

## CHAPTER 110

## ( HB 499 )

AN ACT relating to fiscal matters and declaring an emergency.

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

➔Section 1. 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~~[of Revenue]~~ shall develop and administer~~[a]~~ tax amnesty *programs*~~[program]~~ 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) *"Amnesty period" means the period of time established pursuant to subsection (4)(a) or (b) of this section during which a taxpayer may apply for tax amnesty;*~~["Department" means the Department of Revenue.]~~
  - (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 (4) of this section or any person required to collect any such tax under subsection (4) of this section;~~[-]~~
  - (c) "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 [governmental taxing authority, federal, state, or local.]~~
  - (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~~[to the board of tax appeals]~~, the *issuance*~~[rendition]~~ 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~~[to the board of tax appeals]~~ 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.
- (4) (a) Notwithstanding the provisions of any other law to the contrary, ~~a [the]~~ 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 nor more than one hundred twenty (120) days. The program shall be available to all taxpayers owing 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.*

*The program shall apply to tax liabilities for taxable periods ending or transactions occurring after December 1, 2001, and prior to October 1, 2011. Amnesty tax forms and submissions shall be in a form prescribed by the department.*

➔Section 2. 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.~~[, plus]~~
  - 2.* ***For the amnesty periods described in subsection (4) of Section 1 of this Act, the Commonwealth shall waive***~~[all of the]~~ interest as provided in subsection (1) of KRS 131.425.
  - (b) ***Except when***~~[With the exception of instances in which]~~ the taxpayer and department enter into an installment payment agreement authorized under subsection (3) of KRS 131.420,~~[the]~~ failure to pay all taxes as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted 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 3. 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 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) ***With regard to the program described in subsection (4)(b) of Section 1 of this Act, 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***~~[with the application or amnesty returns].~~
- (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 ~~terms of the~~ amnesty **granted the taxpayer program**.
- (c) 1. All ~~such~~ agreements and payments **under the program described in subsection (4)(a) of Section 1 of this Act** shall include interest as provided under subsection (2) of KRS 131.425.
2. **All agreements and payments under the program described in subsection (4)(b) of Section 1 of this Act shall include interest as provided under subsection (3) of Section 4 of this Act.**
- (d) **All required payments under an installment payment agreement under the program described in subsection (4)(b) of Section 1 of this Act shall be made on or before May 31, 2013.**
- (e) 1. **If a taxpayer fails to make all required payments under paragraph (d) of this subsection by May 31, 2013, 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**~~cost of collection~~ fee imposed under subsection (1) of KRS 131.440, 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 4. KRS 131.425 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid **under an**~~with the~~ amnesty **program**~~tax~~ return:
- (a) **Filed under the program described in subsection (4)(a) of Section 1 of this Act** shall bear no interest imposed under KRS 131.183(1) or other applicable statutes; **and**
  - (b) **Filed under the program described in subsection (4)(b) of Section 1 of this Act 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 Section 3 of this Act relating to the program described in subsection (4)(b) of Section 1 of this Act 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 5. KRS 131.440 is amended to read as follows:

- (1) (a) **For purposes of the program described in subsection (4)(a) of Section 1 of this Act**, 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**~~cost of collection~~ fees:
- 1.~~(a)~~ **A cost-of-collection**~~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**~~subsection~~;
  - 2.~~(b)~~ **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**~~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* ~~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 subsection (4)(b) of Section 1 of this Act:*

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:*

- 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;*
- b. *Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to October 1, 2011, shall be charged a cost-of-collection fee of twenty-five percent (25%) at the time of assessment; and*
- 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.*

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 Section 3 of this Act 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 ~~of revenue~~ 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 in subsection (2) of KRS 131.410 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 6. 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, ~~and~~ 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 subsection (4)(b) of Section 1 of this Act 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 after December 31, 2001, and prior to October 1, 2011; or*
2. *The taxpayer fails to timely file any tax return or timely pay any tax for any period beginning 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 Section 2 of this Act 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 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "licensing agency" means any instrumentality, agency, board, commission, or department established by statute that has the power and authority within the Commonwealth to issue any occupational or professional certification, license, or registration required to engage in an occupation, profession, or trade in the Commonwealth.*
- (2) *The department may identify licensing agencies from which it wants to obtain information for the purpose of tax compliance.*
- (3) *Any licensing agency identified by the department shall work with the department to develop a process to provide the department with information about its licensees.*

➔Section 8. KRS 15.020 is amended to read as follows:

The Attorney General is the chief law officer of the Commonwealth of Kentucky and all of its departments, commissions, agencies, and political subdivisions, and the legal adviser of all state officers, departments, commissions, and agencies, and when requested in writing shall furnish to them his written opinion touching any of their official duties, and shall prepare proper drafts of all instruments of writing required for public use, and shall exercise all common law duties and authority pertaining to the office of the Attorney General under the common law, except when modified by statutory enactment. He shall communicate with the Legislative Research Commission as required by KRS 418.075. Except as otherwise provided in KRS 48.005~~((8))~~ and 2000 Ky. Acts ch. 483, sec. 8, he shall appear for the Commonwealth in all cases in the Supreme Court or Court of Appeals wherein the Commonwealth is interested, and shall also commence all actions or enter his appearance in all cases, hearings, and proceedings in and before all other courts, tribunals, or commissions in or out of the state, and attend to all litigation and legal business in or out of the state required of him by law, or in which the Commonwealth has an interest, and any litigation or legal business that any state officer, department, commission, or agency may have in connection with, or growing out of, his or its official duties, except where it is made the duty of the Commonwealth's attorney or county attorney to represent the Commonwealth. When any attorney is employed for any said agency, the same shall have the approval of such agency before such employment. If any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any action, including an ex rel. action where the Attorney General has entered an appearance or is a party according to statutory or common law authority, those funds shall be handled under KRS 48.005.

➔Section 9. KRS 48.005 is amended to read as follows:

- (1) The General Assembly hereby finds and declares that:
  - (a) Public accountability for funds or other assets recovered in a legal action by or on behalf of the general public, the Commonwealth, or its duly elected statewide constitutional officers is appropriate and required, whether the character of the assets or funds recovered is public or private;
  - (b) Accountability for assets or funds recovered by duly elected statewide constitutional officers is essential to the public trust, and is even more critical when that officer was a party to the action that resulted in the recovery by virtue of the public office he or she holds;
  - (c) Public accountability demands the applicability of the Kentucky Open Records Law, KRS 61.870 to 61.884, and the Kentucky Open Meetings Law, KRS 61.805 to 61.850, so that the actions of individuals or agencies who are charged with the administration of funds or other assets are conducted in full view, and are open to public scrutiny; and

- (d) The power to appropriate funds for public purposes is solely within the purview of the legislative branch of government, and the General Assembly, as a steward of the budgetary process, shall take steps to assure that future settlements are handled in a manner that assures maximum accountability to the citizens of the Commonwealth and their duly elected legislative representatives.
- (2) Therefore, any other provision of the common law or statutory law to the contrary notwithstanding:
- (a) The provisions of subsection (3) of this section shall apply whenever the Attorney General or other duly elected statewide constitutional officer is a party or has entered his appearance in a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or a person, organization, or entity created by the Attorney General or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes;
- (b) Except as otherwise provided in paragraph (a) of this subsection, the provisions of subsection (4) of this section shall apply when any funds or assets of any kind or nature whatsoever, including but not limited to public funds as defined in KRS 446.010 and private funds or assets are recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority.
- (3) Whenever the Attorney General or other duly elected statewide constitutional officer is a party to or has entered his appearance in, a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or by a person, organization, or entity created by the Attorney General, or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes, those funds shall be deposited in the State Treasury and the funds or assets administered and disbursed by the Office of the Controller.
- (4) ***The Office of Attorney General may first recover its reasonable costs of litigation, as determined by the court and approved by the secretary of the Finance and Administration Cabinet. After recovering the reasonable costs of litigation, any required consumer restitution or payments shall be made. All remaining funds shall be deposited in the general fund surplus account. Any costs recovered under this subsection shall be reported to the Interim Joint Committee on Appropriations and Revenue.*** ~~[(a) Any other provision of the common law or statutory law to the contrary notwithstanding, and except as otherwise provided in this section, any funds or assets of any kind or nature whatsoever, including but not limited to public funds as defined in KRS 446.010 and private funds or assets when recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority shall be deemed public funds, and shall be deposited into an account maintained by the Finance and Administration Cabinet.~~
- ~~(b) No funds to which this subsection applies when deposited in an account maintained by the Finance and Administration Cabinet shall be disbursed without a specific legislative appropriation of the deposited funds by the General Assembly while in regular or special legislative session.]~~
- (5) The common law, including the common law authority of any duly elected statewide constitutional officer, is specifically abrogated to the extent it is inconsistent with the provisions of this section.
- ~~(6) The provisions of this section shall not apply to actions by or on behalf of the Commonwealth or its duly elected statewide constitutional officers, if the recovery sought and received is for specific individuals identified as parties to the action either by individual Social Security number, other individual identifying number, or by the individual's proper name.~~
- ~~(7) Notwithstanding any statute or common law to the contrary, and except as provided in this subsection, an elected statewide constitutional officer or any other state official or agency shall not file or participate as a plaintiff, petitioner, party, intervening party, attorney, or amicus curiae in any litigation challenging the constitutionality of this section. State funds and employee time shall not be expended by any person or agency in support of such a challenge. If the constitutionality of this section is challenged, the Finance and Administration Cabinet shall be the sole named respondent in that litigation, and shall consult with the Legislative Research Commission regarding defense of that litigation.~~

➔Section 10. KRS 224.50-868 is amended to read as follows:

- (1) Until **June 30, 2014**~~July 31, 2010~~, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.
- (2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall be encouraged by the retailer to leave the waste tire with the retailer or meet the following requirements:
  - (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
  - (b) Deliver the waste tire to a person registered in accordance with the waste tire program; or
  - (c) Reuse the waste tire for its original intended purpose or an agricultural purpose.
- (3) A retailer shall report to the Department of Revenue on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the Department of Revenue may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.
- (4) A retailer shall:
  - (a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and
  - (b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar (\$1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."
- (5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.
- (6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.
- (7) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the informational fact sheet to be made publicly available on the cabinet's Web site and available in print upon request. The fact sheet shall identify ways to properly dispose of the waste tire and present information on the problems caused by improper waste tire disposal.

➔Section 11. KRS 132.099 is amended to read as follows:

- (1) The tax rate levied by cities, counties, charter counties, urban-counties, and school districts on personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall be as follows:
  - (a) Eighty percent (80%) of the tax rate levied on other tangible personal property for tax assessments made on January 1, 2000; and
  - (b) Fifty percent (50%) of the tax rate levied on other tangible personal property for tax assessments made on January 1, 2001.
- (2) Personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall be exempt from the ad valorem tax levied by cities, counties, charter counties, urban-counties, and school districts for tax assessments made on or after January 1, 2002.
- (3) Any fire district or other special taxing district may exempt from the ad valorem tax personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination.

- (4) (a) *As used in this subsection:*
1. *"Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation 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:*
    - a. *Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or*
    - b. *Intended to affect the structure or any function of the human body;*
  2. *"Pharmaceutical manufacturer" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; but does not include a drug wholesaler or a retail pharmacy; and*
  3. *"Affiliate" means a partnership, limited liability entity, corporation, or any other business entity that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another partnership, limited liability entity, corporation, or other business entity.*
- (b) *For assessments made on and after January 1, 2012 the maximum ad valorem tax rate that may be levied by any special taxing district on drugs held by a pharmaceutical manufacturer or by an affiliate of a pharmaceutical manufacturer in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall not exceed three cents (\$0.03) upon each one hundred dollars (\$100) of value. This subsection shall not apply to any fire district.*
- (5) For the purpose of this section, personal property shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be shipped out of state within the next six (6) months.

➔Section 12. KRS 342.122 is amended to read as follows:

- (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Mediation in the Department of Workplace Standards, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.
- (b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which ~~is when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section,~~ shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2029. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying its own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.



- (c) ~~In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Department of Revenue shall credit nineteen million dollars (\$19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars (\$19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars (\$4,750,000).~~
- (d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.
- (d)(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.
- (2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.
- (3) The assessments imposed by this section may be collected by the insurance carrier from ~~the~~<sup>its</sup> insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.
- (4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.
- (5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The Office of Employment and Training, Education and Workforce Development Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.
- (6) Each self-insured employer, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.
- (7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were

made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

- (8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.
- (9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk.

➔Section 13. KRS 42.4582 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Development Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be prorated for grants to counties according to the allotment schedule set out in KRS 42.4592.
- (2)
  - (a) Moneys shall be transferred from the general fund in an amount equal to fifty percent (50%) of the severance and processing taxes on coal collected annually, unless otherwise amended by the budget bill.
  - (b) The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.
  - (c) The quarterly calculation and transfer of funds pursuant to this section shall be made only after *distribution of* ~~the~~
    1. ~~The quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122; and~~
    2. ~~the~~ quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

➔Section 14. KRS 42.4585 is amended to read as follows:

- (1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund.
- (2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of subsection (1) of this section shall be not less than an amount equal to fifteen percent (15%) of the severance and processing taxes on coal collected annually.
- (3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after *distribution of* ~~the~~
  - (a) ~~The quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122; and~~
  - (b) ~~the~~ quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

➔Section 15. KRS 164.7891 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.
- (2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.
- (3) The authority may award scholarships to students who meet the following criteria:
  - (a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
  - (b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;
  - (c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and
  - (d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.
- (4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:
  - (a) The average of the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine; and
  - (b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.
- (5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.
- (6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.
- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures or the terms of promissory notes for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, the rate of repayment and deferment of repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.
- (b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.
- (c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.
- (d) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.
- (12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.
- ~~{(13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.}~~

➔Section 16. KRS 164.7890 is amended to read as follows:

- (1) To ensure the public health purpose of access to pharmaceutical services in the coal-producing counties of the Commonwealth, which have been traditionally underserved for pharmaceutical services due to a shortage of pharmacists in the Commonwealth, the General Assembly hereby establishes a coal county scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of pharmacy or a provisionally accredited school of pharmacy in the Commonwealth, and to become certified pharmacists in the Commonwealth, provided that the scholarship recipient agrees to practice pharmacy in a coal-producing county for each year a scholarship is provided.
- (2) "Coal-producing county" as used in this section has the same meaning as in KRS 42.4592(1)(c).
- (3) The authority may award scholarships, to the extent funds are available for that purpose, to any person who:
- (a) Is a Kentucky resident;
- (b) Is a United States citizen as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
- (c) Is enrolled or accepted for enrollment in a Pharm.D. program at an accredited institution or a provisionally accredited institution in the Commonwealth on a full-time basis, or is a student who has a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

- (d) Agrees to render one (1) year of qualified service in a coal-producing county of the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in a coal-producing county of the Commonwealth of Kentucky as a licensed pharmacist for a majority of the calendar year, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician, in the coal-producing county; and
  - (e) Agrees to sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render pharmacy service as agreed in lieu of payment.
- (4) (a) Notwithstanding KRS 164.753(3), the amount of the scholarship awarded to an eligible student by the authority shall not exceed the difference between the prevailing amount charged for in-state tuition at the University of Kentucky College of Pharmacy and the prevailing amount charged for tuition at the institution at which the student is enrolled. The authority shall establish, by administrative regulation a procedure for awarding scholarships which shall give preference to students residing in coal-producing counties and which shall establish procedures to award scholarships should funding be insufficient to award scholarships to all eligible students. The authority may also, by administrative regulation, establish scholarship amounts based on demonstration of initial financial need by eligible students.
- (b) The actual amount of the scholarship awarded to each eligible student by the authority for each semester shall be based on the amount of funds available and the criteria established under paragraph (a) of this subsection.
- (5) (a) The authority shall require each student receiving a scholarship to execute a promissory note as evidence of the obligation.
- (b) The recipient shall render one (1) year of qualified service in a coal-producing county for each year the scholarship was awarded. Upon completion of each year of qualified service in a coal-producing county, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service.
- (c) If a recipient fails to complete an eligible program of study, or fails to render service as a pharmacist as agreed in this subsection, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.
- (6) Any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 shall not be awarded a scholarship or have a promissory note canceled until all financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice pharmacy, subject to the procedures set forth in KRS Chapter 311.
- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including but not limited to the execution of appropriate contracts and promissory notes, cancellation of obligations, the rate of repayment, and deferment of repayment of outstanding debt.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (11) (a) The coal county pharmacy scholarship fund is hereby created as a revolving fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships to qualifying students studying pharmacy in schools in the Commonwealth.
- (b) The fund shall consist of amounts transferred from coal severance tax receipts as provided in paragraph (c) of this subsection and any other proceeds from grants, contributions, appropriations, or other moneys made available for the fund.

- (c) 1. Receipts from the coal severance tax levied under KRS 143.020 shall be transferred to the fund on an annual basis in an amount not to exceed the lesser of:
- a. Four percent (4%) of the total annual coal severance tax revenues collected under KRS 143.020; or
  - b. The amount necessary to provide full funding for all students who qualify for a scholarship under this section, considering all other resources available.
2. Transfers required by subparagraph 1. of this paragraph shall be made as follows:
- a. On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided for in this paragraph shall be transferred to the fund; and
  - b. The remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year.
3. The amount transferred shall be based upon the prevailing revenue estimate for coal severance tax receipts at the time each transfer is made.
- ~~4. The calculation and transfer of funds under this subsection shall be made only after the quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.~~
- (d) Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9).
- (e) Income earned from the investments shall be credited to the trust fund.
- (f) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- (g) All amounts included in the fund shall be continuously appropriated only for the purposes specified in this section.
- (h) A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.
- (i) All moneys repaid to the authority under this section shall be added to the fund.

➔Section 17. KRS 45A.850 is amended to read as follows:

- (1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) or more underwriters and one (1) or more bond counsel firms shall be chosen for each of the following agencies:
1. Turnpike Authority of Kentucky;
  2. Kentucky Housing Corporation;
  3. Kentucky Infrastructure Authority;
  4. Kentucky Higher Education Student Loan Corporation;
  5. Kentucky River Authority;
  6. Kentucky Agricultural Finance Corporation;
  7. Kentucky Local Correctional Facilities Construction Authority; ~~and~~
  8. State Property and Buildings Commission; *and*
  9. ***Kentucky Public Transportation Infrastructure Authority.***
- (b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuances over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

- (2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) or more underwriters and one (1) or more bond counsel firms shall be chosen to provide their services for all of the following agencies:
1. School Facilities Construction Commission;
  2. Murray State University;
  3. Western Kentucky University;
  4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
  5. Northern Kentucky University;
  6. Kentucky State University;
  7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
  8. Morehead State University;
  9. Eastern Kentucky University; and
  10. Kentucky Community and Technical College System.
- (b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuances of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.
- (3) Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months. If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.
- (4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:
- (a) Principal amount of bonds being issued;
  - (b) Structure of the bond issue; and
  - (c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

➔Section 18. KRS 68.197 is amended to read as follows:

- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
  - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

- (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
  - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
- (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
- (a) For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
  - (b) For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (4)
- (a) Licenses imposed for regulatory purposes are not subject to limitations as to form and amount.
  - (b) No public service company that pays an ad valorem tax is required to pay a license tax.
  - (c)
    - 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to the effective date of this section.
    - 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.
  - (d) No license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license fee.
- (5) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (6) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.
- (7) The provisions of subsection (6) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.
- (8) ***Notwithstanding any statute to the contrary, the provisions of subsection (7) of this section shall apply as follows from March 14, 2012, through July 15, 2014:***
- (a) ***Any set-off or credit of city license fees against county license fees that exists between a city and county as of March 15, 2012, shall remain in effect as it is on March 15, 2012; and***



- (b) *The provisions of subsection (7) shall not apply to a city and county unless both the city and the county have both levied and are collecting license fees on March 15, 2012* ~~[On July 14, 2000, the provisions of subsection (7) of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly].~~
- (9) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).
- (10) Notwithstanding any statute to the contrary:
- (a) In those counties where a license fee has been authorized by a public question approved by the voters, there shall be no credit of a city license fee against a county license fee except by agreement between the county and the city in accordance with subsection (6) of this section;
  - (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall be refunded or credited for any overpayment of a license tax paid to any county to the extent the overpayment is attributable to or derives from this section as it existed at any time subsequent to July 15, 1986, and the taxpayer seeks a credit for a license tax paid to a city located within such county, if such refund claim or amended tax return claim was filed or perfected after November 18, 2004, except by agreement between the city and county in accordance with subsection (6) of this section;
  - (c) In those counties where a license fee has been authorized by a public question approved by the voters, the percentage rate of the license fee in effect on January 1, 2005, and any maximum salary limit upon which the license fee is calculated shall remained unchanged for subsequent fiscal years. A percentage rate higher than the percentage rate in effect on January 1, 2005, or any change in the maximum salary limit upon which a license fee is calculated shall be prohibited unless approved by the voters at a public referendum. The percentage rate of a license fee in such counties shall at no time exceed one percent (1%). Any question to be placed before the voters as a result of this paragraph shall be placed on the ballot at a regular election or nominating primary.
  - (d) This subsection shall have retroactive application; and
  - (e) If any provision of this subsection or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.
- (11) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

➔Section 19. **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 20. **Legal Services Contracts:** The Office of the Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through personal service contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Office of the Attorney General to perform the legal work and compensate the Office of the Attorney General for the legal services. Notwithstanding KRS Chapter 45A, the Office of the Attorney General may contract with outside law firms on a contingency basis.

➔Section 21. **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 audited government or agency. Because 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 other state agency audits shall be charged to the agency audited. 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 the Legislative Research Committee shall be charged to the agency or entity receiving audit services.

→Section 22. **Insurance Surcharge Rate:** Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2012-2014 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for those programs shall include any Restricted Funds carried forward from fiscal years 2011-2012 and 2012-2013 as provided by the General Assembly.

→Section 23. **Sale of Abandoned Property by Finance and Administration Cabinet:** Notwithstanding KRS 393.125, unclaimed securities held by the Department of the Treasury may be sold with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund during the 2012-2014 biennium. The Secretary of the Finance and Administration Cabinet shall determine when to initiate the sale of securities based on the market structure and the financial status of the Commonwealth at the time.

→Section 24. **Transfer of Abandoned Property from the Transportation Cabinet:** In accordance with KRS 393.066, 393.080, and 393.090, any bonds filed with the Transportation Cabinet pursuant to KRS 138.670 that have been payable or distributable to the payor for three years or more shall be presumed abandoned and shall be transferred to the Abandoned Property Fund held by the Department of the Treasury, and shall, net of estimated claims to be paid, be available for appropriation from the General Fund during the 2012-2014 biennium. The Transportation Cabinet shall provide the Treasurer with all records and information in its possession that may assist the Treasurer in identifying and contacting the owners of the abandoned property.

→Section 25. **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 26. **Insurance License Fee and Tax:** Notwithstanding any other statutory provision to the contrary, no license fee or tax imposed under KRS 91A.080 shall apply to premiums paid to insurance companies or surplus lines brokers by nonprofit self-insurance groups whose membership consists of cities, counties, charter county governments, urban-county government, consolidated local governments, school districts, or any other political subdivisions of the Commonwealth.

→Section 27. The Department of Revenue shall provide a written report to the Interim Joint Committee on Appropriations and Revenue on or before September 15, 2012, 2013, and 2014, providing a separate breakdown, both for the reporting period and cumulatively, of additional revenues collected as a result of:

- (a) The tax amnesty provisions included in Sections 1 to 7 of this Act;
- (b) Additional staff authorized by the 2012-2014 biennial budget to enhance compliance and collections;

and

- (c) Additional staff hired to enhance compliance and collections with funds provided in 2009 Ky. Acts ch. 2, sec. 10, at page 121, amending 2008 Ky. Acts Ch. 127, Part I, Operating Budget; G. Finance and Administration Cabinet; 7. Revenue, at page 517.

→Section 28. The following KRS section is repealed:

48.112 Governor to include certain appropriations within budget recommendations for benefit reserve fund within Kentucky Workers' Compensation Funding Commission.

→Section 29. Sections 19 to 26 of this Act are effective for and apply to the fiscal year beginning July 1, 2012, and ending June 30, 2013, and the fiscal year beginning July 1, 2013, and ending June 30, 2014, and shall expire at the end of June 30, 2014.

→Section 30. Whereas this Act applies to the balancing of the Executive Branch Budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor April 11, 2012.**

