

1 AN ACT relating to exempting property used in the deployment of advanced
2 broadband technologies from state and local ad valorem taxation and declaring an
3 emergency.

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

5 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO
6 READ AS FOLLOWS:

7 *(1) For tax years beginning on or after January 1, 2019, but prior to January 1,*
8 *2023, property used in the deployment of advanced broadband technologies shall*
9 *be exempt from state and local ad valorem taxation.*

10 *(2) The purpose of the exemption provided by subsection (1) of this section is to*
11 *encourage growth of advanced broadband service within the Commonwealth of*
12 *Kentucky.*

13 *(3) (a) A taxpayer shall report the property that qualifies for the exemption*
14 *provided by subsection (1) of this section annually to the department, on a*
15 *return prescribed by the department, by May 15th.*

16 *(b) On or before December 1 of each year for which the exemption under*
17 *subsection (1) of this section is available, the department shall report to the*
18 *Interim Joint Committee on Appropriations and Revenue:*

19 *1. The reported fair cash value of the property used in the deployment of*
20 *advanced broadband technologies, by year and by county;*

21 *2. The total number of returns filed reporting property used in the*
22 *deployment of advanced broadband technologies, by year and by*
23 *county;*

24 *3. The total dollar amount of state tax exempted, by year, for property*
25 *used in the deployment of advanced broadband technologies; and*

26 *4. The total dollar amount of local tax exempted, by year and by county,*
27 *for property used in the deployment of advanced broadband*

1 technologies.

2 ➔Section 2. KRS 132.010 is amended to read as follows:

3 As used in this chapter, unless the context otherwise requires:

- 4 (1) "Department" means the Department of Revenue;
- 5 (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- 6 (3) "Real property" includes all lands within this state and improvements thereon;
- 7 (4) "Personal property" includes every species and character of property, tangible and
- 8 intangible, other than real property;
- 9 (5) "Resident" means any person who has taken up a place of abode within this state
- 10 with the intention of continuing to abide in this state; any person who has had his or
- 11 her actual or habitual place of abode in this state for the larger portion of the twelve
- 12 (12) months next preceding the date as of which an assessment is due to be made
- 13 shall be deemed to have intended to become a resident of this state;
- 14 (6) "Compensating tax rate" means that rate which, rounded to the next higher one-
- 15 tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and
- 16 applied to the current year's assessment of the property subject to taxation by a
- 17 taxing district, excluding new property and personal property, produces an amount
- 18 of revenue approximately equal to that produced in the preceding year from real
- 19 property. However, in no event shall the compensating tax rate be a rate which,
- 20 when applied to the total current year assessment of all classes of taxable property,
- 21 produces an amount of revenue less than was produced in the preceding year from
- 22 all classes of taxable property. For purposes of this subsection, "property subject to
- 23 taxation" means the total fair cash value of all property subject to full local rates,
- 24 less the total valuation exempted from taxation by the homestead exemption
- 25 provision of the Constitution and the difference between the fair cash value and
- 26 agricultural or horticultural value of agricultural or horticultural land;
- 27 (7) "Net assessment growth" means the difference between:

- 1 (a) The total valuation of property subject to taxation by the county, city, school
2 district, or special district in the preceding year, less the total valuation
3 exempted from taxation by the homestead exemption provision of the
4 Constitution in the current year over that exempted in the preceding year, and
- 5 (b) The total valuation of property subject to taxation by the county, city, school
6 district, or special district for the current year;
- 7 (8) "New property" means the net difference in taxable value between real property
8 additions and deletions to the property tax roll for the current year. "Real property
9 additions" shall mean:
- 10 (a) Property annexed or incorporated by a municipal corporation, or any other
11 taxing jurisdiction; however, this definition shall not apply to property
12 acquired through the merger or consolidation of school districts, or the
13 transfer of property from one (1) school district to another;
- 14 (b) Property, the ownership of which has been transferred from a tax-exempt
15 entity to a nontax-exempt entity;
- 16 (c) The value of improvements to existing nonresidential property;
- 17 (d) The value of new residential improvements to property;
- 18 (e) The value of improvements to existing residential property when the
19 improvement increases the assessed value of the property by fifty percent
20 (50%) or more;
- 21 (f) Property created by the subdivision of unimproved property, provided, that
22 when ~~the~~^{such} property is reclassified from farm to subdivision by the
23 property valuation administrator, the value of ~~the~~^{such} property as a farm
24 shall be a deletion from that category;
- 25 (g) Property exempt from taxation, as an inducement for industrial or business
26 use, at the expiration of its tax exempt status;
- 27 (h) Property, the tax rate of which will change, according to the provisions of

1 KRS 82.085, to reflect additional urban services to be provided by the taxing
2 jurisdiction, provided, however, that ~~the~~^{such} property shall be considered
3 "real property additions" only in proportion to the additional urban services to
4 be provided to the property over the urban services previously provided; and

5 (i) The value of improvements to real property previously under assessment
6 moratorium.

7 "Real property deletions" shall be limited to the value of real property removed
8 from, or reduced over the preceding year on, the property tax roll for the current
9 year;

10 (9) "Agricultural land" means:

11 (a) Any tract of land, including all income-producing improvements, of at least
12 ten (10) contiguous acres in area used for the production of livestock,
13 livestock products, poultry, poultry products and/or the growing of tobacco
14 and/or other crops including timber;

15 (b) Any tract of land, including all income-producing improvements, of at least
16 five (5) contiguous acres in area commercially used for aquaculture; or

17 (c) Any tract of land devoted to and meeting the requirements and qualifications
18 for payments pursuant to agriculture programs under an agreement with the
19 state or federal government;

20 (10) "Horticultural land" means any tract of land, including all income-producing
21 improvements, of at least five (5) contiguous acres in area commercially used for
22 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
23 flowers, or ornamental plants;

24 (11) "Agricultural or horticultural value" means the use value of "agricultural or
25 horticultural land" based upon income-producing capability and comparable sales of
26 farmland purchased for farm purposes where the price is indicative of farm use
27 value, excluding sales representing purchases for farm expansion, better

- 1 accessibility, and other factors which inflate the purchase price beyond farm use
2 value, if any, considering the following factors as they affect a taxable unit:
- 3 (a) Relative percentages of tillable land, pasture land, and woodland;
 - 4 (b) Degree of productivity of the soil;
 - 5 (c) Risk of flooding;
 - 6 (d) Improvements to and on the land that relate to the production of income;
 - 7 (e) Row crop capability including allotted crops other than tobacco;
 - 8 (f) Accessibility to all-weather roads and markets; and
 - 9 (g) Factors which affect the general agricultural or horticultural economy, such
10 as: interest, price of farm products, cost of farm materials and supplies, labor,
11 or any economic factor which would affect net farm income;
- 12 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural
13 value and the tax based on fair cash value;
- 14 (13) "Homestead" means real property maintained as the permanent residence of the
15 owner with all land and improvements adjoining and contiguous thereto including
16 but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all
17 other land connected thereto;
- 18 (14) "Residential unit" means all or that part of real property occupied as the permanent
19 residence of the owner;
- 20 (15) "Special benefits" are those which are provided by public works not financed
21 through the general tax levy but through special assessments against the benefited
22 property;
- 23 (16) "Mobile home" means a structure, transportable in one (1) or more sections, which
24 when erected on site measures eight (8) body feet or more in width and thirty-two
25 (32) body feet or more in length, and which is built on a permanent chassis and
26 designed to be used as a dwelling, with or without a permanent foundation, when
27 connected to the required utilities, and includes the plumbing, heating, air-

1 conditioning, and electrical systems contained therein. It may be used as a place of
2 residence, business, profession, or trade by the owner, lessee, or their assigns and
3 may consist of one (1) or more units that can be attached or joined together to
4 comprise an integral unit or condominium structure;

5 (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
6 living quarters for recreational, camping, or travel use, which either has its own
7 motive power or is mounted on or drawn by another vehicle. The basic entities are:
8 travel trailer, camping trailer, truck camper, and motor home.

9 (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide
10 temporary living quarters for recreational, camping, or travel use, and of
11 ~~a~~^[such] size or weight **that does not**~~[as not to]~~ require special highway
12 movement permits when drawn by a motorized vehicle, and with a living area
13 of less than two hundred twenty (220) square feet, excluding built-in
14 equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and
15 bath and toilet rooms.

16 (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed
17 with collapsible partial side walls which fold for towing by another vehicle
18 and unfold at the camp site to provide temporary living quarters for
19 recreational, camping, or travel use.

20 (c) Truck camper: A portable unit constructed to provide temporary living
21 quarters for recreational, travel, or camping use, consisting of a roof, floor,
22 and sides, designed to be loaded onto and unloaded from the bed of a pick-up
23 truck.

24 (d) Motor home: A vehicular unit designed to provide temporary living quarters
25 for recreational, camping, or travel use built on or permanently attached to a
26 self-propelled motor vehicle chassis or on a chassis cab or van which is an
27 integral part of the completed vehicle;

- 1 (18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- 2 (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- 3 (20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and
4 KRS 224.60-115;
- 5 (21) "Qualifying voluntary environmental remediation property" means real property
6 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the
7 Energy and Environment Cabinet has made a determination that:
- 8 (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or
9 petroleum products at the property occurred prior to the property owner's
10 acquisition of the property;
- 11 (b) The property owner has made all appropriate inquiry into previous ownership
12 and uses of the property in accordance with generally accepted practices prior
13 to the acquisition of the property;
- 14 (c) The property owner or a responsible party has provided all legally required
15 notices with respect to hazardous substances, pollutants, contaminants,
16 petroleum, or petroleum products found at the property;
- 17 (d) The property owner is in compliance with all land use restrictions and does
18 not impede the effectiveness or integrity of any institutional control;
- 19 (e) The property owner complied with any information request or administrative
20 subpoena under KRS Chapter 224; and
- 21 (f) The property owner is not affiliated with any person who is potentially liable
22 for the release of hazardous substances, pollutants, contaminants, petroleum,
23 or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405,
24 or 224.60-135, through:
- 25 1. Direct or indirect familial relationship;
- 26 2. Any contractual, corporate, or financial relationship, excluding
27 relationships created by instruments conveying or financing title or by

- 1 contracts for sale of goods or services; or
- 2 3. Reorganization of a business entity that was potentially liable;
- 3 (22) "Intangible personal property" means stocks, mutual funds, money market funds,
- 4 bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits,
- 5 patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred
- 6 compensation, retirement plans, and any other type of personal property that is not
- 7 tangible personal property;
- 8 (23) (a) "County" means any county, consolidated local government, urban-county
- 9 government, unified local government, or charter county government;
- 10 (b) "Fiscal court" means the legislative body of any county, consolidated local
- 11 government, urban-county government, unified local government, or charter
- 12 county government; and
- 13 (c) "County judge/executive" means the chief executive officer of any county,
- 14 consolidated local government, urban-county government, unified local
- 15 government, or charter county government;
- 16 (24) "Taxing district" means any entity with the authority to levy a local ad valorem tax,
- 17 including special purpose governmental entities;
- 18 (25) "Special purpose governmental entity" shall have the same meaning as in KRS
- 19 65A.010, and as used in this chapter shall include only those special purpose
- 20 governmental entities with the authority to levy ad valorem taxes, and that are not
- 21 specifically exempt from the provisions of this chapter by another provision of the
- 22 Kentucky Revised Statutes;
- 23 (26) (a) "Broadcast" means the transmission of audio, video, or other signals, through
- 24 any electronic, radio, light, or similar medium or method now in existence or
- 25 later devised over the airwaves to the public in general.
- 26 (b) "Broadcast" shall not apply to operations performed by multichannel video
- 27 programming service providers as defined in KRS 136.602 or any other

1 operations that transmit audio, video, or other signals, exclusively to persons
 2 for a fee; ~~and~~

3 (27) **"Property used in deployment of advanced broadband technologies" means**
 4 **property used in the business of transmitting information such as images, text,**
 5 **voice, video, or data to end users and consumers for compensation at a rate, prior**
 6 **to taking into account the effects of any signal degradation, that is not less than**
 7 **fifty (50) megabits per second in at least one (1) direction, including but not**
 8 **limited to modem and Wifi equipment, headend and hub equipment, fiber optic**
 9 **cable, coaxial cable, distribution plant, customer connection equipment,**
 10 **telecommunications radio, routing and switching equipment and associated**
 11 **software, transmitters, power equipment, diagnostic equipment, storage devices,**
 12 **servers, multiplexers, and antennas; and**

13 (28) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,
 14 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid
 15 species.

16 ➔Section 3. KRS 131.190 is amended to read as follows:

17 (1) No present or former commissioner or employee of the department, present or
 18 former member of a county board of assessment appeals, present or former property
 19 valuation administrator or employee, present or former secretary or employee of the
 20 Finance and Administration Cabinet, former secretary or employee of the Revenue
 21 Cabinet, or any other person, shall intentionally and without authorization inspect or
 22 divulge any information acquired by him of the affairs of any person, or information
 23 regarding the tax schedules, returns, or reports required to be filed with the
 24 department or other proper officer, or any information produced by a hearing or
 25 investigation, insofar as the information may have to do with the affairs of the
 26 person's business.

27 (2) The prohibition established by subsection (1) of this section shall not extend to:

- 1 (a) Information required in prosecutions for making false reports or returns of
2 property for taxation, or any other infraction of the tax laws;
- 3 (b) Any matter properly entered upon any assessment record, or in any way made
4 a matter of public record;
- 5 (c) Furnishing any taxpayer or his properly authorized agent with information
6 respecting his own return;
- 7 (d) Testimony provided by the commissioner or any employee of the department
8 in any court, or the introduction as evidence of returns or reports filed with the
9 department, in an action for violation of state or federal tax laws or in any
10 action challenging state or federal tax laws;
- 11 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
12 energy resources assessed under KRS 132.820, or owners of surface land
13 under which the unmined minerals lie, factual information about the owner's
14 property derived from third-party returns filed for that owner's property, under
15 the provisions of KRS 132.820, that is used to determine the owner's
16 assessment. This information shall be provided to the owner on a confidential
17 basis, and the owner shall be subject to the penalties provided in KRS
18 131.990(2). The third-party filer shall be given prior notice of any disclosure
19 of information to the owner that was provided by the third-party filer;
- 20 (f) Providing to a third-party purchaser pursuant to an order entered in a
21 foreclosure action filed in a court of competent jurisdiction, factual
22 information related to the owner or lessee of coal, oil, gas reserves, or any
23 other mineral resources assessed under KRS 132.820. The department may
24 promulgate an administrative regulation establishing a fee schedule for the
25 provision of the information described in this paragraph. Any fee imposed
26 shall not exceed the greater of the actual cost of providing the information or
27 ten dollars (\$10);

- 1 (g) Providing information to a licensing agency, the Transportation Cabinet, or
 2 the Kentucky Supreme Court under KRS 131.1817;
- 3 (h) Statistics of gasoline and special fuels gallonage reported to the department
 4 under KRS 138.210 to 138.448;
- 5 (i) Providing any utility gross receipts license tax return information that is
 6 necessary to administer the provisions of KRS 160.613 to 160.617 to
 7 applicable school districts on a confidential basis; or
- 8 (j) Providing information to the Legislative Research Commission under:
- 9 1. KRS 139.519 for purposes of the sales and use tax refund on building
 10 materials used for disaster recovery;
- 11 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 12 3. KRS 141.437 for purposes of the ENERGY STAR home and the
 13 ENERGY STAR manufactured home credits;
- 14 4. KRS 148.544 for purposes of the film industry incentives;
- 15 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
 16 tax credits and the job assessment fees;
- 17 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 18 7. KRS 141.396 for purposes of the angel investor tax credit;
- 19 8. KRS 141.389 for purposes of the distilled spirits credit;~~and~~
- 20 9. KRS 141.408 for purposes of the inventory credit; **and**
- 21 **10. Section 1 of this Act for purposes of the exemption for property used**
 22 **in the deployment of advanced broadband.**
- 23 (3) The commissioner shall make available any information for official use only and on
 24 a confidential basis to the proper officer, agency, board or commission of this state,
 25 any Kentucky county, any Kentucky city, any other state, or the federal government,
 26 under reciprocal agreements whereby the department shall receive similar or useful
 27 information in return.

- 1 (4) Access to and inspection of information received from the Internal Revenue Service
2 is for department use only, and is restricted to tax administration purposes.
3 Information received from the Internal Revenue Service shall not be made available
4 to any other agency of state government, or any county, city, or other state, and shall
5 not be inspected intentionally and without authorization by any present secretary or
6 employee of the Finance and Administration Cabinet, commissioner or employee of
7 the department, or any other person.
- 8 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
9 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
10 as reported to the Department of Revenue under the natural resources severance tax
11 requirements of KRS Chapter 143A may be made public by the department by
12 release to the Energy and Environment Cabinet, Department for Natural Resources.
- 13 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
14 submissions for the 1989 tax year, the department may make public or divulge only
15 those portions of mine maps submitted by taxpayers to the department pursuant to
16 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
17 out parcel areas. These electronic maps shall not be relied upon to determine actual
18 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
19 required under KRS Chapters 350 and 352 shall not be construed to constitute land
20 surveying or boundary surveys as defined by KRS 322.010 and any administrative
21 regulations promulgated thereto.
- 22 ➔Section 4. Whereas property used in deployment of advanced broadband
23 technologies is essential for economic growth, an emergency is declared to exist, and this
24 Act takes effect upon its passage and approval by the Governor or upon its otherwise
25 becoming a law.