

AN ACT relating to urban development.

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) As used in this section:

(a) 1. "Abandoned building" means a building or structure:

a. Which is clearly delineated from another building or structure, having its own point of entrance and not having a passage to another building or structure after entering;

b. Within which at least sixty-six percent (66%) of the total square footage of the building or structure has been continuously closed to business or otherwise nonoperational for income-producing purposes for a period of at least five (5) years prior to a taxpayer filing a notice of intent to rehabilitate;

c. Which has not been used as a single-family residence immediately preceding abandonment; and

d. Which is returned to business operation for an income-producing purpose upon rehabilitation.

2. A building or structure that otherwise qualifies as an "abandoned building" may be divided into separate units or parcels, owned by one (1) or more taxpayers, and each unit or parcel shall be deemed to be an abandoned building for purposes of determining whether each separate unit or parcel is considered to be abandoned;

(b) "Building site" means an abandoned building, including:

1. The parcel of land upon which the abandoned building is located; and

2. Any other improvements located on the parcel immediately surrounding the building directly used for income-producing

purposes, including parking;

(c) "Income-producing purpose" means conducting any business for profit, including the operation of a charter, private, or parochial school, but does not include the rental of a single-family residence;

(d) "Local taxing authority" means a city, county, consolidated local government, urban-county government, charter county government, unified local government, or school district with the power to levy occupational license fees pursuant to KRS Chapter 67, 67A, 67C, 68, 91, 92, or 160;

(e) "Local taxing authority ratio" means the percentage computed by dividing the taxpayer's occupational license fee liability for a single local taxing authority by the taxpayer's total occupational license fee liability for all local taxing authorities during the calendar year the building is placed in service;

(f) "Notice of intent to rehabilitate" means a notice submitted by the taxpayer to a local taxing authority indicating the taxpayer's intent to rehabilitate an abandoned building within the jurisdiction of the local taxing authority.

The notice shall include the following information:

1. The location, including the physical address, of the building site;
2. The size of the building site in terms of square footage or acreage, as appropriate;
3. a. The amount of square footage within any existing buildings located on the building site;
b. Whether new construction is to be involved; and
c. If rehabilitation is to occur on more than one (1) building, which buildings are to be rehabilitated;
4. The estimated rehabilitation expenses to be incurred at the building site; and

5. Any other information required by the local taxing authority;
- (g) "Placed in service" means the date upon which the building site is completed and ready for its income-producing purpose. If the building site is completed and ready for use in phases or portions, each phase or portion is considered to be placed in service when it is completed and ready for its income-producing purpose;
- (h) "Qualifying rehabilitation expense" means the total amount of rehabilitation expense equal to or exceeding:
1. Two hundred thousand dollars (\$200,000) for any building site located in:
- a. A city with a population of one hundred thousand (100,000) or more;
- b. The unincorporated area of a county containing a city with a population of one hundred thousand (100,000) or more; or
- c. The jurisdiction of an urban-county government; or
2. One hundred thousand dollars (\$100,000) for any abandoned building located in any jurisdiction not listed in subparagraph 1. of this paragraph; and
- (i) 1. "Rehabilitation expense" means the costs incurred after filing a notice of intent to rehabilitate for renovating or redeveloping an abandoned building, and includes any additional costs for:
- a. Rehabilitation, demolition, renovation, or redevelopment of a building site;
- b. Environmental remediation;
- c. Site improvements;
- d. Construction of new buildings; or
- e. Any other improvements on the building site.

2. "Rehabilitation expense" does not include costs for:
- a. Acquiring the building site;
 - b. Acquiring or installing any personal property located at the building site;
 - c. Demolition of a building if the building is listed on the National Register of Historic Places; or
 - d. Increasing the amount of square footage within any building on the building site in excess of two hundred percent (200%) of the amount of square footage of that building as it existed when the notice of intent to rehabilitate was filed.
- (2) (a) A taxpayer may elect to take the state abandoned building credit provided by Section 2 of this Act or the local rehabilitation credit provided by subsection (3) of this section.
- (b) If the taxpayer elects to take the credit provided by subsection (3) of this section, the taxpayer shall file a notice of intent to rehabilitate with the governing body of each local taxing authority.
- (c) Once made, the election is irrevocable.
- (3) (a) A local rehabilitation credit may be allowed in an amount equal to the qualifying rehabilitation expense, multiplied by the percentage established in subsection (4) of this section, and multiplied by the local taxing authority ratio of each local taxing authority that has consented to allow the credit as provided in subsection (5) of this section.
- (b) A credit provided pursuant to paragraph (a) of this subsection:
- 1. a. Shall be limited to no more than seventy-five percent (75%) of the occupational license fee liability generated upon the activities at the building site each year; and
 - b. May be further limited by the local taxing authority by ordinance

or official act; and

2. a. Shall be allowed for no more than eight (8) years; and

b. May be limited to less than eight (8) years by the local taxing authority by ordinance or official act.

(4) The percentage of qualifying rehabilitation expense allowed for the credit shall be:

(a) Twenty-five percent (25%) if the qualifying rehabilitation expense equals or exceeds eighty percent (80%) of the estimated rehabilitation expenses set forth in the notice of intent to rehabilitate; and

(b) Zero percent (0%) if the qualifying rehabilitation expense is less than eighty percent (80%) of the estimated rehabilitation expenses set forth in the notice of intent to rehabilitate.

(5) Upon receiving a notice of intent to rehabilitate, each local taxing authority shall:

(a) Determine, by action of their governing body, the credit eligibility of the:

1. Building site; and

2. Estimated rehabilitation expenses;

(b) Hold a public hearing; and

(c) Approve or deny the building site for the credit by ordinance or official act of the governing body.

(6) If a taxpayer owned the building site when the site was operational and immediately prior to its abandonment, the taxpayer shall not be eligible for the credit provided by subsection (3) of this section.

(7) Nothing contained in this section shall be construed to preclude a local taxing authority from offering or creating alternative local occupational license fee incentive programs.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO

READ AS FOLLOWS:

(1) As used in this section:

(a) "Abandoned building" has the same meaning as in Section 1 of this Act;

(b) "Building site" has the same meaning as in Section 1 of this Act;

(c) "Income-producing purpose" has the same meaning as in Section 1 of this Act;

(d) "Notice of intent to rehabilitate" means a notice submitted by the taxpayer to the department indicating the taxpayer's intent to rehabilitate an abandoned building within the Commonwealth. The notice shall include the following information:

1. The location, including the physical address, of the building site;

2. The size of the building site in terms of square footage or acreage, as appropriate;

3. a. The amount of square footage within any existing buildings located on the building site;

b. Whether new construction is to be involved; and

c. If rehabilitation is to occur on more than one (1) building, which buildings are to be rehabilitated;

4. The estimated rehabilitation expenses to be incurred at the building site; and

5. Any other information required by the department;

(e) "Placed in service" has the same meaning as in Section 1 of this Act;

(f) "Qualifying rehabilitation expense" has the same meaning as in Section 1 of this Act; and

(g) "Rehabilitation expense" has the same meaning as in Section 1 of this Act.

(2) (a) A taxpayer may elect to take the local rehabilitation credit provided by Section 1 of this Act or the state abandoned building credit provided in

subsection (3) of this section.

(b) If the taxpayer elects to take the credit provided by subsection (3) of this section, the taxpayer shall file, on forms prescribed by the department, a notice of intent to rehabilitate.

(c) Once made, the election is irrevocable.

(3) (a) For taxable years beginning on and after January 1, 2016, but before January 1, 2020, there is hereby created a nonrefundable state abandoned building credit against the tax imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits as provided in Section 3 of this Act.

(b) The state abandoned building credit shall be allowed in an amount equal to the qualifying rehabilitation expense multiplied by the percentage established in subsection (4) of this section and as limited by paragraph (c) of this subsection.

(c) The state abandoned building credit created in paragraph (a) of this subsection:

1. Shall be earned in the taxable year in which the building site, or portion thereof, is placed in service;

2. Shall be taken in equal installments over five (5) taxable years, beginning with the taxable year in which the building site, or portion thereof, is placed in service;

3. May be carried forward, if not fully utilized within the applicable taxable year, for a period not to exceed five (5) taxable years;

4. Shall not exceed a total of five hundred thousand dollars (\$500,000) for any building site;

5. Shall not exceed fifty percent (50%) of the greater of:

a. The taxpayer's income tax liability for the taxable year; or

- b. The taxpayer's limited liability entity tax liability for the taxable year; and
6. Shall not be allowed if the taxpayer qualifies for the certified rehabilitation credit permitted by KRS 171.397.
- (4) The percentage of qualifying rehabilitation expense allowed for the credit shall be:
- (a) Twenty-five percent (25%) if the qualifying rehabilitation expense equals or exceeds eighty percent (80%) of the estimated rehabilitation expenses set forth in the notice of intent to rehabilitate; and
- (b) Zero percent (0%) if the qualifying rehabilitation expense is less than eighty percent (80%) of the estimated rehabilitation expenses set forth in the notice of intent to rehabilitate.
- (5) (a) If the taxpayer sells or leases the building site, or portion thereof, the taxpayer may transfer any remaining credit associated with the qualifying rehabilitation expenses incurred for the building site, or portion thereof.
- (b) Prior to the transfer of any credit, the taxpayer shall notify the department of the pending transfer and shall provide on forms prescribed by the department:
1. The name, address, and employer identification number of the taxpayer to which the credit shall be transferred;
 2. The amount of credit, or portion thereof, to be transferred; and
 3. Any additional information required by the department.
- (6) (a) If the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's member's, or shareholder's distributive share of the income of the pass-through entity.

Each pass-through entity shall annually notify the department of all partners, members, or shareholders who may claim any amount of the approved credit. Failure to notify the department as prescribed may constitute the forfeiture of available credits to all partners, members, or shareholders associated with the pass-through entity.

(b) If a taxpayer owned the building site when the site was operational and immediately prior to its abandonment, the taxpayer shall not be eligible for the credit provided by subsection (3) of this section.

→Section 3. 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) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, 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, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (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 coal incentive credit permitted under KRS 141.0405;
 - (k) The research facilities credit permitted under KRS 141.395;
 - (l) The employer GED incentive credit permitted under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (o) The environmental stewardship credit permitted by KRS 154.48-025;
 - (p) The clean coal incentive credit permitted by KRS 141.428;
 - (q) The ethanol credit permitted by KRS 141.4242;
 - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s) The energy efficiency credits permitted by KRS 141.436;
 - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The food donation credit permitted by KRS 141.392;
 - (x) The distilled spirits credit permitted by KRS 141.389; ~~and~~
 - (y) The angel investor credit permitted by KRS 141.396; ~~and~~
 - (z) The state abandoned building credit permitted by Section 2 of this Act.**
- (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 new home credit permitted by KRS 141.388.
- (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) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (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, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (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 coal incentive credit permitted under KRS 141.0405;
- (k) The research facilities credit permitted under KRS 141.395;
- (l) The employer GED incentive credit permitted under KRS 164.0062;
- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- (o) The environmental stewardship credit permitted by KRS 154.48-025;
- (p) The clean coal incentive credit permitted by KRS 141.428;
- (q) The ethanol credit permitted by KRS 141.4242;
- (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- (s) The energy efficiency credits permitted by KRS 141.436;
- (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
- (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- (v) The railroad expansion credit permitted by KRS 141.386;
- (w) The Endow Kentucky credit permitted by KRS 141.438;
- (x) The New Markets Development Program credit permitted by KRS 141.434;
- (y) The food donation credit permitted by KRS 141.392;~~and~~
- (z) The distilled spirits credit permitted by KRS 141.389; and~~;~~

(aa) The state abandoned building credit permitted by Section 2 of this Act.

- (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 allowed in KRS 141.383.