

1 AN ACT relating to the community investment tax credit.

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) "Community development financial institution" means a financial
7 institution that is certified by the United States Department of the
8 Treasury's community development financial institutions fund;

9 (b) "Qualified loan" means a loan that is at least two percent (2%) below the
10 prime rate, as published by the Wall Street Journal at the time the loan is
11 approved, that does not qualify as a qualified low-rate loan;

12 (c) "Qualified long-term investment" means an equity investment made for a
13 period of more than five (5) years; and

14 (d) "Qualified low-rate loan" means a loan that is at least four percent (4%)
15 below the prime rate, as published by the Wall Street Journal at the time the
16 loan is approved.

17 (2) (a) For taxable years beginning on or after January 1, 2021, but before
18 January 1, 2025, the department may award a nonrefundable,
19 nontransferrable community investment credit to a financial institution.

20 (b) The credit may be applied to the taxes imposed in KRS 141.020 or KRS
21 141.040 and KRS 141.0401, with the ordering of the credits under Section 2
22 of this Act.

23 (c) The department shall not award an aggregate amount of tax credits which
24 would exceed twenty million dollars (\$20,000,000) in any year, if all
25 taxpayers claimed the allowable amount each year.

26 (d) The amount of credit awarded to a financial institution shall be in an
27 amount equal to:

1 information on a cumulative basis for each taxable year to provide a
2 historical impact of the tax credit to the Commonwealth:

3 1. The name and location, by county, of each financial institution
4 claiming a credit;

5 2. The amount of credit claimed by the financial institution, whether the
6 credit was a result of paragraph (d)1. a. or b. of subsection (2) of this
7 section, paragraph (d)2. a. or b. of subsection (2) of this section, or
8 both, and if multiple results apply, the amount of credit for each
9 result;

10 3. The amount of credit carried forward by the financial institution;

11 4. A list of the community development financial institutions that were
12 issued a loan and the location, by county, of the community
13 development financial institutions; and

14 5. Based on ranges of net income no larger than fifty thousand dollars
15 (\$50,000) for the taxable year, the total amount of tax credit claimed
16 and the number of returns claiming a tax credit for each net income
17 range.

18 (b) The report required by paragraph (a) of this subsection shall be submitted
19 to the Interim Joint Committee on Appropriations and Revenue beginning
20 no later than November 1, 2022, and no later than each November 1
21 thereafter, as long as the credit is claimed on any return processed by the
22 department.

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

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

27 (1) The nonrefundable business incentive credits against the tax imposed by KRS

- 1 141.020 shall be taken in the following order:
- 2 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 3 (b) The economic development credits computed under KRS 141.347, 141.381,
4 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
5 154.12-2088;
- 6 (c) The qualified farming operation credit permitted by KRS 141.412;
- 7 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 8 (e) The health insurance credit permitted by KRS 141.062;
- 9 (f) The tax paid to other states credit permitted by KRS 141.070;
- 10 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 11 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 12 (i) The tax credit for cash contributions in investment funds permitted by KRS
13 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
14 154.20-258;
- 15 (j) The research facilities credit permitted by KRS 141.395;
- 16 (k) The employer High School Equivalency Diploma program incentive credit
17 permitted under KRS 151B.402;
- 18 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 19 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 20 (n) The clean coal incentive credit permitted by KRS 141.428;
- 21 (o) The ethanol credit permitted by KRS 141.4242;
- 22 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 23 (q) The energy efficiency credits permitted by KRS 141.436;
- 24 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 25 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 26 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 27 (u) The distilled spirits credit permitted by KRS 141.389;

- 1 (v) The angel investor credit permitted by KRS 141.396;
- 2 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 3 on or after April 27, 2018;~~and~~
- 4 (x) The inventory credit permitted by KRS 141.408; ***and***
- 5 ***(y) The community investment credit permitted by Section 1 of this Act.***
- 6 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 7 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 8 shall be taken in the following order:
- 9 (a) The individual credits permitted by KRS 141.020(3);
- 10 (b) The credit permitted by KRS 141.066;
- 11 (c) The tuition credit permitted by KRS 141.069;
- 12 (d) The household and dependent care credit permitted by KRS 141.067; and
- 13 (e) The income gap credit permitted by KRS 141.066.
- 14 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 15 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 16 taken in the following order:
- 17 (a) The individual withholding tax credit permitted by KRS 141.350;
- 18 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 19 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
- 20 171.397(1)(b); and
- 21 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 22 approved prior to April 27, 2018.
- 23 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 24 tax imposed by KRS 141.040.
- 25 (5) The following nonrefundable credits shall be applied against the sum of the tax
- 26 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
- 27 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 1 (a) 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 (b) The qualified farming operation credit permitted by KRS 141.412;
- 5 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 6 (d) The health insurance credit permitted by KRS 141.062;
- 7 (e) The unemployment credit permitted by KRS 141.065;
- 8 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 9 (g) The coal conversion credit permitted by KRS 141.041;
- 10 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
11 ending prior to January 1, 2008;
- 12 (i) The tax credit for cash contributions to investment funds permitted by KRS
13 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
14 154.20-258;
- 15 (j) The research facilities credit permitted by KRS 141.395;
- 16 (k) The employer High School Equivalency Diploma program incentive credit
17 permitted by KRS 151B.402;
- 18 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 19 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 20 (n) The clean coal incentive credit permitted by KRS 141.428;
- 21 (o) The ethanol credit permitted by KRS 141.4242;
- 22 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 23 (q) The energy efficiency credits permitted by KRS 141.436;
- 24 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
25 permitted by KRS 141.437;
- 26 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 27 (t) The railroad expansion credit permitted by KRS 141.386;

- 1 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 2 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 3 (w) The distilled spirits credit permitted by KRS 141.389;
- 4 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 5 on or after April 27, 2018;~~and~~
- 6 (y) The inventory credit permitted by KRS 141.408; ***and***
- 7 ***(z) The community investment credit permitted by Section 1 of this Act.***
- 8 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 9 the refundable credits shall be taken in the following order:
- 10 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 11 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 12 171.397(1)(b); and
- 13 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 14 approved prior to April 27, 2018.
- 15 ➔Section 3. KRS 131.190 is amended to read as follows:
- 16 (1) No present or former commissioner or employee of the department, present or
- 17 former member of a county board of assessment appeals, present or former property
- 18 valuation administrator or employee, present or former secretary or employee of the
- 19 Finance and Administration Cabinet, former secretary or employee of the Revenue
- 20 Cabinet, or any other person, shall intentionally and without authorization inspect or
- 21 divulge any information acquired by him of the affairs of any person, or information
- 22 regarding the tax schedules, returns, or reports required to be filed with the
- 23 department or other proper officer, or any information produced by a hearing or
- 24 investigation, insofar as the information may have to do with the affairs of the
- 25 person's business.
- 26 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 27 (a) Information required in prosecutions for making false reports or returns of

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

- 1 the Kentucky Supreme Court under KRS 131.1817;
- 2 (h) Statistics of gasoline and special fuels gallonage reported to the department
3 under KRS 138.210 to 138.448;
- 4 (i) Providing any utility gross receipts license tax return information that is
5 necessary to administer the provisions of KRS 160.613 to 160.617 to
6 applicable school districts on a confidential basis;
- 7 (j) Providing documents, data, or other information to a third party pursuant to an
8 order issued by a court of competent jurisdiction; or
- 9 (k) Providing information to the Legislative Research Commission under:
- 10 1. KRS 139.519 for purposes of the sales and use tax refund on building
11 materials used for disaster recovery;
- 12 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 13 3. KRS 141.437 for purposes of the ENERGY STAR home and the
14 ENERGY STAR manufactured home credits;
- 15 4. KRS 148.544 for purposes of the film industry incentives;
- 16 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
17 tax credits and the job assessment fees;
- 18 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 19 7. KRS 141.396 for purposes of the angel investor tax credit;
- 20 8. KRS 141.389 for purposes of the distilled spirits credit;
- 21 9. KRS 141.408 for purposes of the inventory credit; ~~and~~
- 22 10. KRS 141.390 for purposes of the recycling and composting credit; ***and***
- 23 ***11. Section 1 of this Act for purposes of the community investment credit.***
- 24 (3) The commissioner shall make available any information for official use only and on
25 a confidential basis to the proper officer, agency, board or commission of this state,
26 any Kentucky county, any Kentucky city, any other state, or the federal government,
27 under reciprocal agreements whereby the department shall receive similar or useful

1 information in return.

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

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

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