

## CHAPTER 212

## ( HB 8 )

AN ACT relating to revenue measures and declaring an emergency.

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

➔Section 1. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his *or her* entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2) (a) *As used in this subsection:*
  1. *"Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:*
    - a. *The amount of moneys in the fund at the end of a fiscal year;*
    - b. *All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and*
    - c. *All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;*
  2. *"GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:*
    - a. *Any appropriation to the budget reserve trust fund; and*
    - b. *Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or 161.550, as applicable;*
  3. *"GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;*
  4. *"IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate;*
  5. *"Reduction conditions" means:*
    - a. *The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and*
    - b. *GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and*
  6. *"Tax rate reduction" means the current tax rate minus five-tenths of one percent (0.5%).*
- (b)
  1. *Beginning no later than September 1, 2022, the department, with assistance from the Office of State Budget Director, shall review the reduction conditions as they apply to fiscal year 2020-2021 and make a determination if the reduction conditions have been met.*
  2. *After reviewing the reduction conditions under subparagraph 1. of this paragraph, the department shall:*
    - a. *No later than September 5, 2022, report to the Interim Joint Committee on Appropriations and Revenue:*
      - i. *Whether a tax rate reduction will occur for the taxable year beginning on January 1, 2023; and*

- ii. *The amounts associated with each item within the reduction conditions used for making that determination; and*
    - b.
      - i. *Implement the tax rate reduction for the taxable year beginning on January 1, 2023, if the reduction conditions are met; or*
      - ii. *Maintain the current tax rate, if the reduction conditions are not met.*
- (c)
  - 1. *The department shall implement an annual process to review and report future reduction conditions at the same time and in the same manner as under paragraph (b) of this subsection, except that the department shall use the next succeeding year related to the dates for review and reporting and the next succeeding fiscal year data to evaluate the reduction conditions.*
  - 2. *Notwithstanding subparagraph 1. of this paragraph, the department shall not implement an income tax rate reduction without a future action by the General Assembly.*
- (d) For taxable years beginning on or after January 1, 2018, *but before January 1, 2023*, the tax shall be five percent (5%) of net income.
- ~~(e)(b)~~ For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:
  - 1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
  - 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
  - 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
  - 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
  - 5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
  - 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
  - 1.
    - a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for an unmarried individual; and
    - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for an unmarried individual;
  - 2.
    - a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and
    - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
  - 3.
    - a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and

- b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;
- 4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
- 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
- 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
- 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer; *and*
- ~~8. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);~~
- ~~9. In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and~~
- ~~10. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.~~
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
  - 1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
  - 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.
- (c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔ Section 2. KRS 139.010 is amended to read as follows:

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

- (1) (a) "Admissions" means the fees paid for:
1. The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and
  2. The privilege of using facilities or participating in an event or activity, including but not limited to:
    - a. Bowling centers;
    - b. Skating rinks;
    - c. Health spas;
    - d. Swimming pools;
    - e. Tennis courts;
    - f. Weight training facilities;
    - g. Fitness and recreational sports centers; and
    - h. Golf courses, both public and private;

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof.
- (b) "Admissions" does not include:
1. Any fee paid to enter or participate in a fishing tournament; or
  2. Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;
- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;
- (3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) (a) ***"Cosmetic surgery services" means modifications to all areas of the head, neck and body to enhance appearance through surgical and medical techniques.***
- (b) ***"Cosmetic surgery services" does not include reconstruction of facial and body defects due to birth disorders, trauma, burns, or disease;***
- ~~(6)(5)~~ "Department" means the Department of Revenue;
- ~~(7)(6)~~ (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.
- (b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.
- (c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;
- ~~(8)(7)~~ (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.
- (b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.
- (c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;
- ~~(9)(8)~~ (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.

- (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- ~~(10)(9)~~ (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
- (b) "Digital code" shall not include a code that represents:
1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
  2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- ~~(11)(10)~~ (a) "Digital property" means any of the following which is transferred electronically:
1. Digital audio works;
  2. Digital books;
  3. Finished artwork;
  4. Digital photographs;
  5. Periodicals;
  6. Newspapers;
  7. Magazines;
  8. Video greeting cards;
  9. Audio greeting cards;
  10. Video games;
  11. Electronic games; or
  12. Any digital code related to this property.
- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- ~~(12)(11)~~ (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;
- ~~(13)(12)~~ "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;
- ~~(14)(13)~~ (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property, ~~or~~ digital property, **or real property** according to the terms of the contract ~~if:~~
- ~~1. The service contract agreement is sold or purchased on or after July 1, 2018; and~~
  - ~~2. the tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460.~~
- (b) "Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in KRS 136.602 or broadband as defined in KRS 278.5461;

- ~~(15)~~~~(14)~~ (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
1. Assemblies;
  2. Charts;
  3. Designs;
  4. Drawings;
  5. Graphs;
  6. Illustrative materials;
  7. Lettering;
  8. Mechanicals;
  9. Paintings; and
  10. Paste-ups;
- ~~(16)~~~~(15)~~ (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:
1. The retailer's cost of the tangible personal property, digital property, or services sold;
  2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
  3. Charges by the retailer for any services necessary to complete the sale;
  4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
  5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
  6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.
- (b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:
1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
  2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
  3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
  4. One (1) of the following criteria is met:
    - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
    - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or

- c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.
- (c) "Gross receipts" and "sales price" shall not include:
1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
  2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
  3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
  4. Local alcohol regulatory license fees authorized under KRS 243.075 that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- ~~(17)(16)~~ "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- ~~(18)(17)~~ "Industrial processing" includes:
- (a) Refining;
  - (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
  - (c) Mining, quarrying, fabricating, and industrial assembling;
  - (d) The processing and packaging of raw materials, in-process materials, and finished products; and
  - (e) The processing and packaging of farm and dairy products for sale;
- ~~(19)(18)~~ (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:
1. Purchase the property; or
  2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).
- (b) "Lease or rental" shall not include:
1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
  2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
  3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(20)(19)~~ (a) "Machinery for new and expanded industry" means machinery:
1. Directly used in the manufacturing or industrial processing process of:
    - a. Tangible personal property at a plant facility;

- b. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
  - c. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
2. Which is incorporated for the first time into:
- a. A plant facility established in this state; or
  - b. Licensed premises located in this state; and
3. Which does not replace machinery in the plant facility or licensed premises unless that machinery purchased to replace existing machinery:
- a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
  - b. Performs different functions;
  - c. Is used to manufacture a different product; or
  - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.
- (b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;
- ~~(21)~~~~(20)~~ "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;
- (22) "Marketing services" means developing marketing objectives and policies, sales forecasting, new product developing and pricing, licensing, and franchise planning;**
- ~~(23)~~~~(21)~~ "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell tangible personal property, digital property, or services, or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;
- ~~(24)~~~~(22)~~ (a) "Marketplace provider" means a person, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:
- 1. The person directly or indirectly:
    - a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;
    - b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;
    - c. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;
    - d. Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;
    - e. Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and



- development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;
- f. Provides or offers fulfillment or storage services for a marketplace retailer;
  - g. Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;
  - h. Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or
  - i. Brands or otherwise identifies sales as those of the marketplace provider; and
2. The person directly or indirectly:
    - a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;
    - b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;
    - c. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or
    - d. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.
- (b) "Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store;
- ~~(25)~~~~(23)~~ "Marketplace retailer" means a seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider;
- ~~(26)~~~~(24)~~ (a) "Occasional sale" includes:
1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
  2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- ~~(27)~~~~(25)~~ (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
  2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and

3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- ~~(28)~~~~(26)~~ "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- ~~(29)~~~~(27)~~ "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- (30) (a) ***"Photography and photofinishing services" means:***
1. ***The taking, developing, or printing of an original photograph; or***
  2. ***Image editing including shadow removal, tone adjustments, vertical and horizontal alignment and cropping, composite image creation, formatting, watermarking printing, and delivery of an original photograph in the form of tangible personal property, digital property, or other media.***
- (b) ***"Photography and photofinishing services" does not include photography services necessary for medical or dental health;***
- ~~(31)~~~~(28)~~ "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;
- ~~(32)~~~~(29)~~ (a) "Prewritten computer software" means:
1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;
  2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
  3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.
- (b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.
- (c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;
- (33) ***"Prewritten computer software access services" means the right of access to prewritten computer software where the object of the transaction is to use the prewritten computer software while possession of the prewritten computer software is maintained by the seller or a third party, wherever located, regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis;***
- ~~(34)~~~~(30)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
1. Tangible personal property;
  2. An extended warranty service;
  3. Digital property transferred electronically; or
  4. Services included in KRS 139.200;
- for a consideration.

- (b) "Purchase" includes:
1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
  2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
  3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;
- ~~(35)(31)~~ "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;
- ~~(36)(32)~~ "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;
- ~~(37)(33)~~ "Remote retailer" means a retailer with no physical presence in this state;
- ~~(38)(34)~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.
- (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;
- ~~(39)(35)~~ (a) "Retailer" means:
1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services in a retail sale included in KRS 139.200;
  2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;
  3. Every person making more than two (2) retail sales of tangible personal property, digital property, or services included in KRS 139.200 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
  4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property, digital property, or services sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:
- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
  - b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
  - c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.

2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.
  3. For purposes of this paragraph, "qualifying entity" means a resident:
    - a. Church;
    - b. School;
    - c. Civic club; or
    - d. Any other nonprofit charitable, religious, or educational organization;
- ~~(40)(36)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;
- ~~(41)(37)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.
- (b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;
- ~~(42)(38)~~ (a) "Sale" means:
1. The furnishing of any services included in KRS 139.200;
  2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
    - a. Tangible personal property; or
    - b. Digital property transferred electronically;
 for a consideration.
- (b) "Sale" includes but is not limited to:
1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
  2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
  3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(43)(39)~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;
- ~~(44)(40)~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property or digital property purchased from a retailer.
- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;
- ~~(45)(41)~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;
- ~~(46)(42)~~ "Taxpayer" means any person liable for tax under this chapter;

(47) *"Telemarketing services" means services provided via telephone, facsimile, electronic mail, or other modes of communications to another person, which are unsolicited by that person, for the purposes of:*

- (a) 1. *Promoting products or services;*
- 2. *Taking orders; or*
- 3. *Providing information or assistance regarding the products or services; or*
- (b) *Soliciting contributions;*

~~(48)(43)~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and

~~(49)(44)~~ (a) "Use" includes the exercise of:

- 1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property *or tangible personal property* where the right of access is granted; or
- 2. Any right or power to benefit *any services subject to tax under subsection (2)(p) to (ay) of Section 3 of this Act*~~[from extended warranty services]~~.

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

- 1. Selling tangible personal property or digital property in the regular course of business; or
- 2. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

➔Section 3. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

(1) Retail sales of:

- (a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and
- (b) Digital property regardless of whether:
  - 1. The purchaser has the right to permanently use the property;
  - 2. The purchaser's right to access or retain the property is not permanent; or
  - 3. The purchaser's right of use is conditioned upon continued payment; and

(2) The furnishing of the *following services*~~[following]~~:

- (a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;
- (b) Sewer services;
- (c) The sale of admissions, except:
  - 1. Admissions to racetracks taxed under KRS 138.480;
  - 2.~~[Admissions to historical sites exempt under KRS 139.482;~~
  - 3.~~]~~ Admissions taxed under KRS 229.031;
  - 3.~~4.]~~ Admissions that are charged by nonprofit educational, charitable, or religious institutions and for which an exemption is provided under KRS 139.495; and

- ~~4.5.1~~ Admissions that are charged by nonprofit civic, governmental, or other nonprofit organizations and for which an exemption is provided under KRS 139.498;
- (d) Prepaid calling service and prepaid wireless calling service;
  - (e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;
  - (f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:
    - 1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or
    - 2. To a seller or reseller of natural gas;
  - (g) Landscaping services, including but not limited to:
    - 1. Lawn care and maintenance services;
    - 2. Tree trimming, pruning, or removal services;
    - 3. Landscape design and installation services;
    - 4. Landscape care and maintenance services; and
    - 5. Snow plowing or removal services;
  - (h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;
  - (i) Small animal veterinary services, excluding veterinary services for equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;
  - (j) Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;
  - (k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;
  - (l) Non-coin-operated laundry and dry cleaning services;
  - (m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;
  - (n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;
  - (o) Non-medical diet and weight reducing services;
  - ~~(p) Limousine services, if a driver is provided; and~~
  - ~~(q)~~ Extended warranty services;
  - (q) **Photography and photo finishing services;**
  - (r) **Marketing services;**
  - (s) **Telemarketing services;**
  - (t) **Public opinion and research polling services;**
  - (u) **Lobbying services;**
  - (v) **Executive employee recruitment services;**
  - (w) **Web site design and development services;**
  - (x) **Web site hosting services;**
  - (y) **Facsimile transmission services;**
  - (z) **Private mailroom services, including:**
    - 1. **Presorting mail and packages by postal code;**

2. *Address barcoding;*
  3. *Tracking;*
  4. *Delivery to postal service; and*
  5. *Private mailbox rentals;*
- (aa) *Bodyguard services;*
  - (ab) *Residential and nonresidential security system monitoring services;*
  - (ac) *Private investigation services;*
  - (ad) *Process server services;*
  - (ae) *Repossession of tangible personal property services;*
  - (af) *Personal background check services;*
  - (ag) *Parking services;*
    1. *Including:*
      - a. *Valet services; and*
      - b. *The use of parking lots and parking structures; but*
    2. *Excluding any parking services at an educational institution;*
  - (ah) *Road and travel services provided by automobile clubs as defined in KRS 281.010;*
  - (ai) *Condominium time-share exchange services;*
  - (aj) *Rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events;*
  - (ak) *Social event planning and coordination services;*
  - (al) *Leisure, recreational, and athletic instructional services;*
  - (am) *Recreational camp tuition and fees;*
  - (an) *Personal fitness training services;*
  - (ao) *Massage services, except when medically necessary;*
  - (ap) *Cosmetic surgery services;*
  - (aq) *Body modification services, including tattooing, piercing, scarification, branding, tongue splitting, transdermal and subdermal implants, ear pointing, teeth pointing, and any other modifications that are not necessary for medical or dental health;*
  - (ar) *Testing services, except testing for medical, educational, or veterinary reasons;*
  - (as) *Interior decorating and design services;*
  - (at) *Household moving services;*
  - (au) *Specialized design services, including the design of clothing, costumes, fashion, furs, jewelry, shoes, textiles, and lighting;*
  - (av) *Lapidary services, including cutting, polishing, and engraving precious stones;*
  - (aw) *Labor and services to repair or maintain commercial refrigeration equipment and systems when no tangible personal property is sold in that transaction including service calls and trip charges;*
  - (ax) *Labor to repair or alter apparel, footwear, watches, or jewelry when no tangible personal property is sold in that transaction; and*
  - (ay) *Prewritten computer software access services.*

➔Section 4. KRS 139.482 is amended to read as follows:

- (1) "Historical site," as used in this section, means properties listed by the United States department of interior in the National Register as authorized by title 16, United States Code, section 470(f).
- (2) There is excluded from the computation of the amount of taxes imposed by this chapter ~~[-~~
  - ~~(a) Gross receipts from charges for admission to historical sites, operated by a nonprofit corporation, society, or organization; and~~
  - ~~(b) ]gross receipts from the sales of materials, supplies, and services to a nonprofit corporation, society, or organization to be used to restore, maintain, or operate a historical site.~~

➔Section 5. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

- (1) Tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:
  - (a) Purchased for resale according to the provisions of KRS 139.270;
  - (b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
  - (c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization;
- (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and
- (3) A service included in KRS 139.200(2)(g) to ~~(ay)~~~~{(q)}~~ unless the person takes from the purchaser a certificate to the effect that the service is:
  - (a) Purchased for resale according to KRS 139.270;
  - (b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
  - (c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.

➔Section 6. KRS 139.310 is amended to read as follows:

- (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, digital property, and *services listed under subsection (2)(p) to (ay) of Section 3 of this Act*~~extended warranty services~~ purchased for storage, use, or other consumption in this state at the rate of six percent (6%) of the sales price.
- (2) The excise tax applies to the purchase of digital property regardless of whether:
  - (a) The purchaser has the right to permanently use the goods;
  - (b) The purchaser's right to access or retain the digital property is not permanent; or
  - (c) The purchaser's right of use is conditioned upon continued payment.

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

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.
- (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:
  - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an



office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, digital property, or **any services subject to tax under subsection (2)(p) to (ay) of Section 3 of this Act**~~{an extended warranty service}~~. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property, digital property, or **any services subject to tax under subsection (2)(p) to (ay) of Section 3 of this Act**~~{an extended warranty service}~~ from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
- (e) Any retailer soliciting orders for tangible personal property, digital property, or **any services subject to tax under subsection (2)(p) to (ay) of Section 3 of this Act**~~{an extended warranty service}~~ from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;
- (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; or
- (g)
  1. Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state, including retail sales facilitated by a marketplace provider on behalf of the remote retailer, if:
    - a. The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or
    - b. The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars (\$100,000).
  2. Any remote retailer that meets either threshold provided in subparagraph 1. of this paragraph shall register for a sales and use tax permit and collect the tax imposed by KRS 139.310 from the purchaser no later than the first day of the calendar month that is at the most sixty (60) days after either threshold is reached.

➔Section 8. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
  - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

- (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;
- (4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses ***if the sewer services, water, and fuel are purchased and declared by the resident as used in his or her place of domicile.***
- (b) As used in this subsection:~~;~~
1. "Fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood; ~~and~~;
  2. ***"Place of domicile" means the place where an individual has his or her legal, true, fixed, and permanent home and principal establishment, and to which, whenever the individual is absent, the individual has the intention of returning.***
- (c) Determinations of eligibility for the exemption shall be made by the department.~~;~~
- ~~(b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:~~
- ~~1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;~~
  - ~~2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;~~
  - ~~3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.~~
- ~~If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;~~
- ~~(d)(e) The exemption shall~~ ~~not~~ apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park ***if the sewer services, water, and fuel are purchased for and declared by the Kentucky resident as used in his or her place of domicile.*** ~~other than residential classification; and~~

~~(e)~~(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entirety, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years ***if the sewer services, water, and fuel are purchased for and declared by the Kentucky resident as used in his or her place of domicile;***

(8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(9) (a) Gross receipts derived from the sale of tangible personal property, as provided in paragraph (b) of this subsection, to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of:

1. Tangible personal property at a plant facility;
2. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
3. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;

and which will be for sale.

(b) The following tangible personal property shall qualify for exemption under this subsection:

1. Materials which enter into and become an ingredient or component part of the manufactured product;
2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
  - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
  - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, and explosives. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and
  - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and
3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(c) The property described in paragraph (b) of this subsection shall be regarded as having been purchased for resale.

(d) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(e) The exemption provided in this subsection does not include repair, replacement, or spare parts;

- (10) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
  - (a) As used in this subsection:
    1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
    2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
  - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (12) Gross receipts from the sale of water used in the raising of equine as a business;
- (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.
  - (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
  - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
- (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
- (16) Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;
- (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;
- (18) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;
- (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
  - (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
  - (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
    1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or

2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- (21) Gross receipts from the collection of:
- (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
  - (b) The charge imposed by KRS 65.7629(3);
  - (c) The fee imposed by KRS 65.7634; and
  - (d) The service charge imposed by KRS 65.7636;
- (22) Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process of:
- (a) Tangible personal property at a plant facility;
  - (b) Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030; or
  - (c) Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040;

that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;

- (23) (a) For persons selling services included in KRS 139.200(2)(g) to ~~(p)~~~~(q)~~ prior to January 1, 2019, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars (\$6,000) during calendar year 2018. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
  2. All gross receipts are subject to tax in subsequent calendar years.
- (b) *For persons selling services included in subsection (2)(q) to (ay) of Section 3 of this Act prior to January 1, 2023, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars (\$6,000) during calendar year 2021. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:*
1. *All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and*
  2. *All gross receipts are subject to tax in subsequent calendar years.*
- (c) The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f); and
- (24) (a) For persons that first begin making sales of services included in KRS 139.200(2)(g) to ~~(p)~~~~(q)~~ on or after January 1, 2019, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
  2. All gross receipts are subject to tax in subsequent calendar years.
- (b) *For persons that first begin making sales of services included in subsection (2)(q) to (ay) of Section 3 of this Act on or after January 1, 2023, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:*
1. *All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and*
  2. *All gross receipts are subject to tax in subsequent calendar years.*

- (c) The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f).

➔Section 9. KRS 281.010 is amended to read as follows:

As used in this chapter:

- (1) "Automobile club" means a person that, for consideration, promises to assist its members or subscribers in matters relating to the assumption of or reimbursement of the expense or a portion thereof for towing of a motor vehicle; emergency road service; matters relating to the operation, use, and maintenance of a motor vehicle; and the supplying of services which includes, augments, or is incidental to theft or reward services, discount services, arrest bond services, lock and key services, trip interruption services, and legal fee reimbursement services in defense of traffic-related offenses;
- (2) "Automobile utility trailer" means any trailer or semitrailer designed for use with and towed behind a passenger motor vehicle;
- (3) "Automobile utility trailer certificate" means a certificate authorizing a person to engage in the business of automobile utility trailer lessor;
- (4) "Automobile utility trailer lessor" means any person operating under an automobile utility trailer certificate who is engaged in the business of leasing or renting automobile utility trailers, but shall not include the agents of such persons;
- (5) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;
- (6) "Bus" means a motor vehicle operating under a bus certificate transporting passengers for hire between points over regular routes;
- (7) "Bus certificate" means a certificate granting authority for the operation of one (1) or more buses;
- (8) "Cabinet" means the Kentucky Transportation Cabinet;
- (9) "Certificate" means a certificate of compliance issued under this chapter to motor carriers;
- (10) "Charter bus" means a motor vehicle operating under a charter bus certificate providing for-hire intrastate transportation of a group of persons who, pursuant to a common purpose under a single contract at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;
- (11) "Charter bus certificate" means a certificate granting authority for the operation of one (1) or more charter buses;
- (12) "Commissioner" means the commissioner of the Department of Vehicle Regulation;
- (13) "CTAC" means the Coordinated Transportation Advisory Committee created in KRS 281.870;
- (14) "Department" means the Department of Vehicle Regulation;
- (15) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;
- (16) "Disabled persons vehicle carrier" means a motor carrier for hire, transporting passengers including the general public who require transportation in disabled persons vehicles;
- (17) "Disabled persons vehicle" means a motor vehicle operating under a disabled persons vehicle certificate especially equipped for the transportation of passengers with disabilities in accordance with 49 C.F.R. pt. 38, and is designed or constructed with not more than fifteen (15) regular seats. It shall not mean an ambulance as defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a stretcher;
- (18) "Disabled persons vehicle certificate" means a certificate granting authority for the operation of one (1) or more disabled persons vehicles transporting passengers for hire;
- (19) "Driveaway" means the transporting and delivering of motor vehicles, except semitrailers and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount

method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for hire. "Driveaway" does not include the transportation of such vehicles by the full mount method on trailers or semitrailers;

- (20) "Driveaway certificate" means a certificate granting authority for the operation of one (1) or more motor carrier vehicles operating as a driveaway;
- (21) "Driver" means the person physically operating the motor vehicle;
- (22) "Flatbed/rollback service" means a form of towing service which involves moving vehicles by loading them onto a flatbed platform;
- (23) "Highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;
- (24) "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;
- (25) "Household goods carrier" has the same meaning as "household goods motor carrier" in 49 C.F.R. sec. 375.103;
- (26) "Household goods certificate" means a certificate granting authority for the operation of one (1) or more household goods vehicles;
- (27) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:
  - (a) Nonemergency medical transportation under KRS Chapter 205;
  - (b) Mental health, intellectual disabilities, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;
  - (c) Work programs for public assistance recipients under KRS Chapter 205;
  - (d) Adult services under KRS Chapter 205, 209, 216, or 273;
  - (e) Vocational rehabilitation under KRS Chapter 151B or 157; or
  - (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- (28) "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- (29) "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- (30) "Limousine" means a motor vehicle operating under a limousine certificate that is designed or constructed with not more than fifteen (15) regular seats;
- (31) "Limousine certificate" means a certificate granting authority for the operation of one (1) or more limousines transporting passengers for hire;
- (32) "Mobile application" means an application or a computer program designed to run on a smartphone, tablet computer, or other mobile device that is used by a TNC to connect drivers with potential passengers;
- (33) "Motor carrier" means any person in either a private or for-hire capacity who owns, controls, operates, manages, or leases, except persons leasing to authorized motor carriers, any motor vehicle for the transportation of passengers or property upon any highway, and any person who engages in the business of automobile utility trailer lessor, vehicle towing, driveaway, or U-Drive-It;
- (34) "Motor carrier vehicle" means a motor vehicle used by a motor carrier to transport passengers or property;
- (35) "Motor carrier vehicle license" means a license issued by the department for a motor carrier vehicle authorized to operate under a certificate;
- (36) "Motor carrier license plate" means a license plate issued by the department to a motor carrier authorized to operate under a certificate other than a household goods, property, TNC, *peer-to-peer car sharing*, or U-Drive-It certificate;
- (37) "Motor vehicle" means any motor-propelled vehicle used for the transportation of passengers or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles;
- (38) "Passenger" means an individual or group of people;

- (39) **"Peer-to-peer car sharing"**:
- (a) *Means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and*
  - (b) *Does not:*
    - 1. *Include the operation of a U-Drive-It certificate as defined in this section; or*
    - 2. *Involve the sale or provision of rental vehicle insurance as defined in KRS 304.9-020;*
- (40) **"Peer-to-peer car sharing certificate"** *means a certificate granting the authority for the operation of a peer-to-peer car sharing program;*
- (41) **"Peer-to-peer car sharing company"** *means a person that operates a peer-to-peer car sharing program;*
- (42) **"Peer-to-peer car sharing program"**:
- (a) *Means a business platform that connects shared vehicle owners with shared vehicle drivers to enable the sharing of motor vehicles for financial consideration; and*
  - (b) *Does not include a:*
    - 1. *U-Drive-It;*
    - 2. *Motor vehicle renting company as defined in KRS 281.687;*
    - 3. *Rental vehicle agent as defined in KRS 304.9-020; or*
    - 4. *Service provider that is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;*
- (43) "Permit" means a temporary permit of compliance issued under this chapter for a specified period not to exceed ten (10) days, and for a specific vehicle, to any motor carrier, including one who is a nonresident of the Commonwealth, who operates a motor vehicle and is not entitled to an exemption from the payment of fees imposed under KRS 186.050 because of the terms of a reciprocal agreement between the Commonwealth and the state in which the vehicle is licensed;
- ~~(44)~~~~(40)~~ "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, assignee, or personal representative thereof;
- ~~(45)~~~~(41)~~ "Platoon" means a group of two (2) individual commercial motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than would ordinarily be allowed under KRS 189.340(8)(b);
- ~~(46)~~~~(42)~~ "Prearranged ride" means the period of time that begins when a transportation network company driver accepts a requested ride through a digital network or mobile application, continues while the driver transports the rider in a personal vehicle, and ends when the transportation network company services end;
- ~~(47)~~~~(43)~~ "Pre-trip acceptance liability policy" means the transportation network company liability insurance coverage for incidents involving the driver for a period of time when a driver is logged into a transportation network company's digital network or mobile application but is not engaged in a prearranged ride;
- ~~(48)~~~~(44)~~ "Property" means general or specific commodities, including hazardous and nonhazardous materials;
- ~~(49)~~~~(45)~~ "Property certificate" means a certificate granting authority for the transportation of property, other than household goods, not exempt under KRS 281.605;
- ~~(50)~~~~(46)~~ "Recovery":
- (a) Means a form of towing service which involves moving vehicles by the use of a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack, automobile ambulance, tow dolly, or any other similar device as requested by a state or local law enforcement agency; and
  - (b) Includes:
    - 1. Relocating a vehicle or cargo from a place where towing is not possible to a place where towing is possible; and
    - 2. The cleanup of debris or cargo, and returning an area to pre-event condition;



- (51)~~(47)~~ "Regular route" means the scheduled transportation of passengers between designated points over designated routes under time schedules that provide a regularity of services;
- (52)~~(48)~~ "Regular seat" means a seat ordinarily and customarily used by one (1) passenger and, in determining such seating capacity, the manufacturer's rating may be considered;
- (53) **"Shared vehicle":**
- (a) *Means a motor vehicle that is available for car sharing through a peer-to-peer car sharing program; and*
- (b) *Does not include a motor vehicle leased or rented by a person operating under a U-Drive-It certificate;*
- (54) **"Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement;**
- (55) **"Shared vehicle owner":**
- (a) *Means the registered owner, or a person designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers, through a peer-to-peer car sharing program; and*
- (b) *Does not include a:*
1. *Person operating a U-Drive-It certificate;*
  2. *Motor vehicle renting company as defined in KRS 281.687; or*
  3. *Rental vehicle agent as defined in KRS 304.9-020;*
- (56)~~(49)~~ "Storage facility" means any lot, facility, or other property used to store motor vehicles that have been removed from another location by a tow truck;
- (57)~~(50)~~ "Street hail" means a request for service made by a potential passenger using hand gestures or verbal statement;
- (58)~~(51)~~ "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority;
- (59)~~(52)~~ "Tariff" means the listing of compensation received by a motor carrier for household goods that includes the manner in which and the amount of fares an authorized motor carrier may charge;
- (60)~~(53)~~ "Taxicab" means a motor vehicle operating under a taxicab certificate that is designed or constructed with not more than eight (8) regular seats and may be equipped with a taximeter;
- (61)~~(54)~~ "Taxicab certificate" means a certificate granting authority for the operation of one (1) or more taxicabs transporting passengers for hire;
- (62)~~(55)~~ "Taximeter" means an instrument or device approved by the department that automatically calculates and plainly indicates the charge to a passenger for hire who is being charged on the basis of mileage;
- (63)~~(56)~~ "Tow truck" means a motor vehicle equipped to provide any form of towing service, including recovery service or flatbed/rollback service;
- (64)~~(57)~~ "Tow truck operator" means an individual who operates a tow truck as an employee or agent of a towing company;
- (65)~~(58)~~ "Towing" means:
- (a) Emergency towing, which is the towing of a motor vehicle, with or without the owner's consent, because of:
1. A motor vehicle accident on a public highway;
  2. An incident related to an emergency; or
  3. An incident that necessitates the removal of the motor vehicle from a location for public safety reasons;

- (b) Private property towing, which is the towing of a motor vehicle, without the owner's consent, from private property:
    - 1. On which the motor vehicle was illegally parked; or
    - 2. Because of an exigent circumstance necessitating its removal to another location; and
  - (c) Seizure towing, which is the towing of a motor vehicle for law enforcement purposes involving the:
    - 1. Maintenance of the chain of custody of evidence;
    - 2. Forfeiture of assets; or
    - 3. Delinquency of highway fuel tax, weight distance tax, or any other taxes and fees administered by the Transportation Cabinet;
- ~~(66)~~~~(59)~~ "Towing company":
- (a) Means a service or business operating as a motor carrier that:
    - 1. Tows or otherwise moves motor vehicles by means of a tow truck; or
    - 2. Owns or operates a storage lot;
  - (b) Includes a tow truck operator acting on behalf of a towing company when appropriate in the context; and
  - (c) Does not include an automobile club, car dealership, insurance company, repossession company, lienholders and entities hired by lienholders for the purpose of repossession, local government, or any other entity that contracts with a towing company;
- ~~(67)~~~~(60)~~ "Transportation network company" or "TNC" means a person or entity that connects passengers through its digital network or mobile application to its drivers for the provision of transportation network company services;
- ~~(68)~~~~(61)~~ "Transportation network company certificate" or "TNC certificate" means a certificate granting the authority for the operation of one (1) or more transportation network company vehicles transporting passengers for hire;
- ~~(69)~~~~(62)~~ "Transportation network company driver" or "TNC driver" means an individual who operates a motor vehicle that is owned or leased by the individual, or a motor vehicle for which the driver is an insured driver and has the permission of the owner or lessee of the motor vehicle, and used to provide transportation network company services;
- ~~(70)~~~~(63)~~ "Transportation network company service" or "TNC service" means a prearranged passenger transportation service offered or provided through the use of a transportation network company mobile application or digital network to connect potential passengers with transportation network company drivers;
- ~~(71)~~~~(64)~~ "Transportation network company vehicle" or "TNC vehicle" means a privately owned or leased motor vehicle, designed or constructed with not more than eight (8) regular seats, operating under a transportation network company certificate;
- ~~(72)~~~~(65)~~ "U-Drive-It" means any person operating under a U-Drive-It certificate who leases or rents a motor vehicle for consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee; and
- ~~(73)~~~~(66)~~ "U-Drive-It certificate" means a certificate granting authority for the operation of one (1) or more U-Drive-Its.
- ➔Section 10. KRS 281.630 is amended to read as follows:
- (1) A person shall not act as a motor carrier without first obtaining a certificate from the department.
  - (2) A certificate for the intrastate transportation of passengers or property, including household goods, shall be issued to any qualified applicant authorizing operation covered by the application, if it is found that the applicant conforms to the provisions of this chapter and the requirements of the administrative regulations promulgated in accordance with this section.
  - (3) (a) The department shall issue the following certificates:

1. Taxicab certificate;
2. Limousine certificate;
3. Disabled persons vehicle certificate;
4. Transportation network company certificate;
5. Household goods certificate;
6. Charter bus certificate;
7. Bus certificate;
8. U-Drive-It certificate;
9. Property certificate;
10. Driveaway certificate; ~~and~~

**11. *Peer-to-peer car sharing certificate; and***

**12. ~~11.~~ Automobile utility trailer certificate.**

- (b) Application for a certificate shall be made in such form as the department may require. The department shall receive an application fee of two hundred fifty dollars (\$250) for all applications, except that the department shall receive an application fee of twenty-five dollars (\$25) for a property certificate.
- (c) Before the department may issue a certificate, an applicant shall:
1. Pay the application fee established under paragraph (b) of this subsection;
  2. For entities other than TNCs *and peer-to-peer car sharing companies*, file a motor carrier vehicle license application for each motor carrier vehicle as required by KRS 281.631. The applicant shall file at least one (1) motor carrier vehicle license application before being eligible for a certificate;
  3. For TNCs, file a TNC authority application with the department pursuant to administrative regulations promulgated by the department;
  4. ***For peer-to-peer car sharing companies, file a peer-to-peer car sharing certificate application with the department pursuant to administrative regulations promulgated by the department;***
  5. File with the department one (1) or more approved indemnifying bonds or insurance policies as required by KRS 281.655;
  - ~~6.~~ For taxicab, limousine, disabled persons vehicle, TNC, household goods, charter bus, and bus certificates, obtain and retain for a period of at least three (3) years, a nationwide criminal background check, in compliance with KRS 281.6301, of each owner, official, employee, independent contractor, or agent operating a passenger vehicle or household goods vehicle or entering a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods;
  - ~~7.~~ For household goods certificates, file with the department a current tariff; and
  - ~~8.~~ For a bus certificate, file with the department authorization from a city as required by KRS 281.635.
- (4) (a) Every certificate shall be renewed annually. Application for renewal shall be in such form as the department may require.
- (b) A certificate not renewed within one (1) calendar year after the date for its renewal shall become null and void.
- (c) The department shall not renew any certificate if it has been revoked or, if suspended, during the period of any suspension. A certificate shall not be considered revoked or suspended when an appeal of the revocation or suspension is pending in a court of competent jurisdiction.

- (d) For the renewal of an intrastate certificate, the department shall receive a fee of two hundred fifty dollars (\$250), except for an application for renewal of a property certificate, for which the department shall receive a fee of twenty-five dollars (\$25).
- (e) Before the department may renew a certificate, the certificate holder shall:
1. Pay the renewal fee established under paragraph (d) of this subsection;
  2. For the entities other than TNCs *and peer-to-peer car sharing companies*, file a motor carrier vehicle license application or renewal for each motor carrier vehicle as required by KRS 281.631. The certificate holder shall file at least one (1) motor carrier vehicle license application or renewal before being eligible for renewal;
  3. For TNCs, file a TNC authority application with the department pursuant to administrative regulations promulgated by the department;
  4. ***For peer-to-peer car sharing companies, file a peer-to-peer car sharing certificate application with the department pursuant to administrative regulations promulgated by the department;***
  5. File with the department one (1) or more approved indemnifying bonds or insurance policies as required by KRS 281.655;
  - 6.~~5~~ Every three (3) years, for taxicab, limousine, disabled persons vehicle, TNC, household goods, charter bus, and bus certificates, obtain and retain for a period of at least three (3) years, a nationwide criminal background check in compliance with KRS 281.6301, of each owner, official, employee, independent contractor, or agent operating a passenger vehicle or entering a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods. However, within the three (3) year period:
    - a. If a new owner, official, employee, independent contractor, or agent joins the certificate holder and performs the aforementioned duties; or
    - b. If the certificate holder has knowledge that a current owner, official, employee, independent contractor, or agent who performs the aforementioned duties has been convicted of or pled guilty to any of the offenses listed in KRS 281.6301(2);
 then the certificate holder shall obtain and retain for a period of at least three (3) years, a nationwide criminal background check for that owner, official, employee, independent contractor, or agent; and
  - 7.~~6~~ For household goods certificates, have on file with the department a current tariff.
- (5) (a) A motor carrier operating under a household goods certificate shall, at all times the certificate is in effect, maintain on file with the department a current tariff.
- (b) Except for a household goods certificate holder that has had only an out-of-state address on file with the department prior to January 1, 2015, all certificate holders shall maintain on file with the department an address within the Commonwealth. The certificate holder shall keep open for public inspection at that address such information as the department may require.
- (c) The certificate holder shall not charge, demand, collect, or receive a greater, less, or different compensation for the transportation of household goods or for any service in connection therewith, than the tariff filed with the department and in effect at the time would require. A certificate holder shall not make or give any unreasonable preference or advantage to any person, or subject any person to any unreasonable discrimination.
- (6) A certificate shall not be transferred unless the transfer involves either the change of the legal name of the existing certificate holder or the incorporation of a sole proprietor certificate holder.
- (7) A certificate authorizing a person to act as an automobile utility trailer lessor shall also authorize the agents of the person to act on his or her behalf during the period of their agency.
- (8) A motor carrier vehicle shall not be operated after the expiration of the certificate under which it is operated.
- (9) A person shall not knowingly employ the services of a motor carrier not authorized to perform such services.
- (10) If the department, after a hearing held upon its own motion or upon complaint, finds any existing rate unjustly discriminatory, or finds the services rendered or facilities employed by any motor carrier to be unsafe,

inadequate, inconvenient, or in violation of law or of the administrative regulations of the department, it may by final order do any or all of the following:

- (a) Require the certificate holder to follow any rate or time schedule in effect at the time of service;
  - (b) Require the certificate holder to issue a refund to the complainant;
  - (c) Require the certificate holder to pay the fine set out in KRS 281.990 to the department; and
  - (d) Determine the reasonable, safe, adequate, and convenient service to be thereafter furnished.
- (11) Hearings conducted under authority of this section shall be conducted in the same manner as provided in KRS 281.640.
- (12) The department shall have the power to promulgate administrative regulations as it may deem necessary to carry out the provisions of this section.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(I) *As used in this section:*

- (a) *"Department" means the Kentucky Department of Revenue;*
- (b) *"Gross receipts" means the total consideration received for the:*
  - 1. *Rental of a vehicle, including the daily or hourly rental fee, fees charged for using the services, charges for insurance protection plans, fuel charges, pickup and delivery fees, late fees, and any charges for any services necessary to complete the rental transaction made by a:*
    - a. *Peer-to-peer car sharing company; or*
    - b. *Motor vehicle rental company; and*
  - 2. *Charges made to provide the service to a user, including any charges for time or mileage, fees for using the services, and any charges for any services necessary to complete the transaction made by a:*
    - a. *TNC;*
    - b. *Taxicab; or*
    - c. *Limousine service provider;*
- (c) *The following terms have the same meaning as in Section 9 of this Act:*
  - 1. *"Limousine";*
  - 2. *"Peer-to-peer car sharing certificate";*
  - 3. *"Peer-to-peer car sharing company";*
  - 4. *"Peer-to-peer car sharing driver";*
  - 5. *"Peer-to-peer car sharing program";*
  - 6. *"Shared vehicle";*
  - 7. *"Shared vehicle driver";*
  - 8. *"Taxicab";*
  - 9. *"Transportation network company" or "TNC";*
  - 10. *"Transportation network company service" or "TNC service"; and*
  - 11. *"U-Drive-It";*
- (d) *"Motor vehicle rental company" has the same meaning as in KRS 281.687; and*
- (e) *"Person" means the holder of any of the following certificates in Section 10 of this Act:*
  - 1. *Limousine;*
  - 2. *Peer-to-peer car sharing;*

3. *Taxicab;*
  4. *Transportation network; and*
  5. *U-Drive-It.*
- (2) *An excise tax is imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent, with or without a driver, within the Commonwealth. The tax is imposed at the rate of six percent (6%) of the gross receipts derived from the:*
- (a) *Rental of a shared vehicle by a peer-to-peer car sharing company;*
  - (b) *Rental of a vehicle by a motor vehicle renting company;*
  - (c) *Sales of TNC services;*
  - (d) *Sales of taxicab services; and*
  - (e) *Sales of limousine services.*
- (3) *The tax imposed under subsection (2) of this section shall be administered and collected by the department. Revenues generated from the tax shall be deposited into the general fund.*
- (4) *The tax imposed by subsection (2) of this section shall be the direct obligation of the peer-to-peer car sharing company, the motor vehicle renting company, the TNC, the taxicab service provider, and the limousine service provider, but it may be charged to and collected from the user of the service. The tax shall be remitted to the department each month on forms and pursuant to administrative regulations promulgated by the department.*
- (5) (a) *As soon as practicable after each return is received, the department shall examine and audit the return. If the amount of taxes computed by the department is greater than the amount returned by the person, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the person.*
- (b) *For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.*
- (c) *Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the amount of taxes computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the person, the excess shall be assessed by the department within six (6) years from the date the return was filed.*
- (6) *Failure to remit the taxes shall be sufficient cause for the Department of Vehicle Regulation to void the certificate issued to a:*
- (a) *Limousine certificate holder;*
  - (b) *Peer-to-peer car sharing certificate holder;*
  - (c) *Taxicab certificate holder;*
  - (d) *TNC certificate holder; or*
  - (e) *U-Drive-It certificate holder.*
- (7) *If a person fails or refuses to file a return or furnish any information requested in writing, the department may, from any information in its possession, make an estimate of the certificate holder's total trip costs and issue an assessment against the certificate holder based on the estimated trip cost charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.*
- (8) *If any person fails to make and file a return required by subsection (4) of this section on or before the due date of the return, or if the taxes, or portion thereof, is not paid on or before the date prescribed for its payment, then, unless it is shown to the satisfaction of the department that the failure is due to a reasonable cause, five percent (5%) of the taxes found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total*

*penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars (\$10).*

- (9) *If the tax imposed by subsection (2) of this section is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.*
- (10) *Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. Taxes as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.*
- (11) *Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this chapter, shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company, partner of a limited liability partnership, and general partner of a limited liability limited partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.*
- (12) *Any person who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.*

➔Section 12. KRS 138.462 is amended to read as follows:

As used in KRS 138.463 and 138.4631, unless the context requires otherwise:

- (1) "Cabinet" means the Transportation Cabinet;
- (2) "Rent" and "rental" means a contract, *other than a peer-to-peer car sharing program agreement as defined in Section 9 of this Act*, supported by a consideration, for the use of a motor vehicle for a period of less than three hundred sixty-five (365) days;
- (3) "Lease" and "leasing" means a contract, *other than a peer-to-peer car sharing program agreement as defined in Section 9 of this Act*, supported by a consideration, for the use of a motor vehicle for a period of three hundred sixty-five (365) days or more; and
- (4) "Gross rental charge" means the amount paid by a customer for time and mileage only.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

*Excluded from the additional taxable services imposed by subsection (2)(q) to (ay) of Section 3 of this Act are gross receipts derived from:*

- (1) *Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed price sales contract executed on or before February 25, 2022; and*
- (2) *A lease or rental agreement entered into on or before February 25, 2022.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO BE NUMBERED AS KRS 91A.345 AND TO READ AS FOLLOWS:

*As used in KRS 91A.345 to 91A.394:*

- (1) *"Person" has the same meaning as in KRS 139.010; and*
- (2) *"Rent " means the total amount charged for the rental of an accommodation and any charges for any services necessary to facilitate the rental of accommodations whether the amount is charged by the provider of the accommodations or by a person facilitating the rental of the accommodations by brokering, coordinating, or in any way arranging for the rental of the accommodations.*

➔Section 15. KRS 91A.360 is amended to read as follows:

- (1) The commission established pursuant to KRS 91A.350(2) shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive. Appointments to a commission shall be made by the appropriate chief executive officer or officers in the following manner:
  - (a) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association and one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local hotels or motels. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.
  - (b) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing a local restaurant. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.
  - (c) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.
  - (d) Two (2) commissioners shall be appointed in the following manner:
    1. By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or



2. One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.
  - (2) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c), shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists. Vacancies shall be filled in the same manner that original appointments are made.
  - (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.
  - (4) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of KRS ~~91A.345 to 91A.394~~~~[91A.350 to 91A.390]~~. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.
  - (5) The books of the commission and its account as established in KRS 91A.390(2) shall be audited as provided in KRS 65A.030. The independent certified public accountant or Auditor of Public Accounts shall make a report to the commission, to the associations submitting lists of names from which commission members are selected, to the appropriate chief executive officer or officers, to the State Auditor of Public Accounts, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
  - (6) A commissioner may be removed from office, by joint or separate action, of the appropriate chief executive officer or officers of the local governing body or bodies that established the commission, as provided by KRS 65.007.
  - (7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.
- ➔Section 16. KRS 91A.370 is amended to read as follows:
- (1) Except in a county containing a consolidated local government, the commission established pursuant to KRS 91A.350(1) shall be composed of nine (9) members to be appointed by the mayor of the largest city in the county, the county judge/executive and the Governor of the Commonwealth.
  - (2) Except in a county containing a consolidated local government, the mayor of the largest city in the county shall appoint three (3) commissioners in the following manner:
    - (a) One (1) commissioner from a list submitted by the local city hotel and motel association;
    - (b) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county; and
    - (c) One (1) commissioner from a list submitted by the local restaurant association or associations.
  - (3) Except in a county containing a consolidated local government, the county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners in the following manner:
    - (a) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then the local hotel and motel association shall submit a list to the county judge/executive;
    - (b) One (1) commissioner from a list submitted by the board of directors of the largest incorporated Thoroughbred horse racing concern in the county, which list shall contain only directors, officers, or employees of that corporation; and
    - (c) One (1) commissioner who is a resident of the county and who has an active interest in the convention and tourist industry.

- (4) Except in a county containing a consolidated local government, the Governor shall appoint three (3) commissioners in the following manner:
- (a) One (1) commissioner from a list submitted by the State Fair Board;
  - (b) One (1) commissioner from a list submitted by the local countywide air board; and
  - (c) One (1) commissioner shall be appointed, in those counties not containing a consolidated local government, who is a resident of the county. In those counties containing a consolidated local government, one (1) commissioner shall be appointed who is a resident of the area comprising the consolidated local government.
- (5) Vacancies shall be filled in the manner that original appointments are made.
- (6) When a list as provided in subsections (2) and (3) of this section contains less than three (3) names or when a selection from such list is not made, the appointing authority shall request in writing the submission of a new list of names.
- (7) Except in a county containing a consolidated local government, the commissioners shall be appointed for a term of three (3) years, provided that in making the initial appointments, the mayor, county judge/executive, and Governor of the Commonwealth shall each appoint one (1) commissioner for a term of one (1) year, one (1) commissioner for a term of two (2) years, and one (1) commissioner for a term of three (3) years.
- (8) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the commission shall have nine (9) members. Six (6) members of the commission shall be appointed by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139 for a term of three (3) years. The Governor of the Commonwealth shall appoint three (3) members of the commission for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.
- (9) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of ~~KRS 91A.345 to 91A.394~~~~[91A.350 to 91A.390]~~. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers, and printers.
- (10) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of a city or a consolidated local government, the county judge/executive in counties not containing a consolidated local government, and the Governor of the Commonwealth.
- (11) Commission members appointed by the Governor shall serve at the pleasure of the Governor. Commission members appointed by the mayor of a city or a consolidated local government or the county judge/executive may be removed as provided by KRS 65.007.
- (12) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.
- ➔Section 17. KRS 91A.372 is amended to read as follows:
- (1) The commission established pursuant to KRS 91A.350(2) by an urban-county government shall be composed of nine (9) members appointed by the mayor of the urban-county government in the following manner:
    - (a) Three (3) commissioners from a list submitted by the local hotel and motel association.
    - (b) One (1) commissioner from a list submitted by the local restaurant association or associations.
    - (c) One (1) commissioner from a list submitted by the local chamber of commerce.
    - (d) Four (4) commissioners who shall be residents of the urban-county.
  - (2) Vacancies shall be filled in the same manner that original appointments are made.
  - (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the chief elective official of the urban-county shall appoint three (3) commissioners for a term

of three (3) years, three (3) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year.

- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of **KRS 91A.345 to 91A.394**~~[91A.350 to 91A.390]~~. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as event coordinators, advertising firms, chambers of commerce, publishers and printers.
- (5) The books of the commission shall be audited as provided in KRS 65A.030. The independent certified public accountant or Auditor of Public Accounts shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of the urban-county government.
- (6) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

➔Section 18. KRS 91A.380 is amended to read as follows:

- (1) The commission established pursuant to KRS 91A.350(3) shall be composed of six (6) members from each county to be appointed by the county judge/executive, with the approval of the fiscal court in the following manner:
  - (a) Two (2) commissioners with an accounting, finance, or business background, one (1) of whom is a member of the local chamber of commerce;
  - (b) One (1) commissioner selected from the public at large;
  - (c) One (1) commissioner from the General Assembly;
  - (d) One (1) commissioner representing local restaurants; and
  - (e) One (1) commissioner representing local hotels and motels.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge/executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and two (2) commissioners for a term of one (1) year.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of **KRS 91A.345 to 91A.394**~~[91A.350 to 91A.390]~~. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business.
- (5) The books of the commission and its account as established in KRS 91A.390(2) shall be audited as provided in KRS 65A.030. The independent certified public accountant or Auditor of Public Accounts shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the county judge/executive of each county. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
- (6) A commissioner may be removed from office as provided by KRS 65.007.
- (7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

➔Section 19. KRS 91A.390 is amended to read as follows:

- (1) (a) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission.
- (b) The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax on the rent for every occupancy of a suite, room,~~[-or]~~ rooms, ***cabins, lodgings, campsites, or other accommodations*** charged by ***any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by***

*any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations* ~~[all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses]~~ as follows:

1. For a local governing body or bodies, other than an urban-county government, the tax rate shall not exceed three percent (3%); and
  2. For an urban-county government, the tax rate shall not exceed four percent (4%).
- (c) In addition to the three percent (3%) levy authorized by paragraph (b)1. of this subsection, the local governing body other than an urban-county government may impose a special transient room tax not to exceed one percent (1%) for the purposes of:
1. Meeting the operating expenses of a convention center; and
  2. In the case of a consolidated local government, financing the renovation or expansion of a convention center that is government-owned and located in the central business district of the consolidated local government, except that if a consolidated local government imposes the special transient room tax authorized under this paragraph on or after August 1, 2014, revenue derived from the levy shall not be used to meet the operating expenses of a convention center until any debt issued for financing the renovation or expansion of a government-owned convention center located in the central business district of the consolidated local government is retired.
- (d) Transient room taxes shall not apply to *rooms, lodgings, campsites, or accommodations supplied for a continuous period* ~~[the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period]~~ of thirty (30) days or more *to a person*.
- (e) The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.
- (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.
  - (3) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, including projects described in KRS 154.30-050(2)(a). The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, *inn, motor court, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other person furnishing accommodations*, or restaurant, except as provided in KRS 154.30-050(2)(a)3.c. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.
  - (4) A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the ~~room~~ rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the ~~regular~~ tax *authorized by subsection (1)(b) of this section* and shall be used for the purpose of funding additional promotion of tourist and convention business.
  - (5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the ~~room~~ rents included in this subsection. This additional tax shall be collected and administered in the same manner as the ~~regular~~ tax *authorized by subsection (1)(b) of this section* with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.
  - (6) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the ~~room~~ rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the ~~regular~~ tax *authorized by subsection (1)(b) of this section*, with the exception that this additional tax

shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

- (7) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.
- (8) The fiscal court or legislative body of a consolidated local government or city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS ~~91A.345 to 91A.394~~~~[91A.350 to 91A.390]~~, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county, consolidated local government, or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.
- (9) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS ~~91A.345 to 91A.394~~~~[91A.350 to 91A.390]~~, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

➔Section 20. KRS 91A.392 is amended to read as follows:

- (1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390(1)(b), and the one percent (1%) transient room tax authorized by KRS 153.440, a consolidated local government, or the fiscal court in a county containing an authorized city, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, ~~or~~ rooms, *cabin, lodgings, campsites or other accommodations* charged by *any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for a consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration*~~[all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses]~~.
- (2) *The taxes imposed under this section shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person.*
- (3) (a) Except as otherwise provided in paragraph (b) of this subsection, all money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(8) to finance in part the expansion or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the consolidated local government or the authorized city located in the county.
- (b) 1. This paragraph shall apply to the tax levied pursuant to this section, prior to July 1, 2015, by a fiscal court of a county having a population between seventy-five thousand (75,000) and one hundred thousand (100,000) based on the 2010 federal decennial census.

2. When, in any fiscal year, the money collected from the tax authorized by this section exceeds the amount required to satisfy the annual debt service for the bond for that fiscal year, all or a portion of the excess amount collected for that fiscal year may be used to defray the costs to operate, renovate, or expand the governmental or nonprofit convention center or fine arts center described in paragraph (a) of this subsection, if an amount equal to one (1) year's required debt service is held in reserve to satisfy any future debt service obligations of the bond.
- ~~(4)~~~~(3)~~ After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the consolidated local government or fiscal court shall take action to repeal the ordinance which levied the tax.
- ~~(5)~~~~(4)~~ As used in this section, "authorized city" means a city of the first class and a city included on the registry maintained by the Department for Local Government under subsection ~~(6)~~~~(5)~~ of this section.
- ~~(6)~~~~(5)~~ On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the second class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 21. KRS 91A.394 is amended to read as follows:

Any resident of the county may bring an action in the Circuit Court to enforce the provisions of KRS **91A.345 to 91A.394**~~[91A.350 to 91A.390]~~. The Circuit Court shall hear the action and, on a finding that the commission has violated the provisions of KRS **91A.345 to 91A.394**~~[91A.350 to 91A.390]~~, shall order the commission to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the commission, court costs, to be paid from the commission's account.

➔Section 22. KRS 91A.400 is amended to read as follows:

- (1) As used in this section, "authorized city" means a city on the registry maintained by the Department for Local Government under subsection (2) of this section.
- (2) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of January 1, 2014, were classified as cities of the fourth or fifth class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.
- (3) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 *(1)(b)*, the city legislative body in an authorized city may levy an additional restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants doing business in the city. All moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as provided by KRS **91A.345 to 91A.394**~~[91A.350 to 91A.390]~~.

➔Section 23. KRS 153.440 is amended to read as follows:

- (1) ***As used in this section and Section 24 of this Act:***
  - (a) ***"Person" has the same meaning as in Section 14 of this Act; and***
  - (b) ***"Rent" has the same meaning as in Section 14 of this Act.***
- (2) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390*(1)(b)*, fiscal courts in counties containing cities of the first class or consolidated local governments may levy an additional transient room tax not to exceed one percent (1%) of the rent for every occupancy of a suite, room,~~or~~ rooms, ***cabins, lodgings, campsites or other accommodations*** charged by ***any hotel, motel, inn, tourist camp, tourist cabins, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for a consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration***~~[all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations' businesses]~~.
- (3) ***The tax imposed under this section shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person.***
- (4) All moneys collected from the tax authorized by this section shall be turned over to the Kentucky Center for the Arts Corporation and shall be used to defray operating costs of the Kentucky Center for the Arts.

➔Section 24. KRS 153.450 is amended to read as follows:

- (1) In addition to the four percent (4%) transient room tax authorized by KRS 91A.390(1)(b)2., an urban-county government may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, ~~or~~ rooms, *cabins, lodgings, campsites, or other accommodations* charged by *any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for a consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration*~~[all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations' businesses].~~
- (2) All additional moneys collected from the tax authorized by subsection (1) of this section shall be applied toward the retirement of bonds used to finance a nonprofit corporation which is created for the funding, construction, and management of a convention center in an urban-county, and to defray the operating costs of the nonprofit corporation.
- (3)
  - (a) As used in this subsection, "project" means the renovation, expansion, or improvement of a convention center on or after July 15, 2016.
  - (b) In addition to the levy authorized by subsection (1) of this section, an urban-county government may levy an additional transient room tax not to exceed two and one-half percent (2.5%) to provide funding for a project.
  - (c) Proceeds from the levy shall be used only for the direct expenditure for, or repayment of debt associated with, the project.
  - (d) The levy shall sunset upon completion of the project and repayment of all associated debt.
- (4) *The taxes imposed under this section shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person.*

➔Section 25. KRS 142.400 is amended to read as follows:

- (1) *As used in this section:*
  - (a) *"Person" has the same meaning as in Section 14 of this Act; and*
  - (b) *"Rent" has the same meaning as in Section 14 of this Act.*
- (2) A *statewide* transient room tax shall be imposed at a rate of one percent (1%) of the rent for every occupancy of any suite, room, rooms, ~~or~~ cabins, *lodgings, campsites, or other accommodations* charged by *any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for a consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration*~~[all persons, companies, corporations, groups, or organizations doing business as motor courts, motels, hotels, inns, tourist camps, or like or similar accommodations' businesses].~~
- (3) As used in this subsection, rent shall not include any other local or state taxes paid by the person or entity renting the accommodations.
- (4)~~(2)~~ The tax imposed by subsection (1) of this section shall not apply *to rooms, lodgings, campsites, or accommodations supplied*~~[to the rental or lease of any room or set of rooms that is equipped with a kitchen, in an apartment building, and that is usually leased as a dwelling] for a continuous period of thirty (30) days or more to a person~~~~[by an individual or business that regularly holds itself out as exclusively providing apartments].~~

➔Section 26. KRS 65.060 is amended to read as follows:

As used in KRS 65.008, 65.009, 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.008, 65.009, 65.065 and 65.070 shall apply to any board, commission, or special district created pursuant to the following statutes: KRS 39F.020, 39F.160; KRS 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 74.010 to 74.415; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS ~~91A.345 to 91A.394~~~~[91A.350 to 91A.390]~~; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to

108.180; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 154.50-301 to 154.50-346; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; KRS 179.700 to 179.735; KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.755; KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to 273.453.

➔Section 27. KRS 45A.077 is amended to read as follows:

- (1) A public-private partnership delivery method may be utilized as provided in this section and administrative regulations promulgated thereunder. State contracts using this method shall be awarded by competitive negotiation.
- (2) A contracting body utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.
- (3) On or before December 31, 2016, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The administrative regulations shall reflect the intent of the General Assembly to promote and encourage the use of public-private partnerships in the Commonwealth. The secretary shall consult with design-builders, construction managers, contractors, design professionals including engineers and architects, and other appropriate professionals during the development of these administrative regulations.
- (4) A request for proposal for a project utilizing a public-private partnership shall include at a minimum:
  - (a) The parameters of the proposed public-private partnership agreement;
  - (b) The duties and responsibilities to be performed by the private partner or partners;
  - (c) The methods of oversight to be employed by the contracting body;
  - (d) The duties and responsibilities that are to be performed by the contracting body and any other partners to the contract;
  - (e) The evaluation factors and the relative weight of each to be used in the scoring of awards;
  - (f) Plans for financing and operating the qualifying project and the revenues, service payments, bond financings, and appropriations of public funds needed for the qualifying project;
  - (g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity;
  - (h) The ability of a private partner or partners to quickly respond to the needs presented in the request for proposal, and the importance of economic development opportunities represented by the qualifying project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and
  - (i) Other information required by the contracting body or the cabinet to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.
- (5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the contracting body or the cabinet that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as part of the public-private partnership agreement.
- (6) When a request for proposal for a project utilizing a public-private partnership is issued for a capital project, the contracting body shall transmit a copy of the request for proposal to the Capital Projects and Bond Oversight Committee staff, clearly identifying to the staff that a public-private partnership is being utilized. The contracting body shall submit the final contract to the Capital Projects and Bond Oversight Committee under KRS 45.763 before work may be begun on the project.
- (7) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that the action is taken in the best interest of the Commonwealth and approved by the purchasing officer.
- (8) (a) Beginning July 1, ~~2024~~~~2022~~, in the case of any public-private partnership for a capital project with an aggregate value of twenty-five million dollars (\$25,000,000) or more, the project shall be authorized by



the General Assembly, by inclusion in the branch budget bill or by any other means specified by the General Assembly, explicitly identifying and authorizing the utilization of a public-private partnership delivery method for the applicable capital project. The authorization of a capital project required by this subsection is in addition to any other statutorily required authorization for a capital project.

- (b) The provisions of this subsection shall not apply to any public-private partnership project made public through a request for proposal or a public notice of an unsolicited proposal issued prior to July 1, 2024~~{2022}~~.
- (9) Any corporation as described by KRS 45.750(2)(c), or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth, that manages its capital construction program shall:
- (a) Adhere to the administrative regulations promulgated under this section when utilizing a public-private partnership for financing capital projects;
  - (b) Report to legislative committees as specified in this section; and
  - (c) Submit public-private partnership agreements issued by it to the General Assembly for authorization as provided in subsection (8) of this section.
- (10) (a) The governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580 shall report to the Capital Projects and Bond Oversight Committee staff as specified in this section.
- (b) Any provision of a public-private partnership agreement issued by a postsecondary institution which provides for a lease by or to the postsecondary institution shall be valid and enforceable if approved by the governing board of the institution.
- (11) (a) A person or business may submit an unsolicited proposal to a governmental body, which may receive the unsolicited proposal.
- (b) Within ninety (90) days of receiving an unsolicited proposal, a governmental body may elect to consider further action on the proposal, at which point the governmental body shall provide public notice of the proposal. Discussion of the project shall not be deemed a solicitation of the project or its concepts after public notice is given. The public notice shall:
1. Provide specific information regarding the proposed nature, timing, and scope of the unsolicited proposal, except that trade secrets, financial records, or other records of the person or business making the proposal shall not be posted unless otherwise agreed to by the governmental body and the person or business; and
  2. Provide for a notice period for the submission of competing proposals as follows:
    - a. Unsolicited proposals valued below five million dollars (\$5,000,000) shall be posted for thirty (30) days;
    - b. Unsolicited proposals valued between five million dollars (\$5,000,000) and twenty-five million dollars (\$25,000,000) shall be posted for sixty (60) days; and
    - c. Unsolicited proposals valued over twenty-five million dollars (\$25,000,000) shall be posted for ninety (90) days.
- (c) Upon the end of the notice period provided under paragraph (b)2. of this subsection, the governmental body may consider the unsolicited proposal and any competing proposals received. If the governmental body determines it is in the best interest of the Commonwealth to implement some or all of the concepts contained within the unsolicited proposal or competing proposals received by it, the governmental body may begin an open, competitive procurement process to do so pursuant to this chapter.
- (d) An unsolicited proposal shall be deemed rejected if no written response is received from the governmental body within ninety (90) days of submission, during which time the governmental body has not taken any action on the proposal under paragraph (b) of this subsection.

➔Section 28. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Department of Revenue:

- (1) The department may promulgate administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state. To assist taxpayers in understanding and interpreting the tax laws, the department may, through incorporation by reference, include examples as part of any administrative regulation. The examples may include demonstrative, nonexclusive lists of items if the department determines the lists would be helpful to taxpayers in understanding the application of the tax laws.
- (2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic records, any person's documents, files, and equipment if those records, documents, or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county where the person is domiciled or has his or her principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.
- (3) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law.
- (4) The department shall advise on all questions respecting the construction of state revenue laws and its application to various classes of taxpayers and property.
- (5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file, and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (7) The department may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration.
- (8) Notwithstanding KRS Chapter 13A, the department may research the fields of taxation, finance, and local government administration, publish its findings, respond to the public's and taxpayers' questions, and publish its responses, as the commissioner may deem wise. To assist taxpayers and the public in understanding and interpreting the tax laws, the department may include examples as part of any response or publication. The examples may include demonstrative, nonexclusive lists of items, if the department determines that the list would be helpful to taxpayers in understanding the application of the tax laws.
- (9) The department may promulgate administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require the taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to the administrative regulations.
- (10) The department may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.
- (11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity, *except for consumer debt owed for health care goods and services*, and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all

the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

- (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and
  - (b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.
- (12) *Notwithstanding subsection (11) of this section, KRS 45.237, 45.238, 45.241, or 131.030, or any agreement to the contrary, the department shall not collect or continue collection duties of any consumer debts owed for health care goods and services. For the purpose of this section, "consumer debt" shall be defined as a debt incurred by an individual, as defined in Section 42 of this Act, for a personal or family purpose, regardless of whether an obligation has been reduced to judgment.*
- (13) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Department" means the Department of Revenue;*
- (b) *"Distribute" means the delivery or transfer of electric power into the battery or other energy storage device of an electric vehicle at a location in this state;*
- (c) *"Electric vehicle power" means electrical energy distributed into the battery or other energy storage device of an electric vehicle to be used to power the vehicle;*
- (d) *"Electric vehicle power dealer" means a person who owns or leases an electric vehicle charging station;*
- (e) *"Electric vehicle" has the same meaning as in Section 30 of this Act;*
- (f) *"Electric vehicle charging station" means any place accessible to general public vehicular traffic where electric power may be used to charge a battery or other storage device of a licensed electric vehicle; and*
- (g) *"Person" has the same meaning as in Section 2 of this Act.*

(2) *On or after January 1, 2023:*

- (a) *An excise tax with an initial base rate of three cents (\$0.03) per kilowatt hour is imposed on electric vehicle power distributed in this state by an electric vehicle power dealer for the purpose of charging electric vehicles in this state; and*
- (b) *A surtax with an initial base rate of three cents (\$0.03) per kilowatt hour is imposed on electric vehicle power distributed in this state by an electric vehicle power dealer when the electric vehicle charging station is located on state property.*

(3) (a) *On or before December 1, 2022, and on or before each December 1 thereafter, the department shall compare the most current quarterly National Highway Construction Cost Index 2.0 (NHCCI 2.0) value and determine the percentage change in relation to the NHCCI 2.0 value from the same quarter for the previous year.*

- (b) 1. *The tax rate on January 1, 2024, and on each January 1 thereafter, shall be adjusted by the change in the NHCCI 2.0 determined by paragraph (a) of this subsection, unless the change is:*
  - a. *Greater than a five percent (5%) increase, in which case the taxes shall be one hundred five percent (105%) of the tax rates in effect at the close of the previous calendar year; or*
  - b. *Greater than a five percent (5%) decrease, in which case the taxes shall be ninety-five percent (95%) of the tax rates in effect at the close of the previous calendar year.*

2. *Notwithstanding subparagraph 1. of this paragraph, the tax rate shall not be less than the initial base rate identified in subsection (2) of this section.*
- (c) *Adjustments to the tax rate shall be rounded to the nearest one-tenth of one cent (\$0.001).*
- (4) *At least twenty (20) days in advance of the first day of each calendar year, the department shall provide notification of:*
  - (a) *The adjusted electric vehicle power tax rate for the upcoming calendar year to all electric vehicle power dealers; and*
  - (b) *The adjusted electric vehicle ownership fee imposed under Section 32 of this Act for the upcoming calendar year to all county clerks.*
- (5) *This tax shall be:*
  - (a) *Administered by the department; and*
  - (b) *Transferred to the road fund as defined in KRS 48.010.*
- (6) (a) *The tax shall be added to the selling price charged by the electric vehicle power dealer at the electric vehicle charging station on electric vehicle power sold in this state; or*
  - (b) *If there is no selling price at the charging station, the electric vehicle power dealer shall be responsible for paying the tax on the electric power distributed by the electric vehicle charging station, except in the case of an electric vehicle charging station installed prior to July 1, 2022.*
- (7) (a) *The tax imposed shall be paid by the electric vehicle power dealer to the State Treasurer.*
  - (b) *The electric vehicle power dealer is liable for the electric vehicle power tax.*
- (8) *Every electric vehicle power dealer shall, by the twenty-fifth day of each month, transmit to the department reports, on the forms the department may prescribe, on the total kilowatt hours distributed and the amount of tax collected. Payment of the tax shall be due with the report.*
- (9) *The electric vehicle power dealer shall keep and preserve an accurate record of all receipts of electricity and tax together with invoices or other pertinent records and papers required by the department for five (5) years.*
- (10) (a) *No dealer or other person shall fail or refuse to make the returns and pay the tax prescribed by this section, or refuse to permit the department or its representatives appointed by the commissioner of the department in writing to examine his or her records, papers, files, and equipment pertaining to the taxable business.*
  - (b) *No person shall make an incomplete, false, or fraudulent return, or attempt to do anything to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due.*
  - (c) *No person shall fail to keep and preserve records of electric vehicle power distributed to make reports as required by this section.*
- (11) *Any person who violates any provision of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.183.*
- (12) (a) *Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person.*
  - (b) *The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due.*
  - (c) *No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.*

- (13) (a) *Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter.*
- (b) *Dissolution or withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person.*
- (c) *The personal and individual liability shall apply to each and every manager of a limited liability company, partner of a limited liability partnership, and general partner of a limited liability limited partnership at the time the taxes become or became due.*
- (d) *No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.*
- (14) *"Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.*
- (15) *The department may prescribe forms and promulgate administrative regulations to execute and administer the provisions of this section.*

➔Section 30. KRS 186.010 is amended to read as follows:

As used in this chapter, unless otherwise indicated:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles;
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic;
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles;
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, but for registration purposes shall include low-speed vehicles and military surplus vehicles as defined in this section and vehicles operating under KRS 189.283;
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway;
- (7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
- (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional

vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

- (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest;
- (8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, except electric low-speed scooters, road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
- (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except electric low-speed scooters, devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires;
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses;
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles;
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060;
- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky;
- (13) "Special status individual" means:
  - (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
  - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;
  - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
  - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time";
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits;
- (15) "Motorcycle" means any motor driven vehicle that has a maximum speed that exceeds fifty (50) miles per hour, has a seat or saddle for the use of the operator, and is designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. Only for purposes of registration, "motorcycle" shall include a motor scooter, an alternative-speed motorcycle, and an auticycle as defined in this section, but shall not include a tractor or a moped as defined in this section;

- (16) "Low-speed vehicle" means a motor vehicle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
  - (b) Is four (4) wheeled; and
  - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer;
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor;
  - (b) Is three (3) wheeled;
  - (c) Has a fully enclosed cab and includes at least one (1) door for entry;
  - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer; and
  - (e) Is not an auticycle as defined in this section;
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors;
- (19) "Auticycle" means any motor vehicle that:
- (a) Is equipped with a seat that does not require the operator to straddle or sit astride it;
  - (b) Is designed to travel on three (3) wheels in contact with the ground;
  - (c) Is designed to operate at a speed that exceeds forty (40) miles per hour as certified by the manufacturer;
  - (d) Allows the operator and passenger to ride either side-by-side or in tandem in a seating area that may be enclosed with a removable or fixed top;
  - (e) Is equipped with a three (3) point safety belt system;
  - (f) May be equipped with a manufacturer-installed air bags or a roll cage;
  - (g) Is designed to be controlled with a steering wheel and pedals; and
  - (h) Is not an alternative-speed motorcycle as defined in this section;
- (20) "Military surplus vehicle" means a multipurpose wheeled surplus military vehicle that:
- (a) Is not operated using continuous tracks;
  - (b) Was originally manufactured for and sold directly to the Armed Forces of the United States; and
  - (c) Was originally manufactured under the federally mandated requirements set forth in 49 C.F.R. sec. 571.7;
- (21) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (22) "Identity document" means an instruction permit, operator's license, or personal identification card issued under KRS 186.4102, 186.412, 186.4121, 186.4122, and 186.4123 or a commercial driver's license issued under KRS Chapter 281A;
- (23) "Travel ID," as it refers to an identity document, means a document that complies with Pub. L. No. 109-13, Title II;
- (24) "Motor scooter" means a low-speed motorcycle that is:
- (a) Equipped with wheels greater than sixteen (16) inches in diameter;
  - (b) Equipped with an engine greater than fifty (50) cubic centimeters;
  - (c) Designed to operate at a speed not to exceed fifty (50) miles per hour;
  - (d) Equipped with brake horsepower of two (2) or greater; and

- (e) Equipped with a step-through frame or a platform for the operator's feet;~~and~~
- (25) "Alternative technology," as used in KRS 186.400 to 186.640, means methods used by the cabinet to facilitate the issuance of operator's licenses and personal identification cards outside of the normal in-person application at a cabinet office, including but not limited to a cabinet mobile unit or online services;
- (26) ***"Electric motorcycle" means the same as "motorcycle" or "motor scooter" as defined in this section, that is powered by a:***
  - (a) ***Battery or equivalent energy storage device that can be charged with an electric plug using an external electricity source; or***
  - (b) ***Combination of an internal combustion engine and electric motor;***
- (27) ***"Electric vehicle" means any vehicle that has plug-in charging capability, regardless of whether the vehicle is powered by:***
  - (a) ***An electric motor only; or***
  - (b) ***A combination of an internal combustion engine and electric power; and***
- (28) ***"Hybrid vehicle" means any vehicle that does not have plug-in charging capability and is powered by a combination of an internal combustion engine and an electric motor.***

➔Section 31. KRS 186.050 is amended to read as follows:

- (1) The annual registration fee shall be eleven dollars fifty cents (\$11.50) for:
  - (a) Motor vehicles, including pickup trucks and passenger vans; and
  - (b) Motor carrier vehicles, as defined in KRS 281.010, primarily designed for carrying passengers or passengers for hire and having been designed or constructed to transport not more than fifteen (15) passengers, including the operator.
- (2) Except as provided in KRS 186.041 and 186.162, the annual registration fee for each motorcycle shall be nine dollars (\$9).
- (3)
  - (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of ten thousand (10,000) pounds or less, except those mentioned in subsections (1) and (2) of this section, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents (\$11.50).
  - (b) All motor vehicles, except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire which are designed or constructed to transport more than fifteen (15) passengers including the operator, whose registration fee shall be one hundred dollars (\$100), are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	669.00
55,001-62,000	1,007.00
62,001-73,280	1,250.00
73,281-80,000	1,410.00



- (4) (a) 1. Any farmer owning a truck having a gross weight of twenty-six thousand (26,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of twenty-six thousand (26,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.
2. Any farmer owning a truck having a gross weight of twenty-six thousand one (26,001) pounds to thirty-eight thousand (38,000) pounds may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight between twenty-six thousand one (26,001) pounds and thirty-eight thousand (38,000) pounds, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation and the products grown on his farm.
- (b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock, or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.
- (c) An initial applicant for, or an applicant renewing, his or her registration pursuant to this subsection, may at the time of application make a voluntary contribution to be deposited into the agricultural program trust fund established in KRS 246.247. The recommended voluntary contribution shall be set at ten dollars (\$10) and automatically added to the cost of registration or renewal unless the individual registering or renewing the vehicle opts out of contributing the recommended amount. The county clerk shall collect and forward the voluntary contribution to the cabinet for distribution to the Department of Agriculture.
- (5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.
- (6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.
- (7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross

weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.

- (8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city with a population equal to or greater than three thousand (3,000) based upon the most recent federal decennial census, or within five (5) miles of its limits if it is a city with a population of less than three thousand (3,000) based upon the most recent federal decennial census, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.
- (9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.
- (10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.
- (11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.
- (12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.
- (13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through, or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any

proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

- (b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.
  - (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.
- (14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:
- (a) The automobile shall be provided for the full-time exclusive use of the applicant; and
  - (b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.
- (15) An applicant for any motor vehicle registration issued pursuant to this section shall have the opportunity to make a donation of two dollars (\$2) to promote a hunger relief program through specific wildlife management and conservation efforts by the Department of Fish and Wildlife Resources in accordance with KRS 150.015. If an applicant elects to make a contribution under this subsection, the two dollar (\$2) donation shall be added to the regular fee for any motor vehicle registration issued pursuant to this section. One (1) donation may be made per issuance of each registration. The fee shall be paid to the county clerk and shall be transmitted by the State Treasurer to the Department of Fish and Wildlife Resources to be used exclusively for the purpose of wildlife management and conservation activities in support of hunger relief. The county clerk may retain up to five percent (5%) of the fees collected under this subsection for administrative costs associated with the collection of this donation. Any donation requested under this subsection shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license plate.
- (16) *In addition to the fees outlined in this section, the county clerk shall collect from the registrants of electric vehicles, electric motorcycles, and hybrid vehicles the electric vehicle ownership fees imposed in Section 32 of this Act.*

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Electric motorcycle" means the same as "motorcycle" or "motor scooter" as defined in KRS 186.010, that is powered by a:*
  - 1. *Battery or equivalent energy storage device that can be charged with an electric plug using an external electricity source; or*
  - 2. *Combination of an internal combustion engine and electric motor;*
- (b) *"Electric vehicle" means any vehicle that has plug-in charging capability, regardless of whether the vehicle is powered by:*
  - 1. *An electric motor only; or*
  - 2. *A combination of an internal combustion engine and electric power; and*
- (c) *"Hybrid vehicle" means any vehicle that does not have plug-in charging capability and is powered by a combination of an internal combustion engine and an electric motor.*

(2) *At the time of initial registration, and each year upon annual vehicle registration renewal, the county clerk shall collect, as required under Section 31 of this Act, from the registrants of electric motorcycles, electric vehicles, and hybrid vehicles the electric vehicle ownership fees established under subsections (3) and (4) of this section.*

- (3) *The electric vehicle ownership fees shall be:*
- (a) *One hundred twenty dollars (\$120) for electric vehicles; and*
  - (b) *Sixty dollars (\$60) for electric motorcycles or hybrid vehicles.*
- (4) *The Department of Revenue shall adjust the fees established in subsection (3) of this section, on the same schedule and in the same manner as the adjustments to the electric vehicle power taxes under Section 29 of this Act, except that:*
- (a) *Adjustment to the fees shall be rounded to the nearest dollar; and*
  - (b) *Any adjustment of fees shall not result in a decrease below the base fees established in subsection (3) of this section.*
- (5) *The electric vehicle ownership fees collected under this section shall be transferred:*
- (a) *Fifty percent (50%) to the general fund; and*
  - (b) *Fifty percent (50%) to the road fund.*

➔Section 33. KRS 131.400 is amended to read as follows:

- (1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."
- (2) ~~The department shall develop and administer tax amnesty programs as provided in KRS 131.410 to 131.445.~~
- (3) ~~As used in KRS 131.410 to 131.445, unless the context requires otherwise:~~
- (a) *"Account receivable" means an amount of state or federal tax, penalty, fee, or interest which has been recorded as due and entered in the account records of the department, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any federal or state government taxing authority;*
  - (b) *"Amnesty period" means the period of time established pursuant to subsection (3)~~(4)(a) or (b)~~ of this section during which a taxpayer may apply for tax amnesty;*
  - (c) *"Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed, the issuance of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final;*
  - (d) *"Federal government" means either the United States Department of Treasury or the Internal Revenue Service; and*
  - (e) ~~(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, limited liability company, limited liability partnership, or any other entity of any kind subject to any tax set forth in subsection (3)~~(4)~~ of this section or any person required to collect any such tax under subsection (3)~~(4)~~ of this section;~~
  - (e) ~~"Account receivable" means an amount of state tax, penalty, fee, or interest which has been recorded as due and entered in the account records of the department, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any federal or state government taxing authority; and~~
  - (d) ~~"Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed, the issuance of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.~~
- (3)~~(4)(a)~~ ~~Notwithstanding the provisions of any other law to the contrary, a tax amnesty program shall be conducted by the department during the fiscal year ending June 30, 2003, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties, fees, or interest subject to the administrative jurisdiction of the department, with the exceptions of ad~~

~~valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials. The program shall apply to tax liabilities for taxable periods ending or transactions occurring after December 1, 1987, but prior to December 1, 2001. Amnesty tax return forms shall be in a form prescribed by the department.~~

~~(b) Notwithstanding the provisions of any other law to the contrary, a tax amnesty program shall be conducted by the department during the fiscal year ending June 30, 2013, for a period of not less than sixty (60) days, beginning on October 1, 2022, and ending on November 29, 2022, nor more than one hundred twenty (120) days. The program shall be available to all taxpayers owing:~~

(a) Taxes, penalties, fees, or interest subject to the administrative jurisdiction of the department, with the exception of:

1. Ad valorem taxes levied on real property pursuant to KRS Chapter 132;
2. Ad valorem taxes on motor vehicles and motorboats collected by the county clerks;
3. Ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials; and
4. Any penalties imposed under KRS 131.630 or 138.205; *and*

(b) *Federal taxes, penalties, fees, or interest referred to the department from the federal government for collection purposes.*

(4) *If the department is unable to secure a successful bid for the procurement of services under Section 37 of this Act, the department shall implement a tax amnesty program during a sixty (60) day period similar to the period established in subsection (3) of this section, except that the sixty (60) day period shall be held during the calendar year 2023.*

(5) The program shall apply to tax liabilities for taxable periods ending or transactions occurring *on or after* ~~December 1, 2001, and prior to~~ October 1, 2011, *but prior to December 1, 2021, and any federal tax liability referred to the department.* ~~Amnesty tax forms and submissions shall be in a form prescribed by the department.~~

➔Section 34. KRS 131.410 is amended to read as follows:

(1) For any taxpayer who meets the requirements of KRS 131.420:

(a) 1. For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties and fees which may be assessed under any KRS chapter subject to the administrative jurisdiction of the department for the taxable years or periods for which tax amnesty is requested.

2. For the amnesty *period* ~~periods~~ described in KRS 131.400(3) ~~(4)~~, the Commonwealth shall waive interest as provided in ~~subsection (1) of~~ KRS 131.425(1).

(b) Except when the taxpayer and department enter into an installment payment agreement authorized under ~~subsection (3) of~~ KRS 131.420(3), failure to pay all taxes as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted *under* ~~pursuant to~~ KRS 131.410 to 131.445.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable.

(3) No refund or credit shall be granted for any interest, fee, or penalty paid prior to the time the taxpayer requests amnesty pursuant to KRS 131.420.

(4) Unless the department in its own discretion redetermines the amount of taxes due, no refund or credit shall be granted for any taxes paid under the amnesty program. Any administrative or judicial proceeding or claim seeking the refund or recovery of any amount paid under an amnesty program is hereby barred.

➔Section 35. KRS 131.420 is amended to read as follows:

- (1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed *under subsection (3) of Section 33 of this Act* ~~by the department~~ and does the following:
- (a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit;
  - (b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period and pays the amount of any additional tax owed within thirty (30) days of notification by the department;
  - (c) Pays in full within the amnesty period all taxes previously assessed by the department that are due and owing at the time the application or amnesty tax returns are filed; ~~and~~
  - (d) ***Pays in full within the amnesty period all taxes, penalties, fees, and interest assessed by the federal government and referred to the department for collection purposes; and***
  - (e) With regard to the program described in KRS 131.400(3) ~~(4)(b)~~, agrees to file all tax returns when due and make all tax payments when due for three (3) years following the date amnesty is granted to the taxpayer.
- (2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the department, and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid under the amnesty programs.
- (3) (a) The department may enter into an installment payment agreement as provided in KRS 131.081(9) in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section.
- (b) Failure of the taxpayer to make timely payments shall void the amnesty granted the taxpayer.
- (c) ~~1. All agreements and payments under the program described in KRS 131.400(4)(a) shall include interest as provided under subsection (2) of KRS 131.425.~~
2. All agreements and payments under the program described in KRS 131.400(3) ~~(4)(b)~~ shall include interest as provided under KRS 131.425(3).
- (d) All required payments under an installment payment agreement under the program described in KRS 131.400(3) ~~(4)(b)~~ shall be made on or before May 31, ~~2013~~, **2023**.
- (e) 1. If a taxpayer fails to make all required payments under paragraph (d) of this subsection by May 31, ~~2013~~, **2023**, the amnesty received by the taxpayer shall be invalidated, and all civil penalties, fees, and interest waived under the amnesty agreement shall:
- a. Be reinstated;
  - b. Be subject to immediate collection by the department; and
  - c. Not be subject to protest under KRS 131.110.
2. The department may utilize any remedy allowed by law to recover the amounts reinstated, and no statute of limitations shall apply.
- (4) If, following the termination of the tax amnesty period, the department issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the department shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost-of-collection fee imposed under ~~subsection (1) of~~ KRS 131.440(I), all assessments issued by the department under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

➔Section 36. KRS 131.425 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid under an amnesty program return~~[-~~
  - ~~(a) Filed under the program described in KRS 131.400 (4)(a) shall bear no interest imposed under KRS 131.183(1) or other applicable statutes; and~~
  - ~~(b) ]~~ filed under the program described in KRS 131.400(3)(a)~~[(4)(b)]~~ shall bear interest at one-half (1/2) the tax interest rate established by KRS 131.183(1) or other applicable statutes.
- (2) Notwithstanding the provisions of KRS 131.183(2) and 141.235, if any overpayment of tax under KRS 131.410 to 131.445 is refunded or credited within one hundred eighty (180) days after the return is filed, no interest shall be allowed.
- (3) All installment payment agreements entered into pursuant to KRS 131.420 relating to the program described in KRS 131.400(3)~~[(4)(b)]~~ shall bear interest on the outstanding amount of tax due during the installment period at the full rate established by KRS 131.183 or other applicable provisions of the Kentucky Revised Statutes.

➔Section 37. KRS 131.435 is amended to read as follows:

- (1) *The department and the Finance and Administration Cabinet shall begin procurement for services necessary to implement the tax amnesty program under KRS Chapter 45A, except as provided under subsection (2) of this section.*
- (2) (a) *The department shall issue a request for proposal, which complies with KRS 131.081, to solicit sufficient information for evaluating firms submitting statements of interest in providing tax amnesty services according to the following criteria:*
  1. *The qualifications of the firm to:*
    - a. *Provide advertising services prior to the start of the program described in subsection (3) of Section 33 of this Act and a toll-free telephone number for taxpayers to call for assistance;*
    - b. *Provide a customer-service approach and strategy to ensure a positive relationship with each taxpayer;*
    - c. *Contact every amnesty-eligible taxpayer, including by written correspondence and other forms of electronic and nonelectronic communication delivery channels, using contact and account receivable data supplied by the department related to tax amnesty and the tax amnesty period;*
    - d. *Employ the use of contact information correction sources, including data for all undeliverable mail, updated telephone numbers, and electronic mail addresses;*
    - e. *Assist any amnesty-eligible taxpayer by using tax-specific data, billing codes, or other information provided by the department;*
    - f. *Maintain the confidentiality of all data under KRS 131.190 which is supplied by the department or the taxpayer; and*
    - g. *Remit daily to the department all amnesty applications and tax payments received and all data corrections for the department's databases;*
  2. *The ability of all professional personnel employed by the firm that will provide tax amnesty services, including:*
    - a. *The total number of personnel that will provide tax amnesty services to taxpayers leading up to and during the amnesty period;*
    - b. *The title of each specific position type and total number of personnel filling each specific position type; and*
    - c. *The minimum qualifications for each specific position type;*
  3. *The past record and experience of the firm in performing tax amnesty services or other tax-related services;*

4. *Performance data related to past tax amnesty services or other tax-related services performed by the firm;*
  5. *Certification that the firm will meet the time requirements for the tax amnesty program and will conclude all services in a timely manner as required by the department or pay to the department a fee for failure to meet the timeframe;*
  6. *Verification of the location of all employees providing tax amnesty services;*
  7. *An agreement by the firm to provide a report to the department for posting to the department's Web site related to the following items:*
    - a. *A report of the public information campaign performed by the firm, including an itemized cost incurred;*
    - b. *The number of incoming telephone calls answered by week;*
    - c. *The number of mailings sent to taxpayers;*
    - d. *The number of returned mail items received;*
    - e. *The number of amnesty applications received from taxpayers by week;*
    - f. *The number of amnesty applications that were approved by taxpayer type;*
    - g. *The number of amnesty applications that were denied by taxpayer type and the number of denied amnesty applications by reason for denial;*
    - h. *According to the address listed on the amnesty application, information related to the absolute number and percentage of total for:*
      - i. *Amnesty applications received from businesses or individuals and whether the taxpayer was in-state or out-of-state;*
      - ii. *Amounts collected from businesses or individuals and whether the taxpayer was in-state or out-of-state; and*
      - iii. *The total amount collected by county, including the number of applications received by a business, individual, or office or member and the total amount paid for each category;*
    - i. *The number of amnesty applications received by appropriate payment ranges for the population of applications;*
    - j. *The payment amount received by type of tax;*
    - k. *The amount of tax collected by tax year;*
    - l. *The amount of federal tax collected by tax year;*
    - m. *The number of newly registered taxpayers; and*
    - n. *The amount of tax collected on protested audits by tax type and whether the amnesty payment paid the tax protested in full or was a partial payment on the audit; and*
  8. *Any other information required by the department.*
- (b) *When evaluating firms submitting statements of interest in providing tax amnesty services, the department shall use a weighted-evaluation approach to select a firm, including:*
1. *The ability of the firm to:*
    - a. *Provide a customer-service and taxpayer-assistance approach in providing amnesty services, including communication with taxpayers before and during the amnesty period, weighted no more than thirty percent (30%) of the evaluation score; and*
    - b. *Maintain lines of communication with the department related to strategy for and delivery of amnesty services and report to the department regarding the results from the firm delivering amnesty services, weighted no more than twenty-five percent (25%) of the evaluation score;*



2. *The bid of the firm to provide amnesty services, weighted no more than fifteen percent (15%) of the evaluation score; and*
  3. *The past performance of the firm with other states, including how well the firm met goals established by the other states, weighted no more than thirty percent (30%) of the evaluation score.*
- (3) For purposes of accounting for the revenues received pursuant to KRS 131.410 to 131.445, the department shall establish within the general fund a separate and distinct tax amnesty receipt account. All receipts collected as a result of the amnesty program shall be paid into this account, and all transactions involving this account shall be accounted for and reported as such.
- (4) *Following receipt of the report required by subsection (2) of this section and the disposition of moneys as required by subsection (3) of this section, the department shall provide a report summarizing the amnesty program results to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2023.*

➔Section 38. KRS 131.440 is amended to read as follows:

- (1) ~~(a)~~ For purposes of the program described in KRS 131.400(4)(a), in addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, there is hereby imposed after the expiration of the tax amnesty period the following cost-of-collection fees:
1. ~~A cost-of-collection fee of twenty-five percent (25%) on all taxes which are or become due and owing to the department for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this paragraph;~~
  2. ~~Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2001, shall be charged a cost-of-collection fee of twenty-five percent (25%) at the time of assessment; and~~
  3. ~~For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost-of-collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.~~
- ~~(b)~~ For purposes of the program described in KRS 131.400(3)~~(4)(b)~~:
- ~~(a)~~ ~~(1)~~ In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, 131.990 and any other law, there are hereby imposed after the expiration of the tax amnesty period the following cost-of-collection fees:
1. ~~(a)~~ A cost-of-collection fee of twenty-five percent (25%) on all taxes which are or become due and owing to the department for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this paragraph;
  2. ~~(b)~~ Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to **December 1, 2021**~~October 1, 2011~~, shall be charged a cost-of-collection fee of twenty-five percent (25%) at the time of assessment; and
  3. ~~(c)~~ For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost-of-collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.
- ~~(b)~~ ~~(2)~~ After expiration of the tax amnesty period, an amnesty-eligible tax liability that remains unpaid and that is not covered by an installment agreement as provided in KRS 131.420 shall accrue interest at a rate that is two percent (2%) above the interest rate established by KRS 131.183 or other applicable provisions of the Kentucky Revised Statutes, beginning on the day after the tax amnesty period ends.
- (2) The commissioner shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was due to reasonable cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under the amnesty program because of the exclusions *under*~~in subsection (2) of~~ KRS 131.410(2) shall not be subject to these fees.
- (3) The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the department prior to or during the amnesty period.

- (4) The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

➔Section 39. KRS 131.445 is amended to read as follows:

- (1) After the expiration of the tax amnesty period, the department shall vigorously pursue all civil, administrative, and criminal penalties authorized by state and federal law for all taxes found to be due the Commonwealth.
- (2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, 131.990, and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.
- (3) (a) Amnesty received by a taxpayer under the program described in KRS 131.400(3)~~(4)(b)~~ shall be invalidated if:
1. The taxpayer fails to timely file any tax return or timely pay any tax and interest due for any period ending *on or* after **October 1, 2011**~~December 31, 2001~~, ~~but~~*and* prior to **December 1, 2021**~~October 1, 2011~~; or
  2. The taxpayer fails to timely file any tax return or timely pay any tax for any period beginning **December 1, 2021**~~October 1, 2011~~, and ending within three (3) years of the date amnesty was granted to the taxpayer.
- (b) Except as provided in paragraph (d) of this subsection, if the provisions of paragraph (a) of this subsection apply, then the civil penalties, fees, and interest waived pursuant to KRS 131.410 shall:
1. Be reinstated;
  2. Be subject to immediate collection by the department; and
  3. Not be subject to protest under KRS 131.110.
- (c) The department may utilize any remedy permitted under the law to collect amounts due under this subsection, and no statute of limitations shall apply.
- (d) If paragraph (a) of this subsection applies to a taxpayer as the result of an audit or other investigation by the department, the amnesty shall not be invalidated until the taxpayer has had the opportunity to protest as provided in KRS 131.110, and has failed to pay the tax within thirty (30) days of the date on which the assessment becomes final, due, and owing as provided in KRS 131.500(1).

➔Section 40. KRS 68.200 is amended to read as follows:

- (1) As used in this section, unless the context clearly indicates otherwise:
- (a) ***"Gross rental charge" has the same meaning as in KRS 138.462;***
- (b) ***"Motor vehicle" has the same meaning as*** ~~means~~***"vehicle" as defined in KRS 186.010(8)(a);***
- (c) ***"Peer-to-peer car sharing" has the same meaning as in Section 9 of this Act;***
- (d) ***"Peer-to-peer car sharing program" has the same meaning as in Section 9 of this Act;***
- (e) ***"Peer-to-peer car sharing program agreement":***
1. ***Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and***
  2. ***Does not include rental or lease agreements entered into with persons operating under a U-Drive-It certificate as defined in Section 9 of this Act;***
- (f) ***"Shared vehicle driver" has the same meaning as in Section 9 of this Act;***
- (g) ***"Transportation network company" has the same meaning as in Section 9 of this Act;***
- (h) ***"Transportation network company service" has the same meaning as in Section 9 of this Act; and***
- (i) ***"U-Drive-It" has the same meaning as in Section 9 of this Act***~~;~~
- ~~(b) — Retailer means "retailer" as defined in KRS 139.010; and~~

- (e) ~~Gross rental charge means "gross rental charge" as defined in KRS 138.462].~~
- (2) A county containing a designated city, consolidated local government, or urban-county government may levy a license fee on *a*:
- (a) *U-Drive-It*;
  - (b) *Peer-to-peer car sharing program*; and
  - (c) *Transportation network company*.
- (3) ~~The license fee shall [the rental of motor vehicles which shall]~~ not exceed three percent (3%) of the gross rental charges from:
- (a) Rental agreements for periods of thirty (30) days or less *by a*:
    1. *U-Drive-It*; or
    2. *Peer-to-peer car sharing program*; or
  - (b) *The provision of transportation network company services by a transportation network company*.
- (4) The license fee shall *not* apply to *a U-Drive-It [retailer]* who *receives less [receive more]* than seventy-five percent (75%) of *its [their]* gross revenues generated in the county from gross rental charges.
- (5) Any license fee levied pursuant to this subsection shall be collected by *a*:
- (a) *U-Drive-It [the retailer]* from the renters of the motor vehicles;
  - (b) *Peer-to-peer car sharing program from the shared vehicle driver*; and
  - (c) *Transportation network company from the purchaser of the transportation network company services*.
- (6)~~(3)~~ Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:
- (a) The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or
  - (b) The rental is part of the services provided by a funeral director for a funeral; ~~or~~
  - (e) ~~The rental is exempted from the state sales and use tax pursuant to KRS 139.470].~~
- (7)~~(4)~~ A fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.210 to 65.300.
- (8)~~(5)~~ The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.210 to 65.300, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:
- (a) A riverport authority established by the county pursuant to KRS 65.520; or
  - (b) An industrial development authority established by the county pursuant to KRS 154.50-316; or
  - (c) A nonprofit corporation as defined in KRS 273.161(4) which has been organized for the purpose of promoting economic development.
- The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.
- (9)~~(6)~~ (a) As used in this section, "designated city" means a city on the registry maintained by the Department for Local Government under this subsection.
- (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the first, second, and third class.

The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 41. KRS 143.022 is amended to read as follows:

- (1) A taxpayer engaged in severing or processing coal within this Commonwealth that has paid the tax imposed under KRS 143.020 may apply for a refund equal to the amount of tax paid under KRS 143.020 if the coal is transported directly to a market outside of North America.
- (2) To apply for the refund allowed under subsection (1) of this section the taxpayer shall file an application for refund with the department and submit all information and documentation necessary to substantiate that the tax was paid upon the coal which was transported directly to a market outside of North America.
- (3) The refund process allowed under subsection (1) of this section is available beginning on or after August 1, 2020, but before July 1, ~~2024~~~~2022~~, and limited during any calendar year to the export of a combined total of ten million (10,000,000) tons of coal subject to the tax imposed under KRS 143.020 and exported through United States coal export terminals to markets outside of North America.

➔Section 42. KRS 141.010 is amended to read as follows:

As used in this chapter, for taxable years beginning on or after January 1, 2018:

- (1) "Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in KRS 141.019;
- (2) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:
  - (a)
    1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or
    2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;
  - (b)
    1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:
      - a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or
      - b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and
    2. For the purposes of this paragraph:
      - a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to KRS 141.200; and
      - b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and
  - (c) The real estate investment trust is not owned by another real estate investment trust;
- (3) "Commissioner" means the commissioner of the department;
- (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;
- (5) "Critical infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission or distribution systems, gas distribution systems, or water or wastewater pipelines that service multiple customers or citizens, including but not limited to real and personal property such as buildings, offices, lines, poles, pipes, structures, or equipment;
- (6) "Declared state disaster or emergency" means a disaster or emergency event for which:

- (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or
  - (b) A presidential declaration of a federal major disaster or emergency has been issued;
- (7) "Department" means the Department of Revenue;
- (8) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (9) "Disaster or emergency-related work" means repairing, renovating, installing, building, or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency;
- (10) "Disaster response business" means any entity:
- (a) That has no presence in the state and conducts no business in the state, except for disaster or emergency-related work during a disaster response period;
  - (b) Whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and
  - (c) That has no registrations, tax filings, or nexus in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency;
- (11) "Disaster response employee" means an employee who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;
- (12) "Disaster response period" means a period that begins ten (10) days prior to the first day of the Governor's declaration under KRS 39A.100, or the President's declaration of a federal major disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency;
- (13) "Doing business in this state" includes but is not limited to:
- (a) Being organized under the laws of this state;
  - (b) Having a commercial domicile in this state;
  - (c) Owning or leasing property in this state;
  - (d) Having one (1) or more individuals performing services in this state;
  - (e) Maintaining an interest in a pass-through entity doing business in this state;
  - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or
  - (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.
- Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;
- (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;
- (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;
- (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;
- (17) "Financial institution" means:
- (a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;
  - (b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;
  - (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized

- after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or
- (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;
- (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;
- (19) "Gross income":
- (a) In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and
- (b) In the case of corporations, means the amount calculated in KRS 141.039;
- (20) "Individual" means a natural person;
- (21) "Internal Revenue Code" means ~~{~~
- ~~(a) For taxable years beginning on or after January 1, 2018, but before January 1, 2019, the Internal Revenue Code in effect on December 31, 2017, including the provisions contained in Pub. L. No. 115-97 apply to the same taxable year as the provisions apply for federal purposes, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2017, that would otherwise terminate; and~~
- ~~(b) }for taxable years beginning on or after January 1, 2022{2019}, the Internal Revenue Code in effect on December 31, 2021{2018}, **excluding:**~~
- ~~(a) **Pub. L. No. 117-2, sec. 9673, related to the tax treatment of restaurant revitalization grants; and{ exclusive of }**~~
- ~~(b) Any amendments made subsequent to that date~~{, other than amendments that extend provisions in effect on December 31, 2018, that would otherwise terminate}~~;~~
- (22) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;
- (23) "Modified gross income" means the greater of:
- (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:
1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
  2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- (b) Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (24) "Net income":
- (a) In the case of taxpayers other than corporations, means the amount calculated in KRS 141.019; and
- (b) In the case of corporations, means the amount calculated in KRS 141.039;
- (25) "Nonresident" means any individual not a resident of this state;
- (26) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (27) "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;
- (28) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for

federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

- (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;
- (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;
- (31) "Registered business" means a business entity that owns or otherwise possesses critical infrastructure and that is registered to do business in the state prior to the declared state disaster or emergency;
- (32) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;
- (34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;
- (35) "Taxable net income":
  - (a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection (24) of this section;
  - (b) In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (24) of this section and as allocated and apportioned under KRS 141.120;
  - (c) For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (21) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
  - (d) For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;
- (36) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and
- (37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

➔Section 43. KRS 139.730 is amended to read as follows:

- (1) In the administration of the sales and use tax, the department may require the filing of reports by any person or class of persons ~~with~~~~having in his or their~~ possession or custody *of* information relating to sales of tangible personal property, digital property, or an extended warranty service, the storage, use, or other consumption of which is subject to the tax.
- (2) *Any event coordinator of a festival or similar event shall provide the department with a list of vendors selling at the event any tangible property, digital property, or services listed in Section 3 of this Act.*
- (3) The report shall be filed at the time specified by the department and shall contain such information as the department may require.

➔SECTION 44. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *Any company whose tax, as provided in KRS 136.320, 136.330, 136.340, 136.350, 136.370, 342.445, or 304.3-270 was five thousand dollars (\$5,000) or more in the previous year shall file a declaration of estimated tax.*
- (2) *The tax due shall be paid in three (3) installments, one-third (1/3) on or before June 1, one-third (1/3) on or before October 1, and the remainder on or before the following March 1.*

- (3) (a) *Any adjustments may be made on or before October 1.*
- (b) *All adjustments shall be made on or before March 1.*
- (c) *If any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for the declaration, no penalties or interest shall apply to any subsequent adjustments.*
- (4) *All taxes not paid when due may be subject to:*
- (a) *A penalty of five percent (5%) per month, but not more than twenty-five percent (25%) penalty shall be assessed on any one (1) report; and*
- (b) *Interest at the tax interest rate as defined in KRS 131.010(6) from the date the report was due.*

➔Section 45. KRS 139.472 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:
- (a) A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;
- (b) An over-the-counter drug purchased for the treatment of a human being for which a prescription is issued;
- (c) Medical oxygen and oxygen delivery equipment purchased for home use. Oxygen delivery equipment includes:
1. High pressure cylinders, cryogenic tanks, oxygen concentrators, or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; and
  2. Tubes, masks, and similar items required for the delivery of oxygen to the patient;
- (d) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;
- (e) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;
- (f) Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;
- (g) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;
- (h) Mobility enhancing equipment for which a prescription is issued; and
- (i) Durable medical equipment, including hospital beds for which a prescription is issued.
- (2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.
- (3) As used in this section *and Section 46 of this Act:*
- (a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:
1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease ~~in humans~~; or
  2. Intended to affect the structure or any function of the ~~human~~ body;
- (b) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions, regardless of whether the items meet the definition of an over-the-counter drug;



- (c) 1. "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66. The "over-the-counter drug" label shall include:
- a. A "Drug Facts" panel; or
  - b. A statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.
2. "Over-the-counter drug" shall not include grooming and hygiene products;
- (d) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug;
- (e) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:
- a. Artificially replace a missing portion of the body;
  - b. Prevent or correct a physical deformity or malfunction; or
  - c. Support a weak or deformed portion of the body.
2. "Prosthetic device" shall not include any of the following:
- a. Corrective eyeglasses;
  - b. Contact lenses; or
  - c. Dental prosthesis;
- (f) 1. "Mobility enhancing equipment" means equipment, including repair and replacements part for same, which:
- a. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
  - b. Is not generally used by persons with normal mobility; and
  - c. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
2. "Mobility enhancing equipment" shall not include durable medical equipment; and
- (g) 1. "Durable medical equipment" means equipment, including repair and replacement parts for same, which:
- a. Can withstand repeated use;
  - b. Is primarily and customarily used to serve a medical purpose;
  - c. Generally is not useful to a person in the absence of illness or injury; and
  - d. Is not worn in or on the body.
2. "Durable medical equipment" shall not include mobility enhancing equipment or oxygen delivery equipment that is not worn in or on the body.
3. As used in this paragraph, "repair and replacement parts" includes all components or attachments used in connection with durable medical equipment.

➔Section 46. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;

- (3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.
- (b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.
- (c) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.
- (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:
1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;
  2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;
  3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;
  4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and
  5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":

- (a) Means machinery used exclusively and directly in the occupation of:
  - 1. Tilling the soil for the production of crops as a business;
  - 2. Raising and feeding livestock or poultry for sale; or
  - 3. Producing milk for sale;
- (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
- (c) Does not include:
  - 1. Automobiles;
  - 2. Trucks;
  - 3. Trailers, except combine header trailers; or
  - 4. Truck-trailer combinations;
- (12) Tombstones and other memorial grave markers;
- (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
  - (a) Operate farm machinery as defined in subsection (11) of this section;
  - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;
  - (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;
  - (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
  - (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or
  - (f) Operate on-farm dairy facilities;
- (16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (20) (a) 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and

2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
- (b) The exemptions provided in this subsection shall be effective for sales made:
1. On and after July 1, 2018; and
  2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- (21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (26) Baling twine and baling wire for the baling of hay and straw;
- (27) Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
  - (b) Production of milk for sale; or
  - (c) Raising and feeding of:
    1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
    2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
  - (b) Water;
  - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
  - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
- (c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; ~~and~~
- (32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy; **and**
- (33) ***Drugs and over-the counter drugs, as defined in Section 45 of this Act, that are purchased by a person regularly engaged in the business of farming and used in the treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, or cervids.***

➔Section 47. KRS 132.010 is amended to read as follows:

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

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his or her actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;
- (7) "Net assessment growth" means the difference between:
  - (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year; and
  - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
  - (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
  - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
  - (c) The value of improvements to existing nonresidential property;
  - (d) The value of new residential improvements to property;
  - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
  - (f) Property created by the subdivision of unimproved property, provided, that when the property is reclassified from farm to subdivision by the property valuation administrator, the value of the property as a farm shall be a deletion from that category;
  - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
  - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that the property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
  - (i) The value of improvements to real property previously under assessment moratorium.

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

- (9) "Agricultural land" means:
- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
  - (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
  - (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
- (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;
- (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:
- (a) Relative percentages of tillable land, pasture land, and woodland;
  - (b) Degree of productivity of the soil;
  - (c) Risk of flooding;
  - (d) Improvements to and on the land that relate to the production of income;
  - (e) Row crop capability including allotted crops other than tobacco;
  - (f) Accessibility to all-weather roads and markets; and
  - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;
- (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;
- (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;
- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
- (16) ***"Manufactured home" means a structure manufactured after June 15, 1976, in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assignees and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;***
- (17) "Mobile home" means a structure ***manufactured on or before June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act***, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and

designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;

**(18) "Modular home" means a structure which is certified by its manufacturer as being constructed in accordance with all applicable provisions of the Kentucky Building Code and standards adopted by the local authority which has jurisdiction, transportable in one (1) or more sections, and designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;**

**(19) "Prefabricated home" means a manufactured home, a mobile home, or a modular home;**

~~(20)(17)~~ "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home. As used in this subsection:

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

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

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

(d) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;

~~(21)(18)~~ "Hazardous substances" shall have the meaning provided in KRS 224.1-400;

~~(22)(19)~~ "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;

~~(23)(20)~~ "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;

~~(24)(21)~~ "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:

(a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;

(b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;

(c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;

(d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;

(e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and

(f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:

1. Direct or indirect familial relationship;



2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
  3. Reorganization of a business entity that was potentially liable;
- (25)~~(22)~~ "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;
- (26)~~(23)~~ (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and
- (c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (27)~~(24)~~ "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;
- (28)~~(25)~~ "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;
- (29)~~(26)~~ (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.
- (b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee;
- (30)~~(27)~~ "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (31)~~(28)~~ "Heavy equipment rental agreement" means the short-term rental contract under which qualified heavy equipment is rented without an operator for a period:
- (a) Not to exceed three hundred sixty-five (365) days; or
  - (b) That is open-ended under the terms of the contract with no specified end date;
- (32)~~(29)~~ "Heavy equipment rental company" means an entity that is primarily engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System Manual in effect on January 1, 2019;
- (33)~~(30)~~ "Qualified heavy equipment" means machinery and equipment, including ancillary equipment and any attachments used in conjunction with the machinery and equipment, that is:
- (a) Primarily used and designed for construction, mining, forestry, or industrial purposes, including but not limited to cranes, earthmoving equipment, well-drilling machinery and equipment, lifts, material handling equipment, pumps, generators, and pollution-reducing equipment; and
  - (b) Held in a heavy equipment rental company's inventory for:
    1. Rental under a heavy equipment rental agreement; or
    2. Sale in the regular course of business; and
- (34)~~(31)~~ "Veteran service organization" means an organization wholly dedicated to advocating on behalf of military veterans and providing charitable programs in honor and on behalf of military veterans.

➔Section 48. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5)
  - (a) Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna;
  - (b) Equipment directly used or associated with the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast, but excluding telephone and cellular communications towers; and
  - (c) Equipment used to gather or transmit weather information;
- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this subsection if the tangible personal property is being used for its intended purposes;
- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (14) All motor vehicles:
  - (a) Held for sale in the inventory of a licensed motor vehicle dealer, including motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

- (b) That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer; and
  - (c) With a salvage title held by an insurance company;
- (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.010;
- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
- (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
  - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;
- (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;
- (22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
- (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
  - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments;
  - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation;
- (23) Recreational vehicles held for sale in a retailer's inventory;~~and~~
- (24) A privately owned leasehold interest in residential property described in KRS 132.195(2)(g), if an exemption is approved by the county, city, school, or other taxing district in which the residential property is located; **and**
- (25) ***Prefabricated homes held for sale in a manufacturer's or retailer's inventory.***

➔Section 49. KRS 171.397 is amended to read as follows:

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- (1) (a) For all applications for a preliminary approval received prior to April 30, 2010, there shall be allowed as a credit against the taxes imposed by KRS 141.020, 141.040, 141.0401, or 136.505, an amount equal to:
1. Thirty percent (30%) of the qualified rehabilitation expenses, in the case of owner-occupied residential property; and
  2. Twenty percent (20%) of the qualified rehabilitation expenses, in the case of all other property.
- In the case of an exempt entity that has incurred qualified rehabilitation expenses, the credit provided in this subsection shall be available to transfer or assign as provided under subsection (8) or (9) of this section.
- (b) For applications for preliminary approval received on or after April 30, 2010, the credit shall be refundable if the taxpayer makes an election under subsection (2)(b) of this section.
- (2) (a) A taxpayer seeking the credit provided under subsection (1) of this section shall file an application for a preliminary determination of maximum credit eligibility before April 30 of the year in which the proposed project will begin. The application shall describe the project and shall include documentation supporting the qualification of the project for the credit, the proposed start date, the proposed completion date, the projected qualified rehabilitation expenses, and any other information the council may require. The council shall determine the preliminary maximum credit available for each taxpayer and shall notify the taxpayer of that amount by June 30 of the year in which the application was filed. If total credits applied for in any year exceed the certified rehabilitation credit cap, plus any amounts added to the cap pursuant to paragraph (c) of this subsection, the provisions of subsection (5) of this section shall be applied to reduce the approved credits for all taxpayers with qualifying applications for that year.
- (b) 1. An application for a final determination of credit shall be submitted to the council upon completion of the project.
2. The application shall include an irrevocable election by the taxpayer to:
- a. Use the credit, in which case, the credit shall be refundable; or
  - b. Transfer the credit.
3. The council shall determine the final amount of credit approved for each taxpayer based upon the actual expenditures, preliminary determination of maximum credit, and a determination that the expenditures are qualified rehabilitation expenses.
4. The council shall notify the taxpayer and Department of Revenue of the final approved credit amount within sixty (60) days of the receipt of a completed application from the taxpayer.
- (c) 1. If the total amount of credits finally approved for a taxpayer under paragraph (b) of this subsection are less than the credits initially approved for a taxpayer under paragraph (a) of this subsection, the difference between the two (2) amounts shall be added to the certified rehabilitation credit cap for the next calendar year.
2. If the total amount of credits approved under paragraph (a) of this subsection in any calendar year is less than the certified rehabilitation credit cap, the difference between the credits actually awarded and the certified rehabilitation credit cap shall be added to the certified rehabilitation credit cap for the next calendar year.
- (3) (a) The maximum credit which may be claimed with regard to owner-occupied residential property shall be **one hundred twenty**~~sixty~~ thousand dollars **(\$120,000)**~~(\$60,000)~~ subject to subsection (5) of this section. The credit in this section shall be claimed for the taxable year in which the certified rehabilitation is completed.
- (b) The maximum credit which may be claimed with regard to all other property that is not owner-occupied residential shall be **ten million**~~four hundred thousand~~ dollars **(\$10,000,000)**~~(\$400,000)~~ subject to subsection (5) of this section. The credit in this section shall be claimed for the taxable year in which the certified rehabilitation is completed.
- (4) In the case of a husband and wife filing separate returns or filing separately on a joint return, the credit may be taken by either or divided equally, but the combined credit shall not exceed **one hundred twenty**~~sixty~~ thousand dollars **(\$120,000)**~~(\$60,000)~~ if subject to the limitation in subsection (3)(a) of this section, or **ten**

~~million~~~~[four hundred thousand]~~ dollars **(\$10,000,000)**~~(\$400,000)~~ if subject to the limitation in subsection (3)(b) of this section, subject to the provisions of subsection (5) of this section.

- (5) The credit amount approved for a calendar year for all taxpayers under subsection (2)(a) of this section shall be limited to the certified rehabilitation credit cap. When the total credits applied for and approved in any year under subsection (2)(a) of this section exceed the certified rehabilitation credit cap, the council shall apportion the certified rehabilitation credit cap as follows: The certified rehabilitation credit cap for the year under consideration shall be multiplied by a fraction, the numerator which is the approved credit amount for an individual taxpayer for a calendar year and the denominator which is the total approved credits for all taxpayers for a calendar year.
- (6) (a) For all applications received prior to April 30, 2010, if the credit amount that may be claimed in any tax year as determined under subsections (3) to (5) of this section exceeds the taxpayer's total tax liabilities under KRS 136.505, 141.020, or 141.040 and 141.0401, the taxpayer may carry the excess tax credit forward until the tax credit is used, provided that any tax credits not used within seven (7) years of the taxable year the certified rehabilitation was complete shall be lost.
- (b) For all applications received on or after April 30, 2010, if the credit amount that may be claimed in any tax year as determined under subsections (3) to (5) of this section exceeds the taxpayer's total tax liabilities under KRS 136.505, 141.020, or 141.040 and 141.0401, the taxpayer may receive a refund, if the taxpayer elected to take the credit as required by subsection (2)(b) of this section.
- (7) (a) The credit shall apply against both the tax imposed by KRS 141.020 or 141.040 and the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (b) 1. For applications received prior to April 30, 2010, if the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040, the taxpayer shall apply the credit at the entity level against the limited liability tax entity imposed by KRS 141.0401, and shall also pass the credit through in the same proportion as the distributive share of income or loss is passed through.
2. For applications received on or after April 30, 2010, if the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040, the taxpayer shall apply the credit at the entity level against the limited liability tax entity imposed by KRS 141.0401, and may receive a refund if the taxpayer elected to take the credit as required by subsection (2)(b)2.a. of this section.
- (8) Credits received under this section may be transferred or assigned if an election is made under subsection (2)(b) of this section, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities to **a financial institution as defined in KRS 141.010**~~[any entity]~~ subject to the ~~taxes~~~~[tax]~~ imposed by KRS 136.505, **141.040, or 141.0401**. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Department of Revenue of:
- (a) The name, address, employer identification number, and bank routing and transfer number, of the party to which the credits are transferred;
- (b) The amount of credits transferred; and
- (c) Any additional information the Department of Revenue deems necessary.
- The provisions of this subsection shall apply to any credits that pass through to a successor or beneficiary of a taxpayer.
- (9) For purposes of this section, a lessee of a certified historic structure shall be treated as the owner of the structure if the remaining term of the lease is not less than the minimum period promulgated by administrative regulation by the council.
- (10) The taxes imposed in KRS 141.020, 141.040, and 141.0401 shall not apply to any consideration received for the transfer, sale, assignment, or use of a tax credit approved under this section.
- (11) The Department of Revenue shall assess a penalty on any taxpayer or exempt entity that performs disqualifying work, as determined by the Kentucky Heritage Council, on a certified historic structure for which a rehabilitation has been certified under this section in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation. Any penalties shall be assessed against the property owner who performs the disqualifying work and not against any transferee of the credits.

- (12) The council may impose fees for processing applications for tax credits, not to exceed the actual cost associated with processing the applications.
- (13) The council may authorize a local government to perform an initial review of applications for the credit allowed under this section and forward the applications to the council with its recommendations.
- (14) The council and the Department of Revenue may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to establish policies and procedures to implement the provisions of subsections (1) to (13) of this section.
- (15) The tax credit authorized by this section shall apply to tax periods ending on or after December 31, 2005.

➔Section 50. KRS 131.110 is amended to read as follows:

- (1) (a) The department~~of Revenue~~ shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the department within:
  - 1. Forty-five (45) days from the date of notice, for assessments issued prior to July 1, 2018; and
  - 2. Sixty (60) days from the date of notice, for assessments issued on or after July 1, 2018.
- (b) Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 49.220.
- (c)
  - 1. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.
  - 2. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.
  - 3. The refusal of the extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) (a) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Board of Tax Appeals.
- (b)~~(4)~~ The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the department shall issue such ruling within thirty (30) days from the date the request is received by the department.
- (c) *If a taxpayer files a timely protest in dispute of a property tax assessment issued under KRS 136.120 to 136.180 and does not receive from the department, within one (1) year from the date on which the protest was filed:*
  - 1. *A fully executed written agreement to settle the protest as authorized under KRS 131.030(3);*
  - 2. *A final ruling in accordance with paragraphs (a) or (b) of this subsection; or*
  - 3. *Resolution and closure of the protest;*

*the department shall immediately issue a final ruling that accepts the taxpayer's grounds of the protest, including the taxpayer's proposed true value as stated in the protest.*
- (4)~~(5)~~ After a final ruling has been issued, the taxpayer may appeal to the Board of Tax Appeals pursuant to the provisions of KRS 49.220.

➔Section 51. KRS 131.183 is amended to read as follows:

- (1) (a) Except for the addition to tax required when an underpayment of estimated tax occurs under KRS 141.044 and 141.305, all taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate.

- (b) 1. a. *Except as provided by subparagraph 2 of this paragraph*, the tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent as adjusted by subsection (2) of this section.
- b. ~~(c)~~ The commissioner of revenue shall adjust the tax interest rate not later than November 15 of each year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The adjusted tax interest rate shall become effective on January 1 of the immediately succeeding year.
2. *For additional tax billed in accordance with KRS 136.180(2), the tax interest rate shall be equal to the federal short-term rate applicable to each quarter of the period that begins on the date the protest was filed by the taxpayer under Section 50 of this Act and ends on the due date of the tax as stated on the final tax bill. The federal short-term rate for each quarter shall be the federal short-term rate determined by the Secretary of the Treasury under Section 6621(b) of the Internal Revenue Code of 1986 or equivalent section in case of amendment. The two percent (2%) adjustment provided by subsection (2)(a) of this section shall not apply to the interest rate determined under this subparagraph.*
- (2) (a) 1. All taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section until May 1, 2008.
2. Beginning on May 1, 2008, all taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section plus two percent (2%).
- (b) 1. Interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate provided in subsection (1) of this section until May 1, 2008.
2. Beginning on May 1, 2008, interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 at the rate provided in subsection (1) of this section minus two percent (2%).
3. Effective for refunds issued after April 24, 2008, except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the latest of:
- The due date of the return;
  - The date the return was filed;
  - The date the tax was paid;
  - The last day prescribed by law for filing the return; or
  - The date an amended return claiming a refund is filed.
- (c) In no case shall interest be paid in an amount less than five dollars (\$5).
- (d) No refund shall be made of any estimated tax paid unless a return is filed as required by KRS Chapter 141.
- (3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.
- (4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.
- (5) For purposes of this section, any addition to tax provided in KRS 141.044 and 141.305 shall be considered a penalty.

➔SECTION 52. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

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

- (a) *"Assignee" means the taxpayer to whom the credit allowed under this section is transferred;*
  - (b) *"Exempt entity" means any tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, any political subdivision of the Commonwealth, any state or local agency, board, or commission, or any quasi-governmental entity;*
  - (c) *"Qualifying expenditures" has the same meaning as in Section 53 of this Act;*
  - (d) *"Qualifying decontamination property" has the same meaning as in Section 53 of this Act; and*
  - (e) *"Taxpayer" means any:*
    - 1. *Entity that is subject to the taxes imposed by KRS 141.020 or KRS 141.040 and 141.0401; or*
    - 2. *Exempt entity and may include any individual, corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted that claims the credit or transfers the credit under this section.*
- (2) *For taxable years beginning on or after January 1, 2022, but before January 1, 2032, a taxpayer making a qualifying expenditure at a qualifying decontamination property shall be allowed a refundable credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in Section 54 of this Act.*
- (3) *The department may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to establish policies and procedures to implement the provisions of this section.*
- (4) *Any taxpayer approved for credit under this section shall not also claim or apply for credit related to the remediation or decontamination of the same qualifying property under KRS 141.418.*
- (5) *The taxpayer receiving the credits may assign, sell, or transfer, in whole or in part, the tax credit to any other taxpayer. Within thirty (30) days of credit transfer, the assignor shall provide written notice to the department of its intent to transfer or sell the tax credit along with supporting documentation prescribed by the department which shall include but not be limited to:*
- (a) *Date on which the transfer is effective;*
  - (b) *Assignee's name, taxpayer identification number, address, and bank routing and transfer number; and*
  - (c) *Total amount of credit to be transferred.*
- (6) (a) *The purpose of this credit is to encourage investment in and decontamination or remediation of qualifying decontamination property. In order for the General Assembly to evaluate the fulfillment of the purpose stated in this section, the department shall provide the following information on a cumulative basis for each taxable year to provide a historical impact of the tax credit to the Commonwealth:*
- 1. *The number of tax returns, by the tax type of return filed, claiming the credit for each taxable year;*
  - 2. *The total amount of credit claimed on returns filed for each taxable year;*
  - 3. *The cumulative number of projects by county, as identified by the county in which the qualifying decontamination project is located, for each taxable year;*
  - 4. *The cumulative total of credits claimed by county, as identified by the county in which the qualifying decontamination project is located for each taxable year;*
  - 5.
    - a. *In the case of taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of credits claimed for each adjusted gross income range for each taxable year; and*
    - b. *In the case of corporations, based on ranges of net income of no larger than fifty thousand dollars (\$50,000), the total amount of credits claimed for each net income range for each taxable year; and*
  - 6. *Any other taxpayer information necessary for the General Assembly to evaluate this credit.*



- (b) *The report required by paragraph (a) of this subsection shall be submitted to the Interim Joint Committee on Appropriations and Revenue no later than November 1, 2024, and annually thereafter as long as the decontamination tax credit is claimed on any tax return filed.*

➔SECTION 53. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) *For purposes of this section:*

- (a) *"Assignor" means the recipient of the tax credit who may assign, sell, or transfer, in whole or in part, the tax credit to any other taxpayer;*
- (b) *"Department" means the Department of Revenue;*
- (c) *"Qualifying expenditures" means up to one hundred percent (100%) of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for voluntarily performing activities to decontaminate or remediate any preexisting hazardous substance, pollutant or contaminant, or petroleum and petroleum products as defined in KRS 224.60-115, including but not limited to the costs of performing operation and maintenance of the remediation systems and equipment at the qualifying decontamination property beyond the year in which the systems and equipment are built and installed and the costs of performing the remediation activities following the taxpayer's tax year in which the systems and equipment were first put into use at the qualifying decontamination property; and*
- (d) *"Qualifying decontamination property" includes qualifying voluntary environmental remediation property as defined in KRS 141.418 and shall also include real property under the Brownfield Redevelopment Program as established in KRS 224.1-415, if the guidelines in KRS 141.418(1)(e) are met.*

(2) *There is hereby created a decontamination tax credit.*

- (3) (a) *For taxable years beginning on or after January 1, 2022, but before January 1, 2032, a taxpayer making a qualifying expenditure at a qualifying decontamination property shall be allowed a refundable credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in Section 54 of this Act.*
- (b) *The credit shall be equal to the amount of expenditures made by the taxpayer for the decontamination or remediation of the qualifying decontamination property.*
- (c) *The total credit awarded per qualifying decontamination property shall not exceed thirty million dollars (\$30,000,000).*
- (d) *The amount of credit to be taken in a taxable year shall not exceed twenty-five percent (25%) of the total amount of approved credit.*

(4) *The qualifying expenditures:*

- (a) *Shall be in accordance with a corrective action plan approved by the cabinet under KRS 224.1-400, 224.1-405, or 224.60-135; and*
- (b) *May include up to one hundred percent (100%) of the costs of demolition that are not directly part of the decontamination or remediation activities, provided that the demolition is:*
1. a. *On the property where the decontamination or remediation activities are occurring; or*
  - b. *On adjacent property, so long as it is independently qualified as abandoned or underutilized;*
  2. *Necessary to accomplish the planned use of the property where the decontamination or remediation activities are occurring; and*
  3. *Part of a redevelopment plan approved by the municipal or county government and the cabinet.*

- (5) *The decontamination or remediation shall not be financed through a public grant program or the petroleum storage tank environmental assurance fund under KRS 224.60-115.*

- (6) *The amount of reasonably anticipated total qualifying expenditures associated with the qualifying decontamination property shall equal or exceed ten million dollars (\$10,000,000).*
- (7) (a) *The qualifying decontamination property shall be located:*
1. *Within one-half (1/2) mile of a tax increment financing development area; or*
  2. *In a census tract that qualifies for the use of the Kentucky New Markets Development Program tax credit created under KRS 141.434.*
- (b) *The amount of reasonably anticipated capital investment in the qualifying decontamination property shall exceed thirty million dollars (\$30,000,000).*
- (8) (a) *Beginning on or after January 1, 2022, a taxpayer seeking the credit established in this section shall file an application with the cabinet not less than thirty (30) days prior to the date the qualifying expenditures will begin, and on a form as prescribed by the cabinet for determination of eligibility.*
- (b) *The application shall include supporting documentation including:*
1. *The name, address, and taxpayer identification number of the owner of the qualifying decontamination property;*
  2. *Detailed description of the property;*
  3. *The proposed start and completion dates for the project; and*
  4. *The projected amount of total capital investment and qualifying expenditures associated with the property.*
- (c) *Taxpayers awarded a credit under this subsection shall submit receipts annually to the cabinet verifying the qualifying expenditures claimed.*
- (d) *The cabinet shall make a determination of the maximum credit available for the qualifying decontamination property and provide notification of the awarded credit amount to the department and taxpayer within sixty (60) days of the date on which the application was filed.*
- (e) *Any taxpayer approved for credit under this section shall not also claim or apply for any other credit related to the decontamination or remediation of the same qualifying decontamination property.*

➔Section 54. KRS 141.0205 is amended to read as follows:

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

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The limited liability entity tax credit permitted by KRS 141.0401;
  - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (c) The qualified farming operation credit permitted by KRS 141.412;
  - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (e) The health insurance credit permitted by KRS 141.062;
  - (f) The tax paid to other states credit permitted by KRS 141.070;
  - (g) The credit for hiring the unemployed permitted by KRS 141.065;
  - (h) The recycling or composting equipment credit permitted by KRS 141.390;
  - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;

- (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (s) The Endow Kentucky credit permitted by KRS 141.438;
  - (t) The New Markets Development Program credit permitted by KRS 141.434;
  - (u) The distilled spirits credit permitted by KRS 141.389;
  - (v) The angel investor credit permitted by KRS 141.396;
  - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
  - (x) The inventory credit permitted by KRS 141.408; and
  - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
  - (b) The credit permitted by KRS 141.066;
  - (c) The tuition credit permitted by KRS 141.069;
  - (d) The household and dependent care credit permitted by KRS 141.067;
  - (e) The income gap credit permitted by KRS 141.066; and
  - (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
  - (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
  - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;~~and~~
  - (e) The development area tax credit permitted by KRS 141.398; *and*
  - (f) *The decontamination tax credit permitted by Section 52 of this Act.*
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (b) The qualified farming operation credit permitted by KRS 141.412;
  - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (d) The health insurance credit permitted by KRS 141.062;

- (e) The unemployment credit permitted by KRS 141.065;
  - (f) The recycling or composting equipment credit permitted by KRS 141.390;
  - (g) The coal conversion credit permitted by KRS 141.041;
  - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
  - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
  - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (t) The railroad expansion credit permitted by KRS 141.386;
  - (u) The Endow Kentucky credit permitted by KRS 141.438;
  - (v) The New Markets Development Program credit permitted by KRS 141.434;
  - (w) The distilled spirits credit permitted by KRS 141.389;
  - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
  - (y) The inventory credit permitted by KRS 141.408;
  - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
  - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
  - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);~~and~~
  - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022; *and*
  - (d) ***The decontamination tax credit permitted by Section 52 of this Act.***
- ➔Section 55. KRS 131.190 is amended to read as follows:
- (1) No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
  - (2) The prohibition established by subsection (1) of this section shall not extend to:

- (a) Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
- (b) Any matter properly entered upon any assessment record, or in any way made a matter of public record;
- (c) Furnishing any taxpayer or his or her properly authorized agent with information respecting his or her own return;
- (d) Testimony provided by the commissioner or any employee of the department in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
- (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
- (f) Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this paragraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10);
- (g) Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;
- (h) Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;
- (i) 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;
- (j) Providing documents, data, or other information to a third party pursuant to an order issued by a court of competent jurisdiction; or
- (k) Providing information to the Legislative Research Commission under:
  - 1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;
  - 2. KRS 141.436 for purposes of the energy efficiency products credits;
  - 3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;
  - 4. KRS 141.383 for purposes of the film industry incentives;
  - 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;
  - 6. KRS 141.068 for purposes of the Kentucky investment fund;
  - 7. KRS 141.396 for purposes of the angel investor tax credit;
  - 8. KRS 141.389 for purposes of the distilled spirits credit;
  - 9. KRS 141.408 for purposes of the inventory credit;
  - 10. KRS 141.390 for purposes of the recycling and composting credit;
  - 11. KRS 141.3841 for purposes of the selling farmer tax credit;
  - 12. KRS 141.4231 for purposes of the renewable chemical production tax credit;
  - 13. KRS 141.524 for purposes of the Education Opportunity Account Program tax credit;

- 14. KRS 141.398 for purposes of the development area tax credit;~~and~~
  - 15. KRS 139.516 for the purposes of the sales and use tax exemption on the commercial mining of cryptocurrency; *and*
  - 16. Section 52 of this Act for purposes of the decontamination tax credit.**
- (3) 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 similar or useful information in return.
  - (4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, or any other person.
  - (5) Statistics of crude oil as reported to the department under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the department under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
  - (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

➔Section 56. (1) The Legislative Research Commission shall direct the staff of the Legislative Research Commission to gather information related to electric vehicles and transportation funding, including:

- (a) Other state's statutes, regulations, and policies; and
- (b) Federal government regulations and guidance.

(2) The staff shall gather the information during the 2022 Interim of the General Assembly and report to the Legislative Research Commission the findings on a monthly basis, with reports due on June 30, 2022, July 30, 2022, August 30, 2022, September 30, 2022, October 30, 2022, and a summary of all information gathered submitted no later than December 1, 2022, for referral to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation.

➔Section 57. Jailer Canteen Accounts: Notwithstanding KRS 67.0802(6)(a), any compensation resulting from the disposal of real or personal property that was purchased from a canteen account under KRS 441.135 shall be returned to the canteen account from which the real or personal property was originally purchased. All proceeds resulting from the disposal of real or personal property purchased from a canteen account shall be reported to the Interim Joint Committee on Appropriations and Revenue by December 1 of each fiscal year.

➔Section 58. Administrative Fee on Infrastructure for Economic Development Fund Projects: A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

➔Section 59. Charges for Federal, State, and Local Audits: Any additional expenses incurred by the Auditor of Public Accounts for required audits of Federal Funds shall be charged to the government or agency that is the subject of the audit. The Auditor of Public Accounts receives General Fund appropriations for audits of the statewide systems of personnel and payroll, cash and investments, revenue collection, and the state accounting system. Any expenses incurred by the Auditor of Public Accounts for any other audits shall be charged to the agency that is the subject of such audit. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit or investigation.

Any expenses incurred by the Auditor of Public Accounts for auditing individual governmental entities when mandated by a legislative committee shall be charged to the agency or entity receiving audit services.

➔Section 60. Personnel Board Operating Assessment: Each Agency of the Executive Branch with employees covered by KRS Chapter 18A shall be assessed each fiscal year the amount required for the operation of the Personnel Board. The agency assessment shall be determined by the Secretary of the Finance and Administration Cabinet based on the authorized full-time positions of each agency on July 1 of each year of the biennium. The Secretary of the Finance and Administration Cabinet shall collect the assessment.

➔Section 61. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding KRS 151.710(10), Tier 1 water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

➔Section 62. Urgent Needs School Assistance: If a school district receives an allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A., 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), 2016 Ky. Acts ch. 149, Part I, A., 28., (4) and (5), 2018 Ky. Acts ch. 169, Part I, A., 27., (3), or 2021 Ky. Acts ch. 169, Part I, A., 28., (3), and subsequently, as a result of litigation or insurance, receives funds for the original facility, the school district shall reimburse the Commonwealth an amount equal to that received for such purposes. If the litigation or insurance receipts are less than the amount received, the district shall reimburse the Commonwealth an amount equal to that received as a result of litigation or insurance less the district's costs and legal fees in securing the judgment or payment. Any funds received in this manner shall be deposited in the General Fund.

➔Section 63. Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

➔Section 64. Monthly Per Employee Health Insurance Benefits Assessment: The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

➔Section 65. KRS 134.490 is amended to read as follows:

(1) ~~[The following notices shall be sent by a third party purchaser to the delinquent taxpayer by first class mail with proof of mailing, and shall include the information required by subsection (3)(d) of this section:]~~

(a) Within fifty (50) days after the delivery of a certificate of delinquency by the clerk to a third-party purchaser, the third-party purchaser shall send a notice to the delinquent taxpayer informing the delinquent taxpayer that the certificate of delinquency has been purchased by the third-party purchaser. ~~;~~ ~~and~~

(b) At least annually thereafter, until the notice required by subsection (2) of this section is sent, the third-party purchaser shall send a notice to the delinquent taxpayer.

(c) ***The notices included in this subsection shall be sent by certified mail with proof of mailing and include the information required by subsection (3)(d) of this section. A copy of each notice shall be sent to each mortgagee who holds a mortgage on the property that is the subject of the certificate of delinquency.***

(2) Anytime after the expiration of the one (1) year tolling period established by KRS 134.546, the third-party purchaser may institute an action to collect the amount due on a certificate of delinquency. At least forty-five (45) days before instituting a legal action, the third-party purchaser shall send ***a notice*** to the taxpayer ***and a copy of the notice to each mortgagee who holds a mortgage on the property*** by ***certified*** ~~[first class]~~ mail with proof of mailing ~~[, a notice informing the taxpayer that enforcement action will be taken].~~ ~~The~~ ~~[This]~~ notice shall:

(a) ***Inform the taxpayer that enforcement action will be taken;***

(b) ***Include a statement advising the taxpayer that substantial additional administrative costs and fees associated with collection in addition to the amount due on the certificate of delinquency may be imposed and that collection actions may include foreclosure; and***

(c) ~~[also]~~ Include the information required by subsection (3) of this section.

***The notice*** ~~[, and]~~ shall be in addition to any notice sent under subsection (1) of this section.

(3) (a) 1. For certificates of delinquency for all property except property described in paragraph (b) of this subsection, third-party purchasers or their designees shall obtain from the office of the property

valuation administrator of the county in which the real property is located the most recent address for the property owner.

2. To obtain information from the office of the property valuation administrator, the third-party purchaser shall, at the option of the property valuation administrator, either:
    - a. Obtain information from an up-to-date public access list or Web site offered by the property valuation administrator; or
    - b. Submit a list of addresses, map identification numbers, or parcel numbers for which updated information is requested to the property valuation administrator, who shall update his or her records with regard to the properties for which information is requested and provide the updated information to the third-party purchaser within ten (10) days.
  3. For this service, the property valuation administrator may charge a fee not to exceed two dollars (\$2) for each address provided or obtained.
  4. Except as provided in paragraph (b) of this subsection, the third-party purchaser shall send the notices required by subsections (1) and (2) of this section to the address provided by the property valuation administrator. Unless the provisions of subparagraph 7. of this paragraph apply, the third-party purchaser shall not be required to send a notice to any party other than the owner of record as provided by the property valuation administrator at the time the notice is sent ***and the mortgage as required by subsections (1) and (2) of this section.***
  5. If, due to insufficient staffing, the property valuation administrator is unable to provide the requested information to the third-party purchaser within ten (10) days of submission, the property valuation administrator shall immediately notify the third-party purchaser, and the third-party purchaser may send the notices required by subsections (1) and (2) of this section to the address reflected in the public records of the property valuation administrator.
  6. Any notices sent pursuant to information obtained under this paragraph that are returned as undeliverable shall be re-sent by ***certified***~~first class~~ mail with proof of mailing addressed to the "Occupant" at the address of the property that is the subject of the certificate of delinquency. These notices shall be sent within twenty (20) days of receipt of the returned notice.
  7. If a third-party purchaser becomes aware of a more recent or more accurate address for a delinquent taxpayer that is different from the address reflected in the records of the property valuation administrator, the third-party purchaser shall send notices to the updated address in the manner required by this subsection, and shall notify the property valuation administrator of the updated address.
  8. If a third-party purchaser receives an address from the property valuation administrator during an address check after a first notice is sent and returned as undeliverable, and the address is the same as was originally provided, the third-party purchaser shall send the notice addressed to "Occupant" at the address of the property that is the subject of the certificate of delinquency ***in the manner required by this subsection.***
- (b)
1. For certificates of delinquency relating to unmined coal, oil or gas reserves, or any other mineral or energy resources assessed separately from the surface real property pursuant to KRS 132.820, third-party purchasers or their designees shall obtain from the department the most recent address for the property owner.
  2. To obtain information about a particular property, the third-party purchaser shall submit to the department a list of addresses, map identification numbers, parcel numbers, and any other information the department may require. The department shall:
    - a. Update its records with regard to the properties for which information is requested; and
    - b. Provide the updated information to the third-party purchaser within ten (10) business days.
  3. For this service, the department may charge a fee not to exceed two dollars (\$2) for each address provided.
  4. The third-party purchaser shall send the notices required by subsections (1) and (2) of this section relating to unmined coal, oil or gas reserves, or any other mineral or energy resources



assessed separately from the surface real property pursuant to KRS 132.820 to the address provided by the department. Unless the provisions of subparagraph 5.f. of this paragraph apply, the third-party purchaser shall not be required to send a notice to any party other than the owner of record as provided by the department at the time the notice is sent *and the mortgagee as required by subsections (1) and (2) of this section.*

5.
    - a. Any notice sent pursuant to subsections (1) and (2) of this section based on information obtained pursuant to this paragraph and returned as undeliverable shall be submitted to the department within ten (10) days of receipt of the returned notice.
    - b. The department shall attempt to obtain an updated address for the owner of the property subject to the certificate of delinquency from the individual or entity filing the property tax return for the property.
    - c. The individual or entity filing the property tax return shall provide an address of the property owner upon request of the department.
    - d. The department shall provide any updated address information to the third-party purchaser.
    - e. If updated information is provided, the notices shall be re-sent by *certified*~~[first class]~~ mail with proof of mailing to the updated address of the owner within ten (10) days of the receipt of the updated information from the department.
    - f. If a third-party purchaser becomes aware of a more recent or more accurate address for a delinquent taxpayer that is different from the address reflected in the records of the department, the third-party purchaser shall send notices to the updated address in the manner required by this subsection, and shall notify the department of the updated address.
- (c) The third-party purchaser shall maintain complete and accurate records of all notices sent pursuant to this section.
- (d) The notices required by this section shall include the following information:
1. A statement that the certificate of delinquency is a lien of record against the property for which delinquent taxes are owed;
  2. A statement that the certificate bears interest at the rate provided in KRS 134.125;
  3. A statement that if the certificate is not paid, it will be subject to collection as provided by law, and that collection actions may include foreclosure. The notice required by subsection (2) of this section shall also include a statement of the intent to institute legal action to collect the amount due;
  4. A complete listing of the amount due, as of the date of the notice, broken down as follows:
    - a. The purchase price of the certificate of delinquency;
    - b. Interest accrued subsequent to the purchase of the certificate of delinquency; and
    - c. Fees imposed by the third-party purchaser;
  5. If the third-party purchaser is required to register with the department as provided in KRS 134.128(3), for certificates of delinquency purchased after June 1, 2012, a statement informing the taxpayer that upon written request and the payment of a processing fee, the third-party purchaser will offer a payment plan; and
  6. Information, in a format and with content as determined by the department, detailing the provisions of the law relating to third-party purchaser fees and charges.
- (e) In addition, the notice shall provide the following information to the taxpayer:
1. The legal name of the third-party purchaser;
  2. The third-party purchaser's physical address;

3. The third-party purchaser's mailing address for payments, if different from the physical address; and
4. The third-party purchaser's telephone number.

If the information required by this paragraph changes, the third-party purchaser shall, within thirty (30) days of the change becoming effective, send a notice to each taxpayer by ~~certified first-class~~ mail with proof of mailing with the corrected information. The third-party purchaser shall also update contact information included in the records of the county clerk within ten (10) days of the change becoming effective. Failure to send the original notice or any correction notices shall result in the suspension of the accrual of all interest and any fees incurred by the third-party purchaser after that date until proper notice is given as required by this subsection.

- (4) If a person entitled to pay a certificate of delinquency to a third-party purchaser makes payment on the certificate of delinquency to the county clerk under the conditions described in KRS 134.127(3)(d), the payment shall constitute payment in full, and no other amounts may be collected by the third-party purchaser from the person.
- (5)
  - (a) For certificates of delinquency purchased after June 1, 2012, at the written request of a delinquent taxpayer, a third-party purchaser required to register with the department as provided in KRS 134.128(3) shall provide a monthly installment payment plan to a taxpayer.
  - (b) The taxpayer and third-party purchaser shall sign an agreement detailing the terms of the installment payment plan.
  - (c) The third-party purchaser may impose a processing fee, not to exceed eight dollars (\$8) per month to offset the administrative cost of providing the payment plan. No other fees, charges, interest, or other amounts not expressly authorized by this chapter shall be charged, assessed, or collected by the third-party purchaser.
  - (d) The existence of an agreement to provide a payment plan shall not impact the right of the third-party purchaser to pursue legal action if the delinquent taxpayer fails to follow the terms of the installment payment agreement.
  - (e) Upon default of a delinquent taxpayer:
    1. The third-party purchaser shall retain all amounts paid, which shall be applied to the outstanding balance due; and
    2. The third-party purchaser shall not be required to offer the delinquent taxpayer another opportunity for an installment payment plan.
  - (f) If a third-party purchaser who was required to offer payment plans pursuant to paragraph (a) of this subsection, subsequently does not purchase a sufficient number of certificates of delinquency to require registration with the department, the third-party purchaser shall continue to offer payment plans under the conditions established by this subsection for all delinquent taxpayers whose certificates of delinquency were purchased during a period in which the third-party purchaser was required to register with the department.
  - (g) A third-party purchaser who is not required to register with the department as provided in KRS 134.128(3), or who holds certificates of delinquency purchased prior to June 1, 2012, may voluntarily offer installment payment plans to delinquent taxpayers in accordance with the provisions of this subsection.
  - (h) The department may establish additional terms and conditions for installment payment plans in an administrative regulation.
- (6) Any person to whom a third-party purchaser transfers or assigns a certificate of delinquency shall be considered a third-party purchaser under this chapter.

➔Section 66. KRS 134.504 is amended to read as follows:

- (1) The department shall be responsible for the collection of certificates of delinquency and personal property certificates of delinquency. The provisions of this section relating to certificates of delinquency shall also apply to personal property certificates of delinquency unless otherwise specifically noted. The department shall offer the collection duties related to certificates of delinquency and personal property certificates of

delinquency to the county attorney in each county, unless the department determines that a county attorney has previously failed to perform collection duties in a reasonable and acceptable manner.

- (2) Any county attorney desiring to perform the collection duties shall enter into a contract with the department on an annual basis.
- (3) The terms of the contract shall specify the duties to be undertaken by the county attorney, which shall include, at a minimum, the duties set forth in subsection (4) of this section. The terms of the contract shall also provide that, if the county attorney fails to perform the duties required by the contract during the contract period, the department may assume all collection responsibilities.
- (4) The following duties shall be performed by the department or the county attorney, as the case may be, with regard to each certificate of delinquency:
  - (a) Within thirty (30) days after the establishment of a certificate of delinquency, the county attorney or the department shall mail a notice by regular mail to the owner of record on the assessment date at the address on the records of the property valuation administrator, or to the in-care-of address if an in-care-of address is provided as required by subsection (5) of this section. The notice shall:
    1. Include the name, address, and telephone number of a contact person in the county attorney's office or the department, as the case may be;
    2. Advise that:
      - a. The certificate of delinquency is a lien of record against the property on which the taxes are due;
      - b. The amounts due are a personal obligation of the taxpayer on the assessment date; and
      - c. The certificate bears interest at the rate of twelve percent (12%) and, if not paid, will be subject to collection by the county attorney or the department as provided by law;
    3. Include the total amount due as of the date of the notice;
    4. **Include in bold print in at least twelve (12) point font, a statement advising the taxpayer~~advise~~** that anytime after ninety (90) days from the creation of the certificate of delinquency, the certificate of delinquency may be paid by a third-party purchaser and, that if so paid, the certificate of delinquency will be subject to collection by the third-party purchaser as provided by law. The notice shall also advise that a third-party purchaser may impose substantial additional administrative costs and fees associated with collection in addition to the amount due on the certificate of delinquency, and that collection actions may include foreclosure. This provision shall not be included in notices sent for personal property certificates of delinquency; and
    5. Advise that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets the requirements established by the county attorney or the department, and if terms are agreed to prior to the date of the sale;
  - (b) The county attorney or the department shall file in the office of the county clerk a list of the names and addresses to which the thirty (30) day notice was mailed along with a certificate attesting that the notices were mailed in accordance with the requirements of this section;
  - (c)
    1. All thirty (30) day notices returned as undeliverable shall be submitted by the county attorney or department to the property valuation administrator, and a list of the returned notices shall be filed with the county clerk, who shall record the list in the order book of the county.
    2. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner, current mailing address, and in-care-of address, if any, as provided in KRS 382.135.
    3. The property valuation administrator shall return the notices with the corrected information to the county attorney or the department within twenty (20) days of receipt.
    4. Upon receipt of the new information from the property valuation administrator, the county attorney or the department shall resend the notice required by paragraph (a) of this subsection using the updated information;

- (d) 1. At least twenty (20) days after the mailing of the thirty (30) day notice required by paragraph (a) of this subsection, but within sixty (60) days of the establishment of a certificate of delinquency, the county attorney or department shall send a second notice, by regular mail, to owners of record whose tax bills remain delinquent, or to the in-care-of addresses or corrected address, if information regarding a new property owner has been received by the county attorney or the department under the provisions of paragraph (c) of this subsection. The notice shall include, at a minimum, the following information:
- a. The name, address, and telephone number of a contact person in the county attorney's office or the department, as the case may be;
  - b. A statement that a sale of tax claims will be held by the county clerk on the date established by the department for the sale. The text of the statement shall include the actual sale date, as well as a statement noting that the certificate of delinquency may be paid by a third-party purchaser at the sale, and if the certificate of delinquency is paid by a third-party purchaser, it will be subject to collection by the third-party purchaser as provided by law, that significant additional collection fees will be imposed by the third-party purchaser, and that collection actions may include foreclosure. This statement shall not be included in notices sent to owners of property subject to a personal property certificate of delinquency; and
  - c. A statement that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets the requirements established by the county attorney or the department and if terms are agreed to prior to the date of the sale.
2. The county attorney or the department shall file in the office of the county clerk a list of the names and addresses to which the sixty (60) day notice was mailed, along with a certificate attesting that the notices were mailed in accordance with the requirements of this section.
3. If the notice required by paragraph (c) of this subsection is returned as undeliverable, and the property valuation administrator is not able to provide a corrected or updated address, the county attorney or the department shall address the sixty (60) day notice to "Occupant" and shall mail the notice to the address of the property to which the certificate of delinquency applies;
- (e) The county attorney or the department shall deliver to the property valuation administrator, at the same time the notice required by paragraph (d) of this subsection is sent, a list of the owners whose tax bills remain delinquent. The property valuation administrator shall review this list in accordance with KRS 132.220 to establish that the properties on the list can be identified and physically located; and
- (f) Anytime after the expiration of the one (1) year tolling period established by KRS 134.546, the county attorney or department may institute an action to collect the amount due on a certificate of delinquency owned by the taxing jurisdictions and in the possession of the county clerk. At least forty-five (45) days before instituting a legal action, the county attorney or department shall send, by regular mail, a notice of intent to initiate legal action to enforce the lien. The notice shall be sent to the owner of record of the property or to the in-care-of address or corrected address if either has been provided pursuant to this section.
- (5) If property subject to a certificate of delinquency has been transferred in any year after the assessment date, the property valuation administrator shall determine the in-care-of address supplied in the deed pursuant to KRS 382.135 and shall provide that information to the county attorney or the department.
- (6) (a) Failure of the county attorney or the department to mail the notices required in subsection (4) of this section shall not affect the validity of the claim of the state, county, school district, and taxing district. However, the county attorney or the department shall not receive any compensation, commission, or payment related to any certificate of delinquency for which the notices required by the provisions of subsection (4) of this section are not sent.
- (b) For each notice mailed, one dollar (\$1) shall be added to the amount of the certificate of delinquency, to offset the cost of mailing, and, upon collection, the county attorney or the department shall be paid such amounts as reimbursement for mailing costs.
- (7) (a) As compensation for the collection duties performed pursuant to a contract with the department, a county attorney shall be paid twenty percent (20%) of the amount due each taxing unit during the contract period, whether the amount is paid voluntarily, through sale, or under court order, and whether

the amount is paid to the county clerk or the county attorney. The fee for the county attorney shall be added to the amount of the certificate of delinquency and shall be paid by the person paying the certificate of delinquency.

- (b) If payment in full is voluntarily made by the taxpayer to the county attorney or county clerk within five (5) days of the filing of the tax claim with the county clerk, the county attorney fee shall be waived.
  - (c) If a county attorney files a court action or files a cross-claim, the county attorney shall be paid an additional fee of thirteen percent (13%) of the amount of the certificate of delinquency and shall be reimbursed for costs incident to the court action. The additional fee and costs incident to the litigation shall be added to the certificate of delinquency and shall be paid by the person paying the certificate of delinquency.
  - (d) If more than one (1) county attorney renders necessary services to collect on a certificate of delinquency, the county attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee.
- (8) (a) The county attorney shall establish a system to accept installment payments from delinquent taxpayers. The county attorney may, during the contract period, enter into an agreement with a delinquent taxpayer to accept installment payments on the certificates of delinquency. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.
- (b) The county attorney may, upon written request of the taxpayer for good cause and with agreement of the affected taxing jurisdiction or fee recipient, waive or reduce fees and penalties that are part of a certificate of delinquency during settlement or negotiation with a taxpayer in accordance with guidance provided by the department.
- (9) Any action by the county attorney authorized by this chapter shall be filed on relation of the commissioner. A copy of any judgment obtained by the county attorney shall be sent to the department.
- (10) (a) The county attorney shall notify the county clerk and the department of the filing of a suit at the time the suit is filed and of payment agreements at the time such agreements are entered into. The county clerk shall note on the certificate of delinquency the filing of the lawsuit or the existence of the payment agreement, and these certificates of delinquency shall not be available for purchase or payment by a third-party purchaser.
- (b) The county attorney shall provide to the county clerk at least ten (10) days but not more than twenty (20) days prior to the annual sale date for the county established pursuant to KRS 134.128, a protected list of current year certificates of delinquency that are:
1. Under a payment plan with the county attorney on which payments are current;
  2. Involved in litigation initiated by the county attorney or in which the county attorney responds or files an answer;
  3. Involved in bankruptcy litigation in which the county attorney has filed a claim; or
  4. Included on a list of protected properties submitted to the county attorney by a vacant property review commission or an alternative government entity as provided in KRS 99.727.
- The list shall include sufficient detail for the county clerk to accurately identify the property.
- (c) The county attorney shall notify the county clerk of the failure of any payment agreement and, upon notification to the clerk, the certificate of delinquency shall be available for purchase.
- (11) The department may make its delinquent tax collection databases and other technical resources, including but not limited to tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the department to protect taxpayer confidentiality, to ensure database integrity, or to address the concerns of the department.
- (12) (a) If a county attorney chooses not to contract for collection duties, or if a county attorney fails to perform the duties required by the contract, the department shall assume responsibility for all uncollected certificates of delinquency and personal property certificates of delinquency, including, at the option of the department, those with pending court action or for which the county attorney has entered into an installment payment agreement.

- (b) If the department assumes or retains responsibility for the collection of certificates of delinquency and personal property certificates of delinquency, the twenty percent (20%) fee that would have been paid to the county attorney under subsection (7) of this section, and any other fees or costs established by this section for the county attorney shall be paid to the department for deposit in the delinquent tax fund provided for under KRS 134.552.

➔Section 67. Sections 2 to 26, 29 to 32, 45 and 46 of this Act take effect on January 1, 2023.

➔Section 68. Sections 47 and 48 apply to property assessed on or after January 1, 2023.

➔Section 69. Sections 57 to 64 of this Act apply to the fiscal year beginning July 1, 2022, and ending June 30, 2023, and the fiscal year beginning July 1, 2023, and ending June 30, 2024, and shall expire at the end of June 30, 2024.

➔Section 70. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 71. Whereas the Department of Revenue and the Finance and Administration Cabinet are required to procure services necessary to implement the tax amnesty program, which begins on October 1, 2022, an emergency is declared to exist, and Sections 32 to 38 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Veto Overridden and Signed by Secretary of State April 14, 2022.**