

CHAPTER 145

(HB 255)

AN ACT relating to disaster recovery and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Building materials" means all tangible personal property which enters into and becomes a permanent part of a building;*
 - (b) *"Disaster" means damage resulting from a flood, rain storm, ice storm, wind storm, tornado, hurricane, earthquake, or terrorist attack; and*
 - (c) *"Disaster area" means a county that has been declared a disaster by the President of the United States pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. secs. 5121 to 5206.*
- (2) (a) *Notwithstanding KRS 139.770, a legal owner of a building located in a disaster area and damaged, in whole or in part, as a result of a disaster may qualify for a refund of the sales and use tax paid on the purchase of building materials used to:*
- 1. *Repair that building; or*
 - 2. *Construct a new building in a disaster area to replace the building damaged or destroyed by the disaster.*
- (b) *The refund allowed by paragraph (a) of this subsection shall be limited to the lesser of:*
- 1. *One hundred percent (100%) of the Kentucky sales and use tax actually paid, reduced by the amount of vendor compensation allowed under KRS 139.570; or*
 - 2. *Six thousand dollars (\$6,000) for each building in the disaster area which is damaged or destroyed by the disaster regardless of the number of legal owners.*
- (3) *Notwithstanding KRS 134.580 and 139.770, to qualify for the refund provided by subsection (2) of this section:*
- (a) *The building materials for which the sales and use tax refund is sought shall be purchased:*
- 1. *For the purpose of repairing or constructing a building within a disaster area;*
 - 2. *a. By the legal owner of the building; or*
 - b. By a contractor who is under contract with the legal owner to incorporate the building materials into the building; and*
 - 3. *On or after the date the disaster area is declared a disaster; and*
- (b) *The legal owner of the building for which the sales and use tax refund is sought shall:*
- 1. *Provide documentation that the legal owner is eligible for assistance from the Federal Emergency Management Agency, United States Department of Homeland Security; or*
 - 2. *Provide a copy of the claim filed for insurance purposes for verification of the building in the disaster area that was damaged by the disaster, in whole or in part.*
- (4) *The application for the sales and use tax refund provided by subsection (2) of this section shall be filed with the department:*
- (a) *Within three (3) years from the date the disaster area is declared a disaster; and*
 - (b) *By the legal owner of the building on the form prescribed by the department.*
- (5) (a) *The legal owner of the building shall file an application for refund and submit sales receipts, invoices, photographs, and any other documents supporting the legal owner's claim for refund, as requested by the department.*

- (b) *If the legal owner repairs or replaces more than one (1) building destroyed by the disaster, the legal owner shall file a separate application for refund for each building.*
 - (c) *The legal owner of the building shall execute information-sharing agreements prescribed by the department with contractors, vendors, and other related parties so that the department may verify expenditures and the sales and use tax paid.*
 - (d) *The legal owner of the building shall have no obligation to refund or otherwise return any amount of the sales and use tax refund received to any person who originally collected the tax and remitted it to the Commonwealth or to a contractor or subcontractor who paid the tax on the purchase of the materials to fulfill the terms of a construction contract.*
- (6) *Interest shall not be allowed or paid on any refund made under this section.*
- (7) (a) *The department shall prescribe and make available the forms required under this section, and may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to implement this section.*
- (b) *By October 1 of each year, the department shall report to the Legislative Research Commission, for the preceding fiscal year, the number of owners that have applied for refunds under this section by disaster area and the value of the refunds issued by disaster area.*

➔Section 2. For the 2011-2012 school year, the commissioner of education shall waive up to ten instructional days for a school district located in a county in which a disaster has been declared.

➔Section 3. Notwithstanding KRS 158.070 and any administrative regulation promulgated by the Kentucky Board of Education, a school district located in a county in which a disaster has been declared, when submitting the Superintendent's Annual Attendance Report, may substitute attendance data for school year 2010-2011 for attendance data for school year 2011-2012. If a school district submits the 2010-2011 data as a substitute, the data will be utilized to calculate the average daily attendance that will be used in calculating support education excellence in Kentucky funds for the district. As used in this section, "disaster" means a disaster that has been declared by the President of the United States pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. secs. 5121 to 5206.

➔Section 4. Notwithstanding KRS 158.070, certified and classified personnel of a school district located in a county in which a disaster has been declared shall make up any student instructional days waived by participating in instructional activities or professional development or by being assigned additional work responsibilities.

➔Section 5. Whereas many Kentuckians have been devastated by recent storms, an emergency is declared to exist, and this Act applies retroactively to the disaster occurring on Wednesday, February 29, 2012, to Saturday, March 3, 2012, and takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 16, 2012.