

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2020 REGULAR SESSION
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Amend printed copy of **SB 103/GA**

Beginning on page 1, at the start of line 3, delete all language on pages 1 to 4 of this bill, and in lieu thereof, insert the following:

"➔Section 1. KRS 132.195 is amended to read as follows:

- (1) When any real or personal property which is exempt from taxation is leased or possession is otherwise transferred to a natural person, association, partnership, or corporation in connection with a business conducted for profit, the leasehold or other interest in the property shall be subject to state and local taxation at the rate applicable to real or personal property levied by each taxing jurisdiction.
- (2) Subsection (1) of this section shall not apply to interests in:
 - (a) Industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;
 - (b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;
 - (c) Property of any state-supported educational institution;
 - (d) Vending stand locations and facilities operated by blind persons under the auspices of the Division of Kentucky Business Enterprise, regardless of whether the property is

Amendment No. _____

Rep. Rep. David Meade

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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owned by the federal, state, or a local government;

- (e) Property of any free public library; ~~{or}~~
- (f) Property in Fayette County, Kentucky, administered by the Department of Military Affairs, Bluegrass Station Division;

(g) All privately owned leasehold interests in residential property that is owned in fee simple by a purely public charity which is exempt from ad valorem taxation pursuant to the Kentucky Constitution Section 170:

1. When the residential property unit is:

a. Leased by the purely public charity to an individual person who is fifty-five (55) years of age or older; and

b. Maintained as the individual person's permanent residence under a lease agreement that:

i. Prohibits the lessee from subleasing the unit; and

ii. Provides that the lessee's possessory interest in the unit is terminable by the lessor upon the death of the lessee, the physical or mental inability of the lessee to continue to reside in the unit, or the lessee's relocation to a long-term care facility; and

2. Which the taxation is provided for under Sections 2 and 3 of this Act; or

(h) All privately owned leasehold interests in residential property owned in fee simple by a purely public charity which is exempt from ad valorem taxation pursuant to Section 170 of the Kentucky Constitution, when the residential property unit is leased by the purely public charity to an individual person who:

1. Is either:

a. A post-secondary education participant and is receiving educational supportive services from the purely public charity; or

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b. Over the age of sixty-five (65) and is receiving supportive services from the purely public charity; or

2. Is a minor, sick, disabled, impoverished, or over the age of sixty-five(65).

- (3) Taxes shall be assessed to lessees of exempt real or personal property and collected in the same manner as taxes assessed to owners of other real or personal property, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS Chapter 134.

➔Section 2. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
- (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of all motor vehicles qualifying for permanent registration as historic motor vehicles under KRS 186.043;
 - (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
 - 1. Machinery actually engaged in manufacturing;
 - 2. Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers; and

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3. Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;
- (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
- (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:
 1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;
 2. Motor vehicles:
 - a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to KRS 186A.230; or
 - b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;
 3. Raw materials, which includes distilled spirits and distilled spirits inventory;
 4. In-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business; and

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5. Qualified heavy equipment;
- (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all:
 1. Privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 2. Qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;
 3. Tobacco directed to be assessed for taxation;
 4. Unmanufactured agricultural products;
 5. Aircraft not used in the business of transporting persons or property for compensation or hire;~~{and}~~
 6. Federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; ***and***
 7. *Privately owned leasehold interests in residential property as described in*

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subsection (2)(g) of Section 1 of this Act:

- (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all:
1. Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
 2. Livestock and domestic fowl;
 3. Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board; and
 4. Property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390; and
- (h) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of

KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(f) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
 - (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's

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property tax revenue increase shall not exceed four percent (4%) per year.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Office of Energy Policy for the purpose of public education of coal-related issues.

➔Section 3. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5) (a) Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or

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- electronic signals which are broadcast over the air to an antenna;
- (b) Equipment directly used or associated with the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast, but excluding telephone and cellular communications towers; and
 - (c) Equipment used to gather or transmit weather information;
- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this subsection if the tangible personal property is being used for its intended purposes;

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- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
 - (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
 - (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
 - (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
 - (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
 - (14) All motor vehicles:
 - (a) Held for sale in the inventory of a licensed motor vehicle dealer, including motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;
 - (b) That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer; and
 - (c) With a salvage title held by an insurance company;
 - (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.010;

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- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
 - (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
 - (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
 - (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
 - (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
 - (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;
 - (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or

its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;

(22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:

(a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;

(b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments;

(c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation; ~~and~~

(23) Recreational vehicles held for sale in a retailer's inventory; ***and***

(24) Privately owned leasehold interests in residential property as described in subsection (2)(g) of Section 1 of this Act.

➔Section 4. This Act applies to privately owned leasehold interests in residential property assessed on or after January 1, 2021.

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➔Section 5. Sections 60 to 62 of House Bill 351/EN as enacted at the 2020 Regular session of the General Assembly are hereby repealed in their entirety and shall have no effect on the laws of the Commonwealth of Kentucky."