

## CHAPTER 74

( HB 453 )

AN ACT relating to the Kentucky Claims Commission.

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

➔SECTION 1. KRS CHAPTER 49 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Claims Commission is created and established within the Public Protection Cabinet. As used in this chapter, "commission" means the Kentucky Claims Commission.*
- (2) *The commission shall consist of three (3) members appointed by the Governor with the consent of the Senate. At least one (1) member shall be an attorney licensed to practice in the Commonwealth, at least one (1) member shall have a taxation background, and at least one (1) member shall be:*
  - (a) *A victim as defined in KRS 421.500(1);*
  - (b) *The parent, spouse, sibling, or child of a victim as defined in KRS 421.500(1), whether or not the victim is deceased; or*
  - (c) *A victim advocate as defined in KRS 421.570(1).*
- (3) *Except for the appointment of the commission's first members, all appointments shall be for a three (3) year term. Vacancies for unexpired terms shall be filled in the same manner as regular appointments, but an appointee for a vacancy shall hold office only to the end of the unexpired term of that vacated member.*
- (4) *The Governor shall designate one (1) member of the commission to serve as chairperson, and the commission shall annually elect one (1) of its members to serve as vice chairperson with the authority to act in the absence of the chairperson.*
- (5) *The Governor shall set a salary for members of the commission. In addition, members shall be reimbursed for all expenses paid or incurred in the discharge of official business at existing state rates.*
- (6) *The commission shall meet as often as necessary to perform its statutory responsibilities as outlined in this chapter. A majority of the members of the commission shall constitute a quorum for the transaction of business.*
- (7) *The chairperson shall conduct an annual training session for all members of the commission on new legislation, relevant court decisions, and commission policies and procedures.*
- (8) *The commission shall be headed by an executive director appointed by the commission. The executive director shall:*
  - (a) *Carry out the policy and program directives of the commission;*
  - (b) *Be responsible for the day-to-day operations of the commission;*
  - (c) *Establish appropriate organizational structures and personnel policies;*
  - (d) *Serve as the appointing authority for all personnel;*
  - (e) *Prepare annual reports on the commission's activities;*
  - (f) *Prepare budgets; and*
  - (g) *Perform all other duties as directed by the commission or assigned by law.*
- (9) *The Governor shall appoint the necessary number of hearing officers to serve at the direction of the commission. A commission member or employee may serve as a hearing officer for the commission. Any commission member or employee who serves as a hearing officer shall not receive additional compensation but shall be reimbursed at state rates for expenses paid or incurred as a result of serving as a hearing officer. A commission member or employee who is an attorney licensed to practice in the Commonwealth shall be exempt from KRS 13B.030(4).*

- (10) *With the approval of the commission, the executive director and commission employees may enter into agreements with any state agency, political subdivision of the state, postsecondary education institution, or other person or entity to enlist assistance to implement the duties and responsibilities of the commission.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

*The Kentucky Claims Commission created by Section 1 of this Act shall have the following powers and authority:*

- (1) *To investigate, hear proof, and compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; except, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant, damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for such claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or the right to receive payment from workers' compensation insurance, Social Security programs, unemployment insurance programs, medical, disability, or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth, its departments, agencies, officers, agents, or employees, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during, or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the commission;*
- (2) *To hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation;*
- (3) *To hear and determine all matters relating to a claim by a crime victim or a person authorized by law to act on behalf of a crime victim for compensation;*
- (4) *To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;*
- (5) *To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the commission's statutory authority;*
- (6) *To issue subpoenas and discovery orders and to petition a court of competent jurisdiction for any order necessary to carry out the commission's powers and duties;*
- (7) *To take or cause to be taken affidavits or depositions within or without the state;*
- (8) *To administer or cause to be administered oaths;*
- (9) *Except for the power to issue final decisions on the merits of a claim or appeal, to delegate any of its power or authority to commission employees; and*
- (10) *To publicize widely the functions and purposes of the commission.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

*Sections 4 to 18 of this Act shall apply to the Kentucky Claims Commission's power and authority outlined in subsection (1) of Section 2 of this Act.*

➔Section 4. KRS 44.070 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) ~~[A Board of Claims, composed of the members of the Crime Victims Compensation Board as hereinafter provided, is created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; provided, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to~~

another and not the claimant, damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for said claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or right to receive payment from workers' compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth, its departments, agencies, officers, agents, or employees, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the Board of Claims. Except as herein provided, the board shall be independent of all agencies, cabinets, and departments of the Commonwealth except as provided in KRS 44.070 to 44.160.

- (2) ~~The board shall be composed of the members of the Crime Victims Compensation Board. The members shall not be entitled to additional compensation for their services on the Board of Claims.~~
- (3) ~~The Governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the Governor. No member shall, at the same time, serve as chairman of the Crime Victims Compensation Board and as chairman of the Board of Claims.~~
- (4) ~~The employees of the Crime Victims Compensation Board, without additional compensation, shall be ex officio employees of the Board of Claims.~~
- (5) ~~Regardless of any provision of law to the contrary, the jurisdiction of the *commission* ~~board~~ is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed two hundred *fifty* thousand dollars ~~(\$250,000)~~ ~~(\$200,000)~~, exclusive of interest and costs. However, if a single act of negligence results in multiple claims, the total award may not exceed *four* ~~three~~ hundred ~~fifty~~ thousand dollars ~~(\$400,000)~~ ~~(\$350,000)~~, to be equitably divided among the claimants, but in no case may any claimant individually receive more than two hundred *fifty* thousand dollars ~~(\$250,000)~~ ~~(\$200,000)~~.~~
- (2) ~~(6)~~ *Hearing* ~~The Governor shall appoint the necessary number of hearing officers, each of whom shall be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years. These~~ officers, upon the direction of the *chairperson* ~~chairman~~, ~~or~~ ~~the~~ *commission* ~~board~~, *or the commission's executive director*, shall conduct hearings ~~and~~ otherwise supervise the presentation of evidence and perform any other duties assigned to them by the *chairperson* ~~chairman~~, ~~or~~ ~~the~~ *commission* ~~board~~, *or the commission's executive director*, except that such hearing officers shall not render final decisions, orders, or awards. However, such hearing officers may, in receiving evidence on behalf of the *commission* ~~board~~, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- (3) ~~(7)~~ ~~The board may at any time recommend the removal of any hearing officer upon filing with the Governor a full written statement of its reasons for such removal.~~

- (8) ~~Upon recommendation to the *commission* ~~board~~ by the attorney for the Commonwealth, its cabinet, department, bureau, agency, or employee thereof, that a settlement has been reached between the parties to the claim, and upon approval by the *commission* ~~board~~ that the settlement is reasonable for all parties concerned, ~~an~~ ~~the~~ agreed judgment or dismissal may be entered accordingly, even without a party's admission to liability.~~

➔ Section 5. KRS 44.071 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The *commission* ~~Board of Claims~~, created by *Section 1 of this Act* ~~KRS 44.070~~, is hereby vested with full power, authority, and jurisdiction to investigate, hear proof, and compensate persons for damages sustained to either person or property as *a proximate* ~~approximate~~ result of negligence on the part of any municipality, or any of its officers, agents, or employees while acting within the scope of their employment by the municipality, or any agency thereof, relating to the maintenance by the municipality of state-owned traffic control devices pursuant to a contract with the Commonwealth.
- (2) Claims for personal injury or property damage against any municipality, or any of its officers, agents, or employees while acting within the scope of their employment of the municipality, arising out of negligence in the maintenance of state-owned traffic control devices pursuant to a contract with the Commonwealth, shall be limited and reduced in the same manner as described in *Section 4 of this Act* ~~KRS 44.070~~ with respect to claims against the Commonwealth.

- (3) It is the intention of subsections (1) and (2) of this section to provide every municipality and agency thereof, and their respective officers, agents, or employees with the same liability protection, restrictions, and reductions when such municipalities and agencies are performing maintenance on state-owned traffic control devices pursuant to a contract with the Commonwealth as the Commonwealth and its agencies, officers, and employees would enjoy if performing the work itself.

➔Section 6. KRS 44.072 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies to be able to assert their just claims as herein provided. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations as herein set forth. It is further the intention of the General Assembly to otherwise expressly preserve the sovereign immunity of the Commonwealth, ~~any of its cabinets, departments, bureaus, and or agencies and or any of its officers, agents, and or employees~~ while acting in the scope of their employment ~~by the Commonwealth or any of its cabinets, departments, bureaus or agencies~~ in all other situations except where sovereign immunity is specifically and expressly waived as set forth by statute. The ~~commission~~**Board of Claims** shall have exclusive jurisdiction to hear claims for damages, except as otherwise specifically set forth by statute, against the Commonwealth, its cabinets, departments, bureaus, agencies, or any of its officers, agents or employees while acting within the scope of their employment ~~by the Commonwealth, its cabinets, departments, bureaus or agencies~~.

➔Section 7. KRS 44.073 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) For purposes of *Section 6 of this Act* ~~[KRS 44.072]~~, state institutions of higher education under KRS Chapter 164 are agencies of the state.
- (2) The ~~commission~~**Board of Claims** shall have primary and exclusive jurisdiction over all negligence claims for the negligent performance of ministerial acts against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof while acting within the scope of their employment ~~by the Commonwealth or any of its cabinets, departments, bureaus, or agencies~~.
- (3) The ~~commission~~**Board of Claims** shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof.
- (4) The ~~commission~~**Board of Claims** shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (5) No action for negligence against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof may be brought ~~initially~~ in any other court or forum in the Commonwealth except the ~~commission~~**Board of Claims** ~~unless until~~ the ~~commission~~**Board of Claims** makes a *final* determination ~~that it has become final, that the Board of Claims has or~~ does not have primary and exclusive jurisdiction over the claim.
- (6) The determination by the ~~commission~~**Board of Claims** becomes final only after all appellate rights have been finalized or waived.
- (7) Any applicable statute of limitations for bringing negligence actions in any court or forum other than the ~~commission~~**Board of Claims** shall be tolled pending the final determination that the ~~commission~~**Board of Claims** does not have primary and exclusive jurisdiction of the negligence claim.
- (8) No action for negligence may be brought in any court or forum other than the ~~commission~~**Board of Claims** against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (9) Negligence as used herein includes negligence, gross negligence, or wanton negligence.

- (10) The defense of contributory negligence is not a complete bar to recovery of *a* plaintiff's claim in the *commission*~~[Board of Claims]~~, and the doctrine of comparative negligence shall be utilized by the *commission*~~[board]~~.
- (11) Except as otherwise provided by *Sections 4 to 18 of this Act*~~[this chapter]~~, nothing contained herein shall be construed to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth, its cabinets, departments, bureaus, and agencies and its officers, agents, and employees.
- (12) Except as otherwise specifically set forth by statute and in reference to subsection (11) of this section, no action for damages may be maintained in any court or forum against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within their official capacity and scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (13) The preservation of sovereign immunity referred to in subsections (11) and (12) of this section includes, but is not limited to, the following:
- (a) Discretionary acts or decisions;
  - (b) Executive decisions;
  - (c) Ministerial acts;
  - (d) Actions in the performance of obligations running to the public as a whole;
  - (e) Governmental performance of a self-imposed protective function to the public or citizens; and
  - (f) Administrative acts.
- (14) The filing of an action in court or any other forum or the purchase of liability insurance or the establishment of a fund for self-insurance by the Commonwealth, its cabinets, departments, bureaus, or agencies or its agents, officers, or employees thereof for a government-related purpose or duty shall not be construed as a waiver of sovereign immunity or any other immunity or privilege thereby held. Except as specifically set forth by statute, no counterclaim, set-off, recoupment, cross-claim, or other form of avoidance of the claim for damages may be asserted by any person when suit is brought against said person by the Commonwealth or any of its cabinets, departments, bureaus, or agencies thereof.
- (15) Neither the Commonwealth nor any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof shall be liable under a respondeat superior theory or any other similar theory for the acts of independent contractors, contractors, or subcontractors thereof or anyone else doing work or providing services for the state on a volunteer basis or pursuant to a contract therewith.

➔Section 8. KRS 44.084 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Hearings involving claimants who are residents of the Commonwealth shall be conducted in the county wherein the claim accrues, provided, however, that the parties may, with the approval of the *commission*~~[board]~~, agree upon a place not within such county for the conduct of hearings. Hearings involving claimants who are nonresidents shall be conducted in the county wherein the claim accrues, provided, however, that a hearing, with the approval of the *commission*~~[board]~~, may be conducted in Franklin County.

➔Section 9. KRS 44.086 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The *commission*~~[board]~~ may require affected state agencies to investigate claims and the incidents on which they are based and to furnish to the *commission*~~[board]~~ and the claimant in writing the facts learned by investigation. Such response shall be sufficiently specific to support a decision by the *commission*~~[board]~~ to pay or deny the claim. If the agency believes the state should refute a claim, the agency shall cite the facts about the incident that support its belief.
- (2) If the claim is under *two*~~[one]~~ thousand *five hundred* dollars (*\$2,500*),~~[( \$1,000 )]~~ it *may*~~[will]~~ be investigated by the *commission*~~[board]~~ in-house and if the *commission*~~[board]~~ believes it needs additional facts before deciding the claim, the parties may provide the needed information by letter or as directed by the *commission*~~[board]~~.

- (3) The *commission*~~{board}~~ shall hold hearings on contested claims whose value is *two*~~{one}~~ thousand *five hundred* dollars (*\$2,500*)~~{(\$1,000)}~~ or greater but may decide claims under *two*~~{one}~~ thousand *five hundred* dollars (*\$2,500*)~~{(\$1,000)}~~ without a hearing.
- (4) At its hearings, the *commission*~~{board}~~, or any of its members, or any of its hearing officers shall hear the parties at issue and their representatives and witnesses.
- (5) The award or order shall be made by the *commission*~~{board}~~ or by a member assigned by the *chairperson*~~{chairman}~~ within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within ninety (90) days after final submission in any event. The order or award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the question at issue shall be filed with the record of the claim and a copy of the order or award shall immediately be sent to the parties in dispute.
- (6) If an application for review is made to the *commission*~~{board}~~ within fourteen (14) days from the date of the order or award, the full *commission*~~{board}~~, if the first decision was not made by the full *commission*~~{board}~~, shall, as soon as practicable, review the evidence, or, if deemed advisable, hear the parties at issue, their representatives and witnesses, and shall make an order or award and file it as specified in subsection (5) above.

➔Section 10. KRS 44.090 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The attorneys appointed by the Governor to represent the Commonwealth's cabinets, departments, bureaus, agencies, or officers, agents, or employees thereof may present any opposition the Commonwealth or any of its cabinets, departments, bureaus, agencies, or officers, agents, or employees thereof may have to the allowance of any claim filed with the *commission*~~{board}~~. If such~~{cabinet}~~ attorney is unavailable to represent his respective cabinet, department, bureau, agency, or employee thereof, then the Attorney General, either by regular or special assignment, shall designate one (1) of his assistants to present any opposition the Commonwealth or any of its cabinets, departments, bureaus, agencies, or officers, agents, or employees thereof may have to the allowance of any claim filed with the *commission*~~{board}~~.

➔Section 11. KRS 44.100 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The assistant attorneys general or attorneys~~{}~~ appointed by the Governor to represent the Commonwealth's cabinets, departments, agencies or employees, agents, or officers thereof, assigned to defend claims filed with the *commission*~~{board}~~ shall receive no additional compensation for the performance of their duties before the *commission*~~{board}~~; provided, however, members of the *commission*~~{board}~~, assistant attorneys general, and all employees acting for the *commission*~~{board}~~ shall be recompensed for all necessary and actual expenses they may incur incident to their duties for or before the *commission*~~{board}~~. All awards and cost of operation assessed by the *commission*~~{board}~~ against the Department of Highways shall be paid out of *the* state road fund~~{}~~ upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. All awards and *costs*~~{cost}~~ of operation assessed by the *commission*~~{board}~~ against other cabinets or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such cabinets or agencies respectively, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. All amounts necessary to pay awards and *costs*~~{cost}~~ of operation assessed by the *commission*~~{board}~~ against all other cabinets or agencies of the Commonwealth shall be paid out of the general fund of the Commonwealth, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. The executive secretary of the *commission*~~{board}~~ shall maintain accurate records reflecting the costs incident to the operation of the *commission*~~{board}~~. At the close of each quarter-year period he shall summarize the cost and shall bill each cabinet, commission, board, or agency which has had cases before the *commission*~~{board}~~ for a pro rata share of the cost of operation for the appropriate calendar quarter computed in a manner deemed just and equitable by the *commission*~~{board}~~. Each cabinet, commission, board, or agency shall remit quarterly their share of the cost of operation to the *commission*~~{board}~~ in the manner provided by law. The *commission*~~{Board of Claims}~~ shall have the power and authority to determine the right of any successful party to an action before it to recover from the opposing party the costs incurred by him or it in such action; and such decision shall not be subject to appeal. Costs shall not include attorneys' fees.

➔Section 12. KRS 44.110 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) All claims must be filed with the *commission*~~{Board of Claims}~~ within one (1) year from the time the claim for relief accrued.

- (2) The claim for relief shall be deemed to accrue at the time of the negligent act with regard to property damage.
- (3) The claim for relief for personal injury shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury shall be commenced beyond two (2) years from the date on which the alleged negligent act or omission actually occurred.
- (4) Notwithstanding subsection (3) of this section, the claim for relief for medical malpractice shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury as a result of medical malpractice shall be commenced beyond three (3) years from the date on which the alleged negligent act or omission of malpractice actually occurred.
- (5) If at the time the alleged negligent act or omission occurred or if at the time the claim for relief accrued or thereafter, the claimant is an infant or of unsound mind or under any other legal disability to file suit, a guardian or next friend or committee or other qualified representative shall bring such action in the ~~commission~~~~Board of Claims~~ on behalf of such person within the same time limitation set forth herein or the claim is barred, notwithstanding KRS 413.170 and 413.280. If there is no guardian or committee or he is unwilling or unable to act or is himself a claimant, the ~~commission~~~~Board of Claims~~ shall appoint a guardian ad litem to represent the interests of the claimant under legal disability. The ~~commission~~~~Board of Claims~~ shall allow the guardian ad litem a reasonable fee for his services, to be taxed as costs.

→Section 13. KRS 44.120 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

An award shall be made only after consideration of the facts surrounding the matter in controversy, and no award shall be made unless the ~~commission~~~~board~~ is of the opinion that the damage claimed was caused by such negligence on the part of the Commonwealth or its agents as would entitle claimant to a judgment in an action at law if the state were amenable to such action.

→Section 14. KRS 44.130 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Orders, awards, and judgments of the ~~commission~~~~board~~ may be enforced by filing in the office of the clerk of the Franklin Circuit Court an authenticated copy of the order, award, or judgment, which, when ordered entered by the judge of the court, shall be entered on the order book and become to all effects and purposes an order, award, or judgment of the court, and be enforceable in a like manner.

→Section 15. KRS 44.140 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Appeals may be taken by a state agency from all awards of the ~~commission~~~~board~~ where the amount in controversy, exclusive of interest and costs, is more than ~~two~~~~one~~ thousand *five hundred* dollars ~~(\$2,500)~~~~(\$1,000)~~. Appeals shall be taken to the Circuit Court of the county wherein the hearing was conducted, provided, however, that an appeal involving a nonresident claimant may be taken by a state agency to the Franklin Circuit Court ~~with the approval of the board. No state agency can appeal any decision of the board without securing the prior approval of the Attorney General.~~ Appeals shall be taken within *thirty* ~~(30)~~~~forty five (45)~~ days from the rendition of the award, and the method of appeals shall follow as nearly as may be the rules of civil procedure, except the Commonwealth shall not be required to execute bond.
- (2) Any claimant whose claim is ~~two~~~~one~~ thousand *five hundred* dollars ~~(\$2,500)~~~~(\$1,000)~~ or greater may within *thirty* ~~(30)~~~~forty five (45)~~ days after receipt of the copy of the report containing the final decision of the ~~commission~~~~board~~, file a proceeding in the Circuit Court of the county wherein the hearing was conducted to review the decision of the ~~commission~~~~board~~. A copy of the filing and complaint shall be served on the Attorney General in the manner provided by the rules of civil procedure.
- (3) The ~~commission~~~~board~~, the state agency, and the claimant shall be necessary parties to such appeals. It shall not be necessary for the ~~commission~~~~board~~ to file responsive pleadings unless it so desires.
- (4) The executive director of the ~~commission~~~~board~~ shall within thirty (30) days after service of the summons file the entire original record properly bound, with the clerk of the Circuit Court, after certifying that such record is the ~~commission's~~~~board's~~ entire original record and such record shall be considered by the Circuit Court in its review. If either party requests a transcript of the evidence in writing, the requesting party shall bear the cost of

the original copy of the transcript and it shall be furnished within ninety (90) days from the date of the written request.

- (5) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the ~~commission~~~~board~~. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the ~~commission~~~~board~~ acted without or in excess of its powers; the award was procured by fraud; the award is not in conformity to the provisions of *Sections 4 to 18 of this Act*~~[KRS 44.070 to 44.160]~~; and whether the findings of fact support the award. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

➔Section 16. KRS 44.150 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Appeals may be taken to the Court of Appeals under the same conditions and under the same practice as appeals are taken from judgments in civil causes rendered by the Circuit Court, but no motion for a new trial or bill of exceptions shall be necessary. The Court of Appeals shall review only the matters subject to review by the Circuit Court and also errors of law arising in the Circuit Court and made reviewable by the Rules of Civil Procedure, where not in conflict with *Sections 4 to 18 of this Act*~~[KRS 44.070 to 44.160]~~.

➔Section 17. KRS 44.160 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any action prosecuted to award, judgment, or final decision, including dismissal, under the provisions of *Sections 4 to 18 of this Act*~~[KRS 44.070 to 44.160]~~ shall preclude the right of a claimant to sue the Commonwealth, its cabinets, departments, bureaus, ~~and~~~~or~~ agencies, ~~and~~~~or~~ its officers, agents, or employees in the ~~commission~~~~Board of Claims~~ or any other forum, except as provided in *subsection (5) of Section 7 of this Act*~~[KRS 44.073(5)]~~ when the ~~commission~~~~board~~ determines that it has no jurisdiction over the claim.
- (2) The final determination of the ~~commission~~~~board~~ shall be given the same res judicata and collateral estoppel effect as any other judicial determination; and, if entered as provided in *Section 14 of this Act*~~[KRS 44.130]~~, it shall be granted the full faith and credit given to judgments from the Commonwealth's courts in this state and the courts of the United States.

➔Section 18. KRS 44.165 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

No claim shall be brought before the ~~commission~~~~board~~ unless the value of the total amount of damages claimed therein is ~~two~~~~one~~ hundred ~~one~~ *fifty* dollars (~~\$100~~~~00~~) or greater.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

*Sections 20 to 25 of this Act shall apply to the Kentucky Claims Commission's power and authority outlined in subsection (2) of Section 2 of this Act.*

➔Section 20. KRS 131.325 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The ~~commission~~~~Kentucky Board of Tax Appeals~~ shall maintain the following records:

- (1) A register wherein the ~~commission~~~~board~~ shall enter by its title any proceedings appealed to it according to the date of its commencement. Thereafter, until after entry of the ~~commission's~~~~board's~~ opinion and final order, there shall be noted therein according to the date, the filing or return of any paper or process or the making of any order, ruling, or other directive in or concerning such proceeding, and any other steps therein.
- (2) The files of the ~~commission~~~~board~~ consisting of all papers or other process filed with or by the ~~commission~~~~board~~.

➔Section 21. KRS 131.335 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) *The commission may hold hearings at any location within the Commonwealth, with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable.*



- (2) When any member or employee of the *commission*~~{board}~~ is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the *executive director*~~{chairman}~~ of the *commission*~~{board}~~ of an itemized statement of such expenses in accordance with Finance and Administration Cabinet regulations.

➔Section 22. KRS 131.340 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The *commission*~~{Kentucky Board of Tax Appeals}~~ pursuant to *Section 2 of this Act*, is~~{hereby}~~ vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation. Administrative hearings before the *commission*~~{Kentucky Board of Tax Appeals}~~ shall be de novo and conducted in accordance with KRS Chapter 13B *and administrative regulations promulgated by the commission*.
- (2) Any state or county agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the *commission*~~{board}~~ shall mail by certified mail notice of its ruling, order, or determination within three (3) working days from the date of the decision.
- (3) Any party~~{, including the Attorney General, on behalf of the Commonwealth,}~~ aggrieved by any ruling, order, or determination of any state or county agency charged with the administration of any taxing or licensing measure~~{,}~~ may prosecute an appeal to the *commission*~~{board}~~ by filing a complaint or petition of appeal before the *commission*~~{board}~~ within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.
- (4) If the Department of Revenue is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the department and prosecutes an appeal to the *commission*~~{Kentucky Board of Tax Appeals}~~ as authorized in subsection (3) of this section, the commissioner of revenue shall, within twenty (20) days, certify in writing to the *commission*~~{Kentucky Board of Tax Appeals}~~ the assessment recommended.
- (5) The *commission*~~{Kentucky Board of Tax Appeals}~~ shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

➔Section 23. KRS 131.355 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) All proceedings before the *commission*~~{board}~~ shall be officially reported and all records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the *commission*~~{board}~~ include information provided to the Department of Revenue by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.
- (2) *The full commission may*~~{All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, but one (1) member or a hearing officer may be authorized to}~~ hear an~~{individual}~~ appeal *or assign one (1) of its members or a hearing officer to hear an appeal*. The final order in any appeal heard by a single member or a hearing officer shall be made and entered by a majority of the *commission*~~{board}~~.

➔Section 24. KRS 131.365 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The final orders of the *commission*~~{Kentucky Board of Tax Appeals}~~ shall be binding upon all parties until changed or modified by the courts of this state. If no appeal to the courts is prosecuted, the final order of the *commission*~~{board}~~ shall constitute a final determination.

- (2) If the ~~commission[board]~~ finds that other issues are necessary to a full determination of the controversy, it may remand the whole proceeding to the agency from which the appeal was prosecuted for further determination. The parties may stipulate to the determination of the other issues without remand.
- (3) Any changes in ad valorem property tax assessment rolls, tax bills, or the application by any agency of the tax laws of the state shall be in conformity with the ~~commission's[board's]~~ final order.
- (4) In the case of any appeal, any taxes, interest, or penalty paid but found by the ~~commission[board]~~ to be in excess of that legally due shall be ordered refunded to the taxpayer.

➔Section 25. KRS 131.370 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any party aggrieved by any final order of the ~~commission[Kentucky Board of Tax Appeals]~~, except on appeals from a county board of assessment appeals, may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business in accordance with KRS Chapter 13B. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated.
- (2) If the appeal is from an order sustaining a tax assessment, collection of the tax may be stayed by the filing of a supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580.

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

*Sections 27 to 49 of this Act shall apply to the Kentucky Claims Commission's power and authority outlined in subsection (3) of Section 2 of this Act.*

➔Section 27. KRS 346.010 is repealed and reenacted as a new section of KRS Chapter 49 to read as follows:

The General Assembly hereby declares that it serves a public purpose and is of benefit to the state to indemnify those needy persons who are innocent victims of criminal acts and who suffer bodily or psychological injury or death as a consequence thereof. Such persons or their dependents may thereby suffer disability, incur financial hardships and become dependent upon public assistance. To that end, it is the General Assembly's intent that aid, care, and support be provided by the state, as a matter of grace, for such victims of crime.

➔Section 28. KRS 346.020 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

As used in *Sections 27 to 49 of this Act*~~[this chapter]~~, unless the context otherwise requires:

- (1) ~~["Board" means the Crime Victims Compensation Board;~~
- ~~(2)——]~~"Child" means any person less than eighteen (18) years of age;
- ~~(2){(3)}~~ "Claimant" means any of the following claiming compensation under *Sections 27 to 49 of this Act*~~[this chapter]~~: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim;
- ~~(3){(4)}~~ "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, psychological injury, or death, and is punishable by fine, imprisonment, or death. Criminally injurious conduct shall include an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States against a resident of Kentucky. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or involved a violation of KRS 189A.010, driving under the influence;
- ~~(4){(5)}~~ "Family," when used with reference to a person, shall mean:
  - (a) Any person related to such person within the third degree of consanguinity;
  - (b) Any person maintaining a sexual relationship with such person; or
  - (c) Any person residing in the same household with such person; and
- ~~(5){(6)}~~ (a) "Victim" means a needy person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:

1. Criminally injurious conduct;
  2. A good faith effort to prevent criminally injurious conduct; or
  3. A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.
- (b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:
1. The crime would be compensable had it occurred inside this state; and
  2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in **Section 31 of this Act**~~{KRS 346.050}~~.
- (c) "Victim" shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

➔Section 29. KRS 346.025 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) "Victim" shall also include nonresidents of this state who suffer losses as a direct result of criminal acts occurring within this state.
- (2) This section shall be operative only during those time periods during which the **commission**~~{board}~~ determines that federal funds are available to the state for the compensation of victims of crime.

➔Section 30. KRS 346.040 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

***In addition to the powers and authority outlined in Section 2 of this Act,*** the **commission**~~{board}~~ shall have the following powers and duties:

- (1) ~~{To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;~~
- ~~(2) —~~ To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of **Sections 27 to 49 of this Act**~~{this chapter}~~, including administrative regulations for the approval of attorney's fees for representation before the **commission**~~{board}~~ or upon judicial review~~{as provided for in KRS 346.110}~~;
- ~~(2){(3)}~~ To hear and determine all matters relating to claims for compensation, and the power to reinvestigate or reopen claims without regard to statutes of limitations;
- ~~(3){(4)}~~ To request from prosecuting attorneys and law enforcement officers investigations and data to enable the **commission**~~{board}~~ to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of District Court records does not apply to proceedings under **Sections 27 to 49 of this Act**~~{this chapter}~~;
- ~~(4){(5)}~~ To hold hearings in accordance with the provisions of KRS Chapter 13B. The powers provided in this subsection may be delegated by the **commission**~~{board}~~ to any member or employee thereof. If necessary to carry out any of its powers and duties, the **commission**~~{board}~~ may petition any Circuit Court for an order;
- ~~(5){(6)}~~ ~~To take or cause to be taken affidavits or depositions within or without the state;~~
- ~~(7)}~~ Upon the filing of an application by a claimant, to negotiate binding fee settlements with the providers of services to claimants that may be eligible for an award under **subsection (3) of Section 37 of this Act**~~{KRS 346.130(3)}~~;
- ~~(6){(8)}~~ To make available for public inspection all **commission**~~{board}~~ decisions and opinions, administrative regulations, written statements of policy, and interpretations formulated, promulgated, or used by it in discharging its functions;
- ~~(7){(9)}~~ To publicize widely the availability of reparations and information regarding the claims therefor; and
- ~~(8){(10)}~~ To make an annual report, by January 1 of each year, of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

➔Section 31. KRS 346.050 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to **Sections 27 to 49 of this Act**~~{this chapter}~~:
  - (a) A victim of criminally injurious conduct;
  - (b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;
  - (c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and
  - (d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.
- (2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the **commission**~~board~~ may award compensation to a victim or dependent who is a relative, family, or household member of the offender only if the **commission**~~board~~ can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.
- (3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for Health and Family Services.

➔Section 32. KRS 346.055 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

A person who suffers personal injury as a result of conduct in violation of KRS 532.031 is a victim of criminally injurious conduct as defined in **Section 28 of this Act**~~{KRS 346.020}~~ and is eligible for awards pursuant to **Sections 27 to 49 of this Act**~~{KRS Chapter 346}~~.

➔Section 33. KRS 346.060 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) A claim form may be filed by a person eligible to receive an award, as provided in **Section 31 of this Act**~~{KRS 346.050}~~ or, if such person is a minor, by his parent or guardian.
- (2) A claim form must be filed by the claimant not later than five (5) years after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than five (5) years after the death of the victim; provided, however, that upon good cause shown, the **commission**~~board~~ may extend the time for filing if, in a particular case, the interest of justice so requires.
- (3) Claims shall be filed in the office of the **commission**~~board~~ in person or by mail **in accordance with the administrative regulations promulgated by the commission**. Only printed claim forms supplied by the **commission**~~board~~ shall be accepted. The **commission**~~board~~ shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in **Sections 27 to 49 of this Act**~~{this chapter}~~ and meeting the requirements as to form in the rules and regulations of the **commission**~~board~~.
- (4) Upon filing of a claim pursuant to **Sections 27 to 49 of this Act**~~{this chapter}~~, the **commission**~~board~~ shall promptly notify the United States attorney (if a federal offense is involved), the Commonwealth's attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such United States attorney, Commonwealth's attorney, or county attorney advises the **commission**~~board~~ that a criminal prosecution is pending upon the same alleged crime and requests that action by the **commission**~~board~~ be deferred, the **commission**~~board~~ shall defer all proceedings under **Sections 27 to 49 of this Act**~~{this chapter}~~ until such time as such criminal prosecution has been concluded and shall so notify such United States attorney, Commonwealth's or county attorney, and the claimant. When such criminal prosecution has been concluded such United States attorney, Commonwealth's or county attorney shall promptly so notify the **commission**~~board~~. Nothing in this section shall limit the authority of the **commission**~~board~~ to grant emergency awards pursuant to **Section 36 of this Act**~~{KRS 346.120}~~.

➔Section 34. KRS 346.080 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) A claim, when accepted for filing, shall be assigned by the *executive director*~~[clerk]~~ of the *commission*~~[board]~~ to an investigator for investigation. All claims arising from the death of an individual as a direct result of a crime shall be considered together.
- (2) The investigator to whom such claim is assigned shall examine the papers filed in support of the claim and the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime.
- (3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the *commission*~~[board]~~ may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon an examination shall be filed with the investigator setting out findings, including results of all tests made, diagnosis, prognosis, and other conclusions.
- (4) For purposes of *Sections 27 to 49 of this Act*~~[this chapter]~~, there is no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under *Sections 27 to 49 of this Act*~~[this chapter]~~ in which that condition is an element.
- (5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.
- (6) Upon completion of the investigator's report, the claim shall be assigned to a *commission*~~[board]~~ member who may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of the claim within thirty (30) days of the assignment of the claim. If the *commission*~~[board]~~ member is unable to decide the claim upon the basis of the papers and the report, he shall order a hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (7) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the *commission*~~[board]~~ member to whom the claim was assigned shall issue a recommended order either granting an award pursuant to *Section 37 of this Act*~~[KRS 346.130]~~ or deny the claim. The *commission*~~[board]~~ shall review the recommended order and any exceptions filed to it, and shall by majority vote issue a final order.
- (8) A final order of the *commission*~~[board]~~ may be appealed by~~[the Attorney General or a claimant by]~~ filing a petition for judicial review in *the county where the claim accrued or in* Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 35. KRS 346.100 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Following the initial filing of a claim, if a claimant or victim does not take such further steps as may be necessary to support or perfect the claim as may be required by the *commission*~~[board]~~ within thirty (30) days after such requirement is made by the *commission*~~[board]~~, the claimant or victim shall be deemed in default. In such case the *commission*~~[board]~~ shall summarily deny the claim and the claimant or victim shall be forever barred from reasserting the claim. The *commission*~~[board]~~ may remit such proceedings on good cause shown that the failure to take the steps required by the *commission*~~[board]~~ was totally and completely beyond the control of the claimant or victim.

➔Section 36. KRS 346.120 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Notwithstanding the provisions of *Section 34 of this Act*~~[KRS 346.080]~~, if it appears to the *commission*~~[board]~~ member to whom a claim is assigned, prior to taking action upon such claim that:
  - (a) Such claim is one with respect to which an award probably will be made; and
  - (b) Undue hardship will result to the claimant if immediate payment is not made. Emergency payment under subsection (2) of this section may be made.
- (2) Upon such findings under subsection (1) of this section the *commission*~~[board]~~ member may make an emergency award to the claimant pending a final decision in the case provided that:
  - (a) The amount of such emergency award shall not exceed five hundred dollars (\$500);

- (b) The amount of such emergency award shall be deducted from any final award made to the claimant; and
- (c) The excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the *commission*~~board~~.

➔Section 37. KRS 346.130 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) No award shall be made unless the *commission*~~board~~ or *commission*~~board~~ member, as the case may be, finds that:
  - (a) Criminally injurious conduct occurred;
  - (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
  - (c) Police or court records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police or court records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the *commission*~~board~~, for good cause shown, finds the delay to have been justified.
- (2) Except for claims related to sexual assault and domestic violence, the *commission* ~~board~~ upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.
- (3) Any award made pursuant to *Sections 27 to 49 of this Act*~~this chapter~~ shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the *commission*~~board~~ stating what treatment is planned and for what period of time. The *commission*~~board~~ shall have the power to discontinue payment of mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were stolen, destroyed, or damaged during the crime.
- (4) Any award made for loss of earnings or financial support may be considered for a claimant who has loss of support or wages due to the crime for which the claim is filed. Unless reduced pursuant to other provisions of *Sections 27 to 49 of this Act*~~this chapter~~, the award shall be equal to net earnings at the time of the criminally injurious conduct; however, no such award shall exceed one hundred fifty dollars (\$150) for each week of lost earnings or financial support. The wage earner or source of support must have been employed or paying support at the time the crime occurred. Said employment or support shall be verified by the staff of the *commission*~~board~~ after information is provided by the claimant or victim. Should the claimant or victim fail to supply the *commission*~~board~~ with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the *commission*~~board~~ among the claimants.
- (5) The *commission*~~board~~ is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars (\$5,000).
- (6) Any award made under *Sections 27 to 49 of this Act*~~this chapter~~ shall not exceed twenty-five thousand dollars (\$25,000) in total compensation to be received by or paid on behalf of a claimant from the fund.
- (7) No award shall be made for any type of property loss or damage, except as otherwise permitted in *Sections 27 to 49 of this Act*~~this chapter~~.

➔Section 38. KRS 346.135 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Upon the filing of an application for a claim with the *commission*~~board~~, all debt collection actions by a creditor or the creditor's agent, against the claimant for a debt or expense covered under *subsection (3) of Section 37 of this Act*~~KRS 346.130(3)~~ and related to the substance of the claim shall cease pending a resolution of the claim by the *commission*~~board~~, if the claimant:

- (a) Provides written notice to the creditor or creditor's agent that a claim has been submitted to the **commission**~~[board]~~; and
  - (b) Authorizes the creditor or creditor's agent to confirm with the **commission** ~~[board]~~ the claimant's application with the **commission**~~[board]~~ and that the debt or expense upon which the collection action is based may be covered under *subsection (3) of Section 37 of this Act*~~[KRS 346.130(3)]~~.
- (2) The **commission**~~[board]~~ shall, upon the written request of a creditor or creditor's agent, notify the creditor or creditor's agent when a claim has been resolved.

➔Section 39. KRS 346.140 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any award made pursuant to *Sections 27 to 49 of this Act*~~[this chapter]~~ shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:
- (a) From or on behalf of the person who committed the crime;
  - (b) Under insurance programs mandated by law;
  - (c) From public funds;
  - (d) Under any contract of insurance wherein the claimant is the insured or beneficiary;
  - (e) As an emergency award pursuant to *Section 36 of this Act*~~[KRS 346.120]~~; and
  - (f) From donations made on behalf of the victim or claimant toward expenses incurred as a result of the crime.
- (2) In determining the amount of an award, the **commission**~~[board]~~ or **commission** ~~[board]~~ member shall determine whether, because of his or her conduct, the claimant or the victim of such crime contributed to the infliction of the victim's injury, and shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; however, the **commission**~~[board]~~ or **commission**~~[board]~~ member may disregard for this purpose the responsibility of the claimant or the victim for the victim's injury where the record shows that such responsibility was attributable to efforts by the claimant or victim to prevent a crime or an attempted crime from occurrence in his or her presence or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony. The **commission**~~[board]~~ or **commission**~~[board]~~ members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The **commission**~~[board]~~ or **commission**~~[board]~~ member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.
- (3) The **commission**~~[board]~~ or **commission**~~[board]~~ member may consider whether the victim's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award. If the **commission** ~~[board]~~ or **commission**~~[board]~~ member finds that the claimant will not suffer serious financial hardship if not granted financial assistance pursuant to *Sections 27 to 49 of this Act*~~[this chapter]~~, the **commission**~~[board]~~ or **commission**~~[board]~~ member shall deny an award. In determining such serious financial hardship, the **commission**~~[board]~~ or **commission**~~[board]~~ member shall consider all of the financial resources of the claimant. The **commission**~~[board]~~ shall establish specific standards by rule for determining such serious financial hardships.

➔Section 40. KRS 346.145 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Any person who procures or attempts to procure compensation with this **commission** ~~[board]~~ by filing false information~~[s]~~ shall have the claim denied and be forever barred from filing a claim with this **commission**~~[board]~~.

➔Section 41. KRS 346.150 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to *Sections 27 to 49 of this Act*~~[this chapter]~~ shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

- (2) The **commission**~~board~~ shall reconsider at least annually every award being paid in installments. An order or reconsideration of an award shall not require refund of amounts previously paid unless the award was obtained by fraud.

➔Section 42. KRS 346.155 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The **commission**~~board~~ may award a lump-sum payment not to exceed twenty-five thousand dollars (\$25,000) to the family of a police officer employed by a city, county, or urban-county government who is killed in the line of duty as a police officer for such city, county, or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county, or urban-county.
- (2) This section shall apply to any officer killed in the line of duty since January 1, 1986.

➔Section 43. KRS 346.157 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The **commission**~~board~~ may apply for funds from, and submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

➔Section 44. KRS 346.160 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The record of a proceeding before the **commission**~~board~~ or a **commission**~~board~~ member shall be a public record; provided, however, that any record or report obtained by the **commission**~~board~~, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

➔Section 45. KRS 346.165 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Every person contracting with any person or the representative or assignee of any person accused or convicted of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the **commission**~~board~~ any moneys which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his representatives.
- (2) After deducting all sums paid to the victim by the **commission**~~board~~, the **commission**~~board~~ shall deposit such moneys in its accounts for the benefit of and payable to any victim of crimes committed by such person, provided that such person is eventually convicted of the crime and provided further that such victim, within five (5) years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives.
- (3) Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by such person that five (5) years have elapsed from the **commission's**~~board's~~ receipt of such funds and that such person has not been convicted of said crime and further that no actions are pending against such person in connection with the crime or pursuant to this section, the **commission**~~board~~ shall immediately pay over any such moneys to such person.
- (4) Notwithstanding any inconsistent provision of the civil practice law and rules with respect to the timely bringing of an action, the five (5) year period provided for in subsection (2) of this section shall not begin to run until the **commission**~~board~~ has received such moneys.
- (5) Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this state.
- (6) The failure of a person to pay moneys to the **commission**~~board~~ in accordance with subsection (1) shall create a debt due and owing to the **commission**~~board~~ from that person and shall constitute a preferential lien to the state which may be collected by the **commission**~~board~~ by civil process.

➔Section 46. KRS 346.170 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) No right of action at law against a person who has committed a criminal act for damages as a consequence of such act shall be lost as a consequence of receiving benefits under the provisions of **Sections 27 to 49 of this Act**~~this chapter~~. In the event any person receiving benefits under **Sections 27 to 49 of this Act**~~this chapter~~



additionally seeks a remedy for damages from the person or persons who have committed the criminal act resulting in damages, then and in that event the **commission**~~board~~ shall be subrogated to and have a lien upon any recovery so made to the extent of the payments made by the state to or on behalf of such person under **Sections 27 to 49 of this Act**~~[this chapter]~~.

- (2) If compensation is awarded, the state is subrogated to all the claimant's rights to receive or recover benefits or advantages, for economic loss for which and to the extent only that compensation is awarded from a source which is, or, if readily available to the victim or claimant would be, a collateral source.

➔Section 47. KRS 346.180 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any payment of benefits to or on behalf of a victim under **Sections 27 to 49 of this Act**~~[this chapter]~~ creates a debt due and owing to the state by any person found to have committed such criminal act in either a civil or criminal court proceeding in which he is a party.
- (2) The court when placing any convicted person, who owes a debt to the state as a consequence of a criminal act, on probation and conditional discharge as provided in KRS 533.020 may set as a condition of the probation or conditional discharge the payment of the debt to the state. The court also may set the schedule or amounts of payments to be made subject to modification based on change of circumstances.
- (3) The parole board shall also have the right to make payment of the debt to the state a condition of parole under the provisions of KRS Chapter 439 subject to modification based on change of circumstances.

➔Section 48. KRS 346.185 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the **commission**~~Crime Victims' Compensation Board~~. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.
- (2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; disbursements provided under KRS 42.320(2)(g); and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the **commission**~~board~~ shall be used to provide assistance to programs for victims and the **commission**~~board~~ shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the **commission**~~Crime Victims' Compensation Board~~.

➔Section 49. KRS 346.200 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) There is established in the State Treasury the sexual assault victim assistance fund to be administered by the **commission**~~Crime Victims' Compensation Board~~ for the purpose of funding medical examinations for victims of sexual assault as provided in subsection (4) of this section and in KRS 216B.400. All moneys deposited or paid into the sexual assault victim assistance fund are appropriated and shall be available to the **commission**~~Crime Victims' Compensation Board~~. Funds shall be disbursed by the State Treasurer upon the warrant of the **commission**~~Crime Victims' Compensation Board~~.
- (2) The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations. Any federal matching funds received by the **commission**~~board~~ or the crime victims' compensation fund for sexual assault victim assistance payments shall be deposited into the sexual assault victim assistance fund.
- (3) Any unencumbered or unallocated balances in the sexual assault victim assistance fund shall be invested as provided in KRS 42.500(9). Any income earned from investment, along with the unallocated or unencumbered balances in the fund, shall not lapse and shall be deemed a trust and agency account available solely for the purposes specified in subsection (1) of this section.

- (4) (a) For the purposes of this section, a children's advocacy center is a center as defined in KRS 620.020 that operates consistent with administrative regulations promulgated by the Cabinet for Health and Family Services.
- (b) Upon receipt of a completed original claim form supplied by the ~~commission~~ ~~board~~ and itemized bill for a child sexual abuse medical examination performed at a children's advocacy center, the ~~commission~~ ~~board~~ shall reimburse the children's advocacy center for actual costs up to but not exceeding the amount of reimbursement established through administrative regulation promulgated by the Department for Medicaid Services.
- (c) Independent investigation by the ~~commission~~ ~~Crime Victims' Compensation Board~~ shall not be required for payment of claims under this section; however, the ~~commission~~ ~~board~~ may require additional documentation as proof that the medical examination was performed.
- (5) If sexual assault victim assistance funds are insufficient to pay claims under subsection (4) of this section or KRS 216B.400, payment shall be made from the Crime Victims' Compensation Fund.

➔SECTION 50. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

***Any person who fails or refuses to obey a subpoena or order of the commission made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).***

➔Section 51. KRS 11A.010 is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, ***Kentucky Claims Commission*** ~~Board of Tax Appeals, Board of Claims~~, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
  - (a) The Governor;
  - (b) The Lieutenant Governor;

- (c) The Secretary of State;
  - (d) The Attorney General;
  - (e) The Treasurer;
  - (f) The Commissioner of Agriculture;
  - (g) The Auditor of Public Accounts; and
  - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; and
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert.

➔Section 52. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.

- (3) Department of State.
    - (a) Secretary of State.
    - (b) Board of Elections.
    - (c) Registry of Election Finance.
  - (4) Department of Law.
    - (a) Attorney General.
  - (5) Department of the Treasury.
    - (a) Treasurer.
  - (6) Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
  - (7) Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
- (1) Justice and Public Safety Cabinet:
    - (a) Department of Kentucky State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Office of Drug Control Policy.
    - (g) Office of Legal Services.
    - (h) Office of the Kentucky State Medical Examiner.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Office of Legislative and Intergovernmental Services.
    - (l) Office of Management and Administrative Services.
    - (m) Department for Public Advocacy.
  - (2) Education and Workforce Development Cabinet:
    - (a) Office of the Secretary.
      - 1. Governor's Scholars Program.
      - 2. Governor's School for Entrepreneurs Program.
    - (b) Office of Legal and Legislative Services.
      - 1. Client Assistance Program.
    - (c) Office of Communication.
    - (d) Office of Budget and Administration.
      - 1. Division of Human Resources.
      - 2. Division of Administrative Services.
    - (e) Office of Technology Services.
    - (f) Office of Educational Programs.

- (g) Office for Education and Workforce Statistics.
  - (h) Board of the Kentucky Center for Education and Workforce Statistics.
  - (i) Board of Directors for the Center for School Safety.
  - (j) Department of Education.
    - 1. Kentucky Board of Education.
    - 2. Kentucky Technical Education Personnel Board.
  - (k) Department for Libraries and Archives.
  - (l) Department of Workforce Investment.
    - 1. Office for the Blind.
    - 2. Office of Vocational Rehabilitation.
    - 3. Office of Employment and Training.
      - a. Division of Grant Management and Support.
      - b. Division of Workforce and Employment Services.
      - c. Division of Unemployment Insurance.
  - (m) Foundation for Workforce Development.
  - (n) Kentucky Office for the Blind State Rehabilitation Council.
  - (o) Kentucky Workforce Investment Board.
  - (p) Statewide Council for Vocational Rehabilitation.
  - (q) Unemployment Insurance Commission.
  - (r) Education Professional Standards Board.
    - 1. Division of Educator Preparation.
    - 2. Division of Certification.
    - 3. Division of Professional Learning and Assessment.
    - 4. Division of Legal Services.
  - (s) Kentucky Commission on the Deaf and Hard of Hearing.
  - (t) Kentucky Educational Television.
  - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
    - 1. Office of Legislative and Intergovernmental Affairs.
    - 2. Office of General Counsel.
    - 3. Office of Administrative Hearings.
    - 4. Mine Safety Review Commission.
    - 5. Kentucky State Nature Preserves Commission.
    - 6. Kentucky Environmental Quality Commission.
    - 7. Kentucky Public Service Commission.
  - (b) Department for Environmental Protection.
    - 1. Office of the Commissioner.

## ACTS OF THE GENERAL ASSEMBLY

2. Division for Air Quality.
  3. Division of Water.
  4. Division of Environmental Program Support.
  5. Division of Waste Management.
  6. Division of Enforcement.
  7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
  2. Division of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.
  5. Division of Abandoned Mine Lands.
  6. Division of Oil and Gas.
  7. Division of Mine Safety.
  8. Division of Forestry.
  9. Division of Conservation.
  10. Office of the Reclamation Guaranty Fund.
  11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
  2. Division of Renewable Energy.
  3. Division of Biofuels.
  4. Division of Energy Generation Transmission and Distribution.
  5. Division of Carbon Management.
  6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
  2. Office of Legal Services.
    - a. Insurance Legal Division.
    - b. Charitable Gaming Legal Division.
    - c. Alcoholic Beverage Control Legal Division.
    - d. Housing, Buildings and Construction Legal Division.
    - e. Financial Institutions Legal Division.
- (b) **Kentucky Claims Commission**~~[Crime Victims Compensation Board.~~
- ~~(c) Board of Claims.~~
- ~~(d) Kentucky Board of Tax Appeals].~~
- (c)~~(e)~~ Kentucky Boxing and Wrestling Authority.
- (d)~~(f)~~ Kentucky Horse Racing Commission.

1. Division of Licensing.
2. Division of Incentives and Development.
3. Division of Veterinary Services.
4. Division of Security and Enforcement.
- (e)~~(g)~~ Department of Alcoholic Beverage Control.
  1. Division of Distilled Spirits.
  2. Division of Malt Beverages.
  3. Division of Enforcement.
- (f)~~(h)~~ Department of Charitable Gaming.
  1. Division of Licensing and Compliance.
  2. Division of Enforcement.
- (g)~~(i)~~ Department of Financial Institutions.
  1. Division of Depository Institutions.
  2. Division of Non-Depository Institutions.
  3. Division of Securities.
- (h)~~(j)~~ Department of Housing, Buildings and Construction.
  1. Division of Fire Prevention.
  2. Division of Plumbing.
  3. Division of Heating, Ventilation, and Air Conditioning.
  4. Division of Building Code Enforcement.
- (i)~~(k)~~ Department of Insurance.
  1. Property and Casualty Division.
  2. Health and Life Division.
  3. Division of Financial Standards and Examination.
  4. Division of Agent Licensing.
  5. Division of Insurance Fraud Investigation.
  6. Consumer Protection Division.
  7. Division of Kentucky Access.
- (j)~~(l)~~ Office of Occupations and Professions.
- (5) Labor Cabinet.
  - (a) Office of the Secretary.
    1. Division of Management Services.
    2. Office of General Counsel.
  - (b) Office of General Administration and Program Support for Shared Services.
    1. Division of Human Resource Management.
    2. Division of Fiscal Management.
    3. Division of Budgets.
    4. Division of Information Services.

- (c) Office of Inspector General for Shared Services.
  - (d) Department of Workplace Standards.
    - 1. Division of Employment Standards, Apprenticeship, and Mediation.
    - 2. Division of Occupational Safety and Health Compliance.
    - 3. Division of Occupational Safety and Health Education and Training.
    - 4. Division of Workers' Compensation Funds.
  - (e) Department of Workers' Claims.
    - 1. Office of General Counsel for Workers' Claims.
    - 2. Office of Administrative Law Judges.
    - 3. Division of Claims Processing.
    - 4. Division of Security and Compliance.
    - 5. Division of Information and Research.
    - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
    - 7. Workers' Compensation Board.
    - 8. Workers' Compensation Advisory Council.
    - 9. Workers' Compensation Nominating Commission.
  - (f) Workers' Compensation Funding Commission.
  - (g) Kentucky Labor-Management Advisory Council.
  - (h) Occupational Safety and Health Standards Board.
  - (i) Prevailing Wage Review Board.
  - (j) Apprenticeship and Training Council.
  - (k) State Labor Relations Board.
  - (l) Employers' Mutual Insurance Authority.
  - (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
- (a) Department of Highways.
    - 1. Office of Project Development.
    - 2. Office of Project Delivery and Preservation.
    - 3. Office of Highway Safety.
    - 4. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Aviation.
  - (d) Department of Rural and Municipal Aid.
    - 1. Office of Local Programs.
    - 2. Office of Rural and Secondary Roads.
  - (e) Office of the Secretary.
    - 1. Office of Public Affairs.
    - 2. Office for Civil Rights and Small Business Development.
    - 3. Office of Budget and Fiscal Management.



- 4. Office of Inspector General.
  - (f) Office of Support Services.
  - (g) Office of Transportation Delivery.
  - (h) Office of Audits.
  - (i) Office of Human Resource Management.
  - (j) Office of Information Technology.
  - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
    - 1. Office of Legal Services.
    - 2. Department for Business Development.
      - a. Office of Entrepreneurship.
        - i. Commission on Small Business Advocacy.
      - b. Office of Research and Public Affairs.
      - c. Bluegrass State Skills Corporation.
    - 3. Office of Financial Services.
      - a. Kentucky Economic Development Finance Authority.
      - b. Division of Finance and Personnel.
      - c. Division of Network Administration.
      - d. Compliance Division.
      - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
  - (b) Office of Health Policy.
  - (c) Office of Legal Services.
  - (d) Office of Inspector General.
  - (e) Office of Communications and Administrative Review.
  - (f) Office of the Ombudsman.
  - (g) Office of Policy and Budget.
  - (h) Office of Human Resource Management.
  - (i) Office of Administrative and Technology Services.
  - (j) Department for Public Health.
  - (k) Department for Medicaid Services.
  - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
  - (m) Department for Aging and Independent Living.
  - (n) Department for Community Based Services.
  - (o) Department for Income Support.
  - (p) Department for Family Resource Centers and Volunteer Services.

- (q) Kentucky Commission on Community Volunteerism and Service.
  - (r) Kentucky Commission for Children with Special Health Care Needs.
  - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Office of Policy and Audit.
  - (f) Department for Facilities and Support Services.
  - (g) Department of Revenue.
  - (h) Commonwealth Office of Technology.
  - (i) State Property and Buildings Commission.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) Kentucky Employees Retirement Systems.
  - (l) Commonwealth Credit Union.
  - (m) State Investment Commission.
  - (n) Kentucky Housing Corporation.
  - (o) Kentucky Local Correctional Facilities Construction Authority.
  - (p) Kentucky Turnpike Authority.
  - (q) Historic Properties Advisory Commission.
  - (r) Kentucky Tobacco Settlement Trust Corporation.
  - (s) Kentucky Higher Education Assistance Authority.
  - (t) Kentucky River Authority.
  - (u) Kentucky Teachers' Retirement System Board of Trustees.
  - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
    - 1. Division of Tourism Services.
    - 2. Division of Marketing and Administration.
    - 3. Division of Communications and Promotions.
  - (b) Kentucky Department of Parks.
    - 1. Division of Information Technology.
    - 2. Division of Human Resources.
    - 3. Division of Financial Operations.
    - 4. Division of Facilities Management.
    - 5. Division of Facilities Maintenance.
    - 6. Division of Customer Services.
    - 7. Division of Recreation.

8. Division of Golf Courses.
  9. Division of Food Services.
  10. Division of Rangers.
  11. Division of Resort Parks.
  12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
  2. Division of Administrative Services.
  3. Division of Engineering.
  4. Division of Fisheries.
  5. Division of Information and Education.
  6. Division of Wildlife.
  7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
  2. Division of Buildings and Grounds.
  3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
  2. Office of Human Resources and Access Control.
  3. Division of Expositions.
  4. Division of Kentucky Exposition Center Operations.
  5. Division of Kentucky International Convention Center.
  6. Division of Public Relations and Media.
  7. Division of Venue Services.
  8. Division of Personnel Management and Staff Development.
  9. Division of Sales.
  10. Division of Security and Traffic Control.
  11. Division of Information Technology.
  12. Division of the Louisville Arena.
  13. Division of Fiscal and Contract Management.
  14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
  2. Office of Research and Administration.
  3. Office of Governmental Relations and Tourism Development.
  4. Office of the Sports Authority.
  5. Kentucky Sports Authority.

- (g) Office of Legal Affairs.
  - (h) Office of Human Resources.
  - (i) Office of Public Affairs and Constituent Services.
  - (j) Office of Creative Services.
  - (k) Office of Capital Plaza Operations.
  - (l) Office of Arts and Cultural Heritage.
  - (m) Kentucky African-American Heritage Commission.
  - (n) Kentucky Foundation for the Arts.
  - (o) Kentucky Humanities Council.
  - (p) Kentucky Heritage Council.
  - (q) Kentucky Arts Council.
  - (r) Kentucky Historical Society.
    - 1. Division of Museums.
    - 2. Division of Oral History and Educational Outreach.
    - 3. Division of Research and Publications.
    - 4. Division of Administration.
  - (s) Kentucky Center for the Arts.
    - 1. Division of Governor's School for the Arts.
  - (t) Kentucky Artisans Center at Berea.
  - (u) Northern Kentucky Convention Center.
  - (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
  - (b) Department of Human Resources Administration.
  - (c) Office of Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Governmental Services Center.
  - (h) Department of Employee Insurance.
  - (i) Office of Diversity and Equality.
  - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
- (1) Council on Postsecondary Education.
  - (2) Department of Military Affairs.
  - (3) Department for Local Government.
  - (4) Kentucky Commission on Human Rights.
  - (5) Kentucky Commission on Women.
  - (6) Department of Veterans' Affairs.

- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 53. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) There is established within the Public Protection Cabinet an Office of Occupations and Professions, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (3) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
  - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
  - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.
- (4) *There is established within the Public Protection Cabinet the Kentucky Claims Commission pursuant to Section 1 of this Act.*
- (5) The following agencies are attached to the Public Protection Cabinet for administrative purposes only, ~~except as provided in KRS 131.330~~:
  - (a) ~~Crime Victims Compensation Board;~~
  - (b) ~~Board of Claims;~~
  - (c) ~~Kentucky Board of Tax Appeals;~~
  - (d) ~~Kentucky Boxing and Wrestling Authority; and~~
  - (b)(e) Kentucky Horse Racing Commission.

➔Section 54. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
  - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
  - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
  - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
  - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
  - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
  - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

- (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
  - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
  - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
  - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
  - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
      - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
      - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
    - 2. Department of Revenue
      - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
      - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
  - (b) Cabinet for Health and Family Services
    - 1. Office of Health Policy
      - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
      - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
    - 2. Department for Community Based Services
      - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 3. Department for Income Support
      - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
    - 4. Department for Medicaid Services
      - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
  - (c) Justice and Public Safety Cabinet
    - 1. Department of Kentucky State Police
      - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    - 2. Department of Corrections
      - a. Parole Board hearings conducted under authority of KRS Chapter 439
      - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

- c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  - 3. Department of Juvenile Justice
    - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Energy and Environment Cabinet
  - 1. Department for Natural Resources
    - a. Surface mining hearings conducted under authority of KRS Chapter 350
  - 2. Department for Environmental Protection
    - a. Wild River hearings conducted under authority of KRS Chapter 146
    - b. Water resources hearings conducted under authority of KRS Chapter 151
    - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    - d. Environmental protection hearings conducted under authority of KRS Chapter 224
    - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
  - 3. Public Service Commission
    - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
  - 1. Department of Workers' Claims
    - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
  - 2. Kentucky Occupational Safety and Health Review Commission
    - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
- (f) Public Protection Cabinet
  - 1. ***Kentucky Claims Commission***~~Board of Claims~~
    - a. Liability hearings conducted under authority of ***subsection (1) of Section 2 and Sections 4 to 18 of this Act***~~KRS Chapter 44~~
- (g) Education and Workforce Development Cabinet
  - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State
  - 1. Registry of Election Finance
    - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (i) State universities and colleges
  - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  - 3. Campus residency hearings conducted under authority of KRS Chapter 164
  - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
  - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
  - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

➔Section 55. KRS 17.991 is amended to read as follows:

Any person who violates KRS 17.552 shall be fined not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000), and said fine shall be paid to the Crime Victim Compensation Fund as established in *Section 48 of this Act* ~~[KRS Chapter 346]~~.

➔Section 56. KRS 39A.120 is amended to read as follows:

If the owner of any property seized, taken, or condemned pursuant to KRS 39A.110 refuses to accept as adequate the compensation fixed by the Governor, the owner may present a claim to the *Kentucky Claims Commission* ~~[Board of Claims]~~, which shall hear and determine it according to the provisions of *Sections 4 to 18 of this Act* ~~[KRS Chapter 44]~~ and the administrative regulations of the *commission* ~~[board]~~.

➔Section 57. KRS 39A.130 is amended to read as follows:

- (1) The owner of property seized, taken, or condemned may appeal from the award of the *Kentucky Claims Commission* ~~[Board of Claims]~~ to the Circuit Court of the county of the owner's residence. The Rules of Civil Procedure shall, so far as applicable, govern the procedure on appeal. A trial de novo shall not be allowed unless the record on appeal is not sufficient to determine the matter from the record, but if the action is tried, it shall be tried according to the practice prescribed for the trial of jury cases.
- (2) An appeal from the judgment of Circuit Court may be taken to the Court of Appeals.

➔Section 58. KRS 39A.140 is amended to read as follows:

- (1) If the owner of property seized, taken, or condemned accepts as adequate the compensation fixed by the Governor, the owner shall file a statement of the amount of compensation from the Governor with the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer for the amount of the compensation in favor of the person entitled to payment.
- (2) If the compensation is determined by award of the *Kentucky Claims Commission* ~~[Board of Claims]~~ or judgment of a court, as provided in KRS 39A.110, 39A.120, and 39A.130, a certified copy of the award or judgment shall be filed with the Finance and Administration Cabinet which shall draw a warrant on the State Treasurer for the amount of the award or judgment.
- (3) The State Treasurer shall pay the warrants out of any money in the Treasury not otherwise appropriated.

➔Section 59. KRS 39E.180 is amended to read as follows:



Any claims against the commission or committees or their members shall be filed with the *Kentucky Claims Commission* ~~[State Board of Claims]~~ in accordance with *Sections 4 to 18 of this Act* ~~[KRS Chapter 44]~~.

➔Section 60. KRS 42.320 is amended to read as follows:

- (1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.
- (2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:
  - (a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;
  - (b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars (\$5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;
  - (c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars (\$3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;
  - (d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;
  - (e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars (\$2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;
  - (f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars (\$1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department for Public Advocacy;
  - (g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars (\$1,700,000), shall be paid into the crime victims' compensation fund created in *Section 48 of this Act* ~~[KRS 346.185]~~;
  - (h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars (\$350,000), shall be paid to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
  - (i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars (\$5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and
  - (j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.
- (3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.
- (4) Any moneys collected above the prescribed amount shall be paid into the general fund.

➔Section 61. KRS 44.055 is amended to read as follows:

- (1) Any state agency, as defined in KRS Chapter 12, may in its discretion, for the protection of the public and its employees, expend state funds to purchase policies of insurance of all kinds deemed advisable covering vehicles, including boats, owned by the state and operated by state employees when in the conduct of official business. The executive director of insurance, upon recommendation of the secretary of the Finance and Administration Cabinet, shall initiate and be responsible for the purchase of a blanket liability insurance policy to cover the officers and employees of the several state agencies and shall determine, by administrative regulation, the policy limits that shall be applicable to the persons covered in each such affected agency not to exceed the limit prescribed in *Section 4 of this Act* ~~[KRS 44.070]~~.

- (2) Nothing contained in this section shall be construed to be a waiver of sovereign immunity and claims against the Commonwealth, its agencies, officers, employees, or insurers may be asserted only in the manner set forth in *Sections 4 to 18 of this Act* ~~[KRS 44.070 to 44.160]~~.
- (3) Policies authorized by this section shall be purchased only from insurers authorized to do business in this state and shall be countersigned by a licensed resident agent.

➔Section 62. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

- (2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State .....	\$10,000
Attorney General .....	10,000
State Treasurer .....	300,000
Secretary for economic development .....	10,000
Commissioner of Agriculture .....	10,000
Secretary for education .....	10,000
Auditor of Public Accounts .....	25,000
Adjutant general .....	10,000
Secretary of finance and administration .....	100,000
Commissioner of revenue .....	50,000
Secretary of transportation .....	50,000
Commissioner of highways .....	50,000
Secretary of justice and public safety .....	50,000
Secretary of corrections .....	25,000
Commissioner for public health services .....	10,000
Secretary of labor .....	5,000
Commissioner for natural resources .....	50,000
State librarian .....	5,000
Commissioner of alcoholic beverage control .....	10,000
Commissioner of financial institutions .....	25,000
Secretary for energy and environment .....	50,000
Commissioner of insurance .....	50,000
Commissioner of vehicle regulation .....	10,000
Commissioner of fish and wildlife resources .....	5,000
Secretary for health and family services .....	20,000
Commissioner of environmental protection .....	10,000
Secretary of public protection .....	10,000

Secretary of tourism, arts and heritage .....	25,000
Commissioner for community based services .....	20,000
Member of the Public Service Commission .....	10,000
Member of State Fair Board .....	10,000
Member of Fish and Wildlife Resources Commission .....	1,000
Member of Kentucky <i>Claims Commission</i> <del>[Board of Tax Appeals]</del> .....	10,000
Associate member of Alcoholic Beverage Control Board .....	5,000
Commissioner of local government .....	100,000

➔Section 63. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Department of Revenue.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the department distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.
- (6) If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.
- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9) (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:
  1. His or her inability to pay in full; and

2. That the agreement will facilitate collection by the department of the amounts owed.
- (b) The department may modify or terminate an installment payment agreement and may pursue statutory remedies against the taxpayer if it determines that:
  1. The taxpayer has not complied with the terms of the agreement, including minimum payment requirements established by the agreement;
  2. The taxpayers' financial condition has sufficiently changed;
  3. The taxpayer fails to provide any requested financial condition update information;
  4. The taxpayer gave false or misleading information in securing the agreement; or
  5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
- (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Department of Revenue personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may require.
- (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.
- (13) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the ***Kentucky Claims Commission***~~Board of Claims~~ for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the ***commission***~~board~~ shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the ***commission***~~board~~, the department shall be reimbursed by the taxpayer for its costs in defending the action. ***Any claims brought pursuant to this subsection shall be in accordance with Sections 4 to 18 of this Act.***
- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

➔Section 64. KRS 131.110 is amended to read as follows:

- (1) 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 forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under ***Section 22 of this Act***~~KRS 131.340~~. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the department may extend the time for

filing the supporting statement if it appears the delay is necessary and unavoidable. 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) 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 Kentucky *Claims Commission*~~[Board of Tax Appeals]~~.
- (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.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ pursuant to the provisions of *Section 22 of this Act*~~[KRS 131.340]~~.

➔Section 65. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

- (1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).
- (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).
- (3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars (\$25).
- (4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.
- (5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- (6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the

department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).

- (7) If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.
- (8) If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.
- (9) If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.
- (10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).
- (11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.
- (12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.
- (13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 66. KRS 131.622 is amended to read as follows:

- (1) (a) The following shall be contraband and subject to seizure and destruction:
  1. Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612; or
  2. Any cigarettes in the possession of a retailer from a tobacco product manufacturer or brand family that has been removed from the directory.
- (b) Whenever any peace officer of this state, or any representative of the department, finds any contraband cigarettes, the cigarettes shall be immediately seized and stored in a depository to be selected by the officer or representative.
- (c) The seized cigarettes shall be held for a period of twenty (20) days to allow the owner or any person having an interest in the cigarettes to protest the seizure.
- (d) At the time of seizure, the officer or representative shall:
  1. Notify the department of the nature and quantity of the cigarettes seized; and
  2. Deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face the date of seizure, and a notice that the cigarettes shall be destroyed if the seizure is not protested in writing to the Department of Revenue, Frankfort, Kentucky, within twenty (20) days from the seizure.
- (e) The owner or any person having an interest in the seized cigarettes may appeal to the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ a final determination made by the department pursuant to *Section 22 of this Act*~~[KRS 131.340]~~.
- (f) If the owner or any person having an interest in the seized cigarettes fails to protest the seizure before the end of the twenty (20) day holding period, the department shall destroy the seized cigarettes.

- (2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and attorneys' fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.
- (3) No stamping agent, distributor, retailer, or any other person shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent, distributor, retailer, or person knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.
- (4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state if in possession of proof that the cigarettes are intended for sale in another state.
- (5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any administrative regulation promulgated pursuant to KRS 131.600 to 131.630, the commissioner may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.600 to 131.630.

➔Section 67. KRS 131.990 is amended to read as follows:

- (1) ~~[Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty five dollars (\$25) nor more than five hundred dollars (\$500).~~
- ~~(2)~~ (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- (c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- (d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- (e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
- ~~(2)~~~~(3)~~ Any person who willfully fails to comply with the rules and regulations promulgated by the department for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- ~~(3)~~~~(4)~~ Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- ~~(4)~~~~(5)~~ Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.
- ~~(5)~~~~(6)~~ (a) Any person or financial institution that fails to comply with the provisions of KRS 131.672 and 131.674 within ninety (90) days after notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.

(b) Any financial institution that fails or refuses to comply with the provisions of KRS 131.672 and 131.674 within one hundred twenty (120) days after the notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the department, the commissioner of the Department of Financial Institutions shall, as applicable, revoke the authority of the financial institution or its agents to do business in the Commonwealth.

~~(6)(7)~~ Any taxpayer or tax return preparer who fails or refuses to comply with the provisions of KRS 131.250 or an administrative regulation promulgated under KRS 131.250 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each return not filed as required.

➔Section 68. KRS 132.310 is amended to read as follows:

- (1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Department of Revenue, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Department of Revenue shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.
- (2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the Department of Revenue may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.
- (3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky *Claims Commission*~~Board of Tax Appeals~~ as provided by *subsection (2) of Section 22 of this Act*~~KRS 131.340(2)~~.
- (4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

➔Section 69. KRS 132.360 is amended to read as follows:

- (1) Any assessment of tangible personal property listed with the property valuation administrator or with the Department of Revenue as provided by KRS 132.220 may be reopened by the Department of Revenue within five (5) years after the due date of the return, unless the assessed value has been established by a court of competent jurisdiction. If upon reopening the assessment the department finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within forty-five (45) days thereafter protest to the department and offer evidence to show that no increase should be made. After the department has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and *Section 22 of this Act*~~131.340~~.
- (2) Upon such assessment becoming final, the department shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

➔Section 70. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the Kentucky *Claims Commission pursuant to Sections 20 to 25 of this Act*~~Board of Tax Appeals~~ relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the Department of Revenue directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the



salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

➔Section 71. KRS 132.620 is amended to read as follows:

- (1) The Department of Revenue shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky *Claims Commission pursuant to Sections 20 to 25 of this Act*~~[Board of Tax Appeals]~~, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The Department of Revenue shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~, and an appeal may be taken from the final action of the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ to the courts as provided by law.
- (2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

➔Section 72. KRS 133.120 is amended to read as follows:

- (1) (a) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his or her designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045.
- (b) 1. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be:
  - a. An attorney;
  - b. A certified public accountant;
  - c. A certified real estate broker;
  - d. A Kentucky licensed real estate broker;
  - e. An employee of the property owner;
  - f. A licensed or certified Kentucky real estate appraiser;
  - g. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
  - h. Any other individual possessing a professional appraisal designation recognized by the department.
2. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the property valuation administrator any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (c) During this conference, the property valuation administrator or his or her deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property.
- (d) The property valuation administrator or his or her deputy shall keep a record of each conference which shall include but not be limited to the initial assessed value, the value claimed by the taxpayer, an

explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference.

- (e) At the request of the taxpayer, the conference may be held by telephone.
- (2) (a) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals.
  - (b) The taxpayer shall appeal his or her assessment by filing in person or sending a letter or other written petition to the county clerk stating the reasons for appeal, identifying the property for which the appeal is filed, and stating the taxpayer's opinion of the fair cash value of the property.
  - (c) The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045.
  - (d) The county clerk shall notify the department of all assessment appeals and of the date and times of the hearings.
  - (e) The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or upon the written recommendation of the department. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he or she so desires, in protest of an increase.
  - (f) Any real property owner who has listed his or her property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he or she believes to be assessed at less than fair cash value, if he or she specifies in writing the individual properties for which the review is sought and factual information upon which his or her request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045.
  - (g) Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.
- (3) (a) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value.
  - (b) The department may be present at the hearing and present any pertinent evidence as it pertains to the appeal.
  - (c) The taxpayer shall provide factual evidence to support his or her appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the department, or any member of the board, his or her appeal shall be denied.
  - (d) This information shall include but not be limited to the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages.
  - (e) The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his or her designated deputy and the taxpayer or his or her authorized representative.
- (4) (a) Any person receiving compensation to represent a property owner in an appeal before the board shall be:
  1. An attorney;
  2. A certified public accountant;
  3. A certified real estate broker;

4. A Kentucky licensed real estate broker;
  5. An employee of the taxpayer;
  6. A licensed or certified Kentucky real estate appraiser;
  7. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
  8. Any other individual possessing a professional appraisal designation recognized by the department.
- (b) A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the department.
  - (6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he or she so desires, in protest of the action of the property valuation administrator.
  - (7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.
  - (8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.
  - (9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he or she claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
  - (10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky **Claims Commission pursuant to Section 22 of this Act**~~Board of Tax Appeals~~. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and department, may appeal the decision to the Kentucky **Claims Commission pursuant to Section 22 of this Act**~~Board of Tax Appeals~~. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky **Claims Commission**~~Board of Tax Appeals~~.
  - (11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county,~~he or she~~ the fiscal court shall arrange for substitute representation.
  - (12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the department's recording as provided in KRS 61.874.
  - (13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

➔Section 73. KRS 133.170 is amended to read as follows:

- (1) When the Department of Revenue has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.
- (2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~Board of Tax Appeals~~ within ten (10) days from the date of the certification.
- (3) Within ten (10) days from the date that the department's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky *Claims Commission pursuant to Sections 20 to 25 of this Act*~~Board of Tax Appeals~~ or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the department's action.
- (4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the Department of Revenue and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.
- (5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.
- (6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the Department of Revenue and to the other taxing districts participating in the tax.
- (7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky *Claims Commission*~~Board of Tax Appeals~~ as provided in *Section 22 of this Act*~~[KRS 131.340]~~, and appeals thereafter may be taken to the courts as provided in *Section 25 of this Act*~~[KRS 131.370]~~.
- (8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.
- (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the Department of Revenue under the provisions of KRS 133.150.

➔Section 74. KRS 133.215 is amended to read as follows:

The sheriff shall be entitled to the fee prescribed by KRS 64.090 for serving a subpoena for the board of assessment appeals. He shall also have a like fee for serving a subpoena or notice for the Kentucky *Claims Commission*~~Board of Tax Appeals~~ regarding any proceeding for the assessment of property subject to local taxation. Said fees shall be paid out of the county levy.

➔Section 75. KRS 134.551 is amended to read as follows:

- (1) If a certificate of delinquency or personal property certificate of delinquency held by an individual is declared void by a court of competent jurisdiction because of the irregularity of taxing officers, the amount for which the certificate was issued shall be refunded by the state, county, and taxing districts on a pro rata basis. If a school district or county is unable to make the refund currently when requested, it shall be given preference from the next year's revenue. The application for refund must be made within one (1) year after the judgment. The property covered by the void certificate shall be assessed immediately as omitted property and the tax bill shall be payable as soon as prepared.

- (2) (a) If a certificate of delinquency held by a third-party purchaser who paid the certificate of delinquency to the county clerk:
1. Is unenforceable because:
    - a. It is a duplicate certificate of delinquency;
    - b. The tax liability represented by the certificate of delinquency was satisfied prior to the purchase of the certificate of delinquency;
    - c. All or a portion of the certificate of delinquency is exonerated; or
    - d. The property to which the certificate of delinquency applies was not subject to taxes as a matter of law as certified by the property valuation administrator; or
  2. Should not have been sold because, on the date of the annual sale, the certificate of delinquency met the requirements for inclusion on the protected list pursuant to KRS 134.504(10) and it:
    - a. Was included on the protected list;
    - b. Was mistakenly left off the protected list; or
    - c. Became eligible for inclusion on the protected list between the date the protected list was submitted and the date of sale;

the third-party purchaser may apply to the county clerk for a refund.

- (b) The application for refund filed with the county clerk shall include written proof that one (1) of the situations described in paragraph (a) of this subsection exists with regard to the certificate of delinquency for which a refund is sought.
- (c) 1. Upon acceptance and approval of the application for refund, the county clerk shall approve a refund of the amount paid to the county clerk by the third-party purchaser in satisfaction of the certificate of delinquency. The refunded amount shall not include any filing fees paid by the third-party purchaser to the county clerk.
2. Amounts refunded to the third-party purchaser shall be deducted from amounts in the hands of the county clerk due to the state, county, taxing districts, sheriff, county attorney, and the county clerk on a pro rata basis, if the county clerk has sufficient funds in his or her hands to make the refund.
3. If the county clerk does not have sufficient funds to make the refund at the time the refund is approved, the county clerk may either:
- a. Retain the approved refund claim in his or her office and make the refund payment as soon as he or she has sufficient funds in his or her hands to make the refund payment; or
  - b. Provide a signed letter to the person to whom payment is due, which includes the amount due from each taxing jurisdiction or fee office, and which directs each taxing jurisdiction or fee official to pay to the person the amount due and owing from that taxing jurisdiction or fee official as reflected in the letter.
4. Upon the making of a refund to a third-party purchaser, the county clerk shall issue and file a release of the lien on the property assessed for taxes as provided in this subparagraph without charge to the third-party purchaser. The release shall be linked to the encumbrance in the county clerk's indexing system.
- a. The department shall prepare a release form to be used by the county clerk when a refund is paid under this paragraph. The form shall include, at a minimum, the following:
    - i. The name and address of the taxpayer;
    - ii. The name and address of the third-party purchaser;
    - iii. The book and page number of the third-party purchaser's lis pendens filing;
    - iv. The property address;
    - v. The applicable tax year; and

- vi. The map identification number or tax bill number.
  - b. The release form shall be signed by the government official responsible for making the correction.
  - c. In addition to the signed release form, information filed by the county clerk shall include a copy of the documentation provided by the government official and a copy of the refund check or letter of refund authorization issued to the third-party purchaser. The county clerk shall record and file this information without a fee.
  - d. The county clerk shall also make any necessary corrections to the tax records within the office of the county clerk.
  - e. The county clerk shall return the release document to the taxpayer and shall provide a copy of the release document to the third-party purchaser.
- (d) If the county clerk denies the application for refund, or the property valuation administrator fails to certify that property was not subject to taxes as a matter of law, the third-party purchaser may appeal the decision of the county clerk or the property valuation administrator to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals~~.

➔Section 76. KRS 134.580 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Agency" means the agency of state government which administers the tax to be refunded or credited.
  - (b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.
- (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by *Section 22 of this Act* ~~KRS 131.340~~ and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky *Claims Commission* ~~Board of Tax Appeals~~ or courts may direct.
- (3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and *Section 22 of this Act* ~~131.340~~.
- (4) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
- (5) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.
- (6) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.
- (7) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

- (8) No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.
- (9) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
- (a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose.
  - (b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn.
  - (c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.
- (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
- (a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.
  - (b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

➔Section 77. KRS 134.590 is amended to read as follows:

- (1) When the appropriate state government agency determines that a taxpayer has paid ad valorem taxes into the state treasury when no taxes were due or has paid under a statute held unconstitutional, the state government agency which administers the tax shall refund the money, or cause it to be refunded, to the person who paid the tax. The state government agency shall not authorize a refund to a person who has paid the tax due on any tract of land unless the taxpayer has paid the entire tax due the state on the land.
- (2) No state government agency shall authorize a refund unless each taxpayer individually applies for a refund within two (2) years from the date the taxpayer paid the tax. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and *Section 22 of this Act*~~[131.340]~~. No state government agency shall refund ad valorem taxes, except those held unconstitutional, unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.
- (3) If a taxpayer pays city, urban-county, county, school district, consolidated local government, or special district ad valorem taxes to a city, urban-county, county, school district, consolidated local government, or special district when no taxes were due or the amount paid exceeded the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax.
- (4) Refunds of ad valorem taxes shall be authorized by the mayor or chief finance officer of any city, consolidated local government, or urban-county government for the city, consolidated local government, or urban-county government or for any special district for which the city, consolidated local government, or urban-county government is the levying authority, by the county judge/executive of any county for the county or special

district for which the fiscal court is the levying authority, or by the chairman or finance officer of any district board of education.

- (5) Upon proper authorization, the sheriff or collector shall refund the taxes from current tax collections he or she holds. If there are no such funds, the district's finance officer shall make the refunds. The sheriff or collector shall receive credit on the next collection report to the district for any refunds the sheriff or collector makes.
- (6) No refund shall be made unless each taxpayer individually applies within two (2) years from the date payment was made. If the amount of taxes due is in litigation, the taxpayer shall individually apply for refund within two (2) years from the date the amount due is finally determined. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.
- (7) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, a taxing district may recover any loss of ad valorem tax revenue it suffers due to the issuance of refunds by adjusting the following tax year's tax rate.

➔Section 78. KRS 136.050 is amended to read as follows:

- (1) Except where otherwise specially provided, all corporations required to make reports to the Department of Revenue shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.
- (2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky *Claims Commission* ~~Board of Tax Appeals~~ acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

➔Section 79. KRS 136.658 is amended to read as follows:

- (1) The Local Distribution Fund Oversight Committee is hereby created and administratively attached to and staffed by the department. The oversight committee shall consist of nine (9) members appointed by the Governor and shall be representative of local government and state government officials. The Governor shall receive recommendations for four (4) members each from the Kentucky Association of Counties and the Kentucky League of Cities from which the Governor shall select two (2) members each. The Governor shall receive recommendations for two (2) members each from the Kentucky School Board Association, the Kentucky Superintendents Association, and the Kentucky School Administrators Association from which the Governor shall select one (1) member each. One (1) member shall be appointed by the Governor to represent the interests of special districts other than school districts. The remaining member shall be the commissioner of the Department for Local Government, who shall serve as chairperson of the oversight committee. The members shall serve for a term of three (3) years. Five (5) members of the oversight committee shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the oversight committee and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the oversight committee shall be filled by the Governor for the unexpired term.
- (2) The duties of the oversight committee shall be:
  - (a) To monitor the department's implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund and to report its findings to the commissioner of the department; and
  - (b) To act as a finder of fact for the commissioner of the department in disputes in and between political subdivisions, school districts, special districts, and sheriff departments, and between political subdivisions, school districts, special districts, and sheriff departments, and the department regarding



the implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund.

- (3) The department shall provide the oversight committee with an annual report reflecting the amounts distributed to each participating political subdivision, school district, special district, or sheriff department.
- (4) Any political subdivision, school district, special district, or sheriff department may file a complaint and request a hearing with the oversight committee on a form prescribed by the committee. The oversight committee shall give notice to any political subdivision, school district, special district, or sheriff department that may be affected by the complaint. Any political subdivision, school district, special district, or sheriff department intending to respond to the complaint shall do so in writing within thirty (30) days of notice of the complaint.
- (5) In conducting its business:
  - (a) The oversight committee shall give due notice of the times and places of its hearings;
  - (b) The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses;
  - (c) The oversight committee shall act by majority vote;
  - (d) The oversight committee shall adopt and publish rules of procedure and practice regarding its hearings; and
  - (e) The oversight committee shall make written findings and recommendations to the commissioner of the department.
- (6) The commissioner of the department shall review the findings and recommendations of the oversight committee and issue a final ruling within sixty (60) days of receipt of the recommendations.
- (7) The parties in the dispute shall have the rights and duties to appeal any final ruling to the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ under *Section 22 of this Act* ~~[KRS 131.340]~~.
- (8) Nothing contained in this section shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the hearing process.

➔Section 80. KRS 137.160 is amended to read as follows:

- (1) When the Department of Revenue has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.
- (2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the department as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The department, in making its assessments, shall take into consideration transportation charges.
- (3) The department shall, by the last day of the month in which the reports are required to be made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[board of tax appeals]~~.

➔Section 81. KRS 138.132 is amended to read as follows:

- (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid tobacco products held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2)
  - (a) If a retailer, who is not a licensed retail distributor, purchases tobacco products from a licensed distributor and the purchase invoice does not contain the separate identification and display of the excise tax required by KRS 138.140(4)(d)3., the retailer shall, within twenty-four (24) hours, notify the department in writing.
  - (b) The notification shall include the name and address of the person from whom the tobacco products were purchased and a copy of the purchase invoice.
  - (c) The tobacco products for which the required information was not included on the invoice shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the proper notice as required by this subsection.
  - (d) After the fifteen (15) day period, the retailer may pay the tax due on the tobacco products described in paragraph (c) of this subsection according to administrative regulations promulgated by the department, and after which may proceed to sell the tobacco products.
- (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products for resale from a person not licensed under KRS 138.195(7), which is prohibited by KRS 138.140(4)(c), the retailer may not sell those tobacco products until the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b).
- (4) If, upon examination, the department determines that the retailer has failed to comply with the provisions of subsection (3) of this section, the retailer shall pay all tax and interest and applicable penalties due and the following shall apply:
  - (a) For the first offense, an additional penalty shall be assessed equal to ten percent (10%) of the tax due;
  - (b) For a second offense within three (3) years or less of the first offense, an additional penalty shall be assessed equal to twenty-five percent (25%) of the tax due; and
  - (c) For a third offense or subsequent offense within three (3) years or less of the first offense, the tobacco products shall be contraband and subject to seizure and forfeiture as provided in subsection (5) of this section.
- (5)
  - (a) Whenever a representative of the department finds contraband tobacco products within the borders of this state, the tobacco products shall be immediately seized and stored in a depository to be determined by the representative.
  - (b) At the time of seizure, the representative shall deliver to the person in whose custody the tobacco products are found a receipt for the seized products. The receipt shall state on its face that any inquiry concerning any tobacco products seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
  - (c) Immediately upon seizure, the representative shall notify the commissioner of the nature and quantity of the tobacco products seized. Any seized tobacco products shall be held for a period of twenty (20) days, and if after that period no person has claimed the tobacco products as his or her property, the commissioner shall cause the tobacco products to be destroyed.
- (6) All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be contraband and subject to seizure and forfeiture as follows:
  - (a) The department's representative shall seize the property and store the property in a safe place selected by the representative; and
  - (b) The representative shall proceed as provided in KRS 138.165(2). The commissioner shall cause the property to be sold after notice published pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as provided in KRS 138.165(2).
- (7) The owner or any person having an interest in the fixtures, materials, or personal property that has been seized as provided by subsection (6) of this section may apply to the commissioner for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the commissioner that the owner or person having an interest in the property was without fault, the department shall remit the forfeiture.

- (8) Any party aggrieved by an order entered under this section may appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals in the manner provided by law~~.

➔Section 82. KRS 138.165 is amended to read as follows:

- (1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2) Whenever any peace officer of this state, or any representative of the department, finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the commissioner of the Department of Revenue of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.
- (3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the commissioner of the Department of Revenue shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.
- (4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall thereafter proceed as provided in subsection (2) of this section and the commissioner of the Department of Revenue shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.
- (5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the Department of Revenue for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the Department of Revenue that the owner was without fault in the possession, dispensing, or transportation of the untax-paid cigarettes, the Department of Revenue shall remit the forfeiture. If the Department of Revenue determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the Department of Revenue may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the Department of Revenue of not more than fifty percent (50%) of the value of the property forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.
- (6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals in the manner provided by law~~.

➔Section 83. KRS 138.195 is amended to read as follows:

- (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.
- (b) No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.

- (c) For licenses effective for periods beginning on or after July 1, 2015, no individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license under this section if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of or entered a plea of guilty or nolo contendere to:
1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes or tobacco products; or
  2. A crime involving fraud, falsification of records, improper business transactions or reporting;
- for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.
- (2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars (\$25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by administrative regulation the manner in which the information shall be affixed to the vending machine.
- (5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.
- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured.
- (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year or portion thereof for which the license is secured.
2. a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.
  - b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year or portion thereof for which the license is secured.
3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500) for each year or portion thereof for which the license is secured, and the licensee shall be subject

to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.

- (b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars (\$100) for each year or portion thereof for which the license is secured.
- (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.
- (9) (a) The department may by administrative regulation require any person requesting a license or holding a license under this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state.
- (b) Failure on the part of the applicant or licensee to comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder, or to permit an inspection of premises, machines, or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the denial or revocation of any license issued by the department, after due notice and a hearing by the department.
- (c) The commissioner may assign a time and place for the hearing and may appoint a conferee who shall conduct a hearing, receive evidence, and hear arguments.
- (d) The conferee shall thereupon file a report with the commissioner together with a recommendation as to the denial or revocation of the license.
- (e) From any denial or revocation made by the commissioner on the report, the licensee may prosecute an appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals as provided by law~~.
- (f) Any person whose license has been revoked for the willful violation of any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder shall not be entitled to any license provided for in this section, or have any interest in any license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of two (2) years after the revocation.
- (10) No license issued pursuant to this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (11) Every manufacturer located or doing business in this state and the first person to import cigarettes into this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.
- (12) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (13) (a) Licensed distributors of tobacco products shall pay and report the tax levied by KRS 138.140(4)(a) on or before the twentieth day of the calendar month following the month in which the possession or title of the tobacco products are transferred from the licensed distributor to retailers or consumers in this state, as the case may be.
- (b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a distributor licensed under KRS 138.195(7)(a) shall report and pay the tax levied by KRS 138.140(4)(c)2. on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.
- (c) If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.

- (d) The department shall promulgate administrative regulations setting forth the details of the reporting requirements.
- (14) A tax return shall be filed for each reporting period whether or not tax is due.
- (15) Any license issued by the department under this section shall not be construed to waive or condone any violation that occurred or may have occurred prior to the issuance of the license and shall not prevent subsequent proceedings against the licensee.
- (16) (a) The department may deny the issuance of a license under this section if:
  - 1. The applicant has made any material false statement on the application for the license; or
  - 2. The applicant has violated any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.754, or 248.756 or any administrative regulations promulgated thereunder.
- (b) If the department denies the applicant a license under this section, the department shall notify the applicant of the grounds for the denial, and the applicant may request a hearing and appeal the denial as provided in subsection (9) of this section.

➔Section 84. KRS 138.340 is amended to read as follows:

- (1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210, or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the Department of Revenue. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the Department of Revenue. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~[Board of Tax Appeals as provided by law]~~, subject to the condition that the licensee has made bond sufficient in the opinion of the Department of Revenue to protect the Commonwealth from loss of revenue.
- (2) The department may cancel the license:
  - (a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or
  - (b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

➔Section 85. KRS 138.354 is amended to read as follows:

- (1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.
- (2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the Department of Revenue subject to appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~[Board of Tax Appeals as provided by law]~~, and may not be reissued until two (2) years have elapsed from the date of such revocation.
- (3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the Department of Revenue for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~[Board of Tax Appeals]~~.
- (4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the Department of Revenue for a period of not more than two (2) years subject to appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~[Board of Tax Appeals]~~. No refund shall be

made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

➔Section 86. KRS 138.355 is amended to read as follows:

If the department reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the department to show cause at a public hearing before the Department of Revenue why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals as provided by law]~~, subject to the condition that he make bond sufficient in the opinion of the department to protect the Commonwealth from loss of revenue.

➔Section 87. KRS 138.729 is amended to read as follows:

Any final ruling of the Department of Vehicle Regulation with regard to the administration of KRS 138.655 to 138.725 shall be appealed to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals]~~.

➔Section 88. KRS 143.060 is amended to read as follows:

- (1) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed within four (4) years from the date the return was filed, except as provided in subsection (2) of this section, 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 taxpayer. The time herein provided may be extended by agreement between the taxpayer and the department.
- (2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (3) Any final ruling, order or determination of the department with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and *Sections 20 to 25 of this Act* ~~[131.310 to 131.370]~~.
- (4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the taxpayer understates the gross value by twenty-five percent (25%) or more, the excess shall be assessed by the department within six (6) years from the date the return was filed.

➔Section 89. KRS 150.645 is amended to read as follows:

- (1) An owner, lessee or occupant of premises who gives permission to another person to hunt, fish, trap, camp or hike upon the premises shall owe no duty to keep the premises safe for entry or use by the person or to give warning of any hazardous conditions on the premises, and the owner, lessee, or occupant, by giving his permission, does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed. The owner, lessee, or occupant giving permission for any of the purposes stated above shall not be liable for any injury to any person or property caused by the negligent acts of any person to whom permission is granted. This section shall not limit the liability which would otherwise exist for willful and malicious failure to guard or to warn against a dangerous condition, use, structure, or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp, or hike was granted for a consideration other than the consideration, if any, as set forth in KRS 411.190(1)(d), paid to said owner, lessee, or occupant by the state. The word "premises" as used in this section includes lands, private ways, and any buildings and structures thereon. Nothing in this section limits in any way any liability which otherwise exists.
- (2) Department employees who participate in bona fide wildlife management practices are agents of the department and state and, in the event property damage does occur, a claim for property damages may only be brought in the *Kentucky Claims Commission* ~~[Board of Claims]~~ pursuant to *Sections 4 to 18 of this Act* ~~[KRS 44.070]~~.

➔Section 90. KRS 153.180 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.
- (2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management established in KRS 42.0201 consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:
  - (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.
  - (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.
- (3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of *Section 4 of this Act* ~~KRS 44.070~~ and 45.101 for actual and necessary expenses incurred in the performance of their duties.
- (4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.
- (5) The foundation shall be attached to the Office of the Secretary of the Tourism, Arts and Heritage Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.
- (6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

➔Section 91. KRS 186.070 is amended to read as follows:

- (1)
  - (a) Every manufacturer of, or dealer in, motor vehicles in this state shall register with each county clerk in which his principal office or place of business and branch office, sub-agent, or agency is located, and pay an annual registration fee of twenty-five dollars (\$25) to each clerk.
  - (b) Upon receipt of the twenty-five dollar (\$25) fee, the clerk shall issue the manufacturer or dealer a certificate of registration and one (1) dealer plate. Every manufacturer or dealer registered under this section shall be furnished additional dealer's plates upon the payment of fourteen dollars and fifty cents (\$14.50) for each additional plate requested. Three dollars (\$3) shall be retained by the clerk for each additional plate issued.
  - (c) A motor vehicle bearing dealer's plates may be used on the highways only by the following people:
    1. A licensed dealer, bona fide salesman, or employee of the dealer;
    2. A manufacturer or dealer licensed pursuant to the laws of this state transporting a motor vehicle to his place of retail business from a manufacturer or wholesale dealer in motor vehicles; and
    3. A bona fide customer of a licensed dealer, or the customer's employees when a motor vehicle is being demonstrated. This provision shall be limited to one (1) trip or demonstration to the same prospective customer.
  - (d) License plates issued under this section shall annually expire on December 31.



- (e) As used in this section, "bona fide salesman or employee" means a licensed salesman, or an employee, who is actively engaged in and devotes a substantial part of his time to the conduct of the dealer business.
  - (f) A vehicle bearing a dealer plate, except when the vehicle is being transported to a dealer's place of business from a manufacturer, shall have, in the case of a new motor vehicle, a "monroney" sticker attached to the vehicle, or, in the case of a used motor vehicle, a Federal Trade Commission buyer's guide sticker attached to the vehicle.
- (2) (a) Each manufacturer and dealer when making application for dealer's plates shall file a verified statement on at least a quarterly basis with the county clerk, giving the name, address, and Social Security number of each dealer, and each bona fide salesman or employee entitled to the use of the plates for demonstration purposes only. When any bona fide registered salesman or employee is no longer employed by the manufacturer or dealer, the manufacturer or dealer shall file an amended verified statement with the clerk stating that fact, and when any additional salesmen or employees are employed, an amended verified statement showing their names and addresses shall be filed with the clerk so that the records in the clerk's office will at all times show the bona fide salesmen and employees actually in the service of the registered dealer or manufacturer;
- (b) The names of each dealer and each bona fide salesman and employee shall be entered by the clerk into the AVIS where it will be readily available to law enforcement agencies. The information shall be entered by the clerk immediately after each quarterly filing of the verified statement by the dealer;
- (c) Any person who is hired as a driver by a motor vehicle dealer for the limited, specific purpose of transporting a motor vehicle to or from that dealer's place of business may, for that purpose only, operate a motor vehicle bearing a dealer plate. For the purpose of that operation, the dealer shall provide to that driver a permit, provided by the Transportation Cabinet. The permit shall be valid for five (5) days from the date of issuance. A fee shall not be charged for the permit.
- (3) The license of any dealer or manufacturer may be revoked by the Transportation Cabinet for the violation of any of the provisions of this section. The manufacturer or dealer shall be given an opportunity to be heard in defense of the charge that he has violated any of the provisions of this section, and the Transportation Cabinet shall promulgate administrative regulations governing the revocation procedure. A manufacturer or dealer whose license is revoked may appeal the revocation to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals as provided by law~~. The manufacturer or dealer whose license has been suspended shall be prohibited from engaging in the business of selling or buying motor vehicles. The license of any manufacturer or dealer shall be revoked for a period of one (1) year and his dealer's plates canceled if he violates any of the provisions of this section during this suspension period or has been suspended by the cabinet more than twice for violations of this section. At the end of the revocation or suspension period the manufacturer or dealer whose license has been revoked or suspended and dealer's plates canceled may follow the provisions of this section and again be registered and secure dealer's plates from the clerk.
- (4) The Transportation Cabinet shall be responsible for the issuance and cancellation of the plates provided for in this section, and the motor vehicle commission shall be responsible for the enforcement of this section, except for the normal responsibilities of law enforcement agencies. The cabinet may promulgate administrative regulations pertaining to the administration of this section.

➔Section 92. KRS 186.574 is amended to read as follows:

- (1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).
- (2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court. The Transportation Cabinet shall not assess points against a person who satisfactorily completes state traffic school. However, if

the person referred to state traffic school holds or is required to hold a commercial driver's license, the underlying offense shall appear on the person's driving history record.

- (3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.
- (4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars (\$15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.
- (5) The following procedures shall govern persons attending state traffic school pursuant to this section:
  - (a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;
  - (b) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;
  - (c) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;
  - (d) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and
  - (e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.
- (6)
  - (a) Except as provided in paragraph (b) of this subsection, a county attorney may operate a traffic safety program for traffic offenders prior to the adjudication of the offense.
  - (b) Offenders alleged to have violated KRS 189A.010 or 304.39-080, offenders holding a commercial driver's license under KRS Chapter 281A, or offenders coming within the provisions of subsection (5)(b) or (c) of this section shall be excluded from participation in a county attorney-operated program.
  - (c) A county attorney that operates a traffic safety program:
    1. May charge a reasonable fee to program participants, which shall only be used for payment of county attorney office operating expenses; and
    2. Shall, by October 1 of each year, report to the Prosecutors Advisory Council the fee charged for the county attorney-operated traffic safety program and the total number of traffic offenders diverted into the county attorney-operated traffic safety program for the preceding fiscal year categorized by traffic offense.
  - (d) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney, pay a twenty-five dollar (\$25) fee to the court clerk, which shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries.
  - (e) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney and the fee required by paragraph (d) of this subsection, pay a thirty

dollar (\$30) fee to the county attorney in lieu of court costs. On a monthly basis, the county attorney shall forward the fees collected pursuant to this paragraph to the Finance and Administration Cabinet to be distributed as follows:

1. Ten and eight-tenths percent (10.8%) to the spinal cord and head injury research trust fund created in KRS 211.504;
2. Nine and one-tenth percent (9.1%) to the traumatic brain injury trust fund created in KRS 211.476;
3. Five and eight-tenths percent (5.8%) to the special trust and agency account set forth in KRS 42.320(2)(f) for the Department of Public Advocacy;
4. Five and seven-tenths percent (5.7%) to the crime victims compensation fund created in *Section 48 of this Act*~~[KRS 346.185]~~;
5. One and two-tenths percent (1.2%) to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
6. Sixteen and eight-tenths percent (16.8%) to the county sheriff in the county from which the fee was received;
7. Nine and one-tenth percent (9.1%) to the county treasurer in the county from which the fee was received to be used by the fiscal court for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners;
8. Thirty-three and two-tenths percent (33.2%) to local governments in accordance with the formula set forth in KRS 24A.176(5); and
9. Eight and three-tenths percent (8.3%) to the Cabinet for Health and Family Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.

➔Section 93. KRS 196.701 is amended to read as follows:

- (1) To develop and implement a statewide strategic plan for the state and community corrections programs, the Kentucky State Corrections Commission is created and is attached to the Office of the Secretary of the Justice and Public Safety Cabinet. The commission shall consist of twenty-three (23) members as follows:
  - (a) The secretary of the Justice and Public Safety Cabinet or his or her designee in writing;
  - (b) The commissioner of the Department of Corrections or his or her designee in writing;
  - (c) The deputy commissioner of the Office of Community Services and Facilities;
  - (d) The deputy commissioner of the Office of Adult Institutions;
  - (e) The director of the Division of Parole and Victim Services or his or her designee in writing;
  - (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet or his or her designee in writing;
  - (g) Two (2) Circuit Court Judges appointed by the Chief Justice;
  - (h) A county judge/executive appointed by the Governor;
  - (i) A county jailer appointed by the Governor;
  - (j) A Commonwealth's attorney appointed by the Governor;
  - (k) A practicing attorney appointed by the Governor;
  - (l) A victim, as that term is defined in *Section 28 of this Act*~~[KRS 346.020]~~, appointed by the Governor;
  - (m) Four (4) service providers from the field of mental health, substance abuse treatment, or vocational and educational training, appointed by the Governor;
  - (n) A public member who is qualified to express the views of organized labor, appointed by the Governor;

- (o) A public member who is qualified to express the views of business and industry, appointed by the Governor;
  - (p) The public advocate or his or her designee in writing; and
  - (q) Three (3) at-large members appointed by the Governor.
- (2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. The appointed members may be removed for cause. All others serve during their terms of office. If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.
  - (3) The chairperson of the commission shall be the secretary of justice and public safety. The commissioner of the Department of Corrections shall serve as the vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.
  - (4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.
  - (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner. All public members of the commission shall, in addition to expenses, receive twenty-five dollars (\$25) per day for attending each meeting.

➔Section 94. KRS 211.392 is amended to read as follows:

- (1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Department of Revenue in the manner and form prescribed by the Department of Revenue and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Department of Revenue for the proper administration of this section. If the Department of Revenue finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the Department of Revenue shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
  - (a) The certificate was obtained by fraud or misrepresentation;
  - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or
  - (c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.
- (6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act* [Board of Tax Appeals as provided in KRS 131.340].

- (7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Department of Revenue.
- (8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the Department of Revenue.
- (9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 95. KRS 224.1-310 is amended to read as follows:

- (1) Application for a pollution control tax exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the Department of Revenue for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as a pollution control facility as defined in KRS 224.1-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.
- (2) Before issuing a pollution control tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke such certificate whenever any of the following appears:
  - (a) The certificate was obtained by fraud or misrepresentation;
  - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;
  - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.
- (3) Provided, however, that where the circumstances so require, the Department of Revenue in lieu of revoking such certificate may modify the same.
- (4) On the mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.
- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals as provided in KRS 131.340]~~.
- (7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate

by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the Department of Revenue.

- (8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the Department of Revenue.

➔Section 96. KRS 234.350 is amended to read as follows:

- (1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to reasonable cause, the department may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.
- (2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the department may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the department his license.
- (3) If upon investigation the department ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the department may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the department.
- (4) Whenever a licensee ceases to engage in business within this state, he shall notify the department in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the department his license.
- (5) If the department takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals~~ where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.
- (6) If the license is canceled by the department as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the department shall cancel the bond filed by the licensee.

➔Section 97. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The Department for Energy Development and Independence shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the Department for Energy Development and Independence, and shall afford to the applicant and to the Department for Energy Development and Independence an opportunity for a hearing. On

like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:

- (a) The certificate was obtained by fraud or misrepresentation;
  - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
  - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
  - (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
  - (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Department for Energy Development and Independence. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Department for Energy Development and Independence. The applicant or holder and the Department for Energy Development and Independence shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
  - (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~{Board of Tax Appeals as provided in KRS 131.340}~~.
  - (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Department for Energy Development and Independence and the Department of Revenue.
  - (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Department for Energy Development and Independence and to the Department of Revenue.
  - (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 98. KRS 365.241 is amended to read as follows:

- (1) As used in this section:
  - (a) "Counterfeit mark" means:
    1. Any unauthorized reproduction or copy of intellectual property; or
    2. Intellectual property knowingly affixed to any item without the authority of the owner of the intellectual property.
  - (b) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the person's goods or services.
  - (c) "Person" includes, in addition to its meaning under KRS 446.010, any association, organization, or entity amenable to suit in a court of law.

- (d) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.
- (2) Any person who willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any item or service that the person knows bears or is identified by a counterfeit mark shall be guilty of counterfeiting.
- (3) A person having possession, custody, or control of more than twenty-five (25) items that the person knows bear or are identified by a counterfeit mark shall be presumed to possess the items with the intent to sell or distribute.
- (4) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor, except where the person has been previously convicted of a violation of this section or the violation involves more than one hundred (100) items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than one thousand dollars (\$1,000), in which case the person shall be guilty of a Class D felony. Unless reduced by the court for extenuating circumstances and notwithstanding KRS Chapter 534, upon conviction the offender shall, in addition to any other allowable disposition, be fined an amount equal to the greater of:
- (a) Three (3) times the retail value of the items bearing, or services identified by, the counterfeit mark;
  - (b) Double the amount of the defendant's gain from commission of the offense; or
  - (c) As otherwise allowed in KRS Chapter 534 for felonies and misdemeanors.
- (5) For purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses.
- (6) Except for items in the possession of a person not in violation of this section, any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement officer.
- (a) Except as otherwise provided in this subsection, all personal property seized under this subsection shall be forfeited in accordance with KRS 431.100.
  - (b) Upon request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner.
  - (c) If the intellectual property owner does not request release of seized items bearing a counterfeit mark, the items shall be destroyed unless the intellectual property owner consents to another disposition.
- (7) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated in the certificate.
- (8) The remedies provided in this section shall be cumulative to other civil and criminal remedies provided by law.
- (9) Notwithstanding any statute to the contrary, fines imposed under this section shall be paid into the crime victims' compensation fund established in **Section 48 of this Act** ~~[KRS 346.185]~~.

➔Section 99. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:
- (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, **Kentucky Claims Commission** ~~Board of Claims~~, Special Fund, or any agent thereof, any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;
  - (b) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, **Kentucky Claims Commission** ~~Board of~~



- ~~Claims~~, or any agent thereof, any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
- (c) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
  - (d) Knowingly and with intent to defraud or deceive, receives money for the purpose of purchasing insurance, and fails to obtain insurance;
  - (e) Knowingly and with intent to defraud or deceive, fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
  - (f) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;
  - (g) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
  - (h) Engages in unauthorized insurance, as defined in KRS 304.11-030;
  - (i) Knowingly and with intent to defraud or deceive, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
    - 1. The rating of an insurance policy;
    - 2. The financial condition of an insurer;
    - 3. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or
    - 4. A document filed with the commissioner;
  - (j) Knowingly and with intent to defraud or deceive, engages in any of the following:
    - 1. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or
    - 2. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer; or
  - (k) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) (a) Except as provided in paragraphs (b) and (c) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to five hundred dollars (\$500), and shall be punished by:
- 1. Imprisonment for not more than one (1) year;
  - 2. A fine, per occurrence, of not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
  - 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (b) Except as provided in paragraph (c) of this subsection, where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of five hundred dollars (\$500), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:
- 1. Imprisonment for not less than one (1) nor more than five (5) years;
  - 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or

3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (c) Any person, with the purpose to establish or maintain a criminal syndicate, or to facilitate any of its activities, as set forth in KRS 506.120(1), shall be guilty of engaging in organized crime, a Class B felony, and shall be punished by:
  1. Imprisonment for not less than ten (10) years nor more than twenty (20) years;
  2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
  3. Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.
- (d) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a), (b), or (c) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (3) Any person damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

➔Section 100. KRS 342.1231 is amended to read as follows:

- (1) The funding commission may mail to the taxpayer a notice of any assessment assessed by it. The assessment shall be final if not protested in writing to the funding commission within thirty (30) days from the date of notice. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the funding commission may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such 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 funding commission. 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) After considering the taxpayer's protest, including any matters presented at the final conference, the funding commission 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 funding commission, generally state the issues in controversy, the funding commission's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals]~~.
- (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 funding commission shall issue such ruling within thirty (30) days from the date the request is received by the funding commission.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ pursuant to *Section 22 of this Act* ~~[the provisions of KRS 131.340]~~.
- (6) The expenses incurred by the funding commission in conducting audits required in this chapter shall be paid by the insurance companies in accordance with administrative regulations promulgated by the funding commission.
- (7) "Taxpayer" as used in this section means insurance carrier, self-insured group, and self-insured employer.

➔Section 101. KRS 365.370 is amended to read as follows:

- (1) The department shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state

or trading area or areas as it defines. When each survey is made by or approved by the department, it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

- (2) The department may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the department promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.
- (3) All of the powers vested in the commissioner and Department of Revenue by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.
- (4) Any person aggrieved by any decision, order, or finding of the Department of Revenue, suspending or revoking any license, may appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe].~~

➔Section 102. KRS 452.505 is amended to read as follows:

The following actions may be brought in the Franklin Circuit Court, or in the Franklin District Court, or in any other Circuit Court or District Court having venue:

- (1) Actions to collect the revenue and all other claims, demands and penalties due the Commonwealth, or to have satisfaction made of judgments in favor of the Commonwealth, except those actions which are prosecuted by an appeal to the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ under the provisions of KRS 131.110 and *Section 22 of this Act* ~~[KRS 131.340]~~.
- (2) Actions against persons required to collect money due the Commonwealth, to pay money into the State Treasury, or to do any other act connected with the payment of money into the State Treasury after it has been collected, and against the sureties, heirs, devisees or representatives of such persons.
- (3) Actions to surcharge and correct fee bills, accounts and settlements, with their debits and credits, and all claims against the Treasury allowed and approved by any court in the Commonwealth to any person.
- (4) Actions to recover any fraudulent, erroneous or illegal account, fee bill, charge, credit or claim approved and allowed or paid out of the Treasury to any person.
- (5) The defendant in any action brought in Franklin Circuit Court or Franklin District Court under the provisions of subsection (1) of this section for the collection of taxes assessed under KRS Chapter 141 shall at any time prior to the submission for judgment upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin Circuit Court or Franklin District Court.

➔Section 103. KRS 532.160 is amended to read as follows:

- (1) If a convicted person is unable to pay all court costs, fees, fines, and other monetary penalties at the time of sentencing, then the sentencing court may, consistent with KRS 23A.205, 24A.175, 534.020, and KRS 534.060, issue a criminal garnishment order for all fines under KRS Chapter 534 or *Section 48 of this Act* ~~[KRS 346.185]~~ and for court costs, restitution, and reimbursement charges in this chapter.
- (2) A criminal garnishment applies to any of the following:
  - (a) A convicted person's earnings as defined in KRS 427.005;
  - (b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;
  - (c) Money that is held by a garnishee on behalf of a convicted person;
  - (d) The convicted person's personal property that is in the possession of a garnishee; or
  - (e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.
- (3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.
- (4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.

- (5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.
- (6) The court shall order payments made under this section to be paid by the defendant directly to the person or organization specified by written order of the court. The court shall not order payments of an order of criminal garnishment to be made through the circuit clerk, except for those payments due from a person under the supervision of the Department of Corrections.

➔Section 104. KRS 532.162 is amended to read as follows:

- (1) If the criminal garnishment is made upon the convicted person's earnings, the order of garnishment shall be a lien upon the earnings from the date of service on the garnishee until an order discontinuing the lien is entered. A convicted person may challenge the garnishment by filing a challenge to the garnishment with the sentencing court. The challenge shall be heard within ten (10) days of its filing or the nearest court date thereafter. Before the hearing, garnishment shall continue. Any moneys which the court determines were improperly garnished shall be repaid to the garnishee not later than thirty (30) days after the determination.
- (2) The circuit clerk's office shall disburse all collected reimbursement, restitution, and fees to the victim, the **Kentucky Claims Commission**~~[Crime Victims Compensation Board]~~, or the local government, whichever is appropriate. The clerk shall be entitled to collect a fee of two dollars and fifty cents (\$2.50) from each account for which a disbursement is made at the time of disbursement. In the event of challenge to a garnishment, the appropriate clerk's office shall not disburse those sums associated with the challenged garnishment until determination by the sentencing court regarding the propriety of the garnishment.

➔Section 105. KRS 533.030 is amended to read as follows:

- (1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.
- (2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:
  - (a) Avoid injurious or vicious habits;
  - (b) Avoid persons or places of disreputable or harmful character;
  - (c) Work faithfully at suitable employment as far as possible;
  - (d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
  - (e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
  - (f) Support his dependents and meet other family responsibilities;
  - (g) Pay the cost of the proceeding as set by the court;
  - (h) Remain within a specified area;
  - (i) Report to the probation officer as directed;
  - (j) Permit the probation officer to visit him at his home or elsewhere;
  - (k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;
  - (l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court;
  - (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs associated with the device, including administrative and operating costs, shall be paid by the defendant. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for

the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of probation or conditional discharge provided for in this section; or

- (n) During all or part of the period of probation or conditional discharge, participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions as provided in KRS 431.517.
- (3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the *Kentucky Claims Commission*~~[Crime Victims Compensation Board]~~, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:
- (a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;
  - (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;
  - (c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and
  - (d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.
- (4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.
- (5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.
- (6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS

533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

➔Section 106. The following KRS sections are repealed:

- 44.075 Source of payment of expenses of Workers' Compensation Board.
- 44.080 Sessions of board -- Rules -- Subpoenas -- Oaths.
- 131.310 Kentucky Board of Tax Appeals created.
- 131.315 Members of board, appointment -- Terms -- Chairman -- Vacancies.
- 131.320 Qualifications of members -- Removal -- Salary -- Location of office -- Training.
- 131.330 Clerk of Board of Tax Appeals -- Appointment -- Qualifications.
- 346.030 Crime Victims Compensation Board.

➔Section 107. One (1) member of the Kentucky Claims Commission created and established in Section 1 of this Act shall be appointed for a term expiring September 30, 2017, one (1) member of the commission shall be appointed for a term expiring September 30, 2018, and one (1) member of the commission shall be appointed for a term expiring September 30, 2019.

➔Section 108. The General Assembly confirms Executive Order 2016-576, dated August 9, 2016, to the extent that it is not otherwise confirmed or superseded by this Act. All records, equipment, staff, and supporting budgets for the Board of Claims, Kentucky Board of Tax Appeals, and Crime Victims Compensation Board shall be transferred to the Kentucky Claims Commission created and established in Section 1 of this Act.

**Signed by Governor March 21, 2017.**