

1 AN ACT relating to income tax credits promoting land conservation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Conservation easement" means a permanent restriction on the use of land*
7 *or real property in accordance with 26 U.S.C. sec. 170(h);*

8 *(b) "Qualified conservation agency" means:*

9 *1. A Kentucky governmental body; or*

10 *2. A private entity that has tax exempt status as a public charity under 26*
11 *U.S.C. sec. 501(c)(3) and meets the definition of a qualified*
12 *organization in 26 U.S.C. sec. 170(h)(3);*

13 *that is eligible to hold land and interests in land for conservation or*
14 *preservation purposes;*

15 *(c) "Qualified conservation contribution" has the same meaning as in 26*
16 *U.S.C. sec. 170(h)(1); and*

17 *(d) "Qualified real property interest" means a qualified real property interest*
18 *as defined in 26 U.S.C. sec. 170(h)(2), as it relates to open areas, natural*
19 *habitat, farms, farmland, and forest land.*

20 *(2) (a) For taxable years beginning on or after January 1, 2018, and before*
21 *January 1, 2022, there shall be allowed a nonrefundable credit against the*
22 *taxes imposed by KRS 141.020 or 141.040, and 141.0401, with the ordering*
23 *of credits as prescribed in Section 2 of this Act, in an amount equal to forty*
24 *percent (40%) of the qualified conservation contribution of a qualified real*
25 *property interest by a taxpayer to a qualified conservation agency.*

26 *(b) The maximum combined credit for all taxable years that may be claimed by*
27 *each taxpayer is one hundred thousand dollars (\$100,000), except that in*

1 the case of spouses filing separate returns or filing separately on a
2 combined return, the credit may either be taken entirely by one (1) spouse
3 or may be divided equally, with the combined credit not exceeding one
4 hundred thousand dollars (\$100,000) in total for all taxable years. Unused
5 credits may be carried forward for up to fifteen (15) years.

6 (c) The maximum amount of credits that may be awarded by the department to
7 all taxpayers shall be two million dollars (\$2,000,000) per year.

8 (3) A qualified real property interest that meets the value thresholds established in 26
9 U.S.C. sec. 170 for donated property shall be substantiated pursuant to the
10 requirements of 26 U.S.C. sec. 170(f)(11).

11 (4) (a) A taxpayer applying for the tax credit for any year as provided under this
12 section shall submit an application to the department by no later than
13 January 7 of the following year.

14 (b) The application required by this section shall include an appraisal,
15 completed at the taxpayer's expense, which shall determine the fair market
16 value of the qualified conservation contribution. The appraisal shall be
17 completed and signed by a real estate appraiser who is certified under KRS
18 Chapter 324A and is approved pursuant to administrative regulations
19 promulgated under this section. Any reviews of appraisals shall be
20 completed in accordance with administrative regulations promulgated
21 under this section.

22 (c) If an appraiser fraudulently overstates the value of the qualified
23 conservation contribution in an appraisal attested to and signed by the
24 appraiser, the department may disallow further appraisals signed by the
25 appraiser and shall refer the appraiser to the Real Estate Appraisers Board
26 for appropriate disciplinary action pursuant to KRS Chapter 324A and to
27 the Internal Revenue Service.

- 1 (d) The department may review an appraisal during the evaluation of an
2 application or at any time thereafter. If the department determines that an
3 appraisal may be overvalued, the department shall select an appraiser
4 acceptable to the department to provide a second appraisal of the property.
5 The excess value between the two (2) appraisals shall be deemed an over-
6 credit. The full value of any over-credit shall be counted against the
7 taxpayer's tax credit in the next tax year.
- 8 (e) If an over-credit is determined by the department to have been fraudulently
9 claimed, the taxpayer shall be liable for repayment of three (3) times the full
10 value of the over-credit.
- 11 (5) Upon receipt of an application, the department shall ensure that the application
12 is complete, and shall affix a date-stamp to each complete application to identify
13 the time and date of receipt.
- 14 (6) No later than February 28 of each year, the department shall:
- 15 (a) Evaluate and approve, in conjunction with the Kentucky Heritage Land
16 Conservation Fund Board chairman or designee and the Purchase of
17 Agricultural Conservation Easements Corporation, applications received in
18 the prior year, pursuant to the following:
- 19 1. The department shall determine whether the application is consistent
20 with 26 U.S.C. sec. 170(h); and
- 21 2. a. The Kentucky Heritage Land Conservation Fund Board
22 chairman or designee shall determine whether the application
23 meets the purposes of Section 3 of this Act, which shall be
24 deemed to satisfy the conservation purposes of 26 U.S.C. sec.
25 170(h)(4)(A); or
- 26 b. The Purchase of Agricultural Conservation Easements
27 Corporation shall determine whether an application meets the

- 1 purposes of Section 4 of this Act, which shall be deemed to
2 satisfy the conservation purposes of 26 U.S.C. sec. 170(h)(4)(A);
- 3 **(b) Determine the maximum amount of tax credit for which each qualified**
4 conservation contribution may be eligible; and
- 5 **(c) Determine the amount of credit to be awarded to each taxpayer, pursuant to**
6 the order in which the approved applications were received and date-
7 stamped, and subject to the maximum credit limit contained in subsection
8 (2) of this section. Applications otherwise eligible for credits, but not issued
9 credits because the maximum credit limit has been reached for a year, shall
10 be placed in line for issuance of credits in the following year, in the order in
11 which the applications were received.
- 12 **(7) No later than March 15 of each year, the department shall notify each taxpayer**
13 approved for credit and the amount of any approved credit.
- 14 **(8) A taxpayer that is a pass-through entity as defined in KRS 141.010 shall**
15 distribute the amount of approved credit to each partner, owner, or shareholder
16 based on the partner's, owner's, or shareholder's distributive share of the income
17 of the pass-through entity. Each pass-through entity shall notify the department
18 electronically of all partners, owners, or shareholders who may claim any
19 amount of the approved credit. Failure to provide information to the department
20 in a manner prescribed by administrative regulation may constitute the forfeiture
21 of available credits to all partners, owners, or shareholders associated with the
22 pass-through entity.
- 23 **(9) A credit may be transferred, sold, or assigned by the taxpayer originally approved**
24 for the credit to any taxpayer. A taxpayer making a transfer shall give written
25 notice to the department and shall provide any other information required by the
26 department, in the manner prescribed by the department. The taxes imposed by
27 KRS 141.020 or 141.040, and 141.0401, shall apply to any consideration received

1 for the transfer, sale, or assignment of a credit approved under this section, but
2 shall not apply to the use of credits approved under this section.

3 (10) The department shall promulgate administrative regulations as necessary to:

4 (a) Establish the method for appraising a property being considered for a
5 qualified conservation contribution, and the manner in which the
6 department gathers and records the full value of tax credits claimed by
7 taxpayers under this section;

8 (b) Establish the parameters and criteria for qualified conservation
9 contributions. The criteria shall include the method for determining that the
10 qualified conservation contribution meets the provisions of 26 U.S.C. sec.
11 170(h) and any other steps necessary to ensure compliance with those
12 provisions; and

13 (c) Administer any other provisions of this section.

14 (11) A property that meets any of the following conditions shall not be eligible for the
15 tax credit provided under this section:

16 (a) The property donated is contiguous to a golf course, and the taxpayer has a
17 financial interest in the golf course;

18 (b) The property donated is part of an open-space requirement to fulfill density
19 requirements for subdivision or similar building permits;

20 (c) The proposed contribution is part of a local, state, or federal regulatory
21 requirement;

22 (d) The landowner holds, for less than two (2) years, the property to which the
23 proposed contribution would apply;

24 (e) The appraisal is based on preferential zoning or future real estate
25 development; or

26 (f) The property donated includes land with disputed boundaries until the
27 dispute is legally resolved.

1 (12) (a) Upon donation of less than the full interest in a property, the landowner
2 shall maintain the property to comply with 26 U.S.C. sec. 170(h).

3 (b) The holder of a qualified conservation contribution that is less than a full
4 interest in a property and for which a tax credit was issued under this
5 section shall be responsible for the ongoing compliance monitoring of the
6 conservation easement, and shall submit by January 31 of each year, an
7 annual report to the department, attesting to the landowner's continued
8 compliance with the terms of the conservation easement or detail any
9 violation or other issues and include a plan for their acceptable resolution.
10 The annual report shall be in a format prescribed by the department and
11 promulgated in administrative regulations.

12 (13) An action affecting a conservation easement shall be brought in Franklin Circuit
13 Court and may be brought by:

14 (a) An owner of an interest in the real property restricted by the conservation
15 easement;

16 (b) A holder of the conservation easement;

17 (c) A person having a third-party right of enforcement; or

18 (d) A person authorized by another law.

19 (14) (a) The purpose of the credit permitted by this section is to increase the total
20 area of land held by qualified conservation agencies for conservation or
21 preservation purposes in the Commonwealth, by increasing the amount of
22 qualified conservation contributions made to those agencies.

23 (b) On or before July 1, 2019, and every July 1 thereafter as long as the credit
24 permitted by this section is eligible to be claimed, the department shall
25 report the following information for all taxable years to the Legislative
26 Research Commission in order to evaluate the effectiveness of the credit in
27 advancing the purpose stated in paragraph (a) of this subsection:

- 1 1. The number, total acreage, and total dollar amount of qualified
 2 conservation contributions and corresponding credits approved for
 3 each taxable year;
 4 2. The number and total amount of credits claimed on returns for each
 5 taxable year;
 6 3. Based on the mailing address of the return, the total amount of credits
 7 claimed by county; and
 8 4. a. In the case of taxpayers other than corporations, based on
 9 ranges of adjusted gross income of no larger than five thousand
 10 dollars (\$5,000), the total amount of credits claimed for each
 11 adjusted gross income range; and
 12 b. In the case of corporations, based on ranges of net income of no
 13 larger than fifty thousand dollars (\$50,000), the total amount of
 14 credits claimed for each net income range.

15 ➔ Section 2. KRS 141.0205 is amended to read as follows:

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

19 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 20 141.020 shall be taken in the following order:

21 (a) 1. For taxable years beginning after December 31, 2004, and before
 22 January 1, 2007, the corporation income tax credit permitted by KRS
 23 141.420(3)(a);

24 2. For taxable years beginning after December 31, 2006, the limited
 25 liability entity tax credit permitted by KRS 141.0401;

26 (b) The economic development credits computed under KRS 141.347, 141.381,
 27 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-

- 1 2088, and 154.27-080;
- 2 (c) The qualified farming operation credit permitted by KRS 141.412;
- 3 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 4 (e) The health insurance credit permitted by KRS 141.062;
- 5 (f) The tax paid to other states credit permitted by KRS 141.070;
- 6 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 7 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 8 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 9 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 10 154.20-258;
- 11 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 12 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 13 (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
- 14 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 15 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 16 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 17 (p) The clean coal incentive credit permitted by KRS 141.428;
- 18 (q) The ethanol credit permitted by KRS 141.4242;
- 19 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 20 (s) The energy efficiency credits permitted by KRS 141.436;
- 21 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 22 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 23 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 24 (w) The food donation credit permitted by KRS 141.392;
- 25 (x) The distilled spirits credit permitted by KRS 141.389; and
- 26 (y) The angel investor credit permitted by KRS 141.396.
- 27 (2) After the application of the nonrefundable credits in subsection (1) of this section,

1 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
2 shall be taken in the following order:

- 3 (a) The individual credits permitted by KRS 141.020(3);
- 4 (b) The credit permitted by KRS 141.066;
- 5 (c) The tuition credit permitted by KRS 141.069;
- 6 (d) The household and dependent care credit permitted by KRS 141.067;~~and~~
- 7 (e) The new home credit permitted by KRS 141.388; and
- 8 (f) The qualified conservation contribution credit permitted by Section 1 of this
9 Act.

10 (3) After the application of the nonrefundable credits provided for in subsection (2) of
11 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
12 taken in the following order:

- 13 (a) The individual withholding tax credit permitted by KRS 141.350;
- 14 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 15 (c) For taxable years beginning after December 31, 2004, and before January 1,
16 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
- 17 (d) The certified rehabilitation credit permitted by KRS 171.3961 and
18 171.397(1)(b); and
- 19 (e) The film industry tax credit permitted~~allowed~~ by KRS 141.383.

20 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
21 tax imposed by KRS 141.040.

22 (5) The following nonrefundable credits shall be applied against the sum of the tax
23 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
24 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 25 (a) The economic development credits computed under KRS 141.347, 141.381,
26 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-
27 2088, and 154.27-080;

- 1 (b) The qualified farming operation credit permitted by KRS 141.412;
- 2 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 3 (d) The health insurance credit permitted by KRS 141.062;
- 4 (e) The unemployment credit permitted by KRS 141.065;
- 5 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 6 (g) The coal conversion credit permitted by KRS 141.041;
- 7 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 8 ending prior to January 1, 2008;
- 9 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 10 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 11 154.20-258;
- 12 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 13 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 14 (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
- 15 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 16 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 17 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 18 (p) The clean coal incentive credit permitted by KRS 141.428;
- 19 (q) The ethanol credit permitted by KRS 141.4242;
- 20 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 21 (s) The energy efficiency credits permitted by KRS 141.436;
- 22 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 23 permitted by KRS 141.437;
- 24 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 25 (v) The railroad expansion credit permitted by KRS 141.386;
- 26 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 27 (x) The New Markets Development Program credit permitted by KRS 141.434;

1 (y) The food donation credit permitted by KRS 141.392;~~and~~

2 (z) The distilled spirits credit permitted by KRS 141.389; **and**

3 **(aa) The qualified conservation contribution credit permitted by Section 1 of this**
 4 **Act.**

5 (6) After the application of the nonrefundable credits in subsection (5) of this section,
 6 the refundable credits shall be taken in the following order:

7 (a) The corporation estimated tax payment credit permitted by KRS 141.044;

8 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
 9 171.397(1)(b); and

10 (c) The film industry tax credit **permitted by**~~allowed in~~ KRS 141.383.

11 ➔Section 3. KRS 146.560 is amended to read as follows:

12 (1) There is hereby established a Kentucky Heritage Land Conservation Fund Board,
 13 referred to hereafter as "the board", which shall administer the Kentucky Heritage
 14 Land Conservation fund established in KRS 146.570 and shall review and approve
 15 all grants payable from the fund. The board shall consist of the following members:

16 (a) The commissioner of the Department of Parks or a designee;

17 (b) The director of the Kentucky Nature Preserves Commission or a designee;

18 (c) The commissioner of the Department for Natural Resources or a designee;

19 (d) The commissioner of the Department of Fish and Wildlife Resources or a
 20 designee;

21 (e) The chairperson of the Kentucky Environmental Education Council or a
 22 designee;

23 (f) One (1) person appointed by the Governor, from two (2) persons nominated
 24 by the Kentucky Chapter of the Nature Conservancy;

25 (g) One (1) person appointed by the Governor, from two (2) persons nominated
 26 by the League of Kentucky Sportsmen;

27 (h) Two (2) persons appointed by the Governor, from four (4) persons recognized

1 for their expertise in natural resource issues and nominated by the Kentucky
2 Academy of Sciences;

3 (i) One (1) person appointed by the Governor, from three (3) persons nominated,
4 one (1) by the Kentucky Farm Bureau, one (1) by the Commissioner of the
5 Department of Agriculture, and one (1) by the Kentucky Association of
6 Conservation Districts;

7 (j) One (1) person appointed by the Governor, from three (3) persons nominated,
8 one (1) by the Kentucky Audubon Council, one (1) by the Cumberland
9 Chapter of the Sierra Club, and one (1) by the Kentucky Conservation
10 Committee; and

11 (k) One (1) person appointed by the Governor with at least five (5) years of
12 experience in natural resources land acquisition.

13 The board shall receive staff support from the Energy and Environment Cabinet and
14 the Department of Fish and Wildlife Resources. Of the seven (7) members
15 identified in paragraphs (f) to (k) of this subsection and first appointed, two (2) shall
16 continue in office for terms of one (1) year, two (2) for terms of two (2) years, and
17 three (3) for terms of three (3) years, as the Governor designates. At the expiration
18 of the original terms and for all succeeding terms, the Governor shall appoint a
19 successor to the board for a term of three (3) years in each case. Members may be
20 reappointed. A vacancy in an unexpired term shall be filled for the unexpired
21 portion of the term in the same manner as the original appointment to that term. The
22 Governor shall appoint a chairperson for the board.

23 (2) The board shall promulgate in accordance with the provisions of KRS Chapter 13A
24 administrative regulations as are deemed necessary for application for funds from
25 the agencies and private, nonprofit land trust organizations identified in KRS
26 146.570, review and approval of proposed projects, and review and approval of
27 grants. Grants shall be made in amounts, for purposes, and to the agencies and

1 private, nonprofit land trust organizations identified in KRS 146.570 as meet the
2 priorities for acquisition which are:

- 3 (a) Natural areas that possess unique features such as habitat for rare and
4 endangered species;
- 5 (b) Areas important to migratory birds;
- 6 (c) Areas that perform important natural functions that are subject to alteration or
7 loss; or
- 8 (d) Areas to be preserved in their natural state for public use, outdoor recreation
9 and education.

10 The board shall promulgate administrative regulations in accordance with the
11 provisions of KRS Chapter 13A on acquisition based on these priorities and
12 property costs seeking to maximize the greatest public benefit by taking advantage
13 of those priority areas available below fair market value and where public or private
14 funds are available on a matching basis. Additionally, private, nonprofit land trust
15 organizations, in order to be eligible to receive grants, shall match dollar-for-dollar
16 any funds approved by the board. The board shall expend the whole or any part of
17 the principal and interest as needed. KRS 146.550 to 146.570 shall not allow the use
18 of condemnation powers and shall only allow acquisition of land from willing
19 sellers.

20 **(3) The board, pursuant to Section 1 of this Act and in conjunction with the**
21 **Purchase of Agricultural Conservation Easements Corporation established in**
22 **KRS 262.906, shall assist the Department of Revenue in evaluating and**
23 **approving applications for the qualified conservation contribution credit**
24 **permitted by Section 1 of this Act.**

25 ➔Section 4. KRS 262.908 is amended to read as follows:

- 26 (1) The PACE board shall have the following responsibilities:
- 27 (a) Implementing a Purchase of Agricultural Conservation Easement Program in

1 the Commonwealth as provided by this section, including the development
2 and promulgation of any administrative regulations required;

3 (b) Making decisions in connection with each specific easement purchase to be
4 made with Commonwealth funds from the agricultural enhancement fund;

5 (c) Evaluating, as necessary, potential sites within the Commonwealth on which
6 agricultural conservation easements or other property interests are to be
7 acquired, applying the criteria set forth in this section and administrative
8 regulations; and

9 (d) Employing the staff necessary to implement the provisions of this section.

10 (2) (a) The PACE board shall establish fair, equitable, objective, nondiscriminatory
11 procedures for determining easement purchase priorities.

12 (b) The board shall promulgate administrative regulations establishing policies
13 and procedures for determining easement purchase priorities and for
14 purchasing easements.

15 (c) The program criteria shall be designed to ensure that land is selected for
16 easement purchase because it will make a significant contribution to
17 agricultural production.

18 **(3) The board, pursuant to Section 1 of this Act and in conjunction with the**
19 **Kentucky Heritage Land Conservation Fund Board established in Section 3 of**
20 **this Act, shall assist the Department of Revenue in evaluating and approving**
21 **applications for the qualified conservation contribution credit permitted by**
22 **Section 1 of this Act.**

23 ➔Section 5. KRS 131.190 is amended to read as follows:

24 (1)~~[(a)]~~ No present or former commissioner or employee of the department ~~[of~~
25 ~~Revenue]~~, present or former member of a county board of assessment appeals,
26 present or former property valuation administrator or employee, present or former
27 secretary or employee of the Finance and Administration Cabinet, former secretary

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

7 ~~(2)(b)~~ The prohibition established by subsection (1)~~paragraph (a)~~ of this section
8 shall~~subsection does~~ not extend to:

9 (a)~~1.~~ Information required in prosecutions for making false reports or returns
10 of property for taxation, or any other infraction of the tax laws;

11 (b)~~2.~~ Any matter properly entered upon any assessment record, or in any way
12 made a matter of public record;

13 (c)~~3.~~ Furnishing any taxpayer or his properly authorized agent with
14 information respecting his own return;

15 (d)~~4.~~ Testimony provided by the commissioner or any employee of the
16 department~~of Revenue~~ in any court, or the introduction as evidence of
17 returns or reports filed with the department, in an action for violation of state
18 or federal tax laws or in any action challenging state or federal tax laws;

19 (e)~~5.~~ Providing an owner of unmined coal, oil or gas reserves, and other
20 mineral or energy resources assessed under KRS 132.820~~(1)~~, or owners of
21 surface land under which the unmined minerals lie, factual information about
22 the owner's property derived from third-party returns filed for that owner's
23 property, under the provisions of KRS 132.820~~(2)~~, that is used to determine
24 the owner's assessment. This information shall be provided to the owner on a
25 confidential basis, and the owner shall be subject to the penalties provided in
26 KRS 131.990(2). The third-party filer shall be given prior notice of any
27 disclosure of information to the owner that was provided by the third-party

1 filer;

2 ~~(f)~~^[6.] 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~~[(1)]~~. The department
6 may promulgate an administrative regulation establishing a fee schedule for
7 the provision of the information described in this ~~paragraph~~^[subparagraph].
8 Any fee imposed shall not exceed the greater of the actual cost of providing
9 the information or ten dollars (\$10);~~or~~

10 ~~(g)~~^[7.] Providing information to a licensing agency, the Transportation Cabinet,
11 or 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) Statistics of crude oil reported to the department under the crude oil excise*
15 *tax requirements of KRS Chapter 137;*

16 *(j) Statistics of natural gas production reported to the department under the*
17 *natural resources severance tax requirements of KRS Chapter 143A;*

18 *(k) Those portions of mine maps submitted by taxpayers to the department*
19 *pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the*
20 *boundaries of mined-out parcel areas. These electronic maps shall not be*
21 *relied upon to determine actual boundaries of mined-out parcel areas.*
22 *Property boundaries contained in mine maps required under KRS Chapters*
23 *350 and 352 shall not be construed to constitute land surveying or boundary*
24 *surveys defined by KRS 322.010 and any administrative regulations;*

25 *(l) Providing to other state agencies the report, filed with the department by an*
26 *employer, listing the policy number and the name and address of the*
27 *employer's workers' compensation insurance carrier under Section 6 of this*

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Act;

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(m) The name and address of a cigarette stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor provided by Section 7 of this Act;

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(n) A list of taxpayers that owe delinquent taxes or fees administered by the department provided by Section 8 of this Act;

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(o) Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis;

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(p) Information made available by the department, for official use only and on a confidential basis, to the proper officer, agency, board, or commission of this state, any Kentucky city or county, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return; or

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(q) Providing information to the Legislative Research Commission under:

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1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;

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2. KRS 141.436 for purposes of the energy efficiency products credits;

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3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;

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4. Section 10 of this Act for purposes of the distilled spirits credit; or

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5. Section 1 of this Act for purposes of the land conservation credit.

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~~(3) [(2) — The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive~~

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1 similar or useful information in return.

2 ~~(3) Statistics of tax paid gasoline gallonage reported monthly to the department of~~
3 ~~Revenue under the gasoline excise tax law may be made public by the department.~~

4 ~~(4)~~ Access to and inspection of information received from the Internal Revenue Service
5 is for department~~[of Revenue]~~ use only, and is restricted to tax administration
6 purposes.~~[Notwithstanding the provisions of this section to the contrary,]~~
7 Information received from the Internal Revenue Service shall not be made available
8 to any other agency of state government, or any county, city, or other state, and shall
9 not be inspected intentionally and without authorization by any present secretary or
10 employee of the Finance and Administration Cabinet, commissioner or employee of
11 the department~~[of Revenue]~~, or any other person.

12 ~~[(5) Statistics of crude oil as reported to the Department of Revenue under the crude oil~~
13 ~~excise tax requirements of KRS Chapter 137 and statistics of natural gas production~~
14 ~~as reported to the Department of Revenue under the natural resources severance tax~~
15 ~~requirements of KRS Chapter 143A may be made public by the department by~~
16 ~~release to the Energy and Environment Cabinet, Department for Natural Resources.~~

17 ~~(6) Notwithstanding any provision of law to the contrary, beginning with mine map~~
18 ~~submissions for the 1989 tax year, the department may make public or divulge only~~
19 ~~those portions of mine maps submitted by taxpayers to the department pursuant to~~
20 ~~KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-~~
21 ~~out parcel areas. These electronic maps shall not be relied upon to determine actual~~
22 ~~boundaries of mined-out parcel areas. Property boundaries contained in mine maps~~
23 ~~required under KRS Chapters 350 and 352 shall not be construed to constitute land~~
24 ~~surveying or boundary surveys as defined by KRS 322.010 and any administrative~~
25 ~~regulations promulgated thereto.~~

26 ~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The~~
27 ~~department may divulge to the applicable school districts on a confidential basis any~~

1 ~~utility gross receipts license tax return information that is necessary to administer~~
2 ~~the provisions of KRS 160.613 to 160.617.]~~

3 ➔Section 6. KRS 131.135 is amended to read as follows:

4 ~~[(1)]~~Each employer subject to KRS Chapter 342 shall file annually with the
5 department~~[of Revenue]~~, in accordance with administrative regulations, a report
6 providing the policy number and the name and address of the employer's workers'
7 compensation insurance carrier.}]

8 ~~(2) The report may be made available to other state agencies notwithstanding the~~
9 ~~confidentiality provisions of KRS 131.190.]~~

10 ➔Section 7. KRS 131.618 is amended to read as follows:

11 (1) ~~[Notwithstanding KRS 131.190,]~~The commissioner is authorized to disclose to the
12 Attorney General the name and address of a stamping agent or distributor and the
13 number of sticks by brand name that have been purchased from a nonparticipating
14 manufacturer and have been stamped with Kentucky stamps by that agent or
15 distributor. The Attorney General may share this information with federal, other
16 state, or local agencies only for the purposes of enforcement of KRS 131.600 to
17 131.630 or corresponding laws of other states. The Attorney General is further
18 authorized to disclose to a nonparticipating manufacturer or its importers this
19 information that has been provided by a stamping agent regarding the purchases
20 from that nonparticipating manufacturer or its importers. This information provided
21 by a stamping agent may be used in any enforcement action against the
22 nonparticipating manufacturer or its importers by the Attorney General.

23 (2) In addition to the information required to be submitted pursuant to KRS 131.608,
24 131.614, and 131.620, the Attorney General or the commissioner may require a
25 stamping agent, distributor, participating manufacturer, nonparticipating
26 manufacturer, or a nonparticipating manufacturer's importers to submit any
27 additional information including but not limited to samples of the packaging or

1 labeling of each brand family as is necessary to enable the Attorney General to
2 determine whether the participating manufacturer or the nonparticipating
3 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

4 ➔Section 8. KRS 131.650 is amended to read as follows:

5 (1) ~~[Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to~~
6 ~~the contrary,]~~The department may publish a list or lists of taxpayers that owe
7 delinquent taxes or fees administered by the department~~[of Revenue]~~, and that meet
8 the requirements of KRS 131.652.

9 (2) For purposes of this section, a taxpayer may be included on a list if:

10 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the
11 dates they became due and payable; and

12 (b) A tax lien or judgment lien has been filed of public record against the taxpayer
13 before notice is given under KRS 131.654.

14 (3) In the case of listed taxpayers that are business entities, the department~~[of~~
15 ~~Revenue]~~ may also list the names of responsible persons assessed pursuant to KRS
16 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not
17 protected from publication by subsection (2) of this section, and for whom the
18 requirements of KRS 131.652 are satisfied with regard to the personal assessment.

19 (4) Before any list is published under this section, the department shall document that
20 each of the conditions for publication as provided in this section has been satisfied,
21 and that procedures were followed to ensure the accuracy of the list and notice was
22 given to the affected taxpayers.

23 ➔Section 9. KRS 131.990 is amended to read as follows:

24 (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board
25 of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than
26 twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

27 (2) (a) Any person who violates the intentional unauthorized inspection provisions of

- 1 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
2 imprisoned for not more than six (6) months, or both.
- 3 (b) Any person who violates the provisions of KRS 131.190(1) by divulging
4 confidential taxpayer information shall be fined not more than one thousand
5 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 6 (c) Any person who violates the intentional unauthorized inspection provisions of
7 KRS 131.190~~(3)~~~~((4))~~ shall be fined not more than one thousand dollars
8 (\$1,000) or imprisoned for not more than one (1) year, or both.
- 9 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~((4))~~ by divulging
10 confidential taxpayer information shall be fined not more than five thousand
11 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- 12 (e) Any present secretary or employee of the Finance and Administration Cabinet,
13 commissioner or employee of the department, member of a county board of
14 assessment appeals, property valuation administrator or employee, or any
15 other person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~((4))~~ may,
16 in addition to the penalties imposed under this subsection, be disqualified and
17 removed from office or employment.
- 18 (3) Any person who willfully fails to comply with the rules and regulations
19 promulgated by the department for the administration of delinquent tax collections
20 shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars
21 (\$1,000).
- 22 (4) Any person who fails to do any act required or does any act forbidden by KRS
23 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
24 dollars (\$500).
- 25 (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it
26 is shown to the satisfaction of the department that the failure is due to reasonable
27 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should

1 have been remitted under the provisions of KRS 131.155 for each failure to comply.

2 (6) (a) Any person or financial institution that fails to comply with the provisions of
3 KRS 131.672 and 131.674 within ninety (90) days after notification by the
4 department shall, unless the failure is due to reasonable cause as defined in
5 KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no
6 more than five thousand dollars (\$5,000) for each full month of
7 noncompliance. The fine shall begin on the first day of the month beginning
8 after the expiration of the ninety (90) days.

9 (b) Any financial institution that fails or refuses to comply with the provisions of
10 KRS 131.672 and 131.674 within one hundred twenty (120) days after the
11 notification by the department shall, unless the failure is due to reasonable
12 cause as defined in KRS 131.010, forfeit its right to do business within the
13 Commonwealth, unless and until the financial institution is in compliance.
14 Upon notification by the department, the commissioner of the Department of
15 Financial Institutions shall, as applicable, revoke the authority of the financial
16 institution or its agents to do business in the Commonwealth.

17 (7) Any taxpayer or tax return preparer who fails or refuses to comply with the
18 provisions of KRS 131.250 or an administrative regulation promulgated under KRS
19 131.250 shall, unless it is shown to the satisfaction of the department that the failure
20 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each
21 return not filed as required.

22 ➔Section 10. KRS 141.389 is amended to read as follows:

23 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each
24 taxpayer paying the distilled spirits ad valorem tax as follows:

25 1. For taxable years beginning on or after January 1, 2015, and before
26 December 31, 2015, the credit shall be equal to twenty percent (20%) of
27 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a

- 1 timely basis;
- 2 2. For taxable years beginning on or after January 1, 2016, and before
- 3 December 31, 2016, the credit shall be equal to forty percent (40%) of
- 4 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
- 5 timely basis;
- 6 3. For taxable years beginning on or after January 1, 2017, and before
- 7 December 31, 2017, the credit shall be equal to sixty percent (60%) of
- 8 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
- 9 timely basis;
- 10 4. For taxable years beginning on or after January 1, 2018, and before
- 11 December 31, 2018, the credit shall be equal to eighty percent (80%) of
- 12 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
- 13 timely basis; and
- 14 5. For taxable years beginning on or after January 1, 2019, the credit shall
- 15 be equal to one hundred percent (100%) of the tax assessed under KRS
- 16 132.160 and paid under KRS 132.180 on a timely basis.
- 17 (b) The credit shall be applied both to the income tax imposed under KRS
- 18 141.020 or 141.040 and to the limited liability entity tax imposed under KRS
- 19 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- 20 (2) The amount of distilled spirits credit allowed under subsection (1) of this section
- 21 shall be used only for capital improvements at the premises of the distiller licensed
- 22 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"
- 23 means any costs associated with:
- 24 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 25 (b) Purchases of barrels and pallets used for the storage and aging of distilled
- 26 spirits in maturing warehouses;
- 27 (c) Acquisition, construction, or installation of equipment for the use in the

- 1 manufacture, bottling, or shipment of distilled spirits;
- 2 (d) Addition or replacement of access roads or parking facilities; and
- 3 (e) Construction, replacement, or remodeling of facilities to market or promote
- 4 tourism, including but not limited to a visitor's center.
- 5 (3) The distilled spirits credit allowed under subsection (1) of this section:
- 6 (a) May be accumulated for multiple taxable years;
- 7 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
- 8 which the credits were used pursuant to subsection (2) of this section; and
- 9 (c) Shall not include:
- 10 1. Any delinquent tax paid to the Commonwealth; or
- 11 2. Any interest, fees, or penalty paid to the Commonwealth.
- 12 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
- 13 improvements required by subsection (2) of this section shall be completed
- 14 and specifically associated with the credit allowed on the return.
- 15 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
- 16 improvement associated with the credit is sold or otherwise disposed of prior
- 17 to the exhaustion of the useful life of the asset for Kentucky depreciation
- 18 purposes.
- 19 (c) If the allowed credit is associated with multiple capital improvements, and not
- 20 all capital improvements are sold or otherwise disposed of, the distilled spirits
- 21 credit shall be prorated based on the cost of the capital improvement sold over
- 22 the total cost of all improvements associated with the credit.
- 23 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
- 24 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
- 25 through to its members, partners, or shareholders in the same proportion as the
- 26 distributive share of income or loss is passed through.
- 27 (6) The department may promulgate an administrative regulation pursuant to KRS

1 Chapter 13A to implement the allowable credit under this section, require the filing
2 of forms designed by the department, and require specific information for the
3 evaluation of the credit taken by any taxpayer.

4 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually
5 thereafter, the department shall report to the Interim Joint Committee on
6 Appropriations and Revenue:

- 7 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
8 this section;
- 9 (b) The amount of credit taken by that taxpayer; and
- 10 (c) The type of capital improvement made for which the credit is claimed.

11 ➔Section 11. KRS 131.020 is amended to read as follows:

12 (1) The department~~[of Revenue]~~, headed by a commissioner appointed by the secretary
13 with the approval of the Governor, shall be organized into the following functional
14 units:

15 (a) Office of the Commissioner~~[of the Department of Revenue]~~, which shall
16 consist of:

- 17 1. The Division of Special Investigations, headed by a division director
18 who shall report to the commissioner. The division shall investigate
19 alleged violations of the tax laws and recommend criminal prosecution
20 of the laws as warranted; and
- 21 2. The Division of Taxpayer Ombudsman, headed by a division director
22 who is appointed by the secretary pursuant to KRS 12.050, and who
23 shall report to the commissioner. The division shall perform those duties
24 set out in KRS 131.083;

25 (b) Office of Processing and Enforcement, headed by an executive director who
26 shall report directly to the commissioner. The office shall be responsible for
27 processing documents, depositing funds, collecting debt payments, and

1 coordinating, planning, and implementing a data integrity strategy. The office
2 shall consist of the:

- 3 1. Division of Operations, which shall be responsible for opening all tax
4 returns, preparing the returns for data capture, coordinating the data
5 capture process, depositing receipts, maintaining tax data, and assisting
6 other state agencies with similar operational aspects as negotiated
7 between the department and the other agency;
- 8 2. Division of Collections, which shall be responsible for initiating all
9 collection enforcement activity related to due and owing tax
10 assessments, including protest resolution, and for assisting other state
11 agencies with similar collection aspects as negotiated between the
12 department and the other state agency;
- 13 3. Division of Registration and Data Integrity, which shall be responsible
14 for registering businesses for tax purposes, ensuring that the data entered
15 into the department's tax systems is accurate and complete, and assisting
16 the taxing areas in proper procedures to ensure the accuracy of the data
17 over time; and
- 18 4. Division of Protest Resolution, which shall be responsible for ensuring
19 an independent review of tax disputes. The division shall administer the
20 protest functions for the department from office resolution through court
21 action;

22 (c) Office of Property Valuation, ~~[- The Office of Property Valuation shall be]~~
23 headed by an executive director who shall report directly to the commissioner.
24 The office shall consist of the:

- 25 1. Division of Local Support, which shall be responsible for providing
26 supervision, assistance, and training to the property valuation
27 administrators and sheriffs within the Commonwealth;

- 1 2. Division of State Valuation, which shall be responsible for providing
2 assessments of public service companies and motor vehicles, and
3 providing assistance to property valuation administrators and sheriffs
4 with the administration of tangible and omitted property taxes within the
5 Commonwealth; and
- 6 3. Division of Minerals Taxation and Geographical Information System
7 Services, which shall be responsible for providing geographical
8 information system mapping support, ensuring proper filing of severance
9 tax returns, ensuring consistency of unmined coal assessments, and
10 gathering and providing data to properly assess minerals to the property
11 valuation administrators within the Commonwealth;
- 12 (d) Office of Sales and Excise Taxes, headed by an executive director who shall
13 report directly to the commissioner. The office shall administer all matters
14 relating to sales and use taxes and miscellaneous excise taxes, including but
15 not limited to technical tax research, compliance, taxpayer assistance, tax-
16 specific training, and publications. The office shall consist of the:
- 17 1. Division of Sales and Use Tax, which shall administer the sales and use
18 tax; and
- 19 2. Division of Miscellaneous Taxes, which shall administer various other
20 taxes, including but not limited to alcoholic beverage taxes; cigarette
21 enforcement fees, stamps, meters, and taxes; gasoline tax; bank
22 franchise tax; inheritance and estate tax; insurance premiums and
23 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and
24 special fuels taxes;
- 25 (e) Office of Income Taxation, headed by an executive director who shall report
26 directly to the commissioner. The office shall administer all matters related to
27 income and corporation license taxes, including technical tax research,

- 1 compliance, taxpayer assistance, tax-specific training, and publications. The
2 office shall consist of the:
- 3 1. Division of Individual Income Tax, which shall administer the following
4 taxes or returns: individual income, fiduciary, and employer
5 withholding; and
 - 6 2. Division of Corporation Tax, which shall administer the corporation
7 income tax, corporation license tax, pass-through entity withholding,
8 and pass-through entity reporting requirements; and
- 9 (f) Office of Field Operations, headed by an executive director who shall report
10 directly to the commissioner. The office shall manage the regional taxpayer
11 service centers and the field audit program.
- 12 (2) The functions and duties of the department shall include conducting conferences,
13 administering taxpayer protests, and settling tax controversies on a fair and
14 equitable basis, taking into consideration the hazards of litigation to the
15 Commonwealth of Kentucky and the taxpayer. The mission of the department shall
16 be to afford an opportunity for taxpayers to have an independent informal review of
17 the determinations of the audit functions of the department, and to attempt to fairly
18 and equitably resolve tax controversies at the administrative level.
- 19 (3) The department shall maintain an accounting structure for the one hundred twenty
20 (120) property valuation administrators' offices across the Commonwealth in order
21 to facilitate use of the state payroll system and the budgeting process.
- 22 (4) Except as provided in KRS 131.190(3)~~[(4)]~~, the department shall fully cooperate
23 with and make tax information available as prescribed under KRS 131.190(2)(p) to
24 the Governor's Office for Economic Analysis as necessary for the office to perform
25 the tax administration function established in KRS 42.410.
- 26 (5) Executive directors and division directors established under this section shall be
27 appointed by the secretary with the approval of the Governor.