

AN ACT relating to heritage barns.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Heritage barn" means a building or other enclosure, originally built in the Commonwealth prior to 1965, that is used, or has been used, for agricultural pursuits, including:

1. A tobacco barn;
2. A livestock barn;
3. A dairy barn; or
4. Any barn or enclosure constructed with heavy timber, brick, or stone;

(b) "Qualified rehabilitation expenses" means costs, including labor, associated with the:

1. Repair or replacement of the damaged or deteriorated structure of a heritage barn, which would maintain the use of the heritage barn in an agricultural pursuit; or
2. Repair of, replacement of, or addition to the structure of a heritage barn, which would allow the use of the heritage barn to be adapted to a community or educational resource or to another commercial pursuit;

(c) "Repair or replacement" means preventive actions taken to maintain the current structure of a heritage barn or the incorporation of new materials into the heritage barn to return it to its former structure and maintain the historic appearance of the heritage barn by:

1. Matching the historic materials in design, color, texture, or other visual qualities; and

2. Designing cupolas, dormers, or any missing features based on historic, physical, or pictorial evidence;
- (d) "Structure" means the foundation, siding, roofing, interior framing, bents, parlors, stalls, and other features unique to a heritage barn; and
- (e) "Taxpayer" has the same meaning as in KRS 131.010(4).
- (2) (a) For taxable years beginning on or after January 1, 2016, but before January 1, 2022, the nonrefundable heritage barn tax credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credit as provided by Section 3 of this Act.
- (b) The tax credit allowed for a heritage barn shall be an amount equal to the lesser of:
1. Twenty percent (20%) of the qualified rehabilitation expenses for that heritage barn; or
 2. One hundred thousand dollars (\$100,000);
- unless the amount provided in paragraph (c) of this subsection has been reached.
- (c) 1. Beginning in fiscal year 2016–2017 and ending in fiscal year 2021–2022, the maximum amount of all tax credits awarded during a fiscal year shall be no more than one million dollars (\$1,000,000).
2. If the maximum amount is not utilized in any fiscal year, the excess cannot be carried over to the next fiscal year.
- (3) (a) Prior to incurring any costs associated with rehabilitating a heritage barn, a taxpayer seeking the credit permitted by subsection (2) of this section shall file an application with the department, including:
1. The name and address of the owner of the barn;
 2. The location of the barn;

3. A written statement or pictorial evidence related to the structure of the barn;
 4. Any documentation to identify the age of the barn;
 5. A statement regarding whether the heritage barn will be used in an agricultural pursuit or an adapted use;
 6. A description of the proposed rehabilitation to be completed, including estimated costs and a materials list for the rehabilitation; and
 7. Any other information the department may require to determine if the barn is a heritage barn and if the expenses are qualified rehabilitation expenses.
- (b)
1. Upon receipt of the application, the department shall determine if the barn qualifies as a heritage barn and if the expenses are qualified rehabilitation expenses.
 2. The department shall respond to the taxpayer within thirty (30) days regarding the approval or denial of the application or to request additional information to make the determination.
 3. Upon approval, the department shall deduct from the remaining balance for the fiscal year the estimated tax credit to be awarded to the taxpayer for qualified rehabilitation expenses to ensure that no more than one million dollars (\$1,000,000) are awarded during any fiscal year.
- (c)
1. Upon receipt of the approved application, the taxpayer may proceed with the rehabilitation of the heritage barn.
 2. The taxpayer shall maintain a record of the qualified rehabilitation expenses incurred in and pictorial evidence regarding progress toward the rehabilitation of the heritage barn.
 3. Upon completion of the rehabilitation of the heritage barn, the

taxpayer shall submit to the department a request for tax credit verification, including the information required in subparagraph 2. of this paragraph and verification that the heritage barn will be used in an agricultural pursuit or an adapted use.

(d) 1. Upon receipt of the request for tax credit verification, the department shall review the records provided by the taxpayer and shall adjust, approve, or deny the request.

2. Following the review, the department shall notify the taxpayer and the Department of Revenue regarding any amount of tax credit that is awarded to the taxpayer.

(e) The taxpayer may claim the awarded tax credit in the taxable year within which the notification from the department is received.

(4) If the taxpayer does not maintain the use of the heritage barn in an agricultural pursuit or the adapted use, as described in the application and request for tax credit verification, for at least five (5) years after completion of the rehabilitation, the tax credit shall be recaptured as provided in Section 2 of this Act.

(5) The department shall:

(a) Create the application and request for tax credit verification required to be filed by the taxpayer;

(b) Accept applications for the heritage barn tax credit on a first-come, first-served basis;

(c) Promulgate administrative regulations to administer the heritage barn tax credit;

(d) Work with the Department of Revenue to transmit the amount of the approved heritage barn tax credit in a timely manner to achieve the processing of any tax return claiming the credit;

(e) Establish a monitoring process to identify the recapture of credit under

subsection (4) of this section and a notification process to alert the Department of Revenue of the amount to recapture; and

(f) Create a Web site containing:

1. The amount of the total credit allocated to date;
2. The remaining credit available to taxpayers for the fiscal year; and
3. The date the last processed application for the fiscal year was received.

(6) (a) The department may impose fees:

1. Equal to the greater of one percent (1%) of the amount of estimated costs associated with the rehabilitation of a heritage barn submitted in the application under subsection (3)(a) of this section or three hundred dollars (\$300); and
2. Equal to the greater of one percent (1%) of the amount of tax credit awarded under subsection (3)(d) of this section or one hundred fifty dollars (\$150).

(b) The fees imposed by paragraph (a) of this section shall be submitted with the application or request for tax credit verification and shall be nonrefundable.

(7) (a) The purposes of the heritage barn tax credit are to:

1. Assist in preserving the Commonwealth's rural heritage by specifically preserving tobacco barns, livestock barns, dairy barns, or barns or enclosures constructed with heavy timber, brick, or stone unique to the Commonwealth;
2. Encourage the rehabilitation and sustainability of heritage barns in the Commonwealth, facilitating the ongoing agricultural use of those barns on Kentucky farms;
3. Lessen the burden on farmers for repairs and improvements to heritage barns; and

4. Encourage the adaptive use of heritage barns while the Commonwealth's agricultural economy is transitioning.

(b) Beginning on or before August 1, 2017, and annually thereafter as long as the heritage barn tax credit is available, the department shall report in an electronic format to the Legislative Research Commission and the Department of Revenue the following information for each fiscal year:

1. A listing for each taxpayer seeking the heritage barn tax credit;
2. The county within which the heritage barn is located;
3. The amount of estimated tax credit approved from applications submitted to the department under subsection (3)(a) of this section;
4. The date that the amount in subsection (3)(d)1. of this section was approved;
5. The amount of tax credit awarded to the taxpayer by the department under subsection (3)(d)2. of this section; and
6. The date that the amount in paragraph (e) of this subsection was awarded.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Heritage barn tax credit" means the credit permitted by Section 1 of this Act; and

(b) "Taxpayer" has the same meaning as in KRS 131.010(4).

(2) The department shall work with the Department of Agriculture to:

(a) Implement the heritage barn tax credit; and

(b) Ensure that the processing of tax returns claiming the heritage barn tax credit is carried out in a timely manner.

(3) If a taxpayer does not maintain the use of the heritage barn as required by

subsection (4) of Section 1 of this Act, the department shall assess a penalty on the taxpayer in an amount equal to one hundred percent (100%) of the heritage barn tax credit awarded by the Department of Agriculture and claimed on any tax return.

(4) If the taxpayer that is awarded the heritage barn tax credit is a pass-through entity, the taxpayer shall apply the credit at the entity level against the limited liability entity tax imposed by KRS 141.0401 and shall also pass the credit through to the partners, members, or shareholders of the pass-through entity in the same proportion as the distributive share of income or loss is passed through.

(5) Notwithstanding KRS 131.190, the department shall add to the report required by subsection (7)(b) of Section 1 of this Act by appending the following information to the report and submitting the additional data to the Legislative Research Commission on or before November 1, 2017, and annually thereafter as long as the heritage barn tax credit is claimed:

(a) The amount of heritage barn tax credit claimed on tax returns submitted to the department; and

(b) The taxable year in which the tax credit was claimed.

➔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 ~~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 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 heritage barn tax credit permitted by Section 1 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 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:
- (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 ~~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 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 heritage barn credit permitted by Section 1 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 **permitted by**~~[allowed in]~~ KRS 141.383.