

1 AN ACT relating to tax credits for airport noise mitigation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "DNL" means the day-night average sound level as determined by the*  
7 *Federal Aviation Administration in accordance with 14 C.F.R. pt. 150;*

8 *(b) "Noise mitigation costs" means the cost associated with replacing,*  
9 *repairing, or installing doors, windows, insulation, and other approved*  
10 *products in accordance with a noise compatibility plan of an airport, as*  
11 *approved by the Federal Aviation Administration;*

12 *(c) "Noise compatibility plan" means a plan developed by or for an airport that*  
13 *addresses noise levels surrounding the airport, and is approved by the*  
14 *Federal Aviation Administration;*

15 *(d) "Noise contour" means a line on an airport's noise exposure map that*  
16 *represents equal levels of noise exposure; and*

17 *(e) "Noise exposure map" means the map created and approved in accordance*  
18 *with 14 C.F.R. pt. 150, and currently in effect, that shows the level of noise*  
19 *exposure surrounding a commercial airport.*

20 *(2) For taxable years beginning on or after January 1, 2020, but before January 1,*  
21 *2024, there is allowed a refundable credit against the tax imposed by KRS*  
22 *141.020 or 141.040 and 141.0401 in an amount determined under subsection (3)*  
23 *of this section, and with the ordering of credits as provided in Section 3 of this*  
24 *Act, for a taxpayer who:*

25 *(a) Owns a residential structure located within the 60 DNL or higher noise*  
26 *contour as shown on the noise exposure map for a commercial airport*  
27 *located within the Commonwealth;*

1       **(b) Incurs noise mitigation costs on the structure referenced in paragraph (a)**  
2       **of this subsection in a manner consistent with the airport's noise**  
3       **compatibility plan; and**

4       **(c) Does not receive any payment or reimbursement pursuant to the airport's**  
5       **noise compatibility plan for noise mitigation costs for the structure**  
6       **referenced in paragraph (a) of this subsection.**

7       **(3) (a) The credit allowed in subsection (2) of this section shall be one hundred**  
8       **percent (100%) of the noise mitigation costs incurred by the taxpayer that**  
9       **would have been paid for or reimbursed if the structure had been located in**  
10       **a higher DNL noise contour and had been mitigated pursuant to an**  
11       **approved noise compatibility plan, and shall include costs incurred on or**  
12       **after January 1, 2010.**

13       **(b) A taxpayer who incurs noise mitigation costs shall file an application with**  
14       **the department to apply for the noise mitigation credit.**

15       **(c) Credits shall be awarded to applicants based on the earliest receipt of**  
16       **application by the department. Applicants approved for credits shall be**  
17       **notified by the department as approved, but by no later than January 31 of**  
18       **the year following the year of application.**

19       **(d) 1. The maximum credit awarded to all taxpayers for each taxable year**  
20       **shall be three million dollars (\$3,000,000).**

21       **2. If the amount of credit shown on applications received by the**  
22       **department for a given taxable year exceeds the limitation provided by**  
23       **subparagraph 1. of this paragraph, those applications which exceed**  
24       **the limitation shall be held and applied to the next taxable year.**

25       **(4) (a) The purpose of this section is to assist taxpayers with the costs of noise**  
26       **mitigation for a residential structure located within the 60 DNL or higher**  
27       **noise contour.**

1 (b) On or before December 1, 2021, and on or before each December 1  
 2 thereafter as long as the credits are available under this section, the  
 3 department shall report to the Legislative Research Commission:

4 1. The total number of individual income tax returns filed, by year,  
 5 claiming the credit permitted by subsection (2) of this section;

6 2. The total number of business income tax returns filed, by year,  
 7 claiming the credit permitted by subsection (2) of this section;

8 3. The total amount of credits claimed on individual income tax returns  
 9 and the total amount of credits claimed on business tax returns;

10 4. The amount of credits claimed on individual income tax returns and  
 11 the amount of credits claimed on business tax returns, by year the  
 12 noise mitigation costs were incurred;

13 5. The total number of business income tax returns and the total amount  
 14 of credit claimed for each county, based on the location where the  
 15 noise mitigation costs are incurred;

16 6. The total number of individual income tax returns and the total  
 17 amount of credit claimed for each county, based on the location where  
 18 the noise mitigation costs are incurred; and

19 7. a. In the case of a taxpayer other than a corporation, based on  
 20 ranges of adjusted gross income of no larger than five thousand  
 21 dollars (\$5,000), the total amount of credit claimed for each  
 22 adjusted gross income range; and

23 b. In the case of corporations, based on ranges of net income no  
 24 larger than fifty thousand dollars (\$50,000), the total amount of  
 25 credit claimed for each net income range.

26 ➔Section 2. KRS 131.190 is amended to read as follows:

27 (1) No present or former commissioner or employee of the department, present or

1 former member of a county board of assessment appeals, present or former property  
2 valuation administrator or employee, present or former secretary or employee of the  
3 Finance and Administration Cabinet, former secretary or employee of the Revenue  
4 Cabinet, or any other person, shall intentionally and without authorization inspect or  
5 divulge any information acquired by him of the affairs of any person, or information  
6 regarding the tax schedules, returns, or reports required to be filed with the  
7 department or other proper officer, or any information produced by a hearing or  
8 investigation, insofar as the information may have to do with the affairs of the  
9 person's business.

- 10 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 11 (a) Information required in prosecutions for making false reports or returns of  
12 property for taxation, or any other infraction of the tax laws;
  - 13 (b) Any matter properly entered upon any assessment record, or in any way made  
14 a matter of public record;
  - 15 (c) Furnishing any taxpayer or his properly authorized agent with information  
16 respecting his own return;
  - 17 (d) Testimony provided by the commissioner or any employee of the department  
18 in any court, or the introduction as evidence of returns or reports filed with the  
19 department, in an action for violation of state or federal tax laws or in any  
20 action challenging state or federal tax laws;
  - 21 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
22 energy resources assessed under KRS 132.820, or owners of surface land  
23 under which the unmined minerals lie, factual information about the owner's  
24 property derived from third-party returns filed for that owner's property, under  
25 the provisions of KRS 132.820, that is used to determine the owner's  
26 assessment. This information shall be provided to the owner on a confidential  
27 basis, and the owner shall be subject to the penalties provided in KRS

1 131.990(2). The third-party filer shall be given prior notice of any disclosure  
2 of information to the owner that was provided by the third-party filer;

3 (f) Providing to a third-party purchaser pursuant to an order entered in a  
4 foreclosure action filed in a court of competent jurisdiction, factual  
5 information related to the owner or lessee of coal, oil, gas reserves, or any  
6 other mineral resources assessed under KRS 132.820. The department may  
7 promulgate an administrative regulation establishing a fee schedule for the  
8 provision of the information described in this paragraph. Any fee imposed  
9 shall not exceed the greater of the actual cost of providing the information or  
10 ten dollars (\$10);

11 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
12 the Kentucky Supreme Court under KRS 131.1817;

13 (h) Statistics of gasoline and special fuels gallonage reported to the department  
14 under KRS 138.210 to 138.448;

15 (i) Providing any utility gross receipts license tax return information that is  
16 necessary to administer the provisions of KRS 160.613 to 160.617 to  
17 applicable school districts on a confidential basis;

18 (j) Providing documents, data, or other information to a third party pursuant to an  
19 order issued by a court of competent jurisdiction; or

20 (k) Providing information to the Legislative Research Commission under:

21 1. KRS 139.519 for purposes of the sales and use tax refund on building  
22 materials used for disaster recovery;

23 2. KRS 141.436 for purposes of the energy efficiency products credits;

24 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
25 ENERGY STAR manufactured home credits;

26 4. KRS 148.544 for purposes of the film industry incentives;

27 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization

- 1 tax credits and the job assessment fees;
- 2 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 3 7. KRS 141.396 for purposes of the angel investor tax credit;
- 4 8. KRS 141.389 for purposes of the distilled spirits credit;
- 5 9. KRS 141.408 for purposes of the inventory credit;~~and~~
- 6 10. KRS 141.390 for purposes of the recycling and composting credit; **and**
- 7 **11. Section 1 of this Act for purposes of the airport mitigation credit.**

8 (3) The commissioner shall make available any information for official use only and on  
 9 a confidential basis to the proper officer, agency, board or commission of this state,  
 10 any Kentucky county, any Kentucky city, any other state, or the federal government,  
 11 under reciprocal agreements whereby the department shall receive similar or useful  
 12 information in return.

13 (4) Access to and inspection of information received from the Internal Revenue Service  
 14 is for department use only, and is restricted to tax administration purposes.  
 15 Information received from the Internal Revenue Service shall not be made available  
 16 to any other agency of state government, or any county, city, or other state, and shall  
 17 not be inspected intentionally and without authorization by any present secretary or  
 18 employee of the Finance and Administration Cabinet, commissioner or employee of  
 19 the department, or any other person.

20 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil  
 21 excise tax requirements of KRS Chapter 137 and statistics of natural gas production  
 22 as reported to the Department of Revenue under the natural resources severance tax  
 23 requirements of KRS Chapter 143A may be made public by the department by  
 24 release to the Energy and Environment Cabinet, Department for Natural Resources.

25 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map  
 26 submissions for the 1989 tax year, the department may make public or divulge only  
 27 those portions of mine maps submitted by taxpayers to the department pursuant to

1 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
2 out parcel areas. These electronic maps shall not be relied upon to determine actual  
3 boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
4 required under KRS Chapters 350 and 352 shall not be construed to constitute land  
5 surveying or boundary surveys as defined by KRS 322.010 and any administrative  
6 regulations promulgated thereto.

7 ➔Section 3. KRS 141.0205 is amended to read as follows:

8 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax  
9 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of  
10 the credits shall be determined as follows:

11 (1) The nonrefundable business incentive credits against the tax imposed by KRS  
12 141.020 shall be taken in the following order:

- 13 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 14 (b) The economic development credits computed under KRS 141.347, 141.381,  
15 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and  
16 154.12-2088;
- 17 (c) The qualified farming operation credit permitted by KRS 141.412;
- 18 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 19 (e) The health insurance credit permitted by KRS 141.062;
- 20 (f) The tax paid to other states credit permitted by KRS 141.070;
- 21 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 22 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 23 (i) The tax credit for cash contributions in investment funds permitted by KRS  
24 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
25 154.20-258;
- 26 (j) The research facilities credit permitted by KRS 141.395;
- 27 (k) The employer High School Equivalency Diploma program incentive credit

- 1 permitted under KRS 151B.402;
- 2 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 3 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 4 (n) The clean coal incentive credit permitted by KRS 141.428;
- 5 (o) The ethanol credit permitted by KRS 141.4242;
- 6 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 7 (q) The energy efficiency credits permitted by KRS 141.436;
- 8 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 9 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 10 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 11 (u) The distilled spirits credit permitted by KRS 141.389;
- 12 (v) The angel investor credit permitted by KRS 141.396;
- 13 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 14 on or after April 27, 2018; and
- 15 (x) The inventory credit permitted by KRS 141.408.
- 16 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 17 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 18 shall be taken in the following order:
- 19 (a) The individual credits permitted by KRS 141.020(3);
- 20 (b) The credit permitted by KRS 141.066;
- 21 (c) The tuition credit permitted by KRS 141.069;
- 22 (d) The household and dependent care credit permitted by KRS 141.067; and
- 23 (e) The income gap credit permitted by KRS 141.066.
- 24 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 25 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 26 taken in the following order:
- 27 (a) The individual withholding tax credit permitted by KRS 141.350;



- 1 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 2 (c) The certified rehabilitation credit permitted by KRS 171.3961 and  
3 171.397(1)(b); ~~and~~
- 4 (d) The film industry tax credit permitted by KRS 141.383 for applications  
5 approved prior to April 27, 2018; and
- 6 (e) The airport noise mitigation credit permitted by Section 1 of this Act.
- 7 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the  
8 tax imposed by KRS 141.040.
- 9 (5) The following nonrefundable credits shall be applied against the sum of the tax  
10 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)  
11 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 12 (a) The economic development credits computed under KRS 141.347, 141.381,  
13 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and  
14 154.12-2088;
- 15 (b) The qualified farming operation credit permitted by KRS 141.412;
- 16 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 17 (d) The health insurance credit permitted by KRS 141.062;
- 18 (e) The unemployment credit permitted by KRS 141.065;
- 19 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 20 (g) The coal conversion credit permitted by KRS 141.041;
- 21 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods  
22 ending prior to January 1, 2008;
- 23 (i) The tax credit for cash contributions to investment funds permitted by KRS  
24 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
25 154.20-258;
- 26 (j) The research facilities credit permitted by KRS 141.395;
- 27 (k) The employer High School Equivalency Diploma program incentive credit

- 1 permitted by KRS 151B.402;
- 2 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 3 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 4 (n) The clean coal incentive credit permitted by KRS 141.428;
- 5 (o) The ethanol credit permitted by KRS 141.4242;
- 6 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 7 (q) The energy efficiency credits permitted by KRS 141.436;
- 8 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit  
9 permitted by KRS 141.437;
- 10 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 11 (t) The railroad expansion credit permitted by KRS 141.386;
- 12 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 13 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 14 (w) The distilled spirits credit permitted by KRS 141.389;
- 15 (x) The film industry credit permitted by KRS 141.383 for applications approved  
16 on or after April 27, 2018; and
- 17 (y) The inventory credit permitted by KRS 141.408.
- 18 (6) After the application of the nonrefundable credits in subsection (5) of this section,  
19 the refundable credits shall be taken in the following order:
- 20 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 21 (b) The certified rehabilitation credit permitted by KRS 171.3961 and  
22 171.397(1)(b);~~and~~
- 23 (c) The film industry tax credit permitted by KRS 141.383 for applications  
24 approved prior to April 27, 2018; **and**
- 25 **(d) The airport noise mitigation credit permitted by Section 1 of this Act.**