

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2016 REGULAR SESSION
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Amend printed copy of HB 52/SCS 1

On page 26, after line 12, by inserting the following:

"➔Section 13. KRS 171.396 is amended to read as follows:

As used in this section, ~~and~~ KRS 171.3961, ***Section 15 of this Act***, and 171.397:

(1) ***"Catalytic commercial project" means a certified rehabilitation:***

(a) Which is not an owner-occupied residential property;

(b) On which more than three million dollars (\$3,000,000) in qualified rehabilitation expenses have been made; and

(c) Which qualifies for the federal rehabilitation credit under 26 U.S.C. sec. 47;

(2) "Certified historic structure" means a structure that is located within the Commonwealth of Kentucky that is:

(a) Listed individually on the National Register of Historic Places; or

(b) Located in a historic district listed on the National Register of Historic Places and is certified by the council as contributing to the historic significance of the district;

~~(3)~~***(2)*** "Certified rehabilitation" means a completed substantial rehabilitation of a certified historic structure that the council certifies meets the United States Secretary of the Interior's Standards for Rehabilitation;

~~(4)~~***(3)*** "Certified rehabilitation credit cap" means an annual amount of:

Amendment No. SFA 4

Sponsor: Sen. Julie Raque Adams

Committee Amendment: _____

Signed: _____

Floor Amendment: _____

LRC Drafter: Nays, Jennifer

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXXX

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- (a) Three million dollars (\$3,000,000) for applications received prior to April 30, 2010;~~and~~
- (b) Five million dollars (\$5,000,000) for applications received on or after April 30, 2010,
but prior to April 30, 2015; and
- (c) For applications received on or after April 30, 2015:
1. One million dollars (\$1,000,000) for applications to rehabilitate owner-occupied residential property; and
 2. Nine million dollars (\$9,000,000) for applications to rehabilitate all other property, except catalytic commercial projects subject to the provisions of Section 15 of this Act;

plus any amount added to the certified rehabilitation credit cap pursuant to KRS 171.397(2)~~(f)~~~~(e)~~;

- ~~(5)~~~~(4)~~ "Council" means the Kentucky Heritage Council;
- ~~(6)~~~~(5)~~ "Disqualifying work" means work that is performed within three (3) years of the completion of the certified rehabilitation that, if performed as part of the rehabilitation certified under KRS 171.397, would have made the rehabilitation ineligible for certification;
- ~~(7)~~~~(6)~~ "Exempt entity" means any tax exempt organization pursuant to sec. 501(c)(3) of the Internal Revenue Code, any political subdivision of the Commonwealth, any state or local agency, board, or commission, or any quasi-governmental entity;
- ~~(8)~~~~(7)~~ "Local government" means a city, county, urban-county, charter county, or consolidated local government;
- ~~(9)~~~~(8)~~ "Owner-occupied residential property" means a building or portion thereof, condominium, or cooperative occupied by the owner as his or her principal residence;
- ~~(10)~~~~(9)~~ "Pass-through entity" has the same meaning as in KRS 141.010(26);

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(11) "Qualified purchased historic home" means any substantially rehabilitated certified historic structure if:

(a) The taxpayer claiming the credit authorized under KRS 171.397 is the first purchaser of the structure after the date of completion of the substantial rehabilitation;

(b) The structure or a portion thereof will be the principal residence of the taxpayer; and

(c) No credit was allowed to the seller under this section.

A qualified purchased historic home shall be deemed owner-occupied residential property for purposes of this section.

(12) "Qualified rehabilitation expense" means any amount that is properly chargeable to a capital account, whether or not depreciation is allowed under Section 168 of the Internal Revenue Code, and is expended in connection with the certified rehabilitation of a certified historic structure. It shall include the cost of restoring landscaping and fencing that contributes to the historic significance of this structure, but shall not include the cost of acquisition of a certified historic structure, enlargement of or additions to an existing building, or the purchase of personal property;

(13)~~(10)~~ "Substantial rehabilitation" means rehabilitation of a certified historic structure for which the qualified rehabilitation expenses, during a twenty-four (24) month period selected by the taxpayer or exempt entity, ending with or within the taxable year, exceed:

(a) Twenty thousand dollars (\$20,000) for an owner-occupied residential property; or

(b) For all other property, the greater of:

1. The adjusted basis of the structure; or

2. Twenty thousand dollars (\$20,000); **and**

(14)~~(11)~~ "Taxpayer" means any individual, corporation, limited liability company, business

development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted that:

- (a) Elects to claim the credit on a return~~[and receive a refund]~~ as provided in **subsection (2)(e)2.a. of Section 14 of this Act**~~[KRS 171.397(2)(b)2.a.];~~~~[or]~~
- (b) Is the recipient of a credit which is transferred as provided in **subsection (8) of Section 14 of this Act**~~[KRS 171.397(2)(b)2.b.];~~ **or**
- (c) **Is the recipient of a credit allocated as provided in subsection (7)(b)2. of Section 14 of this Act**~~[and~~

~~(12) "Qualified purchased historic home" means any substantially rehabilitated certified historic structure if:~~

- ~~(a) The taxpayer claiming the credit authorized under KRS 171.397 is the first purchaser of the structure after the date of completion of the substantial rehabilitation;~~
- ~~(b) The structure or a portion thereof will be the principal residence of the taxpayer; and~~
- ~~(c) No credit was allowed to the seller under this section.~~

~~— A qualified purchased historic home shall be deemed owner-occupied residential property for purposes of this section].~~

➔Section 14. KRS 171.397 is amended to read as follows:

- (1) (a) For all applications for a preliminary approval received prior to April 30, 2010, there shall be allowed as a credit against the taxes imposed by KRS 141.020, 141.040, 141.0401, or 136.505, an amount equal to:
 - 1. Thirty percent (30%) of the qualified rehabilitation expenses, in the case of owner-occupied residential property; and
 - 2. Twenty percent (20%) of the qualified rehabilitation expenses, in the case of all other property.

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In the case of an exempt entity that has incurred qualified rehabilitation expenses, the credit provided in this subsection shall be available to transfer or assign as provided under subsection (8) or (9) of this section.

- (b) 1. For all applications for a preliminary approval received on or after April 30, 2010, but before April 30, 2021, except for catalytic commercial projects as provided by Section 15 of this Act, there shall be allowed as a~~the~~ credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in Section 17 of this Act, the tax imposed by KRS 136.505, with the ordering of credits as provided in Section 18 of this Act, or the taxes imposed by KRS 136.330 to 136.390 or 304.3-270, with the ordering of credits as provided in Section 19 of this Act, an amount equal to:
- a. Thirty-percent (30%) of the qualified rehabilitation expenses, in the case of owner-occupied residential property; and
- b. Twenty percent (20%) of the qualified rehabilitation expenses, in the case of all other property.
2. a. The credit allowed in subparagraph 1. of this paragraph may~~shall~~ be~~refundable~~ used by the taxpayer who earned the credit, or may be transferred or allocated to another taxpayer according to the~~if the taxpayer makes an~~ election made under subsection (2)~~(e)~~~~(b)~~ of this section. If the credit exceeds the taxpayer's tax liability for the taxable year, the taxpayer may receive a refund for the amount of credit that exceeds the taxpayer's tax liability.
- (2) (a) A taxpayer seeking a~~the~~ credit provided under subsection (1) of this section shall file an application for a preliminary determination of maximum credit eligibility before April 30 of the year in which the proposed project will begin.

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- (b)** The application shall describe the project and shall include documentation supporting:
- 1.** The qualification of the project for the credit;~~[-]~~
 - 2.** The proposed start date;~~[-]~~
 - 3.** The proposed completion date;~~[-]~~
 - 4.** The projected qualified rehabilitation expenses;~~[-]~~ and
 - 5.** Any other information the council may require.
- (c)** The council shall determine the preliminary maximum credit available for each taxpayer and shall notify the taxpayer of that amount by June 30 of the year in which the application was filed.
- (d)** If total credits applied for in any year exceed the certified rehabilitation credit cap, plus any amounts added to the cap pursuant to paragraph ~~(f)~~~~(e)~~ of this subsection, the provisions of subsection (5) of this section shall be applied to reduce the approved credits for all taxpayers with qualifying applications for that year.
- ~~(e)~~~~(b)~~
1. An application for a final determination of credit shall be submitted to the council upon completion of the project.
 2. The application shall include an irrevocable election by the taxpayer to:
 - a. Use the credit~~[, in which case, the credit shall be refundable];[- or]~~
 - b. Transfer the credit **as provided by subsection (8) of this section; or**
 - c. Allocate the credit as provided by subsection (7)(b)2. of this section.**
 3. The council shall determine the final amount of credit approved for each taxpayer based upon the actual expenditures, preliminary determination of maximum credit, and a determination that the expenditures are qualified rehabilitation expenses.
 4. The council shall notify the taxpayer and Department of Revenue of the final

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approved credit amount within sixty (60) days of the receipt of a completed application from the taxpayer.

~~(f)(e)~~ 1. If the total amount of credits finally approved for a taxpayer under paragraph ~~(e)(b)~~ of this subsection are less than the credits initially approved for a taxpayer under paragraph ~~(c)(a)~~ of this subsection, the difference between the two (2) amounts shall be added to the certified rehabilitation credit cap ***applicable to the type of property being rehabilitated*** for the next calendar year.

2. If:

a. The total amount of credits approved under paragraph ~~(c)(a)~~ of this subsection in any calendar year ***for either of the certified rehabilitation credit caps*** is less than the ***amount of that cap; and***

b. ***The total amount of credits approved under the other*** certified rehabilitation credit cap ***exceed the available cap for that program;***~~;~~

the ***excess cap from the first program shall be transferred to the second program in an amount equal to the lesser of the entire available excess cap, or the amount that will allow the full funding of all approved credits under the second program. Any amount of excess cap in either program, including any amounts remaining after the transfer directed by this subparagraph,***~~[difference between the credits actually awarded and the certified rehabilitation credit cap]~~ shall be added to the certified rehabilitation credit cap ***applicable to the type of property being rehabilitated*** for the next calendar year.

(3) (a) The maximum credit which may be claimed with regard to owner-occupied residential property shall be sixty thousand dollars (\$60,000) subject to subsection (5) of this section. The credit in this section shall be claimed for the taxable year in which

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the certified rehabilitation is completed.

- (b) **1.** The maximum credit which may be claimed with regard to all other property that is not owner-occupied residential shall be ***nine***~~four~~ hundred thousand dollars ***(\$900,000)***~~(\$400,000)~~ subject to subsection (5) of this section.
- 2.** The credit in this section shall be:
- a.** *Deemed to be earned in the year in which the project is completed; and*
- b.** *Claimed over a two (2) year period, with the amount of credit claimed in each period being no greater than fifty percent (50%) of the total approved credit*~~for the taxable year in which the certified rehabilitation is completed~~.
- (4) In the case of ***spouses***~~a husband and wife~~ filing separate returns or filing separately on a joint return, the credit may be taken by either ***spouse*** or divided equally, but the combined credit shall not exceed sixty thousand dollars (\$60,000) if subject to the limitation in subsection (3)(a) of this section, or ***nine***~~four~~ hundred thousand dollars ***(\$900,000)***~~(\$400,000)~~ if subject to the limitation in subsection (3)(b) of this section, subject to the provisions of subsection (5) of this section.
- (5) ***(a)*** The credit amount approved for a calendar year for all taxpayers under subsection (2)~~(a)~~ of this section shall be limited to the ***applicable*** certified rehabilitation credit cap; ***and***~~;~~
- (b)*** ~~If~~~~When~~ the total credits applied for and approved in any year under subsection (2)~~(a)~~ of this section exceed the ***applicable*** certified rehabilitation credit cap, the council shall apportion the certified rehabilitation credit cap as follows: The certified rehabilitation credit cap for the year under consideration shall be multiplied by a fraction, the numerator which is the approved credit amount for an individual taxpayer for a calendar year and the denominator which is the total approved credits

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for all taxpayers for a calendar year.

- (6) (a) For all applications received prior to April 30, 2010, if the credit amount that may be claimed in any tax year as determined under subsections (3) to (5) of this section exceeds the taxpayer's total tax liabilities under KRS 136.505, 141.020, or 141.040 and 141.0401, the taxpayer may carry the excess tax credit forward until the tax credit is used, provided that any tax credits not used within seven (7) years of the taxable year the certified rehabilitation was complete shall be lost.
- (b) For all applications received on or after April 30, 2010, if the credit amount that may be claimed in any tax year as determined under subsections (3) to (5) of this section exceeds the taxpayer's total tax liabilities under KRS 136.330 to 136.390 or 304.3-270, 136.505, 141.020, or 141.040 and 141.0401, the taxpayer may receive a refund~~], if the taxpayer elected to take the credit as required by subsection (2)(b) of this section]~~.
- (7) (a) ~~[The credit shall apply against both the tax imposed by KRS 141.020 or 141.040 and the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.~~
- ~~(b) 1.~~]For applications received prior to April 30, 2010, if the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040, the taxpayer shall apply the credit at the entity level against the limited liability tax entity imposed by KRS 141.0401, and shall also pass the credit through in the same proportion as the distributive share of income or loss is passed through.
- ~~(b) 2.~~ **If the taxpayer is a pass-through entity:**
- 1.** For applications received on or after April 30, 2010, **but before April 30, 2015]** ~~if the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040]~~, the taxpayer shall apply the credit at the entity level against the

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limited liability tax entity imposed by KRS 141.0401, and may receive a refund if the taxpayer elected to take the credit as required by subsection (2)(~~e~~)(~~b~~)2.a. of this section; and

2. a. For applications received on or after April 30, 2015, the credit allowed by this section may be allocated on an annual basis, if the taxpayer completing a certified rehabilitation makes an irrevocable election to allocate the credit to its partners, members, or shareholders as set forth in a written, partnership or written operating agreement and the credit may be allocated in any proportion as provided in that agreement.
- b. Once a credit is allocated, only the partner, member, or shareholder to which the credit is allocated may utilize the credit and the credit cannot be transferred or allocated again, except in the case of a pass-through entity which is a partner, member, or shareholder in another pass-through entity.
- c. If the pass-through entity is a partner, member, or shareholder in another pass-through entity, the tax credit shall pass through to the ultimate taxpayer that is not a pass-through entity.
- d. In order to receive an allocation of the tax credit, the partner, member, or shareholder shall be a partner, member, or shareholder at some time during the taxable year in which the allocation takes place, regardless of whether the credit was earned in a prior year.
- e. Within thirty (30) days of the date of any allocation of tax credit, the party allocating the credit shall notify the Department of Revenue of:
 - i. The name, address, employer identification number of the party to which the credit is allocated;

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ii. The amount of credit allocated; andiii. Any additional information the Department of Revenue deems necessary.

- (8) (a) Credits received under this section may be transferred ~~or assigned~~ if an election is made under subsection (2)~~(e)~~~~(b)~~ of this section, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities to any entity subject to the tax imposed by KRS 136.505.
- (b) Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Department of Revenue of:
- 1.~~(a)~~ The name, address, employer identification number, and bank routing and transfer number, of the party to which the credits are transferred;
 - 2.~~(b)~~ The amount of credits transferred; and
 - 3.~~(c)~~ Any additional information the Department of Revenue deems necessary.~~]~~
- ~~— The provisions of this subsection shall apply to any credits that pass through to a successor or beneficiary of a taxpayer.]~~
- (9) For purposes of this section, a lessee of a certified historic structure may~~shall~~ be treated as the owner of the structure if the remaining term of the lease is not less than the minimum period promulgated by administrative regulation by the council.
- (10) The taxes imposed in KRS 141.020, 141.040, and 141.0401 shall not apply to any consideration received for the transfer, sale, assignment, or use of a tax credit approved under this section.
- (11) The Department of Revenue shall assess a penalty on any taxpayer or exempt entity that performs disqualifying work, as determined by the ~~Kentucky Heritage~~ council, on a certified historic structure for which a rehabilitation has been certified under this section in an amount equal to one hundred percent (100%) of the tax credit allowed on the

rehabilitation. Any penalties shall be assessed against the property owner who performs the disqualifying work and not against any entity to which the credit has been transferred or allocated~~[transferee of the credits]~~.

- (12) The council may impose fees for processing applications for tax credits, not to exceed the actual cost associated with processing the applications.
- (13) The council may authorize a local government to perform an initial review of applications for the credit allowed under this section and forward the applications to the council with its recommendations.
- (14) The council and the Department of Revenue may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to establish policies and procedures to implement the provisions of ~~subsections (1) to (13) of~~ this section.
- (15) The tax credit authorized by this section shall apply to tax periods ending on or after December 31, 2005.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *There shall be allowed a credit against the taxes imposed by KRS 141.020 or 141.040, and 141.0401, with the ordering of credits as provided in Section 17 of this Act, the tax imposed by KRS 136.505, with the ordering of credits as provided in Section 18 of this Act, or the taxes imposed by KRS 136.330 to 136.390 or 304.3-270, with the ordering of credits as provided in Section 19 of this Act, an amount equal to twenty percent (20%) of the qualified rehabilitation expenses incurred in connection with a catalytic commercial project on which construction has begun prior to January 1, 2023.*
- (b) *The total amount of approved credit for a catalytic commercial project shall be claimed over a four (4) year period, with the amount of credit claimed in any*

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taxable year being no greater than twenty-five percent (25%) of the total approved credit.

(2) Except for differences between this section and Section 14 of this Act, the administration of the credit permitted by this section shall be the same as the credit permitted by Section 14 of this Act. The council may promulgate administrative regulations to clarify these differences.

(3) The credit for a catalytic commercial project shall be:

(a) Approved by the council upon completion of the certified rehabilitation; and

(b) Allowed only if the project remains operational during the first five (5) years after the certified rehabilitation is completed.

(4) (a) In addition to the penalty provided in subsection (11) of section 14 of this Act, the Department of Revenue shall assess a penalty on any owner that does not maintain a business operation at the certified historic structure for which a rehabilitation has been certified under this section in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation.

(b) Notwithstanding paragraph (a) of this subsection, the penalty shall be reduced by twenty percent (20%) for each year that the project maintains operations during the first five (5) years after the certified rehabilitation is completed.

(5) A catalytic commercial project approved for a credit permitted by this section:

(a) Shall not be subject to any of the certified rehabilitation credit caps established by Section 13 of this Act; and

(b) Shall not be considered in determining whether any of those credit caps have been met in any year.

➔ SECTION 16. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

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- (1) The purposes of the tax credits allowed by Sections 14 and 15 of this Act are to:**
- (a) Encourage the public to protect and preserve structures of historical significance in the Commonwealth;**
 - (b) Stabilize and increase property values by bringing individuals back into aging neighborhoods to reside and conduct business;**
 - (c) Strengthen local economies by increasing business growth and tourism; and**
 - (d) Create equity in certified historic structures, better enabling financial institutions to lend moneys for rehabilitation projects.**
- (2) Notwithstanding KRS 131.190, the council and the Department of Revenue shall work together to submit a written report to the Legislative Research Commission no later than December 1, 2017, and each year thereafter as long as the credit is allowed, providing information as follows:**
- (a) The Department of Revenue shall report, based on tax returns processed during the prior fiscal year:**
 - 1. The number of taxpayers and the total value of the credits claimed by taxpayers that rehabilitated an owner-occupied residential property, separated by county based on the location of the certified historic structure;**
 - 2. The number of taxpayers and the total value of the credits claimed by taxpayers that have completed a catalytic commercial project, separated by county based on the location of the certified historic structure; and**
 - 3. The number of taxpayers and the total value of the credits claimed by taxpayers that rehabilitated all other properties, separated by county based on the location of the certified historic structure; and**
 - (b) The council shall report, by a unique identification number, for each completed project and identify whether the project is a rehabilitation of owner-occupied**

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residential property, a catalytic commercial project, or all other property:

- 1. The fair cash value, according to property valuation administrator assessment records, of each certified historic structure for which a credit is claimed as of the date when the application for a preliminary determination is submitted to the council as provided by subsection (2)(a) of this section;**
- 2. The fair cash value, according to property valuation administrator assessment records, of each certified historic structure for which a credit is claimed as of the January 1 assessment date immediately following the completion of the project;**
- 3. Whether a new business has located in the certified historic structure and, if so:**
 - a. The principal activity being conducted by the new business; and**
 - b. The number of employees hired by the new business; and**
- 4. Whether money was borrowed from a financial institution in the Commonwealth to complete the project.**

➔Section 17. 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;

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- (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 ~~by~~under KRS 141.0405;
- (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- (l) The employer GED incentive credit permitted ~~by~~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;

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- (x) The distilled spirits credit permitted by KRS 141.389; and
 - (y) The angel investor credit permitted by KRS 141.396.
- (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, **Section 15 of this Act,** and 171.397(1)(b); and
 - (e) The film industry tax credit **permitted**~~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:

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- (a) The economic development credits computed ~~permitted by~~ 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 ~~by~~ KRS 141.0405;
- (k) The research facilities credit permitted ~~by~~ KRS 141.395;
- (l) The employer GED incentive credit permitted ~~by~~ 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.
- (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, **Section 15 of this Act**, and 171.397(1)(b); and
- (c) The film industry tax credit **permitted by**~~allowed in~~ KRS 141.383.

➔SECTION 18. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED TO READ AS FOLLOWS:

If a taxpayer is entitled to more than one (1) of the tax credits permitted against the tax imposed by KRS 136.505, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable credits against the tax imposed by KRS 136.505 shall be taken in the following order:**
- (a) The Kentucky investment fund act credit permitted by KRS 154.20-258; and**
- (b) The certified rehabilitation credit permitted by KRS 171.397(1)(a).**
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable certified rehabilitation credits permitted by KRS 171.3961, Section 15 of this Act, and 171.397(1)(b) shall be taken.**

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ

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AS FOLLOWS:

(1) If a taxpayer is entitled to more than one (1) of the tax credits permitted against the taxes imposed by KRS 136.330 to 136.390 or 304.3-270, the priority of application and use of the credits shall be determined as follows:

(a) The nonrefundable credits shall be taken in the following order:

- 1. The Kentucky investment fund act credit permitted by KRS 154.20-258; and**
- 2. The new markets development program credit permitted by KRS 141.434.**

(b) After the application of the nonrefundable credits in subsection (1) of this section, the refundable certified rehabilitation credit permitted by KRS 171.3961, Section 15 of this Act, and 171.397(1)(b) shall be taken.

(2) A taxpayer claiming a credit against any of the premiums taxes imposed by KRS 136.330 to 136.390 shall not be required to pay additional retaliatory tax imposed by KRS 304.3-270.

➔Section 20. Sections 13 to 19 of this Act shall apply to taxable years beginning on or after January 1, 2017.

➔Section 21. Whereas applications for 2016 rehabilitation projects will be affected by the provisions of Sections 13 to 19 of this Act and will be due before April 30, 2016, an emergency is declared to exist, and Sections 13 to 19 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law."; and

Renumber subsequent section.