

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2018 REGULAR SESSION
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Amend printed copy of **HB 6/SCS 1**

Beginning on page 1, line 4 and continuing through the end of page 40, line 12, by deleting all language and inserting in lieu thereof the following:

"➔SECTION 1. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

(1) The purposes of the Kentucky tax credit include:

(a) To expand the development of housing for veterans, the elderly, and the Commonwealth's most vulnerable populations;

(b) To encourage a greater amount of private investment in affordable housing in the Commonwealth.

(2) As used in this section:

(a) "Allocation year" means the year for which the corporation awards tax credits under this section;

(b) "Department" means the Department of Revenue;

(c) "Eligibility statement" means the statement issued by the corporation certifying that a qualified low-income building is a qualified project;

(d) "Federal low-income housing tax credit" means the federal tax credit provided by 26 U.S.C. sec 42;

(e) "Kentucky tax credit" means the nonrefundable Kentucky affordable housing

Amendment No. SFA 8

Rep. Sen. Gerald A. Neal

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: Shanker, Amit

Adopted: _____

Date: _____

Rejected: _____

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credit permitted by subsection (3) of this section;

(f) "Qualified low-income building" has the same meaning as in 26 U.S.C. sec. 42(c);

(g) "Qualified project" means a qualified low-income building located within the Commonwealth which qualifies for the federal low-income housing tax credit and the Kentucky tax credit;

(h) "Qualified taxpayer" means a taxpayer owning an interest, direct or indirect, in a qualified project prior to filing a tax return claiming a Kentucky tax credit;

(i) "Taxable year" has the same meaning as in KRS 141.010; and

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

(3) (a) For allocation years beginning on or after January 1, 2019, and before January 1, 2023, a qualified taxpayer shall be awarded a Kentucky affordable housing credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credit as provided in Section 3 of this Act, or KRS 136.330 to 136.395, or 304.3-270, with the ordering of the credit as provided in Section 4 of this Act.

(b) The maximum value of all Kentucky tax credits awarded during any allocation year shall be equal to the lesser of:

1. Fifty percent (50%) of the total annual federal low-income housing tax credits awarded by the corporation; or

2. Three million five hundred thousand dollars (\$3,500,000).

(c) The Kentucky tax credit awarded to a qualified Kentucky project shall:

1. Be issued over the first six (6) years of the credit period, instead of the ten (10) year credit period required for the federal low-income housing tax credit;

2. Be claimed beginning with the taxable year in which the last building of a qualified project is placed in service; and

3. Only apply if:

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- a. The qualified low-income building is a qualified project as of the close of the first year of the six (6) year period; and
- b. The qualified project is placed in service on or after January 1, 2019.
- (d) If the tax liability of the qualified taxpayer in any taxable year is not an amount sufficient to fully utilize the entire Kentucky tax credit for that taxable year, the excess credit may be carried forward by the qualified taxpayer for three (3) taxable years.
- (4) Notwithstanding subsection (3) of this section:
- (a) The corporation shall not award to any qualified project a combined amount of federal low-income housing tax credit and Kentucky tax credit that exceeds the amount necessary to make the project financially feasible as required by 26 U.S.C. sec. 42(m)(2);
- (b) The amount of Kentucky tax credit allowed for:
1. Housing of older persons, as defined in 42 U.S.C. sec. 3607;
 2. Supportive housing which:
 - a. Is defined by the corporation in its qualified allocation plan prepared as required by 26 U.S.C. sec. 42(m)(1); and
 - b. Allows home health care services to be provided to tenants; or
 3. Supportive housing projects that use a recovery program model that includes peer support, daily living skills classes, and job responsibilities to establish new behaviors for individuals recovering from substance abuse; shall be no more than one hundred percent (100%) of the federal low-income housing tax credit allowed to the project; and
- (c) If at least fifty percent (50%) of the aggregate basis of any building and the land on which the building is located is financed by federally tax-exempt bonds, the

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Kentucky tax credit shall be equal to the amount of federal low-income housing credit allowed for the qualified Kentucky project.

(5) (a) A taxpayer seeking the Kentucky tax credit shall file an application with the corporation on a form prescribed by the corporation.

(b) 1. If the qualified taxpayer is a pass-through entity, as defined in KRS 141.010, the Kentucky tax credit may be allocated to the partners, members, or shareholders in any manner agreed to in writing by the partners, members, or shareholders.

2. If the partner, member, or shareholder to which the Kentucky tax credit is allocated is also a pass-through entity, the Kentucky tax credit shall continue to pass through each level of the multiple-tiered pass-through entity to the ultimate taxpayer which shall claim the Kentucky tax credit.

3. Each pass-through entity shall notify the department, no later than thirty (30) days prior to the filing of a return claiming the Kentucky tax credit, when the allocation of the Kentucky tax credit to a partner, member, or shareholder has occurred. The pass-through entity shall provide the following information to the department:

a. The name, address, and taxpayer identification number of the partner, member, or shareholder;

b. The amount of the Kentucky tax credit allocated to each partner, member, or shareholder;

c. The eligibility statement issued by the corporation indicating the total amount of the Kentucky tax credit that may be allocated to a partner, member, or shareholder; and

d. Any other information the department deems necessary to administer

Unofficial Document

the allocation of this tax credit.

4. A qualified taxpayer may assign all or part of their ownership interest, including their interest in the Kentucky tax credit, to another qualified taxpayer, provided that for any taxable year in which an interest is assigned, the assignor shall file a written statement with the department to that effect, no later than thirty (30) days prior to filing the tax return which would have claimed the Kentucky tax credit.

(c) 1. The qualified taxpayer shall submit to the department, at the time of filing the tax return claiming the Kentucky tax credit, the eligibility statement issued by the corporation.

2. If the corporation has not yet issued the eligibility statement at the time the qualified taxpayer files the return, the qualified taxpayer may later amend the tax return to include the eligibility statement.

(6) (a) The corporation shall issue an eligibility statement to each qualified taxpayer awarded a Kentucky tax credit.

(b) The eligibility statement shall state:

1. The name and address of the taxpayer;

2. The tax identification number of the taxpayer;

3. The amount of the Kentucky tax credit awarded for the taxable year; and

4. Any other information necessary for the department to efficiently process a tax return claiming the Kentucky tax credit.

(c) The corporation shall transmit all information from the eligibility statement to the department for processing returns containing the Kentucky tax credit.

(7) (a) If any amount of the federal low-income housing credit claimed for a qualified project is required to be recaptured or is otherwise disallowed pursuant to 26

Unofficial Document

U.S.C. sec. 42, a portion of the Kentucky tax credit shall be recaptured.

(b) The percentage of the Kentucky tax credit that is recaptured under paragraph (a) of this subsection shall be equal to the percentage of federal low-income housing credit which is recaptured.

(c) If any amount of the Kentucky tax credit is recaptured, the department shall assess a penalty to the taxpayer in an amount equal to one hundred percent (100%) of the recaptured amount.

(8) The corporation shall report the following information, for each year any amount of credit is awarded, to the Legislative Research Commission no later than December 31, 2019, and annually thereafter as long as the Kentucky tax credit is awarded:

(a) The number of qualified projects authorized each year;

(b) A listing, by county of location, of each qualified project authorized; and

(c) The amount of tax credit awarded to each qualified project.

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

AS FOLLOWS:

(1) As used in this section:

(a) "Qualified project" has the same meaning as in Section 1 of this Act; and

(b) "Qualified taxpayer" has the same meaning as in Section 1 of this Act.

(2) For taxable years beginning on or after January 1, 2019, and before January 1, 2023, a qualified taxpayer shall be allowed a nonrefundable Kentucky affordable housing tax credit permitted by Section 1 of this Act, against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in Section 3 of this Act.

(3) The department shall provide the following information to the Legislative Research Commission no later than November 15, 2020, and annually thereafter as long as the credit is claimed on any income or insurance premiums tax return filed:

Unofficial Document

- (a) The number of tax returns, by the tax type of return filed, claiming the credit for each taxable year;
- (b) The total amount of credit claimed on returns filed for each taxable year;
- (c) The cumulative number of projects by county, as identified by the mailing address on the return filed for each taxable year;
- (d) The cumulative total of credit claimed by county, as identified by the mailing address on the return filed for each taxable year;
- (e) 1. In the case of taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of credits claimed for each adjusted gross income range for each taxable year; and
2. In the case of corporations, based on ranges of net income of no larger than fifty thousand dollars (\$50,000), the total amount of credits claimed for each net income range for each taxable year; and
- (f) Any other taxpayer information necessary for the General Assembly to evaluate this credit.

➔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

Unofficial Document

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 High School Equivalency Diploma program 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;

Unofficial Document

- (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 Kentucky affordable housing 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 High School Equivalency Diploma program 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;

Unofficial Document

- (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 Kentucky affordable housing 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.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) If a taxpayer is entitled to more than one (1) of the tax credits allowed against the taxes imposed by KRS 136.330 to 136.395 or 304.3-270, the priority of application and use of the credits shall be determined as follows:**
- (a) The Kentucky investment fund act credit permitted by KRS 154.20-258;**
 - (b) The new markets development program credit permitted by KRS 141.434; and**
 - (c) The Kentucky affordable housing credit permitted by Section 1 of this Act.**
- (2) A qualified taxpayer claiming a credit against any of the insurance premiums taxes imposed by KRS 136.330 to 136.395 shall not be required to pay additional retaliatory**

Unofficial Document

tax imposed by KRS 304.3-270.

→ Section 5. KRS 131.190 is amended to read as follows:

(1)~~(a)~~ No present or former commissioner or employee of the department~~[of Revenue]~~, 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)~~(b)~~ The prohibition established by **subsection (1)**~~[paragraph (a)]~~ of this **section** **shall**~~[subsection does]~~ not extend to:

(a)~~[1-]~~ Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;

(b)~~[2-]~~ Any matter properly entered upon any assessment record, or in any way made a matter of public record;

(c)~~[3-]~~ Furnishing any taxpayer or his properly authorized agent with information respecting his own return;

(d)~~[4-]~~ Testimony provided by the commissioner or any employee of the department~~[of Revenue]~~ 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)~~[5-]~~ Providing an owner of unmined coal, oil or gas reserves, and other mineral or

Unofficial Document

energy resources assessed under KRS 132.820~~[(1)]~~, 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~~[(2)]~~, 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~~(1)~~~~[(21)]~~. 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)~~~~[6.]~~ 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~~[(1)]~~. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this **paragraph**~~[subparagraph]~~. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10); ~~or~~

~~(g)~~~~[7.]~~ 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)~~ **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 defined by KRS 322.010 and any**

Unofficial Document

administrative regulations;

- (j) Providing to other state agencies the report, filed with the department by an employer, listing the policy number and the name and address of the employer's workers' compensation insurance carrier under Section 6 of this Act;
- (k) The name and address of a cigarette stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor provided by Section 7 of this Act;
- (l) A list of taxpayers that owe delinquent taxes or fees administered by the department provided by Section 8 of this Act;
- (m) Providing any utility gross receipts license tax return information that is necessary to administer KRS 160.613 to 160.617 to applicable school districts on a confidential basis;
- (n) Information made available by the department, for official use only and on a confidential basis, to the proper officer, agency, board, or commission of this state, any Kentucky city or county, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return; or
- (o) 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. Section 10 of this Act for purposes of the distilled spirits credit; or

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5. Section 2 of this Act for purposes of the Kentucky affordable housing credit.

- ~~(3)~~~~(2)~~ — 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.
- ~~(3)~~ — Statistics of tax paid gasoline gallonage reported monthly to the Department of Revenue under the gasoline excise tax law may be made public by the department.
- ~~(4)~~ Access to and inspection of information received from the Internal Revenue Service is for department~~[of Revenue]~~ use only, and is restricted to tax administration purposes.~~[Notwithstanding the provisions of this section to the contrary,]~~ 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~~[of Revenue]~~, or any other person.
- ~~(4)~~~~(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.

Unofficial Document

~~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.~~

~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.]~~

➔Section 6. KRS 131.135 is amended to read as follows:

~~[(1)] Each employer subject to KRS Chapter 342 shall file annually with the department [~~of Revenue~~], in accordance with administrative regulations, a report providing the policy number and the name and address of the employer's workers' compensation insurance carrier.~~

~~[(2) The report may be made available to other state agencies notwithstanding the confidentiality provisions of KRS 131.190.]~~

➔Section 7. KRS 131.618 is amended to read as follows:

(1) ~~[Notwithstanding KRS 131.190,]~~The commissioner is authorized to disclose to the Attorney General the name and address of a stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor. The Attorney General may share this information with federal, other state, or local agencies only for the purposes of enforcement of KRS 131.600 to 131.630 or corresponding laws of other states. The Attorney General is further authorized to disclose to a nonparticipating manufacturer or its importers this information that has been provided by a stamping agent regarding the purchases from that nonparticipating manufacturer or its importers. This information

Unofficial Document

provided by a stamping agent may be used in any enforcement action against the nonparticipating manufacturer or its importers by the Attorney General.

- (2) In addition to the information required to be submitted pursuant to KRS 131.608, 131.614, and 131.620, the Attorney General or the commissioner may require a stamping agent, distributor, participating manufacturer, nonparticipating manufacturer, or a nonparticipating manufacturer's importers to submit any additional information including but not limited to samples of the packaging or labeling of each brand family as is necessary to enable the Attorney General to determine whether the participating manufacturer or the nonparticipating manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

➔Section 8. KRS 131.650 is amended to read as follows:

- (1) ~~Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary,~~ The department may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the department ~~of Revenue~~, and that meet the requirements of KRS 131.652.
- (2) For purposes of this section, a taxpayer may be included on a list if:
 - (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and
 - (b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.
- (3) In the case of listed taxpayers that are business entities, the department ~~of Revenue~~ may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.

Unofficial Document

- (4) Before any list is published under this section, the department shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

➔Section 9. KRS 131.990 is amended to read as follows:

- (1) (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- (c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- (e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~(4)~~ may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
- (2) Any person who willfully fails to comply with the rules and regulations promulgated by the department for the administration of delinquent tax collections shall be fined not less than

Unofficial Document

twenty dollars (\$20) nor more than one thousand dollars (\$1,000).

- (3) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.
- (5)
 - (a) Any person or financial institution that fails to comply with the provisions of KRS 131.672 and 131.674 within ninety (90) days after notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.
 - (b) Any financial institution that fails or refuses to comply with the provisions of KRS 131.672 and 131.674 within one hundred twenty (120) days after the notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the department, the commissioner of the Department of Financial Institutions shall, as applicable, revoke the authority of the financial institution or its agents to do business in the Commonwealth.
- (6) Any taxpayer or tax return preparer who fails or refuses to comply with the provisions of KRS 131.250 or an administrative regulation promulgated under KRS 131.250 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each return not filed as required.

Unofficial Document

→Section 10. KRS 141.389 is amended to read as follows:

- (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each taxpayer paying the distilled spirits ad valorem tax as follows:
 1. For taxable years beginning on or after January 1, 2015, and before December 31, 2015, the credit shall be equal to twenty percent (20%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 2. For taxable years beginning on or after January 1, 2016, and before December 31, 2016, the credit shall be equal to forty percent (40%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 3. For taxable years beginning on or after January 1, 2017, and before December 31, 2017, the credit shall be equal to sixty percent (60%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 4. For taxable years beginning on or after January 1, 2018, and before December 31, 2018, the credit shall be equal to eighty percent (80%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis; and
 5. For taxable years beginning on or after January 1, 2019, the credit shall be equal to one hundred percent (100%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis.
 - (b) The credit shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- (2) The amount of distilled spirits credit allowed under subsection (1) of this section shall be used only for capital improvements at the premises of the distiller licensed pursuant to KRS Chapter 243. As used in this subsection, "capital improvement" means any costs associated with:

Unofficial Document

- (a) Construction, replacement, or remodeling of warehouses or facilities;
 - (b) Purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses;
 - (c) Acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits;
 - (d) Addition or replacement of access roads or parking facilities; and
 - (e) Construction, replacement, or remodeling of facilities to market or promote tourism, including but not limited to a visitor's center.
- (3) The distilled spirits credit allowed under subsection (1) of this section:
- (a) May be accumulated for multiple taxable years;
 - (b) Shall be claimed on the return of the taxpayer filed for the taxable year during which the credits were used pursuant to subsection (2) of this section; and
 - (c) Shall not include:
 - 1. Any delinquent tax paid to the Commonwealth; or
 - 2. Any interest, fees, or penalty paid to the Commonwealth.
- (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital improvements required by subsection (2) of this section shall be completed and specifically associated with the credit allowed on the return.
- (b) The amount of distilled spirits credit allowed shall be recaptured if the capital improvement associated with the credit is sold or otherwise disposed of prior to the exhaustion of the useful life of the asset for Kentucky depreciation purposes.
 - (c) If the allowed credit is associated with multiple capital improvements, and not all capital improvements are sold or otherwise disposed of, the distilled spirits credit shall be prorated based on the cost of the capital improvement sold over the total cost of all improvements associated with the credit.

Unofficial Document

- (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.
- (6) The department may promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the allowable credit under this section, require the filing of forms designed by the department, and require specific information for the evaluation of the credit taken by any taxpayer.
- (7) ~~Notwithstanding KRS 131.190,~~ No later than September 1, 2016, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:
- (a) The name of each taxpayer taking the credit permitted by subsection (1) of this section;
 - (b) The amount of credit taken by that taxpayer; and
 - (c) The type of capital improvement made for which the credit is claimed.

➔Section 11. KRS 131.020 is amended to read as follows:

- (1) The department~~[of Revenue]~~, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
- (a) Office of the commissioner, which shall consist of:
 - 1. The Division of Protest Resolution, headed by a division director who shall report directly to the commissioner. The division shall administer the protest functions for the department from office resolution through court action; and
 - 2. The Division of Taxpayer Ombudsman, headed by a division director who shall report to the commissioner. The division shall perform those duties set out in KRS 131.083;
 - (b) Office of Tax Policy and Regulation, headed by an executive director who shall report

Unofficial Document

directly to the commissioner. The office shall be responsible for:

1. Providing oral and written technical advice on Kentucky tax law;
 2. Drafting proposed tax legislation and regulations;
 3. Testifying before legislative committees on tax matters;
 4. Analyzing tax publications;
 5. Providing expert witness testimony in tax litigation cases;
 6. Providing consultation and assistance in protested tax cases; and
 7. Conducting training and education programs;
- (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;

Unofficial Document

- (d) Office of Property Valuation, headed by an executive director who shall report directly to the commissioner. The office shall consist of the:
1. Division of Local Support, which shall be responsible for providing supervision, assistance, and training to the property valuation administrators and sheriffs within the Commonwealth;
 2. Division of State Valuation, which shall be responsible for providing assessments of public service companies and motor vehicles, and providing assistance to property valuation administrators and sheriffs with the administration of tangible and omitted property taxes within the Commonwealth; and
 3. Division of Minerals Taxation and Geographical Information System Services, which shall be responsible for providing geographical information system mapping support, ensuring proper filing of severance tax returns, ensuring consistency of unmined coal assessments, and gathering and providing data to properly assess minerals to the property valuation administrators within the Commonwealth;
- (e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and

Unofficial Document

estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

- (f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
- (g) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.
- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(3)~~(4)~~, the department shall fully cooperate with and

Unofficial Document

make tax information available as prescribed under KRS 131.190(2)(p) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor."