

## CHAPTER 203

( HB 321 )

AN ACT relating to revenue.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) *The General Assembly finds and declares the following:*

- (a) *The development area, the west end of Louisville, which includes the communities of Parkland, Shawnee, Park Duvalle, Russell, Portland, California, Chickasaw, including an adjacent unincorporated community, Park Hill, and Algonquin, including an adjacent unincorporated community, has been the home of many prominent African-Americans, including being the boyhood home of Muhammad Ali;*
- (b) *The development area possesses a rich history of African-American life, including thriving restaurants, theatres, and other minority-owned businesses. That history also includes the presence of the Western Branch of the Louisville Free Public Library, at 10th St. and Chestnut, America's first public library open to African-Americans, which opened in 1908;*
- (c) *The development area continues to be the home of thousands of African-Americans who live and work in the Commonwealth and desire to build a better future for themselves, their families, and the generations that follow;*
- (d) *The current challenging economic times combined with the intergenerational effects of years of racial prejudice and segregation have hindered the economic progress of African-Americans;*
- (e) *The development area currently has a low percentage of owner-occupied homes, problems with vacant and abandoned housing, and a dearth of strategic economic planning and investment;*
- (f) *Fifty percent (50%) of households within the development area have an annual gross income of less than twenty-five thousand one hundred thirty dollars (\$25,130), and individuals under the age of eighteen (18) or over the age of sixty-five (65) make up approximately thirty-eight and one-tenth percent (38.1%) of the population;*
- (g) *In the development area, thirty-nine and six-tenths percent (39.6%) of the population lives below the federal poverty level and children make up thirty-seven and four-tenths percent (37.4%) of all individuals below the poverty line; and*
- (h) *In addition to many nonprofits working in the development area to improve the quality of life of residents, African-American leaders and other Louisville community leaders and philanthropists have recently united to envision a public-private partnership to make investments promoting economic growth and the long-term well-being of the community, while simultaneously supporting policies to guard against displacement of residents as growth proceeds.*

(2) *The General Assembly enacts Sections 1 to 7 and 8 of this Act to:*

- (a) *Support the revitalization of and investment in the development area; and*
- (b) *Provide resources for additional opportunities for residents of the development area, both natural persons and businesses, to work together to improve their educational attainment, working opportunities, and quality of life, thus returning the West End to the safe, prosperous, and enjoyable community needed, deserved, and expected by the residents, and for the area to become an equal partner in the future of all of Jefferson County.*

(3) *It is the intent of the General Assembly that if any part of Sections 1 to 7 or 8 of this Act is held unconstitutional, the remaining parts shall remain in force.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 7 of this Act:*

(1) *"Affiliated" means the following:*

- (a) *Members of a family, including brothers and sisters of the whole or half blood, spouse, parents, grandparents, ancestors, children, spouses of children, grandchildren, spouses of grandchildren, and other lineal descendants of an individual;*
  - (b) *An individual and a corporation, if more than ten percent (10%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;*
  - (c) *An individual and a limited liability company or a partnership, if more than ten percent (10%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual; or*
  - (d) *An individual and a trust, if the individual is a grantor, fiduciary, or beneficiary of the trust;*
- (2) *"Board" means the board of the West End Opportunity Partnership;*
- (3) *"CPI" means the nonseasonally adjusted United States city average of the Consumer Price Index for all urban consumers for all items, as released by the federal Bureau of Labor Statistics;*
- (4) *"Development area" means a region within a consolidated local government bounded by:*
- (a) *To the south, Algonquin Parkway to the South Seventh Street intersection, but including the unincorporated communities adjacent to Park Duvalle and Algonquin:*
    - 1. *Beginning at the Ohio River, at the southwest corner of Chickasaw Park and then along the park's southern boundary to Southwestern Parkway;*
    - 2. *Southwestern Parkway south to Algonquin Parkway;*
    - 3. *Algonquin Parkway to South Forty-First Street;*
    - 4. *South Forty-First Street south to Bells Lane;*
    - 5. *Bells Lane east to Cane Run Road;*
    - 6. *Cane Run Road north to Linwood Avenue;*
    - 7. *Linwood Avenue east to Beech Street;*
    - 8. *Beech Street south to Wingfield Lane;*
    - 9. *Wingfield Lane east to Dixie Highway;*
    - 10. *Dixie Highway north to Algonquin Parkway; and*
    - 11. *Algonquin Parkway east to South Seventh Street;*
  - (b) *To the east, South Seventh Street north to Ninth Street and Ninth Street north to the Ohio River; and*
  - (c) *The Ohio River to the north and west;*
- (5) *"Governing body" means the body possessing legislative authority in a consolidated local government;*
- (6) *"Incremental revenues" means the amount of revenues received by:*
- (a) *A consolidated local government, determined by subtracting old revenues from new revenues in a calendar year with respect to the development area; and*
  - (b) *The Commonwealth, determined by subtracting old revenues from new revenues in a calendar year with respect to the development area;*
- (7) (a) *"Local tax revenues" means revenues derived by a consolidated local government from one (1) or more of the following sources:*
- 1. *Real property ad valorem taxes, excluding any taxes not assessed while a property is participating in an assessment or reassessment moratorium program under KRS 99.600; and*
  - 2. *Occupational license taxes; and*
- (b) *"Local tax revenues" does not mean revenues that have been pledged to support a tax increment financing project established under KRS 65.490 to 65.499, 65.680 to 65.699, or 65.7041 to 65.7083 or an economic development project within the development area;*
- (8) *"New revenues" means the amount of:*

- (a) *Local tax revenues received by a consolidated local government with respect to the development area in any calendar year beginning with the calendar year described under subsection (1) of Section 5 of this Act; and*
  - (b) *State tax revenues received by the Commonwealth with respect to the development area in any calendar year beginning with the calendar year described under subsection (1) of Section 5 of this Act;*
- (9) *"Old revenues" means the amount of:*
- (a) *Local tax revenues received by a consolidated local government with respect to the development area in any calendar year beginning with the calendar year immediately preceding the calendar years described under subsection (1) of Section 5 of this Act; and*
  - (b) *State tax revenues received by the Commonwealth with respect to the development area in any calendar year beginning with the calendar year immediately preceding the calendar years described under subsection (1) of Section 5 of this Act.*

*"Old revenues" shall be adjusted annually to incorporate the percentage change in the CPI. In the first calendar year of the calendar years described under subsection (1) of Section 5 of this Act, the calculated amount for the state tax revenues and the local tax revenues shall be adjusted by multiplying each amount by the percentage change in the CPI. For every calendar year thereafter until the expiration of the calendar years described under subsection (1) of Section 5 of this Act, the calculated amount for the state tax revenues and the local tax revenues shall be the previous year's calculated amount multiplied by the percentage change in the CPI;*

- (10) *"Percentage change in the CPI" means the percentage of change in CPI from one (1) year to the next based on averaging the twelve (12) consecutive months of CPI data for each of the two (2) immediately preceding calendar years and then using those two (2) averages to calculate a year-over-year percentage change; and*
- (11) (a) *"State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:*
- 1. *State real property ad valorem taxes, excluding any taxes not assessed while a property is participating in an assessment or reassessment moratorium program under KRS 99.600;*
  - 2. *Individual income taxes required to be withheld by an employer as required under KRS 141.310; and*
  - 3. *Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:*
    - a. *Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and*
    - b. *Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area and*
- (b) *"State tax revenues" does not mean revenues that have been pledged to support a tax increment financing project established under KRS 65.490 to 65.499, 65.680 to 65.699, or 65.7041 to 65.7083 or an economic development project within the development area.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The West End Opportunity Partnership is hereby created and shall be a public corporation and a public body corporate and politic, with the powers and duties in its corporate name to:*
- (a) *Have a corporate seal;*
  - (b) *Sue and be sued;*
  - (c) *Make or execute contracts and other instruments necessary or convenient to the exercise of its powers;*
  - (d) *Make, and from time to time amend and repeal, bylaws and procedures, including a policy and procedure for replacing any institution that has a permanent seat on the board, should an institution cease to exist or change corporate form, to effect the purposes of Sections 1 to 7 of this Act;*

- (e) *Hire and maintain personnel as may be required;*
  - (f) *Borrow from and accept loans and grants from the federal, state, local jurisdictions, or any agency thereof, or from any sources, public or private, and to pledge such security as may be required;*
  - (g) *Invest any funds held in reserves or any funds not required for immediate disbursements, in property or securities in which savings banks may legally invest funds subject to their control;*
  - (h) *Purchase its bonds at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased to be canceled;*
  - (i) *Plan initiatives within the development area;*
  - (j) *Invest in projects and neighborhood-based or neighborhood-directed initiatives led by other organizations seeking to invest within the development area;*
  - (k) *Make loans to businesses, individuals, or other organizations seeking to invest within the development area;*
  - (l) *Receive proceeds from loans and grants;*
  - (m) *Purchase, acquire, own, hold, and dispose of all real and personal property necessary for carrying out its corporate purposes;*
  - (n) *Invest in projects that create affordable housing within the development area;*
  - (o) *Communicate with the advisory council established in Section 7 of this Act to seek specific knowledge about the community;*
  - (p) *Adopt and comply with KRS Chapter 45A or develop a procurement code designed to provide for the purchase of supplies, equipment, services, and construction items that provide the greatest long-term benefit to the development area, the greatest integrity for the West End Opportunity Partnership, and the best service and products for the public;*
  - (q) *Develop a program that will:*
    - 1. *Raise awareness of the income tax credit established under Section 8 of this Act;*
    - 2. *Enable individuals in the development area to timely pay property taxes by lending funds on a short-term basis until the refundable income tax credit is returned to the individual; and*
    - 3. *Assist individuals residing in the development area and qualifying for the income tax credit by filling out returns or other paperwork required to claim the tax credit;*
  - (r) *Create an account for the incremental tax increases collected from property owners of residential property located within the development area; and*
  - (s) *Create an account to make home improvements for existing property owners of residential property located within the development area; and*
  - (t) *Exercise any power, duties, and requirements for carrying out its corporate purposes under Sections 1 to 7 of this Act.*
- (2) *The purpose of the West End Opportunity Partnership shall be to:*
- (a) *Manage and support the revitalization of and investment in the development area, with a focus on projects supported by residents and businesses within the development area;*
  - (b) *Encourage private investment in businesses and residential projects that will have a significant impact within the development area;*
  - (c) *Ensure that all projects include the employment of area residents, both in short-term construction jobs and long-term employment in businesses locating within the development area; and*
  - (d) *Ensure that all housing projects include the creation of housing that is deemed affordable in accordance with federal guidelines for low-income families.*
- (3) *The West End Opportunity Partnership shall comply with KRS 61.800 to 61.850 and 61.870 to 61.884.*
- (4) *The board shall comply with KRS Chapter 65A and the West End Opportunity Partnership shall be subject to audit under KRS 43.070.*

- (5) (a) *The West End Opportunity Partnership is solely responsible for its operations. No debt of the West End Opportunity Partnership is a debt of the Commonwealth or consolidated local government. An action of the West End Opportunity Partnership is not an action of the Commonwealth or a consolidated local government and shall not obligate the Commonwealth or consolidated local government in any manner.*
- (b) *Bonds issued by the board under the provisions of this section do not constitute a debt of the Commonwealth or of any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any such political subdivision, but such bonds shall be payable solely from the funds, and security, provided therefor under the provisions of Sections 1 to 7 of this Act, and all such bonds shall contain on the face thereof a statement to that effect.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The West End Opportunity Partnership shall be governed by a board. The board shall initially consist of the following members:*
- (a) *One (1) member appointed by the Governor for a term of two (2) years;*
- (b) *One (1) member appointed by the mayor of a consolidated local government for a term of two (2) years;*
- (c) *One (1) member of the legislative council of the consolidated local government appointed by its members for a term of three (3) years;*
- (d) *A representative of the University of Louisville appointed by its board of trustees for a term of three (3) years;*
- (e) *A representative of Simmons College of Kentucky appointed by its board of trustees for a term of three (3) years; and*
- (f) *1. The following shall be appointed by the Governor:*
- a. *One (1) member from the NAACP of Louisville;*
- b. *One (1) member from OneWest in Louisville;*
- c. *One (1) member from Louisville Urban League;*
- d. *One (1) member from the Federal Reserve Bank in Louisville;*
- e. *One (1) member from the Volunteers of America Mid States in Louisville;*
- f. *One (1) member from a locally based foundation with assets over one hundred million dollars (\$100,000,000); and*
- g. *One (1) member from a bank with local assets greater than one billion dollars (\$1,000,000,000).*
- 2. The initial appointments of the members described in subparagraph 1. of this paragraph shall be for terms as follows:*
- a. *Two (2) members for a term of one (1) year;*
- b. *Two (2) members for a term of two (2) years;*
- c. *Two (2) members for a term of three (3) years; and*
- d. *One (1) member for a term of four (4) years.*
- (2) *The board shall include in its bylaws a process for appointing one (1) member from each of the nine (9) neighborhoods in the development area as additional members. The process shall:*
- (a) *Ensure the nine (9) members are each from a different neighborhood;*
- (b) *Require that, at all times, at least one (1) of the nine (9) members representing the neighborhoods shall be between the ages of eighteen (18) and thirty (30) at the time of appointment or reappointment; and*
- (c) *Provide that the initial appointment of the members be for terms as follows:*

1. *Four (4) members for a term of two (2) years; and*
  2. *Five (5) members for a term of three (3) years.*
- (3) *After expiration of the term limits provided in subsections (1) and (2) of this section, the board shall self-perpetuate. The overall makeup of the board shall remain the same unless an institution ceases to exist or changes corporate form. All successors of the representatives described in subsection (1) of this section shall serve four (4) year terms and all successors of the representatives described in subsection (2) of this section shall serve three (3) year terms. No individual shall serve more than two (2) consecutive terms.*
  - (4) *The head of economic development for the consolidated local government, or his or her designee, and the secretary of the Cabinet for Economic Development, or his or her designee, shall be nonvoting, ex officio members of the West End Opportunity Partnership;*
  - (5) *The membership of the board shall not exceed twenty-one (21) voting members.*
  - (6) *The majority of the board's membership shall reflect the racial majority of the residents living in the development area.*
  - (7) *A chair of the board shall be selected annually from its members and shall have responsibility for board meeting agendas and presiding at board meetings.*
  - (8) *Members of the board shall be entitled only to reimbursement from the West End Opportunity Partnership for actual expenses incurred in the performance of their duties as board members.*
  - (9) *A majority of the entire voting members of the board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire voting membership.*
  - (10) *A member of the board shall abstain from action on an official decision in which he or she has or may have a personal or private interest, or if the member is affiliated with any party conducting business with the West End Opportunity Partnership, shall disclose the existence of that personal or private interest or affiliation in writing to the other members of the board on the same day on which the member becomes aware that the interest or affiliation exists or that an official decision may be under consideration by the board. The member which has or may have a personal or private interest or affiliation shall be absent from all meetings and votes in relation to the matter.*
  - (11) *As a prerequisite to service, each appointee to the board and each member of the West End Louisville Advisory Council established in Section 7 of this Act shall participate in a board-sanctioned training program on the topics of community and economic development, finance, equity and community engagement, gentrification, and the implications of these concepts.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 6.945, beginning in the calendar year following the full receipt of the initial funds statutorily required to be invested by private sector investors, a consolidated local government, and the Commonwealth to the West End Opportunity Partnership and continuing for twenty (20) years, eighty percent (80%) of the incremental revenues shall be pledged to the West End Opportunity Partnership by a consolidated local government and the Commonwealth.*
- (2) *A local participation agreement shall be executed between the West End Opportunity Partnership and the governing body involved in providing financing or pledging incremental revenues to support the implementation of a development plan in a development area.*
- (3) *The local participation agreement shall be adopted by the governing body by ordinance and shall include but not be limited to the following provisions:*
  - (a) *Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;*
  - (b) *Specific identification of the incremental revenues released or pledged by type of tax by each taxing district;*
  - (c) *The anticipated benefit to be received by each taxing district for the release or pledge, including a detailed summary of old revenues collected;*
  - (d) *A requirement that pledged incremental revenues shall be accounted for within a separate account under Section 6 of this Act;*

- (e) *Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;*
  - (f) *The commencement date, activation date, and termination date; and*
  - (g) *Any other provisions not inconsistent with Sections 1 to 7 of this Act.*
- (4) *Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.*
  - (5) *The local participation agreement established under this section and the development area established under Section 2 of this Act shall not be included in the percentage calculation established by KRS 65.7049(2).*
  - (6) *Notwithstanding KRS 65.7049(2), the local participation agreement shall permit residential property located within the development area to be eligible for participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600 when the incremental revenues related to that residential property have not been pledged to support a tax increment financing project established under KRS 65.490 to 65.499, 65.680 to 65.699, or 65.7041 to 65.7083 or an economic development project within the development area.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *All documentation, records, and release of incremental revenues relating to local tax revenues shall be maintained and determined by the governing body.*
- (2) *All documentation, records, and release of incremental revenues relating to state tax revenues shall be maintained and determined by the Department of Revenue.*
- (3) *Upon notice from the West End Opportunity Partnership, the governing body obligated under a local participation agreement and the Department of Revenue shall release to the West End Opportunity Partnership the incremental revenues due.*
- (4)
  - (a) *The governing body and the Department of Revenue shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable.*
  - (b) *No additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred after the initial release to the West End Opportunity Partnership for that period.*
- (5) *If the West End Opportunity Partnership issues bonds for development within the development area and incremental revenues have been pledged for that development, the West End Opportunity Partnership shall maintain a separate account to account for the:*
  - (a) *Bond proceeds received;*
  - (b) *Incremental revenues received; and*
  - (c) *Payment of debt charges of the bond.*
- (6) *The West End Opportunity Partnership shall provide a biennial report to the Interim Joint Committee on Appropriations and Revenue on or before August 1, 2023, and on or before August 1 of each odd-numbered year thereafter. The report shall contain the following information:*
  - (a) *The amounts of moneys received by private sector investors, the consolidated local government, and the Commonwealth, including the party that made the payment;*
  - (b) *The annual financial statements of the West End Opportunity Partnership, including the current balances of all funds and accounts of the West End Opportunity Partnership;*

- (c) *The total amount of state tax revenues and local tax revenues received by the West End Opportunity Partnership for the preceding biennial period categorized by each type of tax;*
- (d) *The operating expenditures incurred by the West End Opportunity Partnership, including management fees, investment fees, legal fees, or administrative fees incurred;*
- (e) *A list of the projects supported by investments from the West End Opportunity Partnership in the preceding year and a description of the investment amount contributed by the West End Opportunity Partnership for each project;*
- (f) *The amount of bonds issued or other borrowed moneys received by the West End Opportunity Partnership;*
- (g) *Any personal or private interests or affiliated board members as described in subsection (10) of Section 4 of this Act; and*
- (h) *Upon request from the General Assembly, copies of the West End Opportunity Partnership's bylaws and any contracts or agreements in which the West End Opportunity Partnership is a party.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *A West End Louisville Advisory Council is hereby established and shall be a subcommittee of the West End Opportunity Partnership established in Section 3 of this Act. The council shall consist of one (1) resident from each of the nine (9) different neighborhoods located within the development area.*
- (2) *The members of the council shall serve four (4) year terms, except initial appointments shall be for terms as follows:*
  - (a) *Two (2) members for a term of one (1) year;*
  - (b) *Three (3) members for a term of two (2) years;*
  - (c) *Three (3) members for a term of three (3) years; and*
  - (d) *One (1) member for a term of four (4) years.*
- (3) *The Governor shall initially appoint the members of the council, but then the council shall self-perpetuate.*
- (4) *The council shall:*
  - (a) *Elect its own chairperson and establish other officers as needed to execute the duties of the council;*
  - (b) *Adopt bylaws and operate under its bylaws;*
  - (c) *Establish and evaluate goals and outcomes for economic development and housing issues in the development area; and*
  - (d) *Assist the board with information about the development area community and its economic development and housing project needs.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
  - (a) *"Development area" has the same meaning as in Section 2 of this Act;*
  - (b) *"Owner" means:*
    - 1. *The individual who owned the residential property on January 1, 2021; or*
    - 2. *Upon the death of the individual under subparagraph 1. of this paragraph, a beneficiary who:*
      - a. *Is a lineal descendant of the individual, but also including a spouse, child, legally adopted child, grandchild, brother, sister, parent, or grandparent; and*
      - b. *Inherits the residential property of the individual;*
  - (c) *"Property tax" means the total ad valorem tax paid to the Commonwealth, a consolidated local government, and all taxing districts on the residential property; and*
  - (d) *"Residential property" means:*
    - 1. *The principal residence of the owner;*



2. *Located in a development area; and*
  3. *Owned as of January 1, 2021.*
- (2) *There is hereby created the development area tax credit allowable against the tax imposed under KRS 141.020, with the ordering of credits under Section 9 of this Act.*
- (3) (a) *The tax credit permitted by subsection (2) of this section shall be a refundable, nontransferable tax credit to the owner of residential property in the development area.*
- (b) *The credit shall be equal to the amount in which the property tax timely paid on the residential property in a taxable year exceeds the amount of property tax assessed on that residential property on January 1, 2021.*
- (4) *The tax credit shall end the earlier of the taxable year in which:*
- (a) *The residential property is sold by the owner; or*
  - (b) *The period allowed for incremental revenues under Section 5 of this Act ends.*
- (5) (a) *In order for the General Assembly to evaluate the development area tax credit, the department shall provide the following information on a cumulative basis for each taxable year to provide a historical impact of the tax credit to the Commonwealth:*
1. *The total amount of tax credit claimed for each taxable year by all owners;*
  2. *The total amount of tax credit for each taxable year which is used to offset tax liability of owners and the total amount that is refunded to owners;*
  3. *The physical address of the residential property which created the tax credit;*
  4. *The amount of the tax credit claimed for the taxable year for each physical address;*
  5. *The amount of the tax credit used to offset tax liability and the amount refunded to the owner at that physical address; and*
  6. *Based on ranges of net income no larger than five thousand dollars (\$5,000), the total amount of tax credit claimed and the number of returns claiming a tax credit for each adjusted gross income range.*
- (b) *The report required by paragraph (a) of this subsection shall be submitted to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2023, and no later than each November 1 thereafter, as long as the credit is claimed on any return processed by the department.*

➔Section 9. KRS 141.0205 is amended to read as follows:

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

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  - (a) The limited liability entity tax credit permitted by KRS 141.0401;
  - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (c) The qualified farming operation credit permitted by KRS 141.412;
  - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (e) The health insurance credit permitted by KRS 141.062;
  - (f) The tax paid to other states credit permitted by KRS 141.070;
  - (g) The credit for hiring the unemployed permitted by KRS 141.065;
  - (h) The recycling or composting equipment credit permitted by KRS 141.390;

- (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (s) The Endow Kentucky credit permitted by KRS 141.438;
  - (t) The New Markets Development Program credit permitted by KRS 141.434;
  - (u) The distilled spirits credit permitted by KRS 141.389;
  - (v) The angel investor credit permitted by KRS 141.396;
  - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018;
  - (x) The inventory credit permitted by KRS 141.408; and
  - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
  - (b) The credit permitted by KRS 141.066;
  - (c) The tuition credit permitted by KRS 141.069;
  - (d) The household and dependent care credit permitted by KRS 141.067; and
  - (e) The income gap credit permitted by KRS 141.066.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
  - (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - (c) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b);~~and~~
  - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018; *and*
  - (e) *The development area tax credit permitted in Section 8 of this Act.*
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

- (b) The qualified farming operation credit permitted by KRS 141.412;
  - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (d) The health insurance credit permitted by KRS 141.062;
  - (e) The unemployment credit permitted by KRS 141.065;
  - (f) The recycling or composting equipment credit permitted by KRS 141.390;
  - (g) The coal conversion credit permitted by KRS 141.041;
  - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
  - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
  - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (t) The railroad expansion credit permitted by KRS 141.386;
  - (u) The Endow Kentucky credit permitted by KRS 141.438;
  - (v) The New Markets Development Program credit permitted by KRS 141.434;
  - (w) The distilled spirits credit permitted by KRS 141.389;
  - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018;
  - (y) The inventory credit permitted by KRS 141.408; and
  - (z) The renewable chemical production tax credit permitted by KRS 141.4231.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
  - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
  - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

➔Section 10. KRS 131.190 is amended to read as follows:

- (1) No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns,

or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

- (2) The prohibition established by subsection (1) of this section shall not extend to:
- (a) Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
  - (b) Any matter properly entered upon any assessment record, or in any way made a matter of public record;
  - (c) Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
  - (d) Testimony provided by the commissioner or any employee of the department in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
  - (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
  - (f) Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this paragraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10);
  - (g) Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;
  - (h) Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;
  - (i) Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis;
  - (j) Providing documents, data, or other information to a third party pursuant to an order issued by a court of competent jurisdiction; or
  - (k) Providing information to the Legislative Research Commission under:
    1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;
    2. KRS 141.436 for purposes of the energy efficiency products credits;
    3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;
    4. KRS 148.544 for purposes of the film industry incentives;
    5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;
    6. KRS 141.068 for purposes of the Kentucky investment fund;
    7. KRS 141.396 for purposes of the angel investor tax credit;
    8. KRS 141.389 for purposes of the distilled spirits credit;
    9. KRS 141.408 for purposes of the inventory credit;
    10. KRS 141.390 for purposes of the recycling and composting credit;
    11. KRS 141.3841 for purposes of the selling farmer tax credit;~~[-and]~~
    12. KRS 141.4231 for purposes of the renewable chemical production tax credit; *and*

**13. Section 8 of this Act for purposes of the development area tax credit.**

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

➔Section 11. KRS 138.146 is amended to read as follows:

- (1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.
- (2)
  - (a) The cigarette tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the wholesaler receives the cigarettes.
  - (b) A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the cigarette tax on the package.
  - (c) The affixed stamp shall be prima facie evidence of payment of the cigarette tax.
  - (d) Unless stamps have been previously affixed, they shall be affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state.
  - (e) The evidence of cigarette tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state.
  - (f) The evidence of cigarette tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by the unclassified acquirer.
- (3)
  - (a) The department shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of cigarette tax evidence, and the method and manner that tax evidence shall be affixed to the cigarettes.
  - (b) All cigarette tax evidence prescribed by the department shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence.
  - (c) The department shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.
- (4)
  - (a) Units of cigarette tax evidence shall be sold at their face value, but the department shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents (\$0.30) face value for each three dollars (\$3) of tax evidence purchased at face value and attributable to the tax assessed in KRS 138.140(1)(a). No compensation shall be allowed for tax evidence purchased at face value attributable to the surtaxes imposed in KRS 138.140(1)(b) or (c).

- (b) The department shall have the power to withhold compensation as provided in paragraph (a) of this subsection from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any administrative regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.
- (5) (a) **1.** Payment for units of cigarette tax evidence shall be made at the time the units are sold, unless the licensed wholesaler:
- ~~a.1-1~~ Has filed with the department a bond, issued by a corporation authorized to do surety business in Kentucky, in an amount equal to ***an amount:***
- i. Determined by the department; or**
- ii. Not less than the monthly average of payments by the wholesaler for the units of cigarette tax evidence purchased in the immediately preceding calendar year**~~for greater than the amount of payment for the units of cigarette tax evidence purchased, plus all penalties, interest, and collection fees applicable to that amount, should the taxpayer default on the payment~~; and
- ~~b.1-2~~ Has registered and agrees to make the payment of tax to the department electronically.
- 2. At no time shall the licensed wholesaler be allowed to delay any payment for units of cigarette tax evidence, including tax, penalty, interest, or collection fees, which would exceed the amount of bond filed with the department.**
- (b) Except as provided in paragraph (c) of this subsection, if the licensed wholesaler qualifies under paragraph (a) of this subsection, the licensed wholesaler shall have ten (10) days from the date of purchase to remit payment of cigarette tax, without the assessment of civil penalties under KRS 131.180 or interest under KRS 131.183 during the ten (10) day period.
- (c) **1.** The ten (10) day payment period under paragraph (b) of this subsection shall not apply to the payment for units of cigarette tax evidence during the last ten (10) days of the month of June during each fiscal year.
- 2.** All payments for units of cigarette tax evidence made under paragraph (b) of this subsection during the month of June shall be made the earlier of:
- a. The ten (10) day period; or
- b. June 25.
- (d) **1.** If the licensed wholesaler does not make the payment of cigarette tax ***evidence purchased*** within the ten (10) day period ***following the purchase***, or within the period of time under paragraph (c) of this subsection, the department shall:
- ~~a.1-1~~ Revoke the license required under KRS 138.195;
- ~~b.1-2~~ Issue a demand for payment in an amount equal to ***all outstanding***~~the~~ cigarette tax evidence purchased ***by the licensed wholesaler***, plus ***any***~~all~~ penalties, interest, and collection fees ***up to the amount of the required bond***~~applicable to that amount~~; and
- ~~c.1-3~~ Require ***the surety to remit to the department*** immediate payment of the bond.
- 2. Any protests by the licensed wholesaler related to the amount of tax, penalty, interest, or collection fees remitted by the surety to the department shall be resolved under KRS 131.110, by the licensed wholesaler filing a written protest within sixty (60) days from the date the department requires the payment under subparagraph 1.c. of this paragraph.**
- (6) (a) The bond required under subsection (5) of this section shall be on a form and with a surety approved by the department.
- (b) The licensed wholesaler shall be named as the principal obligor and the department shall be named as the obligee within the bond.
- (c) The bond shall be conditioned upon the payment by the licensed wholesaler of all ***payments required in subsection (5)(b) and (c) of this section***~~cigarette tax imposed by the Commonwealth~~.
- (d) **1. A surety shall give at least a sixty (60) day notice to the department and the licensed wholesaler prior to the cancellation of the bond required under this section.**

2. *A licensed wholesaler that receives notice of cancellation of its bond shall immediately pay all outstanding payments for cigarette tax evidence.*
  3. *A replacement bond that meets the requirements of this section shall be required by the department prior to allowing the licensed wholesaler the ten (10) day payment period within this section.*
- (e) The provisions of KRS 131.110 shall not apply to the demand for payment required under subsection (5)(c)2. of this section.
- (7) (a) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing the evidence from the department.
  - (b) Tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person.
  - (c) Unaffixed tax evidence may be returned to the department for credit or refund for any reason satisfactory to the department.
- (8) (a) In the event any retailer receives into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, the retailer shall, within twenty-four (24) hours, notify the department of the receipt.
  - (b) The notification to the department shall be in writing, stating the name of the person from whom the cigarettes were received and the quantity of those cigarettes.
  - (c) The written notice may be:
    1. Given to any field agent of the department; or
    2. Directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
  - (d) If the notice is given by means of the United States mail, it shall be sent by certified mail.
  - (e) Any such cigarettes shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection.
  - (f) The retailer may, at his option, pay the tax due on those cigarettes according to administrative regulations prescribed by the department, and proceed to sell those cigarettes after the payment.
- (9) (a) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed.
  - (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

➔Section 12. 2021 Regular Session HB 249/VO is amended as follows:

On page 120, beginning on line 18, and continuing through page 121, line 25, delete all language, and insert the following in lieu thereof:

- "(1) *Prior to December 31, 2021, the council may award one (1) application for preliminary approval of a major certified rehabilitation for a certified historic structure, for a tax credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in Section 31 of this Act.*
- (2) *The major certified rehabilitation shall contain the following characteristics:*
  - (a) *The certified historic structure was individually listed on the National Register of Historic Places on or before December 31, 1981;*
  - (b) *The size of the certified historic structure exceeds three hundred thousand (300,000) square feet;*
  - (c) *The total project costs exceed fifty million dollars (\$50,000,000);*
  - (d) *Substantial rehabilitation of the certified historic structure begins prior to December 31, 2021; and*
  - (e) *The application for preliminary approval reflects that following the substantial rehabilitation, the certified historic structure will be used as a hotel, tourism destination, or other use supporting or relating to the promotion of tourism to and within the Commonwealth.*

- (3) (a) *The credit shall:*
1. *Equal the percentage of qualified rehabilitation expenses as provided in KRS 171.397(1)(a);*
  2. *Only apply to the first thirty million dollars (\$30,000,000) of qualified rehabilitation expenses; and*
  3. *Be refundable and transferable.*
- (b) *The project approved for a credit under this section:*
1. *Shall not be subject to the maximum credits which may be claimed with regard to owner-occupied residential property or other property that is not owner-occupied residential property established by KRS 171.397; but*
  2. *Shall be considered in determining whether the certified rehabilitation credit cap in Section 30 of this Act has been met.*
- (4) *Any taxpayer seeking the credit shall file the application for preliminary determination and final determination as provided by KRS 171.397(2), without regard to the April 20 or June 30 dates referenced in that section.*
- (5) *The total approved credit shall be available over a four (4) year period and the maximum credit which may be claimed in a taxable year shall not exceed twenty-five percent (25%) of the total approved credit.*
- (6) *The provisions of KRS 171.397(9) to (14) shall also apply to this section."*

➔Section 13. Sections 1 to 10 of this Act are effective only if 2021 Regular Session House Bill Number 556 is enacted and becomes law.

➔Section 14. The General Assembly offers the following supportive statutory measure:

The Department of Revenue shall adhere to a declaration in return filing and tax payment requirements for the 2020 federal income tax return provided by the U.S. Treasury Department or the Internal Revenue Service and provide the same return filing and tax payment timeline to taxpayers for comparable return filing and tax payment requirements under Kentucky law, including an extension of time to file a return or report and an extension of time to pay any tax due with that return or report, without the imposition of penalty under KRS 131.180, 141.044, 141.305, or 141.990 on that extended payment, and without the imposition of interest under KRS 131.183 or 141.985.

**Signed by Governor April 9, 2021.**