conform to the requirements of subsection (4) of this section.

16 (6) The revenue received from the imposition of the regulatory license fee authorized
17 under subsections (1) and (2) of this section shall be:

- 18 (a) Deposited into a segregated fund of the city or county;
- 19 (b) Spent only in accordance with the requirements of subsections (1) and (2) of
20 this section; and
- 21 (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810,
22 and 91A.040.

23 (7) Any city or county found by a court to have violated the provisions of this section
24 shall:

- 25 (a) Provide a refund as determined by the court to any licensee that has been
26 harmed in an amount equal to its prorated portion of the excess revenues
27 collected by the city or county that are directly attributable to a violation

- 1 occurring after July 15, 2014;
- 2 (b) Be responsible for the payment of the reasonable attorney fees directly
3 incurred by a party to a litigation in an amount ordered by the court upon its
4 finding of an intentional and willful violation of this section by a city or
5 county occurring after July 15, 2014; and
- 6 (c) Upon the finding by a court of a second intentional and willful violation of the
7 provisions of this section, lose the ability to impose the regulatory fee
8 provided by this section for a period of five (5) years and, upon the finding by
9 a court of a third intentional and willful violation, forfeit the right to impose
10 the regulatory license fee authorized by this section.
- 11 (8) Any party bringing suit against a city or county for an alleged violation of this
12 section occurring after July 15, 2014, shall be responsible for the payment of the
13 reasonable attorney fees of the city or county in an amount determined by the court
14 upon a finding by the court that the city or county did not violate this section.
- 15 (9) (a) Any city that does not meet the population requirements of subsection (1) of
16 this section, and any county that has a city exceeding the population
17 requirements of subsection (1) of this section, that imposed a regulatory
18 license fee pursuant to this section as of January 1, 2019, shall be deemed to
19 meet the requirements for doing so set out in this section and may continue to
20 impose the regulatory license fee previously established pursuant to this
21 section.
- 22 (b) Any city or county that is authorized to impose the regulatory license fee
23 under subsection (1) of this section, or under paragraph (a) of this subsection,
24 that imposed the regulatory license fee at a rate higher than five percent (5%)
25 prior to June 27, 2019, may continue to impose the regulatory license fee at a
26 rate that exceeds five percent (5%). The rate shall continue to be calculated
27 annually pursuant to the requirements of this section and shall not exceed the

1 rate that was imposed by the city or county on January 1, 2019.

2 (10) A direct shipper licensee shall **be subject to**~~collect~~ and remit the regulatory license
3 fee imposed by this section as though it were an establishment located in a city or
4 county licensed to sell alcoholic beverages. This fee shall be considered a tax as
5 defined in KRS 243.029.

6 (11) Any city or county imposing a regulatory license fee under this section shall file
7 with the department a report showing the applicable fee amount and remittance
8 address for each affected license type in its jurisdiction on or before August 1, 2020.
9 Any adoption of this fee after July 15, 2020, or modification of the applicable fee
10 amount or remittance address for each affected licensee shall be reported to the
11 department within thirty (30) days of adoption by the city or county imposing the
12 fee. Within twenty (20) days after receipt of the information, the department shall
13 compile and publish the information so that it is readily available to the public.

14 ➔Section 28. KRS 139.010 is amended to read as follows:

15 As used in this chapter, unless the context otherwise provides:

16 (1) (a) "Admissions" means the fees paid for:

- 17 1. The right of entrance to a display, program, sporting event, music
18 concert, performance, play, show, movie, exhibit, fair, or other
19 entertainment or amusement event or venue; and
- 20 2. The privilege of using facilities or participating in an event or activity,
21 including but not limited to:
 - 22 a. Bowling centers;
 - 23 b. Skating rinks;
 - 24 c. Health spas;
 - 25 d. Swimming pools;
 - 26 e. Tennis courts;
 - 27 f. Weight training facilities;

- 1 g. Fitness and recreational sports centers; and
- 2 h. Golf courses, both public and private;
- 3 regardless of whether the fee paid is per use or in any other form,
- 4 including but not limited to an initiation fee, monthly fee, membership
- 5 fee, or combination thereof.
- 6 (b) "Admissions" does not include:
- 7 1. Any fee paid to enter or participate in a fishing tournament; or
- 8 2. Any fee paid for the use of a boat ramp for the purpose of allowing boats
- 9 to be launched into or hauled out from the water;
- 10 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
- 11 which is to attract public attention to a product, person, business, or organization, or
- 12 to attempt to sell, popularize, or secure financial support for a product, person,
- 13 business, or organization. As used in this definition, "product" means tangible
- 14 personal property, an item transferred electronically, or a service;
- 15 (3) "Business" includes any activity engaged in by any person or caused to be engaged
- 16 in by that person with the object of gain, benefit, or advantage, either direct or
- 17 indirect;
- 18 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 19 (5) "Department" means the Department of Revenue;
- 20 (6) (a) "Digital audio-visual works" means a series of related images which, when
- 21 shown in succession, impart an impression of motion, with accompanying
- 22 sounds, if any.
- 23 (b) "Digital audio-visual works" includes movies, motion pictures, musical
- 24 videos, news and entertainment programs, and live events.
- 25 (c) "Digital audio-visual works" shall not include video greeting cards, video
- 26 games, and electronic games;
- 27 (7) (a) "Digital audio works" means works that result from the fixation of a series of

1 musical, spoken, or other sounds.

2 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
3 readings of books or other written materials, speeches, or other sound
4 recordings.

5 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
6 mail;

7 (8) (a) "Digital books" means works that are generally recognized in the ordinary and
8 usual sense as books, including any literary work expressed in words,
9 numbers, or other verbal or numerical symbols or indicia if the literary work is
10 generally recognized in the ordinary or usual sense as a book.

11 (b) "Digital books" shall not include digital audio-visual works, digital audio
12 works, periodicals, magazines, newspapers, or other news or information
13 products, chat rooms, or Web logs;

14 (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain
15 one (1) or more types of digital property. A "digital code" may be obtained by
16 any means, including electronic mail messaging or by tangible means,
17 regardless of the code's designation as a song code, video code, or book code.

18 (b) "Digital code" shall not include a code that represents:

- 19 1. A stored monetary value that is deducted from a total as it is used by the
20 purchaser; or
21 2. A redeemable card, gift card, or gift certificate that entitles the holder to
22 select specific types of digital property;

23 (10) (a) "Digital property" means any of the following which is transferred
24 electronically:

- 25 1. Digital audio works;
26 2. Digital books;
27 3. Finished artwork;

- 1 4. Digital photographs;
 - 2 5. Periodicals;
 - 3 6. Newspapers;
 - 4 7. Magazines;
 - 5 8. Video greeting cards;
 - 6 9. Audio greeting cards;
 - 7 10. Video games;
 - 8 11. Electronic games; or
 - 9 12. Any digital code related to this property.
- 10 (b) "Digital property" shall not include digital audio-visual works or satellite
- 11 radio programming;
- 12 (11) (a) "Direct mail" means printed material delivered or distributed by United States
- 13 mail or other delivery service to a mass audience or to addressees on a mailing
- 14 list provided by the purchaser or at the direction of the purchaser when the
- 15 cost of the items are not billed directly to the recipient.
- 16 (b) "Direct mail" includes tangible personal property supplied directly or
- 17 indirectly by the purchaser to the direct mail retailer for inclusion in the
- 18 package containing the printed material.
- 19 (c) "Direct mail" does not include multiple items of printed material delivered to
- 20 a single address;
- 21 (12) "Directly used in the manufacturing or industrial processing process" means the
- 22 process that commences with the movement of raw materials from storage into a
- 23 continuous, unbroken, integrated process and ends when the finished product is
- 24 packaged and ready for sale;
- 25 (13) (a) "Extended warranty services" means services provided through a service
- 26 contract agreement between the contract provider and the purchaser where the
- 27 purchaser agrees to pay compensation for the contract and the provider agrees

1 to repair, replace, support, or maintain tangible personal property or digital
2 property according to the terms of the contract if:

- 3 1. The service contract agreement is sold or purchased on or after July 1,
4 2018; and
- 5 2. The tangible personal property or digital property for which the service
6 contract agreement is provided is subject to tax under this chapter or
7 under KRS 138.460.

8 (b) "Extended warranty services" does not include the sale of a service contract
9 agreement for tangible personal property to be used by a small telephone
10 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
11 KRS 65.7621 to deliver communications services as defined in KRS 136.602
12 or broadband as defined in KRS 278.5461;

13 (14) (a) "Finished artwork" means final art that is used for actual reproduction by
14 photomechanical or other processes or for display purposes.

15 (b) "Finished artwork" includes:

- 16 1. Assemblies;
- 17 2. Charts;
- 18 3. Designs;
- 19 4. Drawings;
- 20 5. Graphs;
- 21 6. Illustrative materials;
- 22 7. Lettering;
- 23 8. Mechanicals;
- 24 9. Paintings; and
- 25 10. Paste-ups;

26 (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration,
27 including cash, credit, property, and services, for which tangible personal

1 property, digital property, or services are sold, leased, or rented, valued in
2 money, whether received in money or otherwise, without any deduction for
3 any of the following:

- 4 1. The retailer's cost of the tangible personal property, digital property, or
5 services sold;
- 6 2. The cost of the materials used, labor or service cost, interest, losses, all
7 costs of transportation to the retailer, all taxes imposed on the retailer, or
8 any other expense of the retailer;
- 9 3. Charges by the retailer for any services necessary to complete the sale;
- 10 4. Delivery charges, which are defined as charges by the retailer for the
11 preparation and delivery to a location designated by the purchaser
12 including transportation, shipping, postage, handling, crating, and
13 packing;
- 14 5. Any amount for which credit is given to the purchaser by the retailer,
15 other than credit for tangible personal property or digital property traded
16 when the tangible personal property or digital property traded is of like
17 kind and character to the property purchased and the property traded is
18 held by the retailer for resale; and
- 19 6. The amount charged for labor or services rendered in installing or
20 applying the tangible personal property, digital property, or service sold.

21 (b) "Gross receipts" and "sales price" shall include consideration received by the
22 retailer from a third party if:

- 23 1. The retailer actually receives consideration from a third party and the
24 consideration is directly related to a price reduction or discount on the
25 sale to the purchaser;
- 26 2. The retailer has an obligation to pass the price reduction or discount
27 through to the purchaser;

- 1 3. The amount of consideration attributable to the sale is fixed and
2 determinable by the retailer at the time of the sale of the item to the
3 purchaser; and
- 4 4. One (1) of the following criteria is met:
- 5 a. The purchaser presents a coupon, certificate, or other
6 documentation to the retailer to claim a price reduction or discount
7 where the coupon, certificate, or documentation is authorized,
8 distributed, or granted by a third party with the understanding that
9 the third party will reimburse any seller to whom the coupon,
10 certificate, or documentation is presented;
- 11 b. The price reduction or discount is identified as a third-party price
12 reduction or discount on the invoice received by the purchaser or
13 on a coupon, certificate, or other documentation presented by the
14 purchaser; or
- 15 c. The purchaser identifies himself or herself to the retailer as a
16 member of a group or organization entitled to a price reduction or
17 discount. A "preferred customer" card that is available to any
18 patron does not constitute membership in such a group.
- 19 (c) "Gross receipts" and "sales price" shall not include:
- 20 1. Discounts, including cash, term, or coupons that are not reimbursed by a
21 third party and that are allowed by a retailer and taken by a purchaser on
22 a sale;
- 23 2. Interest, financing, and carrying charges from credit extended on the sale
24 of tangible personal property, digital property, or services, if the amount
25 is separately stated on the invoice, bill of sale, or similar document given
26 to the purchaser;~~or~~
- 27 3. Any taxes legally imposed directly on the purchaser that are separately

1 stated on the invoice, bill of sale, or similar document given to the
2 purchaser; or

3 **4. Local alcohol regulatory license fees authorized under Section 27 of**
4 **this Act that are separately stated on the invoice, bill of sale, or similar**
5 **document given to the purchaser.**

6 (d) As used in this subsection, "third party" means a person other than the
7 purchaser;

8 (16) "In this state" or "in the state" means within the exterior limits of the
9 Commonwealth and includes all territory within these limits owned by or ceded to
10 the United States of America;

11 (17) "Industrial processing" includes:

12 (a) Refining;

13 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

14 (c) Mining, quarrying, fabricating, and industrial assembling;

15 (d) The processing and packaging of raw materials, in-process materials, and
16 finished products; and

17 (e) The processing and packaging of farm and dairy products for sale;

18 (18) (a) "Lease or rental" means any transfer of possession or control of tangible
19 personal property for a fixed or indeterminate term for consideration. A lease
20 or rental shall include future options to:

21 1. Purchase the property; or

22 2. Extend the terms of the agreement and agreements covering trailers
23 where the amount of consideration may be increased or decreased by
24 reference to the amount realized upon sale or disposition of the property
25 as defined in 26 U.S.C. sec. 7701(h)(1).

26 (b) "Lease or rental" shall not include:

27 1. A transfer of possession or control of property under a security

- 1 agreement or deferred payment plan that requires the transfer of title
2 upon completion of the required payments;
- 3 2. A transfer of possession or control of property under an agreement that
4 requires the transfer of title upon completion of the required payments
5 and payment of an option price that does not exceed the greater of one
6 hundred dollars (\$100) or one percent (1%) of the total required
7 payments; or
- 8 3. Providing tangible personal property and an operator for the tangible
9 personal property for a fixed or indeterminate period of time. To qualify
10 for this exclusion, the operator must be necessary for the equipment to
11 perform as designed, and the operator must do more than maintain,
12 inspect, or setup the tangible personal property.
- 13 (c) This definition shall apply regardless of the classification of a transaction
14 under generally accepted accounting principles, the Internal Revenue Code, or
15 other provisions of federal, state, or local law;
- 16 (19) (a) "Machinery for new and expanded industry" means machinery:
- 17 1. Directly used in the manufacturing or industrial processing process of:
- 18 a. Tangible personal property at a plant facility;
- 19 b. Distilled spirits or wine at a plant facility or on the premises of a
20 distiller, rectifier, winery, or small farm winery licensed under
21 KRS 243.030 that includes a retail establishment on the premises;
22 or
- 23 c. Malt beverages at a plant facility or on the premises of a brewer or
24 microbrewery licensed under KRS 243.040 that includes a retail
25 establishment;
- 26 2. Which is incorporated for the first time into:
- 27 a. A plant facility established in this state; or

- 1 b. Licensed premises located in this state; and
- 2 3. Which does not replace machinery in the plant facility or licensed
- 3 premises unless that machinery purchased to replace existing machinery:
- 4 a. Increases the consumption of recycled materials at the plant
- 5 facility by not less than ten percent (10%);
- 6 b. Performs different functions;
- 7 c. Is used to manufacture a different product; or
- 8 d. Has a greater productive capacity, as measured in units of
- 9 production, than the machinery being replaced.
- 10 (b) "Machinery for new and expanded industry" does not include repair,
- 11 replacement, or spare parts of any kind, regardless of whether the purchase of
- 12 repair, replacement, or spare parts is required by the manufacturer or seller as
- 13 a condition of sale or as a condition of warranty;
- 14 (20) "Manufacturing" means any process through which material having little or no
- 15 commercial value for its intended use before processing has appreciable commercial
- 16 value for its intended use after processing by the machinery;
- 17 (21) "Marketplace" means any physical or electronic means through which one (1) or
- 18 more retailers may advertise and sell tangible personal property, digital property, or
- 19 services, or lease tangible personal property or digital property, such as a catalog,
- 20 Internet Web site, or television or radio broadcast, regardless of whether the
- 21 tangible personal property, digital property, or retailer is physically present in this
- 22 state;
- 23 (22) (a) "Marketplace provider" means a person, including any affiliate of the person,
- 24 that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this
- 25 paragraph as follows:
- 26 1. The person directly or indirectly:
- 27 a. Lists, makes available, or advertises tangible personal property,

- 1 digital property, or services for sale by a marketplace retailer in a
2 marketplace owned, operated, or controlled by the person;
- 3 b. Facilitates the sale of a marketplace retailer's product through a
4 marketplace by transmitting or otherwise communicating an offer
5 or acceptance of a retail sale of tangible personal property, digital
6 property, or services between a marketplace retailer and a
7 purchaser in a forum including a shop, store, booth, catalog,
8 Internet site, or similar forum;
- 9 c. Owns, rents, licenses, makes available, or operates any electronic
10 or physical infrastructure or any property, process, method,
11 copyright, trademark, or patent that connects marketplace retailers
12 to purchasers for the purpose of making retail sales of tangible
13 personal property, digital property, or services;
- 14 d. Provides a marketplace for making retail sales of tangible personal
15 property, digital property, or services, or otherwise facilitates retail
16 sales of tangible personal property, digital property, or services,
17 regardless of ownership or control of the tangible personal
18 property, digital property, or services, that are the subject of the
19 retail sale;
- 20 e. Provides software development or research and development
21 activities related to any activity described in this subparagraph, if
22 the software development or research and development activities
23 are directly related to the physical or electronic marketplace
24 provided by a marketplace provider;
- 25 f. Provides or offers fulfillment or storage services for a marketplace
26 retailer;
- 27 g. Sets prices for a marketplace retailer's sale of tangible personal

- 1 property, digital property, or services;
- 2 h. Provides or offers customer service to a marketplace retailer or a
- 3 marketplace retailer's customers, or accepts or assists with taking
- 4 orders, returns, or exchanges of tangible personal property, digital
- 5 property, or services sold by a marketplace retailer; or
- 6 i. Brands or otherwise identifies sales as those of the marketplace
- 7 provider; and
- 8 2. The person directly or indirectly:
- 9 a. Collects the sales price or purchase price of a retail sale of tangible
- 10 personal property, digital property, or services;
- 11 b. Provides payment processing services for a retail sale of tangible
- 12 personal property, digital property, or services;
- 13 c. Through terms and conditions, agreements, or arrangements with a
- 14 third party, collects payment in connection with a retail sale of
- 15 tangible personal property, digital property, or services from a
- 16 purchaser and transmits that payment to the marketplace retailer,
- 17 regardless of whether the person collecting and transmitting the
- 18 payment receives compensation or other consideration in exchange
- 19 for the service; or
- 20 d. Provides a virtual currency that purchasers are allowed or required
- 21 to use to purchase tangible personal property, digital property, or
- 22 services.
- 23 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
- 24 requirements of this subsection through the ownership, operation, or control
- 25 of a digital distribution service, digital distribution platform, online portal, or
- 26 application store;

27 (23) "Marketplace retailer" means a seller that makes retail sales through any

1 marketplace owned, operated, or controlled by a marketplace provider;

2 (24) (a) "Occasional sale" includes:

3 1. A sale of tangible personal property or digital property not held or used
4 by a seller in the course of an activity for which he or she is required to
5 hold a seller's permit, provided such sale is not one (1) of a series of
6 sales sufficient in number, scope, and character to constitute an activity
7 requiring the holding of a seller's permit. In the case of the sale of the
8 entire, or a substantial portion of the nonretail assets of the seller, the
9 number of previous sales of similar assets shall be disregarded in
10 determining whether or not the current sale or sales shall qualify as an
11 occasional sale; or

12 2. Any transfer of all or substantially all the tangible personal property or
13 digital property held or used by a person in the course of such an activity
14 when after such transfer the real or ultimate ownership of such property
15 is substantially similar to that which existed before such transfer.

16 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
17 other persons holding an interest in a corporation or other entity are regarded
18 as having the "real or ultimate ownership" of the tangible personal property or
19 digital property of such corporation or other entity;

20 (25) (a) "Other direct mail" means any direct mail that is not advertising and
21 promotional direct mail, regardless of whether advertising and promotional
22 direct mail is included in the same mailing.

23 (b) "Other direct mail" includes but is not limited to:

24 1. Transactional direct mail that contains personal information specific to
25 the addressee, including but not limited to invoices, bills, statements of
26 account, and payroll advices;

27 2. Any legally required mailings, including but not limited to privacy

1 notices, tax reports, and stockholder reports; and

2 3. Other nonpromotional direct mail delivered to existing or former
3 shareholders, customers, employees, or agents, including but not limited
4 to newsletters and informational pieces.

5 (c) "Other direct mail" does not include the development of billing information or
6 the provision of any data processing service that is more than incidental to the
7 production of printed material;

8 (26) "Person" includes any individual, firm, copartnership, joint venture, association,
9 social club, fraternal organization, corporation, estate, trust, business trust, receiver,
10 trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other
11 group or combination acting as a unit;

12 (27) "Permanent," as the term applies to digital property, means perpetual or for an
13 indefinite or unspecified length of time;

14 (28) "Plant facility" means a single location that is exclusively dedicated to
15 manufacturing or industrial processing activities. A location shall be deemed to be
16 exclusively dedicated to manufacturing or industrial processing activities even if
17 retail sales are made there, provided that the retail sales are incidental to the
18 manufacturing or industrial processing activities occurring at the location. The term
19 "plant facility" shall not include any restaurant, grocery store, shopping center, or
20 other retail establishment;

21 (29) (a) "Prewritten computer software" means:

22 1. Computer software, including prewritten upgrades, that are not designed
23 and developed by the author or other creator to the specifications of a
24 specific purchaser;

25 2. Software designed and developed by the author or other creator to the
26 specifications of a specific purchaser when it is sold to a person other
27 than the original purchaser; or

- 1 3. Any portion of prewritten computer software that is modified or
2 enhanced in any manner, where the modification or enhancement is
3 designed and developed to the specifications of a specific purchaser,
4 unless there is a reasonable, separately stated charge on an invoice or
5 other statement of the price to the purchaser for the modification or
6 enhancement.
- 7 (b) When a person modifies or enhances computer software of which the person
8 is not the author or creator, the person shall be deemed to be the author or
9 creator only of the modifications or enhancements the person actually made.
- 10 (c) The combining of two (2) or more prewritten computer software programs or
11 portions thereof does not cause the combination to be other than prewritten
12 computer software;
- 13 (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,
14 or rental, conditional or otherwise, in any manner or by any means
15 whatsoever, of:
- 16 1. Tangible personal property;
17 2. An extended warranty service;
18 3. Digital property transferred electronically; or
19 4. Services included in KRS 139.200;
20 for a consideration.
- 21 (b) "Purchase" includes:
- 22 1. When performed outside this state or when the customer gives a resale
23 certificate, the producing, fabricating, processing, printing, or imprinting
24 of tangible personal property for a consideration for consumers who
25 furnish either directly or indirectly the materials used in the producing,
26 fabricating, processing, printing, or imprinting;
27 2. A transaction whereby the possession of tangible personal property or

1 digital property is transferred but the seller retains the title as security for
2 the payment of the price; and

3 3. A transfer for a consideration of the title or possession of tangible
4 personal property or digital property which has been produced,
5 fabricated, or printed to the special order of the customer, or of any
6 publication;

7 (31) "Recycled materials" means materials which have been recovered or diverted from
8 the solid waste stream and reused or returned to use in the form of raw materials or
9 products;

10 (32) "Recycling purposes" means those activities undertaken in which materials that
11 would otherwise become solid waste are collected, separated, or processed in order
12 to be reused or returned to use in the form of raw materials or products;

13 (33) "Remote retailer" means a retailer with no physical presence in this state;

14 (34) (a) "Repair, replacement, or spare parts" means any tangible personal property
15 used to maintain, restore, mend, or repair machinery or equipment.

16 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
17 industrial tools;

18 (35) (a) "Retailer" means:

19 1. Every person engaged in the business of making retail sales of tangible
20 personal property, digital property, or furnishing any services in a retail
21 sale included in KRS 139.200;

22 2. Every person engaged in the business of making sales at auction of
23 tangible personal property or digital property owned by the person or
24 others for storage, use or other consumption, except as provided in
25 paragraph (c) of this subsection;

26 3. Every person making more than two (2) retail sales of tangible personal
27 property, digital property, or services included in KRS 139.200 during

1 any twelve (12) month period, including sales made in the capacity of
2 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

3 4. Any person conducting a race meeting under the provision of KRS
4 Chapter 230, with respect to horses which are claimed during the
5 meeting.

6 (b) When the department determines that it is necessary for the efficient
7 administration of this chapter to regard any salesmen, representatives,
8 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
9 employers under whom they operate or from whom they obtain the tangible
10 personal property, digital property, or services sold by them, irrespective of
11 whether they are making sales on their own behalf or on behalf of the dealers,
12 distributors, supervisors or employers, the department may so regard them and
13 may regard the dealers, distributors, supervisors or employers as retailers for
14 purposes of this chapter.

15 (c) 1. Any person making sales at a charitable auction for a qualifying entity
16 shall not be a retailer for purposes of the sales made at the charitable
17 auction if:

18 a. The qualifying entity, not the person making sales at the auction, is
19 sponsoring the auction;

20 b. The purchaser of tangible personal property at the auction directly
21 pays the qualifying entity sponsoring the auction for the property
22 and not the person making the sales at the auction; and

23 c. The qualifying entity, not the person making sales at the auction, is
24 responsible for the collection, control, and disbursement of the
25 auction proceeds.

26 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
27 the qualifying entity sponsoring the auction shall be the retailer for

1 purposes of the sales made at the charitable auction.

2 3. For purposes of this paragraph, "qualifying entity" means a resident:

3 a. Church;

4 b. School;

5 c. Civic club; or

6 d. Any other nonprofit charitable, religious, or educational
7 organization;

8 (36) "Retail sale" means any sale, lease, or rental for any purpose other than resale,
9 sublease, or subrent;

10 (37) (a) "Ringtones" means digitized sound files that are downloaded onto a device
11 and that may be used to alert the customer with respect to a communication.

12 (b) "Ringtones" shall not include ringback tones or other digital files that are not
13 stored on the purchaser's communications device;

14 (38) (a) "Sale" means:

15 1. The furnishing of any services included in KRS 139.200;

16 2. Any transfer of title or possession, exchange, barter, lease, or rental,
17 conditional or otherwise, in any manner or by any means whatsoever, of:

18 a. Tangible personal property; or

19 b. Digital property transferred electronically;

20 for a consideration.

21 (b) "Sale" includes but is not limited to:

22 1. The producing, fabricating, processing, printing, or imprinting of
23 tangible personal property or digital property for a consideration for
24 purchasers who furnish, either directly or indirectly, the materials used
25 in the producing, fabricating, processing, printing, or imprinting;

26 2. A transaction whereby the possession of tangible personal property or
27 digital property is transferred, but the seller retains the title as security

1 for the payment of the price; and

2 3. A transfer for a consideration of the title or possession of tangible
3 personal property or digital property which has been produced,
4 fabricated, or printed to the special order of the purchaser.

5 (c) This definition shall apply regardless of the classification of a transaction
6 under generally accepted accounting principles, the Internal Revenue Code, or
7 other provisions of federal, state, or local law;

8 (39) "Seller" includes every person engaged in the business of selling tangible personal
9 property, digital property, or services of a kind, the gross receipts from the retail
10 sale of which are required to be included in the measure of the sales tax, and every
11 person engaged in making sales for resale;

12 (40) (a) "Storage" includes any keeping or retention in this state for any purpose
13 except sale in the regular course of business or subsequent use solely outside
14 this state of tangible personal property or digital property purchased from a
15 retailer.

16 (b) "Storage" does not include the keeping, retaining, or exercising any right or
17 power over tangible personal property for the purpose of subsequently
18 transporting it outside the state for use thereafter solely outside the state, or for
19 the purpose of being processed, fabricated, or manufactured into, attached to,
20 or incorporated into, other tangible personal property to be transported outside
21 the state and thereafter used solely outside the state;

22 (41) "Tangible personal property" means personal property which may be seen, weighed,
23 measured, felt, or touched, or which is in any other manner perceptible to the senses
24 and includes natural, artificial, and mixed gas, electricity, water, steam, and
25 prewritten computer software;

26 (42) "Taxpayer" means any person liable for tax under this chapter;

27 (43) "Transferred electronically" means accessed or obtained by the purchaser by means

1 other than tangible storage media; and

2 (44) (a) "Use" includes the exercise of:

3 1. Any right or power over tangible personal property or digital property
4 incident to the ownership of that property, or by any transaction in which
5 possession is given, or by any transaction involving digital property
6 where the right of access is granted; or

7 2. Any right or power to benefit from extended warranty services.

8 (b) "Use" does not include the keeping, retaining, or exercising any right or power
9 over tangible personal property or digital property for the purpose of:

10 1. Selling tangible personal property or digital property in the regular
11 course of business; or

12 2. Subsequently transporting tangible personal property outside the state for use
13 thereafter solely outside the state, or for the purpose of being processed, fabricated, or
14 manufactured into, attached to, or incorporated into, other tangible personal property to
15 be transported outside the state and thereafter used solely outside the state.

16 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO
17 READ AS FOLLOWS:

18 **(1) Prior to June 30, 2022, the council may award one (1) major certified**
19 **rehabilitation for a certified historic structure, allowing a tax credit against the**
20 **taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of**
21 **credits as provided in Section 31 of this Act.**

22 **(2) The major certified rehabilitation shall contain the following characteristics:**

23 **(a) The certified historic structure was individually listed on the National**
24 **Register of Historic Places on or before December 31, 1981;**

25 **(b) The size of the certified historic structure exceeds three hundred thousand**
26 **(300,000) square feet;**

27 **(c) The total project costs exceed fifty million dollars (\$50,000,000);**

1 (d) Substantial rehabilitation of the certified historic structure begins prior to
2 December 31, 2021; and

3 (e) The application for preliminary approval reflects that following the
4 substantial rehabilitation, the certified historic structure will be used as a
5 hotel, tourism destination, or other use supporting or relating to the
6 promotion of tourism to and within the Commonwealth.

7 (3) (a) The credit shall:

8 1. Equal the percentage of qualified rehabilitation expenses as provided
9 in KRS 171.397(1)(a);

10 2. Only apply to the first thirty million dollars (\$30,000,000) of qualified
11 rehabilitation expenses; and

12 3. Be refundable and transferable.

13 (b) The project approved for a credit under this section:

14 1. Shall not be subject to the maximum credits which may be claimed
15 with regard to owner-occupied residential property or other property
16 that is not owner-occupied residential property established by KRS
17 171.397; but

18 2. Shall be considered in determining whether the certified rehabilitation
19 credit cap in Section 30 of this Act has been met.

20 (4) Any taxpayer seeking the credit shall file the application for preliminary
21 determination and final determination as provided by KRS 171.397(2).

22 (5) The total approved credit shall be available over a four (4) year period and the
23 maximum credit which may be claimed in a taxable year shall not exceed twenty-
24 five percent (25%) of the total approved credit.

25 (6) The provisions of KRS 171.397(9) to (14) shall also apply to this section.

26 ➔Section 30. KRS 171.396 is amended to read as follows:

27 As used in this section and KRS 171.3961 and 171.397:

- 1 (1) "Certified historic structure" means a structure that is located within the
2 Commonwealth of Kentucky that is:
- 3 (a) Listed individually on the National Register of Historic Places; or
4 (b) Located in a historic district listed on the National Register of Historic Places
5 and is certified by the council as contributing to the historic significance of the
6 district;
- 7 (2) "Certified rehabilitation" means a completed substantial rehabilitation of a certified
8 historic structure that the council certifies meets the United States Secretary of the
9 Interior's Standards for Rehabilitation;
- 10 (3) "Certified rehabilitation credit cap" means an annual amount of:
- 11 (a) Three million dollars (\$3,000,000) for applications received prior to April 30,
12 2010; and
- 13 (b) 1. Five million dollars (\$5,000,000) for applications received on or after
14 April 30, 2010, but before April 30, 2022;
- 15 (c) One hundred million dollars (\$100,000,000) for applications received on or
16 after April 30, 2022, allocated with:
- 17 1. Twenty-five percent (25%) of the credit cap awarded to owner-
18 occupied residential property; and
- 19 2. Seventy-five percent (75%) of the credit cap awarded to property other
20 than owner-occupied residential property, which includes the major
21 certified rehabilitation allowed under Section 29 of this Act;
- 22 plus any amount added to the certified rehabilitation credit cap pursuant to KRS
23 171.397(2)(c);
- 24 (4) "Council" means the Kentucky Heritage Council;
- 25 (5) "Disqualifying work" means work that is performed within three (3) years of the
26 completion of the certified rehabilitation that, if performed as part of the
27 rehabilitation certified under KRS 171.397, would have made the rehabilitation

- 1 ineligible for certification;
- 2 (6) "Exempt entity" means any tax exempt organization pursuant to sec. 501(c)(3) of
3 the Internal Revenue Code, any political subdivision of the Commonwealth, any
4 state or local agency, board, or commission, or any quasi-governmental entity;
- 5 (7) "Local government" means a city, county, urban-county, charter county, or
6 consolidated local government;
- 7 (8) "Owner-occupied residential property" means a building or portion thereof,
8 condominium, or cooperative occupied by the owner as his or her principal
9 residence;
- 10 (9) "Qualified rehabilitation expense" means any amount that is properly chargeable to
11 a capital account, whether or not depreciation is allowed under Section 168 of the
12 Internal Revenue Code, and is expended in connection with the certified
13 rehabilitation of a certified historic structure. It shall include the cost of restoring
14 landscaping and fencing that contributes to the historic significance of this structure,
15 but shall not include the cost of acquisition of a certified historic structure,
16 enlargement of or additions to an existing building, or the purchase of personal
17 property;
- 18 (10) "Substantial rehabilitation" means rehabilitation of a certified historic structure for
19 which the qualified rehabilitation expenses, during a twenty-four (24) month period
20 selected by the taxpayer or exempt entity, ending with or within the taxable year,
21 exceed:
- 22 (a) Twenty thousand dollars (\$20,000) for an owner-occupied residential
23 property; or
- 24 (b) For all other property, the greater of:
- 25 1. The adjusted basis of the structure; or
- 26 2. Twenty thousand dollars (\$20,000);
- 27 (11) "Taxpayer" means any individual, corporation, limited liability company, business

1 development corporation, partnership, limited partnership, sole proprietorship,
2 association, joint stock company, receivership, trust, professional service
3 organization, or other legal entity through which business is conducted that:

4 (a) Elects to claim the credit on a return and receive a refund as provided in KRS
5 171.397(2)(b)2.a.; or

6 (b) Is the recipient of a credit which is transferred as provided in KRS
7 171.397(2)(b)2.b.; and

8 (12) "Qualified purchased historic home" means any substantially rehabilitated certified
9 historic structure if:

10 (a) The taxpayer claiming the credit authorized under KRS 171.397 is the first
11 purchaser of the structure after the date of completion of the substantial
12 rehabilitation;

13 (b) The structure or a portion thereof will be the principal residence of the
14 taxpayer; and

15 (c) No credit was allowed to the seller under this section.

16 A qualified purchased historic home shall be deemed owner-occupied residential
17 property for purposes of this section.

18 ➔Section 31. KRS 141.0205 is amended to read as follows:

19 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
20 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
21 the credits shall be determined as follows:

22 (1) The nonrefundable business incentive credits against the tax imposed by KRS
23 141.020 shall be taken in the following order:

24 (a) The limited liability entity tax credit permitted by KRS 141.0401;

25 (b) The economic development credits computed under KRS 141.347, 141.381,
26 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
27 207, and 154.12-2088;

- 1 (c) The qualified farming operation credit permitted by KRS 141.412;
- 2 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 3 (e) The health insurance credit permitted by KRS 141.062;
- 4 (f) The tax paid to other states credit permitted by KRS 141.070;
- 5 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 6 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 7 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The research facilities credit permitted by KRS 141.395;
- 11 (k) The employer High School Equivalency Diploma program incentive credit
- 12 permitted under KRS 151B.402;
- 13 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (n) The clean coal incentive credit permitted by KRS 141.428;
- 16 (o) The ethanol credit permitted by KRS 141.4242;
- 17 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 18 (q) The energy efficiency credits permitted by KRS 141.436;
- 19 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 20 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 21 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 22 (u) The distilled spirits credit permitted by KRS 141.389;
- 23 (v) The angel investor credit permitted by KRS 141.396;
- 24 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 25 on or after April 27, 2018, **but before January 1, 2022**;
- 26 (x) The inventory credit permitted by KRS 141.408; and
- 27 (y) The renewable chemical production credit permitted by KRS 141.4231.

- 1 (2) After the application of the nonrefundable credits in subsection (1) of this section,
2 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
3 shall be taken in the following order:
- 4 (a) The individual credits permitted by KRS 141.020(3);
 - 5 (b) The credit permitted by KRS 141.066;
 - 6 (c) The tuition credit permitted by KRS 141.069;
 - 7 (d) The household and dependent care credit permitted by KRS 141.067; and
 - 8 (e) The income gap credit permitted by KRS 141.066.
- 9 (3) After the application of the nonrefundable credits provided for in subsection (2) of
10 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
11 taken in the following order:
- 12 (a) The individual withholding tax credit permitted by KRS 141.350;
 - 13 (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - 14 (c) The certified rehabilitation credit permitted by KRS 171.3961, ~~and~~
15 171.397(1)(b), and Section 29 of this Act; and
 - 16 (d) The film industry tax credit permitted by KRS 141.383 for applications
17 approved prior to April 27, 2018, or on or after January 1, 2022.
- 18 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
19 tax imposed by KRS 141.040.
- 20 (5) The following nonrefundable credits shall be applied against the sum of the tax
21 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
22 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 23 (a) The economic development credits computed under KRS 141.347, 141.381,
24 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
25 207, and 154.12-2088;
 - 26 (b) The qualified farming operation credit permitted by KRS 141.412;
 - 27 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

- 1 (d) The health insurance credit permitted by KRS 141.062;
- 2 (e) The unemployment credit permitted by KRS 141.065;
- 3 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 4 (g) The coal conversion credit permitted by KRS 141.041;
- 5 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 6 ending prior to January 1, 2008;
- 7 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The research facilities credit permitted by KRS 141.395;
- 11 (k) The employer High School Equivalency Diploma program incentive credit
- 12 permitted by KRS 151B.402;
- 13 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (n) The clean coal incentive credit permitted by KRS 141.428;
- 16 (o) The ethanol credit permitted by KRS 141.4242;
- 17 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 18 (q) The energy efficiency credits permitted by KRS 141.436;
- 19 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 20 permitted by KRS 141.437;
- 21 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 22 (t) The railroad expansion credit permitted by KRS 141.386;
- 23 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 24 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 25 (w) The distilled spirits credit permitted by KRS 141.389;
- 26 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 27 on or after April 27, 2018, ***but before January 1, 2022;***

- 1 (y) The inventory credit permitted by KRS 141.408; and
- 2 (z) The renewable chemical production tax credit permitted by KRS 141.4231.
- 3 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 4 the refundable credits shall be taken in the following order:
- 5 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 6 (b) The certified rehabilitation credit permitted by KRS 171.3961, ~~and~~
- 7 171.397(1)(b), and Section 29 of this Act; and
- 8 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 9 approved prior to April 27, 2018, or on or after January 1, 2022.

10 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO

11 READ AS FOLLOWS:

12 (1) An emergency disaster relief account is hereby created in the road fund.

13 (2) The account shall contain moneys directly appropriated by the General Assembly

14 from the road fund.

15 (3) Moneys in the emergency disaster relief account shall only be expended on

16 projects specifically designated by the General Assembly in a regular or special

17 session.

18 (4) Interest earned on moneys in the account shall accrue to the account.

19 (5) All sums appropriated or deposited to the account shall not lapse at the close of

20 the fiscal year but shall carry forward into the next fiscal year.

21 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO

22 READ AS FOLLOWS:

23 (1) A veteran service organization may qualify as an institution of purely public

24 charity, as expressed in Section 170 of the Kentucky Constitution, if over fifty

25 percent (50%) of its annual net income is expended on behalf of military veterans

26 and other charitable causes.

27 (2) If a veteran service organization meets the qualifications in subsection (1) of this

1 section, its property assessed on January 1, 2022, shall not be subject to ad
2 valorem taxation from the state, county, city, school, or other taxing district in
3 which it has a taxable situs. This subsection does not apply to real property which
4 is owned by the veteran service organization and occupied by another entity or
5 person for compensation.

6 ➔Section 34. KRS 132.010 is amended to read as follows:

7 As used in this chapter, unless the context otherwise requires:

- 8 (1) "Department" means the Department of Revenue;
- 9 (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- 10 (3) "Real property" includes all lands within this state and improvements thereon;
- 11 (4) "Personal property" includes every species and character of property, tangible and
12 intangible, other than real property;
- 13 (5) "Resident" means any person who has taken up a place of abode within this state
14 with the intention of continuing to abide in this state; any person who has had his or
15 her actual or habitual place of abode in this state for the larger portion of the twelve
16 (12) months next preceding the date as of which an assessment is due to be made
17 shall be deemed to have intended to become a resident of this state;
- 18 (6) "Compensating tax rate" means that rate which, rounded to the next higher one-
19 tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and
20 applied to the current year's assessment of the property subject to taxation by a
21 taxing district, excluding new property and personal property, produces an amount
22 of revenue approximately equal to that produced in the preceding year from real
23 property. However, in no event shall the compensating tax rate be a rate which,
24 when applied to the total current year assessment of all classes of taxable property,
25 produces an amount of revenue less than was produced in the preceding year from
26 all classes of taxable property. For purposes of this subsection, "property subject to
27 taxation" means the total fair cash value of all property subject to full local rates,

1 less the total valuation exempted from taxation by the homestead exemption
2 provision of the Constitution and the difference between the fair cash value and
3 agricultural or horticultural value of agricultural or horticultural land;

4 (7) "Net assessment growth" means the difference between:

5 (a) The total valuation of property subject to taxation by the county, city, school
6 district, or special district in the preceding year, less the total valuation
7 exempted from taxation by the homestead exemption provision of the
8 Constitution in the current year over that exempted in the preceding year, and

9 (b) The total valuation of property subject to taxation by the county, city, school
10 district, or special district for the current year;

11 (8) "New property" means the net difference in taxable value between real property
12 additions and deletions to the property tax roll for the current year. "Real property
13 additions" shall mean:

14 (a) Property annexed or incorporated by a municipal corporation, or any other
15 taxing jurisdiction; however, this definition shall not apply to property
16 acquired through the merger or consolidation of school districts, or the
17 transfer of property from one (1) school district to another;

18 (b) Property, the ownership of which has been transferred from a tax-exempt
19 entity to a nontax-exempt entity;

20 (c) The value of improvements to existing nonresidential property;

21 (d) The value of new residential improvements to property;

22 (e) The value of improvements to existing residential property when the
23 improvement increases the assessed value of the property by fifty percent
24 (50%) or more;

25 (f) Property created by the subdivision of unimproved property, provided, that
26 when the property is reclassified from farm to subdivision by the property
27 valuation administrator, the value of the property as a farm shall be a deletion

1 from that category;

2 (g) Property exempt from taxation, as an inducement for industrial or business
3 use, at the expiration of its tax exempt status;

4 (h) Property, the tax rate of which will change, according to the provisions of
5 KRS 82.085, to reflect additional urban services to be provided by the taxing
6 jurisdiction, provided, however, that the property shall be considered "real
7 property additions" only in proportion to the additional urban services to be
8 provided to the property over the urban services previously provided; and

9 (i) The value of improvements to real property previously under assessment
10 moratorium.

11 "Real property deletions" shall be limited to the value of real property removed
12 from, or reduced over the preceding year on, the property tax roll for the current
13 year;

14 (9) "Agricultural land" means:

15 (a) Any tract of land, including all income-producing improvements, of at least
16 ten (10) contiguous acres in area used for the production of livestock,
17 livestock products, poultry, poultry products and/or the growing of tobacco
18 and/or other crops including timber;

19 (b) Any tract of land, including all income-producing improvements, of at least
20 five (5) contiguous acres in area commercially used for aquaculture; or

21 (c) Any tract of land devoted to and meeting the requirements and qualifications
22 for payments pursuant to agriculture programs under an agreement with the
23 state or federal government;

24 (10) "Horticultural land" means any tract of land, including all income-producing
25 improvements, of at least five (5) contiguous acres in area commercially used for
26 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
27 flowers, or ornamental plants;

- 1 (11) "Agricultural or horticultural value" means the use value of "agricultural or
2 horticultural land" based upon income-producing capability and comparable sales of
3 farmland purchased for farm purposes where the price is indicative of farm use
4 value, excluding sales representing purchases for farm expansion, better
5 accessibility, and other factors which inflate the purchase price beyond farm use
6 value, if any, considering the following factors as they affect a taxable unit:
- 7 (a) Relative percentages of tillable land, pasture land, and woodland;
 - 8 (b) Degree of productivity of the soil;
 - 9 (c) Risk of flooding;
 - 10 (d) Improvements to and on the land that relate to the production of income;
 - 11 (e) Row crop capability including allotted crops other than tobacco;
 - 12 (f) Accessibility to all-weather roads and markets; and
 - 13 (g) Factors which affect the general agricultural or horticultural economy, such
14 as: interest, price of farm products, cost of farm materials and supplies, labor,
15 or any economic factor which would affect net farm income;
- 16 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural
17 value and the tax based on fair cash value;
- 18 (13) "Homestead" means real property maintained as the permanent residence of the
19 owner with all land and improvements adjoining and contiguous thereto including
20 but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all
21 other land connected thereto;
- 22 (14) "Residential unit" means all or that part of real property occupied as the permanent
23 residence of the owner;
- 24 (15) "Special benefits" are those which are provided by public works not financed
25 through the general tax levy but through special assessments against the benefited
26 property;
- 27 (16) "Mobile home" means a structure, transportable in one (1) or more sections, which

1 when erected on site measures eight (8) body feet or more in width and thirty-two
2 (32) body feet or more in length, and which is built on a permanent chassis and
3 designed to be used as a dwelling, with or without a permanent foundation, when
4 connected to the required utilities, and includes the plumbing, heating, air-
5 conditioning, and electrical systems contained therein. It may be used as a place of
6 residence, business, profession, or trade by the owner, lessee, or their assigns and
7 may consist of one (1) or more units that can be attached or joined together to
8 comprise an integral unit or condominium structure;

9 (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
10 living quarters for recreational, camping, or travel use, which either has its own
11 motive power or is mounted on or drawn by another vehicle. The basic entities are:
12 travel trailer, camping trailer, truck camper, and motor home. *As used in this*
13 *subsection:*

14 (a) "Travel trailer" means a vehicular unit, mounted on wheels, designed to
15 provide temporary living quarters for recreational, camping, or travel use, and
16 of a size or weight that does not require special highway movement permits
17 when drawn by a motorized vehicle, and with a living area of less than two
18 hundred twenty (220) square feet, excluding built-in equipment (such as
19 wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet
20 rooms;

21 (b) "Camping trailer" means a vehicular portable unit mounted on wheels and
22 constructed with collapsible partial side walls which fold for towing by
23 another vehicle and unfold at the camp site to provide temporary living
24 quarters for recreational, camping, or travel use;

25 (c) "Truck camper" means a portable unit constructed to provide temporary
26 living quarters for recreational, travel, or camping use, consisting of a roof,
27 floor, and sides, designed to be loaded onto and unloaded from the bed of a

- 1 pick-up truck; ~~and~~[-]
- 2 (d) "Motor home" ~~means~~[-] a vehicular unit designed to provide temporary
3 living quarters for recreational, camping, or travel use built on or permanently
4 attached to a self-propelled motor vehicle chassis or on a chassis cab or van
5 which is an integral part of the completed vehicle;
- 6 (18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- 7 (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- 8 (20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and
9 KRS 224.60-115;
- 10 (21) "Qualifying voluntary environmental remediation property" means real property
11 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the
12 Energy and Environment Cabinet has made a determination that:
- 13 (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or
14 petroleum products at the property occurred prior to the property owner's
15 acquisition of the property;
- 16 (b) The property owner has made all appropriate inquiry into previous ownership
17 and uses of the property in accordance with generally accepted practices prior
18 to the acquisition of the property;
- 19 (c) The property owner or a responsible party has provided all legally required
20 notices with respect to hazardous substances, pollutants, contaminants,
21 petroleum, or petroleum products found at the property;
- 22 (d) The property owner is in compliance with all land use restrictions and does
23 not impede the effectiveness or integrity of any institutional control;
- 24 (e) The property owner complied with any information request or administrative
25 subpoena under KRS Chapter 224; and
- 26 (f) The property owner is not affiliated with any person who is potentially liable
27 for the release of hazardous substances, pollutants, contaminants, petroleum,

1 or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405,
2 or 224.60-135, through:

- 3 1. Direct or indirect familial relationship;
- 4 2. Any contractual, corporate, or financial relationship, excluding
5 relationships created by instruments conveying or financing title or by
6 contracts for sale of goods or services; or
- 7 3. Reorganization of a business entity that was potentially liable;

8 (22) "Intangible personal property" means stocks, mutual funds, money market funds,
9 bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits,
10 patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred
11 compensation, retirement plans, and any other type of personal property that is not
12 tangible personal property;

13 (23) (a) "County" means any county, consolidated local government, urban-county
14 government, unified local government, or charter county government;

15 (b) "Fiscal court" means the legislative body of any county, consolidated local
16 government, urban-county government, unified local government, or charter
17 county government; and

18 (c) "County judge/executive" means the chief executive officer of any county,
19 consolidated local government, urban-county government, unified local
20 government, or charter county government;

21 (24) "Taxing district" means any entity with the authority to levy a local ad valorem tax,
22 including special purpose governmental entities;

23 (25) "Special purpose governmental entity" shall have the same meaning as in KRS
24 65A.010, and as used in this chapter shall include only those special purpose
25 governmental entities with the authority to levy ad valorem taxes, and that are not
26 specifically exempt from the provisions of this chapter by another provision of the
27 Kentucky Revised Statutes;

- 1 (26) (a) "Broadcast" means the transmission of audio, video, or other signals, through
2 any electronic, radio, light, or similar medium or method now in existence or
3 later devised over the airwaves to the public in general.
- 4 (b) "Broadcast" shall not apply to operations performed by multichannel video
5 programming service providers as defined in KRS 136.602 or any other
6 operations that transmit audio, video, or other signals, exclusively to persons
7 for a fee;
- 8 (27) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,
9 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid
10 species;
- 11 (28) "Heavy equipment rental agreement" means the short-term rental contract under
12 which qualified heavy equipment is rented without an operator for a period:
- 13 (a) Not to exceed three hundred sixty-five (365) days; or
14 (b) That is open-ended under the terms of the contract with no specified end date;
- 15 (29) "Heavy equipment rental company" means an entity that is primarily engaged in a
16 line of business described in Code 532412 or 532310 of the North American
17 Industry Classification System Manual in effect on January 1, 2019; ~~and~~
- 18 (30) "Qualified heavy equipment" means machinery and equipment, including ancillary
19 equipment and any attachments used in conjunction with the machinery and
20 equipment, that is:
- 21 (a) Primarily used and designed for construction, mining, forestry, or industrial
22 purposes, including but not limited to cranes, earthmoving equipment, well-
23 drilling machinery and equipment, lifts, material handling equipment, pumps,
24 generators, and pollution-reducing equipment; and
- 25 (b) Held in a heavy equipment rental company's inventory for:
- 26 1. Rental under a heavy equipment rental agreement; or
27 2. Sale in the regular course of business; **and**

1 **(31) "Veteran service organization" means an organization wholly dedicated to**
2 **advocating on behalf of military veterans and providing charitable programs in**
3 **honor and on behalf of military veterans.**

4 ➔Section 35. The following KRS sections are repealed:

5 148.542 Definitions for KRS 148.542 to 148.546.

6 148.544 Purposes of KRS 141.383 and 148.542 to 148.546 -- Kentucky Film Office --
7 Eligibility for refundable motion picture or entertainment production tax incentives
8 -- Incentives available.

9 148.546 Application for motion picture or entertainment production tax incentives --
10 Tax incentive agreement -- Required terms -- Administrative fee -- Review --
11 Verification of expenditure reports -- Annual reports.

12 148.548 Kentucky Film Commission -- Functions and purpose -- Members -- Meetings -
13 - Nonvoting ex officio members.

14 ➔Section 36. On January 1, 2022, the affairs of the Kentucky Film Office and the
15 Kentucky Film Commission shall be concluded. Any records, files, documents,
16 equipment, staff, supporting budgets, and any and all unexpended funds associated with
17 the Kentucky Film Office and the Kentucky Film Commission, and all historical files and
18 records related to the motion picture or entertainment production tax incentives shall be
19 transferred to the Secretary of the Kentucky Economic Development Cabinet for the
20 transition to the Kentucky Economic Development Finance Authority. All administrative
21 regulations, decisions, and actions promulgated, made, or taken by the Kentucky Film
22 Office or the Kentucky Film Commission that have not been repealed or rescinded shall
23 continue in effect after January 1, 2022.

24 ➔Section 37. Sections 3 to 8 and 26 to 28 of this Act take effect July 1, 2021.

25 ➔Section 38. Sections 9 and 10 apply to taxable years beginning on or after
26 January 1, 2022.

27 ➔Section 39. Section 35 of this Act takes effect on January 1, 2022.

1 ➔Section 40. Whereas an appropriation is required to be made to the emergency
2 disaster relief account created in Section 32 of this Act in the current fiscal year, an
3 emergency is declared to exist, and Section 32 of this Act takes effect upon its passage
4 and approval by the Governor or upon its otherwise becoming a law.