

1 AN ACT relating to the renewable chemicals production tax credit program.

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) "Biomass feedstock" has the same meaning as in Section 4 of this Act;*

7 *(b) "Eligible business" has the same meaning as in Section 4 of this Act;*

8 *(c) "Pre-eligibility production threshold" has the same meaning as in Section 4*
9 *of this Act;*

10 *(d) "Renewable chemical" has the same meaning as in Section 4 of this Act;*
11 *and*

12 *(e) "Successful tax credit applicant" includes, with respect to each calendar*
13 *year, an eligible business that:*

14 *1. Was issued a tax credit certificate by the Department of Agriculture*
15 *for the production of renewable chemicals for the taxable year; or*

16 *2. Successfully applied for a tax credit for the production of renewable*
17 *chemicals during that calendar year, but was not issued a tax credit*
18 *and was instead placed on a wait list as provided in subsection (12) of*
19 *Section 4 of this Act.*

20 *(2) (a) An eligible business that has entered into an agreement under subsection*
21 *(8) of Section 4 of this Act, and received a tax credit certificate under*
22 *subsection (10) of Section 4 of this Act, may claim a tax credit equal to the*
23 *amount presented on the tax credit certificate.*

24 *(b) The renewable chemical production tax credit shall not be available for any*
25 *renewable chemical produced before January 1, 2020, or after December*
26 *31, 2023.*

27 *(3) (a) The renewable chemical production tax credit shall be allowed against taxes*

1 imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the
2 credits as provided in Section 2 of this Act.

3 (b) The tax credit shall be claimed for the taxable year within which the eligible
4 business was issued the tax credit certificate by the Department of
5 Agriculture.

6 (c) If the eligible business is a pass-through entity, the eligible business may
7 apply the credit against the limited liability entity tax imposed by KRS
8 141.0401, and shall pass the credit through to its members, partners, or
9 shareholders in the same proportion as the distributive share of income or
10 loss is passed through.

11 (d) Any tax credit in excess of the tax liability for the taxable year is refundable.

12 (e) Any tax credit certificate issued according to this section shall not be
13 transferred to any other person.

14 (f) 1. To claim a tax credit under this section, a taxpayer shall include the
15 tax credit certificate issued by the Department of Agriculture with the
16 taxpayer's tax return.

17 2. The tax credit certificate shall contain the taxpayer's name, address,
18 tax identification number, the amount of the credit, the name of the
19 eligible business, and any other information required by the
20 department to ensure compliance of all taxing statutes.

21 3. The Department of Agriculture and the department shall jointly
22 design the tax credit certificate.

23 (4) (a) By November 30, 2021, and by the same date each year thereafter, the
24 department, in cooperation with the Department of Agriculture, shall
25 submit to the Interim Joint Committee on Appropriations and Revenue a
26 cumulative report describing the activities of the program by taxable year.

27 (b) The report shall, at a minimum, include:

- 1 1. The aggregate number of pounds, by each type, of renewable
2 chemicals produced in this state by all successful tax credit applicants
3 during the calendar year immediately preceding the calendar year for
4 which the successful applicants first applied for a tax credit under the
5 program;
- 6 2. The aggregate number of pounds, by each type, of renewable
7 chemicals produced in this state by all successful tax credit applicants
8 during each calendar year;
- 9 3. The aggregate gross receipts from sales of all renewable chemicals
10 produced by all successful tax credit applicants in each calendar year;
- 11 4. The aggregate number of pounds, by each type, of biomass feedstock
12 used in the production of renewable chemicals in this state by all
13 successful tax credit applicants during the calendar year immediately
14 preceding the calendar year for which the successful applicants first
15 applied for a tax credit under the program;
- 16 5. The aggregate number of pounds, by each type, of biomass feedstock
17 used in the production of renewable chemicals in this state by all
18 successful tax credit applicants during each calendar year;
- 19 6. The number of employees located in this state of all successful tax
20 credit applicants during the calendar year immediately preceding the
21 calendar year for which the successful applicants first applied for a
22 tax credit under the program;
- 23 7. The number of employees located in this state of all successful tax
24 credit applicants during each calendar year that the tax credit is
25 claimed;
- 26 8. The number and aggregate amount of tax credits issued under the
27 program for each calendar year;

1 9. The number of eligible businesses placed on the wait list for each
 2 calendar year, and the total number of eligible businesses remaining
 3 on the wait list at the end of that calendar year;

4 10. The dollar amount of pending tax credits placed on the wait list for
 5 each calendar year, and the total dollar amount of pending tax credits
 6 remaining on the wait list at the end of that calendar year; and

7 11. For each eligible business issued a renewable chemical production tax
 8 credit during each taxable year:

9 a. The name of the eligible business;

10 b. The county within which the eligible business is producing the
 11 renewable chemical;

12 c. The amount of the tax credit claimed by the eligible business;

13 d. The manner in which the eligible business first qualified as an
 14 eligible business, whether by organizing, expanding, or locating
 15 in this state;

16 e. The amount of renewable chemical production tax credit
 17 claimed during each taxable year, and the portion of the claim
 18 issued as a refund; and

19 f. The repayment of incentives by the business if the business does
 20 not meet the requirements of the agreement.

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

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

25 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 26 141.020 shall be taken in the following order:

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

- 1 (b) The economic development credits computed under KRS 141.347, 141.381,
2 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
3 154.12-2088;
- 4 (c) The qualified farming operation credit permitted by KRS 141.412;
- 5 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 6 (e) The health insurance credit permitted by KRS 141.062;
- 7 (f) The tax paid to other states credit permitted by KRS 141.070;
- 8 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 9 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 10 (i) The tax credit for cash contributions in investment funds permitted by KRS
11 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
12 154.20-258;
- 13 (j) The research facilities credit permitted by KRS 141.395;
- 14 (k) The employer High School Equivalency Diploma program incentive credit
15 permitted under KRS 164.0062;
- 16 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 17 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 18 (n) The clean coal incentive credit permitted by KRS 141.428;
- 19 (o) The ethanol credit permitted by KRS 141.4242;
- 20 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 21 (q) The energy efficiency credits permitted by KRS 141.436;
- 22 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 23 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 24 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 25 (u) The distilled spirits credit permitted by KRS 141.389;
- 26 (v) The angel investor credit permitted by KRS 141.396;
- 27 (w) The film industry credit permitted by KRS 141.383 for applications approved

- 1 on or after April 27, 2018; and
- 2 (x) The inventory credit permitted by KRS 141.408.
- 3 (2) After the application of the nonrefundable credits in subsection (1) of this section,
4 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
5 shall be taken in the following order:
- 6 (a) The individual credits permitted by KRS 141.020(3);
7 (b) The credit permitted by KRS 141.066;
8 (c) The tuition credit permitted by KRS 141.069; and
9 (d) The household and dependent care credit permitted by KRS 141.067.
- 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) The certified rehabilitation credit permitted by KRS 171.3961 and
16 171.397(1)(b); ~~and~~
- 17 (d) The film industry tax credit permitted by KRS 141.383 for applications
18 approved prior to April 27, 2018; and
- 19 (e) The renewable chemical production credit permitted by Section 1 of this
20 Act.
- 21 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
22 tax imposed by KRS 141.040.
- 23 (5) The following nonrefundable credits shall be applied against the sum of the tax
24 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
25 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 26 (a) The economic development credits computed under KRS 141.347, 141.381,
27 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and

- 1 154.12-2088;
- 2 (b) The qualified farming operation credit permitted by KRS 141.412;
- 3 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 4 (d) The health insurance credit permitted by KRS 141.062;
- 5 (e) The unemployment credit permitted by KRS 141.065;
- 6 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 7 (g) The coal conversion credit permitted by KRS 141.041;
- 8 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 9 ending prior to January 1, 2008;
- 10 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 11 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 12 154.20-258;
- 13 (j) The research facilities credit permitted by KRS 141.395;
- 14 (k) The employer High School Equivalency Diploma program incentive credit
- 15 permitted by KRS 164.0062;
- 16 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 17 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 18 (n) The clean coal incentive credit permitted by KRS 141.428;
- 19 (o) The ethanol credit permitted by KRS 141.4242;
- 20 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 21 (q) The energy efficiency credits permitted by KRS 141.436;
- 22 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 23 permitted by KRS 141.437;
- 24 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 25 (t) The railroad expansion credit permitted by KRS 141.386;
- 26 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 27 (v) The New Markets Development Program credit permitted by KRS 141.434;

- 1 (w) The distilled spirits credit permitted by KRS 141.389;
- 2 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 3 on or after April 27, 2018; and
- 4 (y) The inventory credit permitted by KRS 141.408.
- 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 KRS 141.383 for applications
- 11 approved prior to April 27, 2018; and
- 12 (d) The renewable chemical production credit permitted by Section 1 of this
- 13 Act.

14 ➔Section 3. KRS 131.190 is amended to read as follows:

- 15 (1) No present or former commissioner or employee of the department, present or
- 16 former member of a county board of assessment appeals, present or former property
- 17 valuation administrator or employee, present or former secretary or employee of the
- 18 Finance and Administration Cabinet, former secretary or employee of the Revenue
- 19 Cabinet, or any other person, shall intentionally and without authorization inspect or
- 20 divulge any information acquired by him of the affairs of any person, or information
- 21 regarding the tax schedules, returns, or reports required to be filed with the
- 22 department or other proper officer, or any information produced by a hearing or
- 23 investigation, insofar as the information may have to do with the affairs of the
- 24 person's business.
- 25 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 26 (a) Information required in prosecutions for making false reports or returns of
- 27 property for taxation, or any other infraction of the tax laws;

- 1 (b) Any matter properly entered upon any assessment record, or in any way made
2 a matter of public record;
- 3 (c) Furnishing any taxpayer or his properly authorized agent with information
4 respecting his own return;
- 5 (d) Testimony provided by the commissioner or any employee of the department
6 in any court, or the introduction as evidence of returns or reports filed with the
7 department, in an action for violation of state or federal tax laws or in any
8 action challenging state or federal tax laws;
- 9 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
10 energy resources assessed under KRS 132.820, or owners of surface land
11 under which the unmined minerals lie, factual information about the owner's
12 property derived from third-party returns filed for that owner's property, under
13 the provisions of KRS 132.820, that is used to determine the owner's
14 assessment. This information shall be provided to the owner on a confidential
15 basis, and the owner shall be subject to the penalties provided in KRS
16 131.990(2). The third-party filer shall be given prior notice of any disclosure
17 of information to the owner that was provided by the third-party filer;
- 18 (f) Providing to a third-party purchaser pursuant to an order entered in a
19 foreclosure action filed in a court of competent jurisdiction, factual
20 information related to the owner or lessee of coal, oil, gas reserves, or any
21 other mineral resources assessed under KRS 132.820. The department may
22 promulgate an administrative regulation establishing a fee schedule for the
23 provision of the information described in this paragraph. Any fee imposed
24 shall not exceed the greater of the actual cost of providing the information or
25 ten dollars (\$10);
- 26 (g) Providing information to a licensing agency, the Transportation Cabinet, or
27 the Kentucky Supreme Court under KRS 131.1817;

- 1 (h) Statistics of gasoline and special fuels gallonage reported to the department
2 under KRS 138.210 to 138.448;
- 3 (i) Providing any utility gross receipts license tax return information that is
4 necessary to administer the provisions of KRS 160.613 to 160.617 to
5 applicable school districts on a confidential basis; or
- 6 (j) Providing information to the Legislative Research Commission under:
- 7 1. KRS 139.519 for purposes of the sales and use tax refund on building
8 materials used for disaster recovery;
- 9 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 10 3. KRS 141.437 for purposes of the ENERGY STAR home and the
11 ENERGY STAR manufactured home credits;
- 12 4. KRS 148.544 for purposes of the film industry incentives;
- 13 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
14 tax credits and the job assessment fees;
- 15 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 16 7. KRS 141.396 for purposes of the angel investor tax credit;
- 17 8. KRS 141.389 for purposes of the distilled spirits credit;~~and~~
- 18 9. KRS 141.408 for purposes of the inventory credit; and
- 19 10. Section 1 of this Act for purposes of the renewable chemical
20 production credit.
- 21 (3) The commissioner shall make available any information for official use only and on
22 a confidential basis to the proper officer, agency, board or commission of this state,
23 any Kentucky county, any Kentucky city, any other state, or the federal government,
24 under reciprocal agreements whereby the department shall receive similar or useful
25 information in return.
- 26 (4) Access to and inspection of information received from the Internal Revenue Service
27 is for department use only, and is restricted to tax administration purposes.

1 Information received from the Internal Revenue Service shall not be made available
 2 to any other agency of state government, or any county, city, or other state, and shall
 3 not be inspected intentionally and without authorization by any present secretary or
 4 employee of the Finance and Administration Cabinet, commissioner or employee of
 5 the department, or any other person.

6 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
 7 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
 8 as reported to the Department of Revenue under the natural resources severance tax
 9 requirements of KRS Chapter 143A may be made public by the department by
 10 release to the Energy and Environment Cabinet, Department for Natural Resources.

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

20 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO
 21 READ AS FOLLOWS:

22 *As used in this section:*

23 *(1) (a) "Biobased content percentage" means, with respect to any renewable*
 24 *chemical, the amount, expressed as a percentage, of renewable organic*
 25 *material present as determined by testing representative samples using the*
 26 *American Society for Testing and Materials standard D6866;*

27 *(b) "Biomass feedstock" means sugar, polysaccharide, crude glycerin, lignin,*

1 fat, grease, or oil derived from a plant or animal, or a protein capable of
2 being converted to a building block chemical by means of a biological or
3 chemical conversion process;

4 (c) "Building block chemical" means a molecule converted from biomass
5 feedstock as a first product or a secondarily derived product that can be
6 further refined into a higher-value chemical, material, or consumer product
7 and includes:

8 1. 3-hydroxybutyrolactone;

9 2. 3-hydroxypropionate;

10 3. 5-hydroxymethylfurfural;

11 4. Acetoin;

12 5. Aconitic acid;

13 6. Arabitol;

14 7. Arabonic acid;

15 8. Aspartic acid;

16 9. Butyric acid;

17 10. Citric acid;

18 11. Erythronic acid;

19 12. Ferulic acid;

20 13. Fumaric acid;

21 14. Furfural;

22 15. Gallic acid;

23 16. Glucaric acid;

24 17. Gluconic acid;

25 18. Glutamic acid;

26 19. Glyceric acid;

27 20. Glycolic acid;

- 1 21. High-purity glycerol;
2 22. Itaconic acid;
3 23. Lactic acid;
4 24. Lauric acid;
5 25. Levulinic acid;
6 26. Lysine;
7 27. Malic acid;
8 28. Malonic acid;
9 29. Methanoic or formic acid;
10 30. Nonfuel butanol;
11 31. Nonfuel ethanol;
12 32. Oleic acid;
13 33. Propionic acid;
14 34. Serine;
15 35. Sorbitol;
16 36. Succinic acid;
17 37. Threonine;
18 38. Xylaric acid;
19 39. Xylitol;
20 40. Xylonic acid; or
21 41. Any additional molecules included in an administrative regulation
22 promulgated by the department;
23 (d) "Crude glycerin" means glycerin with a purity level below ninety-five
24 percent (95%);
25 (e) "Eligible business" means a business meeting the requirements of
26 subsection (3) of this section;
27 (f) "Food additive" means a building block chemical that is not primarily

1 consumed as food but which, when combined with other components,
2 improves the taste, appearance, odor, texture, or nutritional content of food.
3 The department, in its discretion, shall determine whether a building block
4 chemical is primarily consumed as food;

5 (g) "High-purity glycerol" means glycerol with a purity level of ninety-five
6 percent (95%) or higher;

7 (h) "Pre-eligibility production threshold" means, with respect to each eligible
8 business, the number of pounds of renewable chemicals produced, if any, by
9 an eligible business during the calendar year immediately preceding the
10 calendar year in which the business first qualified as an eligible business,
11 as certified under subsection (5) of this section;

12 (i) "Program" means the renewable chemical production tax credit program
13 administered under this section;

14 (j) 1. "Renewable chemical" means:

15 a. A building block chemical with a biobased content percentage of
16 at least fifty percent (50%) and includes:

17 i. Cellulosic ethanol;

18 ii. Starch ethanol; or

19 iii. Other ethanol derived from biomass feedstock, fatty acid
20 methyl esters, or butanol;

21 but only to the extent that the molecules are produced and sold
22 for uses other than food, feed, or fuel;

23 b. A building block chemical that can be a food additive as long as
24 the building block chemical is not primarily consumed as food
25 and is also sold for uses other than food; or

26 c. Supplements, vitamins, nutraceuticals, and pharmaceuticals, but
27 only to the extent that the molecules do not provide caloric value

- 1 so as to be considered sustenance as food or feed;but
- 2 2. "Renewable chemical" does not include a chemical sold or used for
- 3 the production of food, feed, or fuel; and
- 4 (k) "Sugar" means the organic compound glucose, fructose, xylose, arabinose,
- 5 lactose, sucrose, starch, cellulose, or hemicellulose.
- 6 (2) (a) The department shall create and administer the renewable chemical
- 7 production tax credit program by promulgating administrative regulations
- 8 under KRS Chapter 13A.
- 9 (b) The department may consult with the chemical engineering departments of
- 10 the University of Louisville or the University of Kentucky to create and
- 11 administer the renewable chemical production tax credit program.
- 12 (3) To be eligible to receive the renewable chemical production tax credit under
- 13 Section 1 of this Act, a business shall:
- 14 (a) Be physically located in this state;
- 15 (b) Operate for profit and under single management;
- 16 (c) Not provide professional services, health care services, or medical
- 17 treatments or engage in retail operations;
- 18 (d) Organize, expand, or locate in this state on or after April 1, 2019;
- 19 (e) 1. Create new jobs and retain those jobs for at least four (4) years; or
- 20 2. Invest a substantial amount of new capital in the Commonwealth and
- 21 maintain that capital for at least four (4) years;
- 22 (f) Not relocate operations from another area of the state or reduce operations
- 23 in another area of the state while seeking this incentive. To determine
- 24 whether a project meets the requirement under this paragraph, the
- 25 department shall:
- 26 1. Consider a project that does not create new jobs or invest a substantial
- 27 amount of new capital a relocation or reduction in operations; and

1 2. Require sufficient data from the business related to jobs created and
2 the amount of substantial capital investment before the business
3 applies for this incentive and for four (4) years following the approval
4 of this incentive to ensure that new jobs or substantial capital
5 investment have occurred and remain productive in this state; and

6 (g) Certify:

7 1. That the business:

8 a. Has not applied for and will not receive economic development
9 incentives under KRS Chapter 154 for the jobs created, capital
10 investment made, or taxable year for which this tax credit is
11 claimed; and

12 b. Is in compliance with all agreements entered into under this
13 program or other programs administered by the department; and

14 2. To the department the date that the business first qualified as an
15 eligible business.

16 (4) The business shall not receive a tax credit for renewable chemicals produced
17 before the date the business first qualified as an eligible business.

18 (5) Upon certification that the business is qualified as an eligible business, the
19 eligible business may apply to the department for participation in the program
20 and approval for the tax credit permitted by Section 1 of this Act, if the eligible
21 business produces a renewable chemical in this state from biomass feedstock
22 during a calendar year.

23 (6) (a) An eligible business shall apply for participation in the program. The
24 application shall be made to the department, in the manner prescribed by
25 the department. The application shall be made during the calendar year
26 immediately following the calendar year in which the renewable chemicals
27 are produced.

- 1 **(b) The application shall include the following information:**
- 2 **1. A description of the renewable chemicals produced in this state;**
- 3 **2. The amount of renewable chemicals produced in the immediately**
- 4 **preceding calendar year;**
- 5 **3. The amount of renewable chemicals produced in this state from**
- 6 **biomass feedstock by the eligible business during the calendar year,**
- 7 **measured in pounds; and**
- 8 **4. Any other information required by the department in order to establish**
- 9 **and verify eligibility under the program.**
- 10 **(c) The department may accept applications on a continuous basis or may**
- 11 **establish, by administrative regulation, an annual application deadline.**
- 12 **(7) The department may impose:**
- 13 **(a) A nonrefundable compliance cost fee of five hundred dollars (\$500),**
- 14 **collected by the department at the time a business applies for participation**
- 15 **in the program under subsection (5) of this section; and**
- 16 **(b) A nonrefundable fee equal to one-half of one percent (0.5%) of the total tax**
- 17 **credit approved by the department, collected by the department prior to the**
- 18 **issuance of the tax certificate under subsection (10) of this section.**
- 19 **(8) (a) Before being approved for the tax credit permitted by Section 1 of this Act,**
- 20 **an eligible business shall enter into an agreement with the department for**
- 21 **the successful completion of all requirements of the program.**
- 22 **(b) As part of the agreement, the eligible business shall agree to collect and**
- 23 **provide all information required by the department, allowing the**
- 24 **department and the Department of Revenue to fulfill each of the reporting**
- 25 **obligations under this section and Section 1 of this Act.**
- 26 **(9) (a) An eligible business shall fulfill all the requirements of the program and the**
- 27 **agreement before receiving a tax credit or entering into a subsequent**

1 agreement under this section.

2 (b) The department may decline to enter into a subsequent agreement under
3 this section or issue a tax credit certificate if an agreement is not
4 successfully fulfilled.

5 (10) (a) Upon establishing that all requirements of the program and the agreement
6 have been fulfilled, the department shall issue a tax credit certificate to the
7 successful tax credit applicant stating the amount of renewable chemical
8 production tax credit that may claimed.

9 (b) The department shall work with the Department of Revenue to provide all
10 information necessary to ensure compliance with KRS Chapter 141 by the
11 successful tax credit applicant.

12 (11) (a) The maximum amount of tax credits issued under this section shall not
13 exceed ten million dollars (\$10,000,000) for each calendar year, beginning
14 on January 1, 2020, and ending on December 31, 2023.

15 (b) The department shall issue tax credit certificates under the program on a
16 first-come, first-served basis.

17 (c) The maximum amount of tax credit that may be issued under this section to
18 an eligible business for the production of renewable chemicals in a
19 calendar year shall not exceed:

20 1. In the case of an eligible business that has been in operation in the
21 state for five (5) years or less at the time of application, one million
22 dollars (\$1,000,000); or

23 2. In the case of an eligible business that has been in operation in the
24 state for more than five (5) years at the time of application, five
25 hundred thousand dollars (\$500,000).

26 (d) The tax credit shall be an amount equal to the product of five cents (\$0.05)
27 multiplied by the number of pounds of renewable chemicals produced in

1 this state from biomass feedstock by the eligible business during the
2 calendar year in excess of the eligible business's pre-eligibility production
3 threshold.

4 (e) An eligible business shall:

5 1. Only receive a tax credit for renewable chemicals produced in a
6 calendar year to the extent the production exceeds the eligible
7 business's pre-eligibility production threshold;

8 2. Not receive a tax credit for the production of a secondarily derived
9 building block chemical if that chemical is also the subject of a credit
10 at the time of production as a first product; and

11 3. Not receive a tax credit for more than two (2) calendar years of
12 production under the program.

13 (12) (a) The department shall maintain a list of successful applicants under the
14 program, so that if the maximum aggregate amount of tax credits is reached
15 in a given calendar year, eligible businesses that successfully applied but for
16 which tax credits were not issued shall be placed on a wait list in the order
17 the eligible businesses applied and shall be given priority for receiving tax
18 credits in succeeding fiscal years.

19 (b) Placement on a wait list shall not constitute a promise binding the
20 Commonwealth.

21 (c) The availability of a tax credit and issuance of a tax credit certificate in a
22 future calendar year is contingent upon the availability of tax credits in that
23 particular calendar year.

24 (13) (a) The failure by an eligible business to fulfill any requirement of the program
25 or any of the terms and obligations of an agreement entered into under this
26 section shall:

27 1. Result in the rescission of the tax credit permitted by Section 1 of this

- 1 Act by the department; and
- 2 2. Subject the eligible business to the repayment of any tax credits
- 3 claimed.
- 4 (b) The repayment of any tax credits claimed under this subsection shall be:
- 5 1. Considered a tax payment due and payable to the Kentucky State
- 6 Treasurer; and
- 7 2. Collected by the Department of Revenue in the same manner as
- 8 failure to pay the tax shown due or required to be shown due with the
- 9 filing of a return.
- 10 (c) The department shall report to the Department of Revenue within thirty (30)
- 11 days of the rescission of the tax credit all information necessary by the
- 12 Department of Revenue to ensure compliance with KRS Chapter 141.