

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2021 REGULAR SESSION
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Amend printed copy of **SB 162/GA**

On page 6, after line 18, insert the following:

"➔Section 4. KRS 11A.010 (Effective April 1, 2021) is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or herself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not

Amendment No. HFA

Rep. Rep. Patrick Flannery

Committee Amendment

Floor Amendment

Adopted: _____

Rejected: _____

Signed: _____

LRC Drafter: _____

Date: _____

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include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;

- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means:
 - (a) All major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, executive assistants, policy advisors, special assistants, administrative coordinators, executive advisors, staff assistants, and division directors;
 - (b) Members and full-time chief administrative officers of:
 - 1. The Parole Board;
 - 2. Office of Claims and Appeals~~[Kentucky Claims Commission]~~;
 - 3. Board of Tax Appeals;
 - 4. Board of Claims;
 - 5. Crime Victims Compensation Board;
 - ~~6~~3. Kentucky Retirement Systems board of trustees;
 - ~~7~~4. Kentucky Teachers' Retirement System board of trustees;
 - ~~8~~5. The Kentucky Public Employees Deferred Compensation Authority board of trustees;
 - ~~9~~6. Public Service Commission;

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- 10**[7]. Worker's Compensation Board and its administrative law judges;
 - 11**[8]. The Kentucky Occupational Safety and Health Review Commission;
 - 12**[9]. The Kentucky Board of Education;
 - 13**[10]. The Council on Postsecondary Education;
 - 14**[11]. County Employees Retirement System board of trustees; and
 - 15**[12]. Kentucky Public Pensions Authority;
- (c) Salaried members of executive branch boards and commissions; and
- (d) Any person who, through a personal service contract or any other contractual employment arrangement with an agency, performs on a full-time, nonseasonal basis a function of any major management position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
- (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts;
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees; and
 - (i) Any person who, through any contractual arrangement with an agency, is employed to perform a function of a position within an executive branch agency on a full-time, nonseasonal basis;

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- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(9);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;

- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public;
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert; and
- (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time employees, which is paid on a regular basis without regard to the actual number of hours worked.

➔Section 5. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.

- (b) Board of Elections.
- (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department of Public Advocacy.

(2) Education and Workforce Development Cabinet:

(a) Office of the Secretary.

1. Governor's Scholars Program.
2. Governor's School for Entrepreneurs Program.
3. Office of the Kentucky Workforce Innovation Board.
4. Foundation for Adult Education.
5. Early Childhood Advisory Council.

(b) Office of Legal and Legislative Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Administrative Services.

1. Division of Human Resources.
2. Division of Operations and Support Services.
3. Division of Fiscal Management.

(e) Office of Technology Services.

(f) Office of Educational Programs.

(g) Office of the Kentucky Center for Statistics.

(h) Board of the Kentucky Center for Statistics.

(i) Board of Directors for the Center for School Safety.

(j) Department of Education.

1. Kentucky Board of Education.
2. Kentucky Technical Education Personnel Board.

(k) Department for Libraries and Archives.

(l) Department of Workforce Investment.

1. Office of Vocational Rehabilitation.

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- a. Division of Kentucky Business Enterprise.
- b. Division of the Carl D. Perkins Vocational Training Center.
- c. Division of Blind Services.
- d. Division of Field Services.
- e. Statewide Council for Vocational Rehabilitation.
- 2. Office of Unemployment Insurance.
- 3. Office of Employer and Apprenticeship Services.
 - a. Division of Apprenticeship.
- 4. Office of Career Development.
- 5. Office of Adult Education.
- 6. Unemployment Insurance Commission.
- 7. Kentucky Apprenticeship Council.
- (m) Foundation for Workforce Development.
- (n) Kentucky Workforce Investment Board.
- (o) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (p) Kentucky Commission on the Deaf and Hard of Hearing.
- (q) Kentucky Educational Television.
- (r) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.

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2. Office of Legal Services.
 - a. Legal Division I.
 - b. Legal Division II.
3. Office of Administrative Hearings.
4. Office of Communication.
5. Mine Safety Review Commission.
6. Office of Kentucky Nature Preserves.
7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Mine Permits.
 3. Division of Mine Reclamation and Enforcement.
 4. Division of Abandoned Mine Lands.
 5. Division of Oil and Gas.
 6. Division of Mine Safety.
 7. Division of Forestry.
 8. Division of Conservation.

9. Office of the Reclamation Guaranty Fund.
- (d) Office of Energy Policy.
1. Division of Energy Assistance.
- (e) Office of Administrative Services.
1. Division of Human Resources Management.
2. Division of Financial Management.
3. Division of Information Services.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
2. Office of Legal Services.
- a. Insurance Legal Division.
- b. Charitable Gaming Legal Division.
- c. Alcoholic Beverage Control Legal Division.
- d. Housing, Buildings and Construction Legal Division.
- e. Financial Institutions Legal Division.
- f. Professional Licensing Legal Division.
3. Office of Administrative Hearings.
4. Office of Administrative Services.
- a. Division of Human Resources.
- b. Division of Fiscal Responsibility.
- (b) **Office of Claims and Appeals**~~[Kentucky Claims Commission]~~.
- 1. Board of Tax Appeals.**
- 2. Board of Claims.**
- 3. Crime Victims Compensation Board.**

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- (c) Kentucky Boxing and Wrestling Commission.
- (d) Kentucky Horse Racing Commission.
 - 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
- (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.

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- (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.
 - (j) Department of Professional Licensing.
 - 1. Real Estate Authority.
 - (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - 2. Office of Administrative Services.
 - a. Division of Human Resources Management.
 - b. Division of Fiscal Management.
 - c. Division of Professional Development and Organizational Management.
 - d. Division of Information Technology and Support Services.
 - 3. Office of Inspector General.
 - (b) Department of Workplace Standards.
 - 1. Division of Occupational Safety and Health Compliance.
 - 2. Division of Occupational Safety and Health Education and Training.
 - 3. Division of Wages and Hours.

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- (c) Department of Workers' Claims.
 - 1. Division of Workers' Compensation Funds.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information Services.
 - 6. Division of Specialist and Medical Services.
 - 7. Workers' Compensation Board.
 - (d) Workers' Compensation Funding Commission.
 - (e) Occupational Safety and Health Standards Board.
 - (f) State Labor Relations Board.
 - (g) Employers' Mutual Insurance Authority.
 - (h) Kentucky Occupational Safety and Health Review Commission.
 - (i) Workers' Compensation Nominating Committee.
 - (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.

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- (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. Incentive Administration Division.
 - f. Bluegrass State Skills Corporation.
 - 4. Office of Marketing and Public Affairs.
 - a. Communications Division.
 - b. Graphics Design Division.

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5. Office of Workforce, Community Development, and Research.
 6. Office of Entrepreneurship.
 - a. Commission on Small Business Advocacy.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 1. Office of the Ombudsman and Administrative Review.
 2. Office of Public Affairs.
 3. Office of Legal Services.
 4. Office of Inspector General.
 5. Office of Human Resource Management.
 6. Office of Finance and Budget.
 7. Office of Legislative and Regulatory Affairs.
 8. Office of Administrative Services.
 9. Office of Application Technology Services.
 - (b) Department for Public Health.
 - (c) Department for Medicaid Services.
 - (d) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (e) Department for Aging and Independent Living.
 - (f) Department for Community Based Services.
 - (g) Department for Income Support.
 - (h) Department for Family Resource Centers and Volunteer Services.
 - (i) Office for Children with Special Health Care Needs.
 - (j) Office of Health Data and Analytics.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.

- (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.
 - (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
 - (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Tourism.

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1. Division of Tourism Services.
 2. Division of Marketing and Administration.
 3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
1. Division of Information Technology.
 2. Division of Human Resources.
 3. Division of Financial Operations.
 4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering, Infrastructure, and Technology.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Marketing.
- (d) Kentucky Horse Park.

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1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Government Relations and Administration.
 3. Office of Film and Tourism Development.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.

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- (j) Office of Arts and Cultural Heritage.
 - (k) Kentucky African-American Heritage Commission.
 - (l) Kentucky Foundation for the Arts.
 - (m) Kentucky Humanities Council.
 - (n) Kentucky Heritage Council.
 - (o) Kentucky Arts Council.
 - (p) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
 - (q) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
 - (r) Kentucky Artisans Center at Berea.
 - (s) Northern Kentucky Convention Center.
 - (t) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.

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- (i) Office of Diversity, Equality, and Training.
- (j) Office of Public Affairs.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.
- (10) Kentucky Communications Network Authority.

➔Section 6. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, a Department of Professional Licensing, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:

- (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
 - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210;
 - (c) The Office of Administrative Hearings, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210; and
 - (d) The Office of Administrative Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (3) There is established within the Public Protection Cabinet the *Office of Claims and Appeals*~~[Kentucky Claims Commission]~~ pursuant to KRS 49.010.
- (4) The Kentucky Horse Racing Commission is attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330.
- (5) There is established within the Public Protection Cabinet the Kentucky Boxing and Wrestling Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- ➔Section 7. KRS 13B.020 is amended to read as follows:
- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised

Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

- (2) The provisions of this chapter shall not apply to:
- (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;

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- (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
 - 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 - 2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
 - (b) Cabinet for Health and Family Services
 - 1. Office of the Inspector General
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 - 2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of

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KRS Chapter 630

3. Department for Income Support
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
 4. Department for Medicaid Services
 - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
- (c) Justice and Public Safety Cabinet
1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Energy and Environment Cabinet

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1. Department for Natural Resources
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 - b. Oil and gas hearings conducted under the authority of KRS Chapter 353, except for those conducted by the Kentucky Oil and Gas Conservation Commission pursuant to KRS 353.500 to 353.720
 - c. Explosives and blasting hearings conducted under the authority of KRS 351.315 to 351.375
 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 3. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 2. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of

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KRS Chapter 338

- (f) Public Protection Cabinet
 - 1. **Board of Claims**~~[Kentucky Claims Commission]~~
 - a. Liability hearings conducted under authority of **subsection (5) of Section 13 of this Act**~~[KRS 49.020(1)]~~ and 49.040 to 49.180
- (g) Education and Workforce Development Cabinet
 - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (i) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation

- with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
- (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
- (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings held under KRS 11A.100 or 18A.095.

➔Section 8. KRS 39A.120 is amended to read as follows:

If the owner of any property seized, taken, or condemned pursuant to KRS 39A.110 refuses to accept as adequate the compensation fixed by the Governor, the owner may present a claim to the **Board of Claims**~~[Kentucky Claims Commission]~~, which shall hear and determine it according to the provisions of KRS 49.040 to 49.180 and the administrative regulations of the **board**~~[commission]~~.

➔Section 9. KRS 39A.130 is amended to read as follows:

- (1) The owner of property seized, taken, or condemned may appeal from the award of the **Board of Claims**~~[Kentucky Claims Commission]~~ to the Circuit Court of the county of the owner's residence. The Rules of Civil Procedure shall, so far as applicable, govern the procedure on appeal. A trial de novo shall not be allowed unless the record on appeal is not sufficient to determine the matter from the record, but if the action is tried, it shall be tried according to the practice prescribed for the trial of jury cases.
- (2) An appeal from the judgment of Circuit Court may be taken to the Court of Appeals.

➔Section 10. KRS 39A.140 is amended to read as follows:

- (1) If the owner of property seized, taken, or condemned accepts as adequate the compensation fixed by the Governor, the owner shall file a statement of the amount of compensation from the Governor with the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer for the amount of the compensation in favor of the person entitled to payment.
- (2) If the compensation is determined by award of the **Kentucky Board of Claims**~~[Kentucky Claims Commission]~~ or judgment of a court, as provided in KRS 39A.110, 39A.120, and 39A.130, a certified copy of the award or judgment shall be filed with the Finance and Administration Cabinet which shall draw a warrant on the State Treasurer for the amount of the award or judgment.
- (3) The State Treasurer shall pay the warrants out of any money in the Treasury not otherwise

appropriated.

➔Section 11. KRS 39E.180 is amended to read as follows:

Any claims against the commission or committees or their members shall be filed with the **Kentucky Board of Claims**~~[Kentucky Claims Commission]~~ in accordance with KRS 49.040 to 49.180.

➔Section 12. KRS 49.010 is amended to read as follows:

- (1) **The Office of Claims and Appeals is created within the Public Protection Cabinet and shall constitute a statutory administrative office of the state government within the meaning of KRS Chapter 12.**
- (2) **The Office of Claims and Appeals shall consist of three (3) separate and distinct administrative boards attached to the office within the meaning of KRS 12.020:**
 - (a) **The Board of Tax Appeals;**
 - (b) **The Board of Claims; and**
 - (c) **The Crime Victims Compensation Board.**
- (3) **The executive director of the Office of Claims and Appeals shall be appointed by the secretary of the Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050. The secretary of the Public Protection Cabinet is the appointing authority for the Office of Claims and Appeals and the executive director shall be directly responsible to the secretary of the Public Protection Cabinet and shall perform the functions, powers, and duties provided by law and prescribed by the secretary of the Public Protection Cabinet. The executive director shall:**
 - (a) **Carry out the policy and program directives of the boards;**
 - (b) **Be responsible for the day-to-day operations of the office;**
 - (c) **Establish appropriate organizational structures and personnel policies;**
 - (d) **Prepare annual reports on the office's and board's activities;**

- (e) Prepare budgets; and*
- (f) Perform all other duties as directed by the secretary and the boards and necessary for the operations of the office.*
- (4) The Office of Claims and Appeals shall be authorized to:*
- (a) Employ necessary staff, secure adequate office space, and execute other administrative and logistical matters as may be necessary to ensure proper functioning of the office;*
- (b) Promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the office's statutory authority;*
- (c) Publicize widely the functions and purposes of the Office of Claims and Appeals and its attached boards; and*
- (d) Enter into agreements with any state agency, political subdivision of the state, postsecondary education institution, or other person or entity to enlist assistance to implement the duties and responsibilities of the office.*
- (5) The principal office of the Office of Claims and Appeals shall be at Frankfort, Kentucky and shall be open during regular working hours for the conduct of its business.*~~[The Kentucky Claims Commission is created and established within the Public Protection Cabinet. As used in this chapter, "commission" means the Kentucky Claims Commission.~~
- ~~(2) The commission shall consist of three (3) members appointed by the Governor with the consent of the Senate. At least one (1) member shall be an attorney licensed to practice in the Commonwealth, at least one (1) member shall have a taxation background, and at least one (1) member shall be:~~
- ~~(a) A victim as defined in KRS 421.500(1);~~
- ~~(b) The parent, spouse, sibling, or child of a victim as defined in KRS 421.500(1), whether or not the victim is deceased; or~~

- ~~(c) A victim advocate as defined in KRS 421.570(1).~~
- ~~(3) Except for the appointment of the commission's first members, all appointments shall be for a three (3) year term. Vacancies for unexpired terms shall be filled in the same manner as regular appointments, but an appointee for a vacancy shall hold office only to the end of the unexpired term of that vacated member.~~
- ~~(4) The Governor shall designate one (1) member of the commission to serve as chairperson, and the commission shall annually elect one (1) of its members to serve as vice chairperson with the authority to act in the absence of the chairperson.~~
- ~~(5) The Governor shall set a salary for members of the commission. In addition, members shall be reimbursed for all expenses paid or incurred in the discharge of official business at existing state rates.~~
- ~~(6) The commission shall meet as often as necessary to perform its statutory responsibilities as outlined in this chapter. A majority of the members of the commission shall constitute a quorum for the transaction of business.~~
- ~~(7) The chairperson shall conduct an annual training session for all members of the commission on new legislation, relevant court decisions, and commission policies and procedures.~~
- ~~(8) The commission shall be headed by an executive director appointed by the commission. The executive director shall:~~
- ~~(a) Carry out the policy and program directives of the commission;~~
 - ~~(b) Be responsible for the day to day operations of the commission;~~
 - ~~(c) Establish appropriate organizational structures and personnel policies;~~
 - ~~(d) Serve as the appointing authority for all personnel;~~
 - ~~(e) Prepare annual reports on the commission's activities;~~
 - ~~(f) Prepare budgets; and~~

- ~~(g) Perform all other duties as directed by the commission or assigned by law.~~
- ~~(9) The Governor shall appoint the necessary number of hearing officers to serve at the direction of the commission. A commission member or employee may serve as a hearing officer for the commission. Any commission member or employee who serves as a hearing officer shall not receive additional compensation but shall be reimbursed at state rates for expenses paid or incurred as a result of serving as a hearing officer. A commission member or employee who is an attorney licensed to practice in the Commonwealth shall be exempt from KRS 13B.030(4).~~
- ~~(10) With the approval of the commission, the executive director and commission employees may enter into agreements with any state agency, political subdivision of the state, postsecondary education institution, or other person or entity to enlist assistance to implement the duties and responsibilities of the commission.]~~

➔Section 13. KRS 49.020 is amended to read as follows:

- (1) (a) As used in this section and Section 32 of this Act, "revenue and taxation agency" means and includes any agency of state, county, and local government, including special taxing districts, that issues final rulings, orders, or determinations affecting revenue and taxation.
- (b) The Board of Tax Appeals created by Section 12 of this Act shall have the power and authority to hear and determine appeals from final rulings, orders, and determinations of any revenue and taxation agency.
- (2) (a) The Board of Tax Appeals shall consist of three (3) members appointed by the Governor, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. One (1) member shall be appointed initially for a two (2) year term. One (1) member shall be appointed initially for a three (3) year term. One (1) member shall be appointed initially for a four (4) year term.

- Thereafter, all appointments to the board shall be for a four (4) year term. There shall be no limit to the amount of reappointments a member shall receive.
- (b) Vacancies for unexpired terms shall be filled in the same manner as regular appointments, but the appointees shall hold office only to the end of the unexpired term of the member replaced.
- (c) The Governor shall appoint a chairperson for the board, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. The chairperson shall be appointed for a four (4) year term and shall be an attorney with the qualifications required of candidates for Circuit Judge. The chairperson shall be the presiding officer over appeals heard by the board.
- (d) The Governor shall establish the compensation, not to include benefits, of the members of the board pursuant to KRS 64.640.
- (e) Two (2) of the members shall be attorneys with the qualifications required of candidates for Circuit Judge. One (1) of the members shall have a background in taxation. No member shall engage in any occupation or business inconsistent with his or her duties as such a member.
- (3) The Crime Victims Compensation Board created by Section 12 of this Act shall have the power and authority to hear and determine all matters relating to a claim by a crime victim or a person authorized by law to act on behalf of a crime victim for compensation.
- (4) (a) The Crime Victims Compensation Board shall consist of three (3) members appointed by the Governor, not all of whom shall be engaged in the same occupation or profession. Appointed board members shall be subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Members shall be appointed for a four (4) year term. There shall be

- no limit to the amount of reappointments a member may receive. One (1) member shall be appointed initially for a two (2) year term. One (1) member shall be appointed initially for a three (3) year term. One (1) member shall be appointed initially for a four (4) year term. Thereafter, all appointments to the board shall be for a four (4) year term. Two (2) of the appointees shall be a victim as defined in KRS 421.500(1), the parent, spouse, sibling, or child of a victim as defined in KRS 421.500(1), whether or not the victim is deceased, or a victim's advocate as defined in KRS 421.570(1); and the other appointee shall be an attorney licensed to practice law in this state with two (2) years of experience.
- (b) Vacancies for unexpired terms shall be filled in the same manner as regular appointments, but the appointees shall hold office only to the end of the unexpired term of the member replaced.
- (c) The Governor shall appoint a chairperson for the board, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. The chairperson shall be appointed for a four (4) year term.
- (d) The Governor shall establish the compensation, not to include benefits, of the members of the board pursuant to the provisions of KRS 64.640.
- (5) The Board of Claims created by Section 12 of this Act shall have the following powers and authority to investigate, hear proof, and compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; except, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees,

while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant or damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for such claims for damages.

- (6) (a) The Board of Claims shall consist of three (3) members appointed by the Governor, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. One (1) member shall be appointed initially for a two (2) year term. One (1) member shall be appointed initially for a three (3) year term. One (1) member shall be appointed initially for a four (4) year term. Thereafter, all appointments to the board shall be for a four (4) year term. There shall be no limit to the amount of reappointments a member shall receive.
- (b) Vacancies for unexpired terms shall be filled in the same manner as regular appointments, but the appointees shall hold office only to the end of the unexpired term of the member replaced.
- (c) The Governor shall appoint a chairperson for the board, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. The chairperson shall be appointed for a four (4) year term, and shall be an attorney with the qualifications required of a candidate for Circuit Judge. The chairperson shall be the presiding officer over appeals heard by the board.
- (d) The Governor shall establish the compensation, not to include benefits, of the members of the board pursuant to the provision of KRS 64.640.
- (e) Two (2) of the members shall be attorneys with the qualifications required of candidates for Circuit Judge and have a background and working knowledge in

- Kentucky tort law. One (1) member shall have a background in business. No member shall engage in any occupation or business inconsistent with his or her duties as such a member.
- (7) The Board of Tax Appeals, the Board of Claims, and the Crime Victims Compensation Board shall each be separately authorized to:
- (a) Promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the board's statutory authority;
 - (b) Issue subpoenas and discovery orders, and to petition a court of competent jurisdiction for any order necessary to carry out the board's powers and duties;
 - (c) Take or cause to be taken affidavits or depositions within or without the state;
 - (d) Administer or cause to be administered oaths;
 - (e) Except for the power to issue final decisions on the merits of a claim or appeal, to delegate any of its power or authority to the Office of Claims and Appeals; and
 - (f) Publicize widely the functions and purposes of the board.
- (8) If any appointed board member has a conflict of interest, as contemplated by KRS 11A.030, involving any matter pending before the board, the secretary of the cabinet shall appoint a member of one (1) of the other boards administered by the Office of Claims and Appeals as a substitute member. Following appointment, the substitute board member shall serve in place of the member who has a conflict for all actions and votes relevant to that matter.
- (9) Members of the Board of Tax Appeals, Board of Claims, and Crime Victims Compensation Board shall receive new member orientation and annual training to discuss new legislation, pertinent court decisions, and board policies and procedures.
- (10) The boards shall meet as often as necessary to perform their statutory responsibilities as outlined in this chapter. A majority of the members of the commission shall constitute a

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quorum for the transaction of business.

(11) Immediately following the effective date of this Act, the Governor shall review the current board, determine any members that are no longer qualified, and appoint new members to the board if necessary.

~~The Kentucky Claims Commission created by KRS 49.010 shall have the following powers and authority:~~

- ~~(1) To investigate, hear proof, and compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; except, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant or damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for such claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or the right to receive payment from workers' compensation insurance; Social Security programs; unemployment insurance programs; medical, disability, or life insurance programs; or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth or its departments, agencies, officers, agents, or employees, or a school district board of education or its members, officers, agents, or employees, for damages sustained as the result of exposure to asbestos before, during, or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the~~

commission;

- (2) ~~To hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation;~~
- (3) ~~To hear and determine all matters relating to a claim by a crime victim or a person authorized by law to act on behalf of a crime victim for compensation;~~
- (4) ~~To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;~~
- (5) ~~To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the commission's statutory authority;~~
- (6) ~~To issue subpoenas and discovery orders and to petition a court of competent jurisdiction for any order necessary to carry out the commission's powers and duties;~~
- (7) ~~To take or cause to be taken affidavits or depositions within or without the state;~~
- (8) ~~To administer or cause to be administered oaths;~~
- (9) ~~Except for the power to issue final decisions on the merits of a claim or appeal, to delegate any of its power or authority to commission employees; and~~
- (10) ~~To publicize widely the functions and purposes of the commission.]~~

➔Section 14. KRS 49.030 is amended to read as follows:

KRS 49.040 to 49.180 shall apply to the **power and authority of the Board of Claims**~~[Kentucky Claims Commission's power and authority]~~ outlined in **subsection (5) of Section 13 of this Act**~~[KRS 49.020(1)]~~.

➔Section 15. KRS 49.040 is amended to read as follows:

- (1) Regardless of any provision of law to the contrary, the jurisdiction of the **Board of Claims**~~[commission]~~ is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed two hundred fifty thousand dollars (\$250,000), exclusive of interest and costs. However, if a single act of negligence results in multiple claims, the

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total award may not exceed four hundred thousand dollars (\$400,000), to be equitably divided among the claimants, but in no case may any claimant individually receive more than two hundred fifty thousand dollars (\$250,000).

- (2) Hearing officers, upon the direction of the **board, the board chair, or the executive director of the Office of Claims and Appeals**~~[chairperson, the commission, or the commission's executive director,]~~ shall conduct hearings and otherwise supervise the presentation of evidence and perform any other duties assigned to them by the **board, the board chair, or the executive director of the Office of Claims and Appeals**~~[chairperson, the commission, or the commission's executive director,]~~, except that such hearing officers shall not render final decisions, orders, or awards. However, such hearing officers may, in receiving evidence on behalf of the **board**~~[commission]~~, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- (3) **The board shall maintain the official record of the claim, including evidence entered into the record at a hearing on the claim, and the final action taken on each claim. All records of proceedings shall be public records.**
- (4) Upon recommendation to the **board**~~[commission]~~ by the attorney for the Commonwealth, its cabinet, department, bureau, agency, or employee thereof, that a settlement has been reached between the parties to the claim, and upon approval by the **board**~~[commission]~~ that the settlement is reasonable for all parties concerned, an agreed judgment or dismissal may be entered accordingly, even without a party's admission to liability.

➔Section 16. KRS 49.050 is amended to read as follows:

- (1) The **Board of Claims**~~[commission]~~ created by KRS 49.010 is hereby vested with full power, authority, and jurisdiction to investigate, hear proof, and compensate persons for

damages sustained to either person or property as a proximate result of negligence on the part of any municipality, or any of its officers, agents, or employees while acting within the scope of their employment by the municipality, or any agency thereof, relating to the maintenance by the municipality of state-owned traffic control devices pursuant to a contract with the Commonwealth.

- (2) Claims for personal injury or property damage against any municipality, or any of its officers, agents, or employees while acting within the scope of their employment of the municipality, arising out of negligence in the maintenance of state-owned traffic control devices pursuant to a contract with the Commonwealth, shall be limited and reduced in the same manner as described in KRS 49.040 with respect to claims against the Commonwealth.
- (3) It is the intention of subsections (1) and (2) of this section to provide every municipality and agency thereof, and their respective officers, agents, or employees with the same liability protection, restrictions, and reductions when such municipalities and agencies are performing maintenance on state-owned traffic control devices pursuant to a contract with the Commonwealth as the Commonwealth and its agencies, officers, and employees would enjoy if performing the work itself.

➔Section 17. KRS 49.060 is amended to read as follows:

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies to be able to assert their just claims as herein provided. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations as herein set forth. It is further the intention of the General Assembly to otherwise expressly preserve the sovereign immunity of the Commonwealth, its

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cabinets, departments, bureaus, and agencies and its officers, agents, and employees while acting in the scope of their employment in all other situations except where sovereign immunity is specifically and expressly waived as set forth by statute. The **Board of Claims**~~[commission]~~ shall have exclusive jurisdiction to hear claims for damages, except as otherwise specifically set forth by statute, against the Commonwealth, its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment.

➔Section 18. KRS 49.070 is amended to read as follows:

- (1) For purposes of KRS 49.060, state institutions of higher education under KRS Chapter 164 are agencies of the state.
- (2) The **Board of Claims**~~[commission]~~ shall have primary and exclusive jurisdiction over all negligence claims for the negligent performance of ministerial acts against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof while acting within the scope of their employment.
- (3) The **board**~~[commission]~~ shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof.
- (4) The **board**~~[commission]~~ shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (5) No action for negligence against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof may be brought in any

- other court or forum in the Commonwealth except the board~~[commission]~~ unless the board~~[commission]~~ makes a final determination that it does not have primary and exclusive jurisdiction over the claim.
- (6) The determination by the board~~[commission]~~ becomes final only after all appellate rights have been finalized or waived.
- (7) Any applicable statute of limitations for bringing negligence actions in any court or forum other than the board~~[commission]~~ shall be tolled pending the final determination that the board~~[commission]~~ does not have primary and exclusive jurisdiction of the negligence claim.
- (8) No action for negligence may be brought in any court or forum other than the board~~[commission]~~ against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (9) Negligence as used herein includes negligence, gross negligence, or wanton negligence.
- (10) The defense of contributory negligence is not a complete bar to recovery of a plaintiff's claim in the board~~[commission]~~, and the doctrine of comparative negligence shall be utilized by the board~~[commission]~~.
- (11) Except as otherwise provided by KRS 49.040 to 49.180, nothing contained herein shall be construed to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth, its cabinets, departments, bureaus, and agencies and its officers, agents, and employees.
- (12) Except as otherwise specifically set forth by statute and in reference to subsection (11) of this section, no action for damages may be maintained in any court or forum against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers,

- agents, or employees while acting within their official capacity and scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (13) The preservation of sovereign immunity referred to in subsections (11) and (12) of this section includes but is not limited to the following:
- (a) Discretionary acts or decisions;
 - (b) Executive decisions;
 - (c) Ministerial acts;
 - (d) Actions in the performance of obligations running to the public as a whole;
 - (e) Governmental performance of a self-imposed protective function to the public or citizens; and
 - (f) Administrative acts.
- (14) The filing of an action in court or any other forum or the purchase of liability insurance or the establishment of a fund for self-insurance by the Commonwealth, its cabinets, departments, bureaus, or agencies or its agents, officers, or employees thereof for a government-related purpose or duty shall not be construed as a waiver of sovereign immunity or any other immunity or privilege thereby held. Except as specifically set forth by statute, no counterclaim, set-off, recoupment, cross-claim, or other form of avoidance of the claim for damages may be asserted by any person when suit is brought against said person by the Commonwealth or any of its cabinets, departments, bureaus, or agencies thereof.
- (15) Neither the Commonwealth nor any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof shall be liable under a respondeat superior theory or any other similar theory for the acts of independent contractors, contractors, or subcontractors thereof or anyone else doing work or providing services for the state on a

volunteer basis or pursuant to a contract therewith.

(16) Any claim against the Commonwealth or its departments, agencies, officers, agents, or employees, or a school district board of education or its members, officers, agents, or employees, for damages sustained as a result of exposure to asbestos before, during, or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the Board of Claims.

➔Section 19. KRS 49.080 is amended to read as follows:

(1) Hearings involving claimants who are residents of the Commonwealth shall be conducted in the county wherein the claim accrues, provided, however, that the parties may, with the approval of the **Board of Claims**~~[commission]~~, agree upon a place not within such county for the conduct of hearings. Hearings involving claimants who are nonresidents shall be conducted in the county wherein the claim accrues, provided, however, that a hearing, with the approval of the **board**~~[commission]~~, may be conducted in Franklin County.

(2) When any member of the board is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the executive director of the Office of Claims and Appeals of an itemized statement of such expenses in accordance with Finance and Administration Cabinet administrative regulations.

➔Section 20. KRS 49.090 is amended to read as follows:

(1) The **Board of Claims**~~[commission]~~ may require affected state agencies to investigate claims and the incidents on which they are based and to furnish to the **board**~~[commission]~~ and the claimant in writing the facts learned by investigation. Such response shall be sufficiently specific to support a decision by the **board**~~[commission]~~ to pay or deny the claim. If the agency believes the state should refute a claim, the agency shall cite the facts

- about the incident that support its belief.
- (2) If the claim is under two thousand five hundred dollars (\$2,500), it may be investigated by the board~~[commission]~~ in-house and if the board~~[commission]~~ believes it needs additional facts before deciding the claim, the parties may provide the needed information by letter or as directed by the board~~[commission]~~.
- (3) The board~~[commission]~~ shall hold hearings on contested claims whose value is two thousand five hundred dollars (\$2,500) or greater but may decide claims under two thousand five hundred dollars (\$2,500) without a hearing.
- (4) At its hearings, the board~~[commission]~~, or any of its members, or any of its hearing officers appointed by the board shall hear the parties at issue and their representatives and witnesses.
- (5) The award or order shall be made~~[by the commission or by a member assigned by the chairperson]~~ within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within ninety (90) days after final submission in any event. The order or award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the question at issue shall be filed with the record of the claim and a copy of the order or award shall immediately be sent to the parties in dispute.
- (6) In cases over two thousand five hundred dollars (\$2,500) that have been assigned to a hearing officer or a member, the hearing officer or member shall tender a recommended order to the full board. The final order in any claim heard by a single member or hearing officer shall be made and entered by a majority of the board.
- (7) In cases of two thousand five hundred dollars (\$2,500) or less decided by a member, a claimant may make~~[If]~~ an application for review ~~[is made]~~ to the full board~~[commission]~~ within fourteen (14) days from the date of the order or award.~~[,]~~ If an application is made,

the full board~~[commission, if the first decision was not made by the full commission,]~~
shall, as soon as practicable, review the evidence, or, if deemed advisable, hear the parties
at issue, their representatives and witnesses, and shall make an order or award and file it as
specified in subsection (5) above.

**(8) The Office of Claims and Appeals may promulgate an administrative regulation
authorizing a filing fee of no more than two hundred (\$200) for all appeals that are
brought before the Board of Tax Appeals and the Board of Claims.**

➔Section 21. KRS 49.100 is amended to read as follows:

The attorneys appointed by the Governor to represent the Commonwealth's cabinets,
departments, bureaus, agencies, or officers, agents, or employees thereof may present any
opposition the Commonwealth or any of its cabinets, departments, bureaus, agencies, or officers,
agents, or employees thereof may have to the allowance of any claim filed with the Board of
Claims~~[commission]~~. If such attorney is unavailable to represent his respective cabinet,
department, bureau, agency, or employee thereof, then the Attorney General, either by regular or
special assignment, shall designate one (1) of his assistants to present any opposition the
Commonwealth or any of its cabinets, departments, bureaus, agencies, or officers, agents, or
employees thereof may have to the allowance of any claim filed with the board~~[commission]~~.

➔Section 22. KRS 49.110 is amended to read as follows:

(1) The assistant Attorneys General or attorneys appointed by the Governor to represent the
Commonwealth's cabinets, departments, agencies or employees, agents, or officers thereof,
assigned to defend claims filed with the Board of Claims~~[commission]~~ shall receive no
additional compensation for the performance of their duties before the board~~[commission]~~;
provided, however, members of the board~~[commission]~~, assistant Attorneys General, and
all employees acting for the board~~[commission]~~ shall be recompensed for all necessary and
actual expenses they may incur incident to their duties for or before the commission.

- (2)** All awards and cost of operation assessed by the commission against the Department of Highways shall be paid out of the state road fund upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer.
- (3)** All awards and costs of operation assessed by the board~~[commission]~~ against other cabinets or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such cabinets or agencies respectively, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer.
- (4)** All amounts necessary to pay awards and costs of operation assessed by the board~~[commission]~~ against all other cabinets or agencies of the Commonwealth shall be paid out of the general fund of the Commonwealth, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer.
- (5)** The executive director~~[secretary]~~ of the board~~[commission]~~ shall maintain accurate records reflecting the costs incident to the operation of the board~~[commission]~~. At the close of each quarter-year period, he shall summarize the cost and shall bill each cabinet, commission, board, or agency which has had cases before the board~~[commission]~~ for a pro-rata share of the cost of operation for the appropriate calendar quarter computed in a manner deemed just and equitable by the board~~[commission]~~. Each cabinet, commission, board, or agency shall remit quarterly their share of the cost of operation to the commission in the manner provided by law.
- (6)** The board~~[commission]~~ shall have the power and authority to determine the right of any successful party to an action before it to recover from the opposing party the costs incurred by him or it in such action; and such decision shall not be subject to appeal. Costs shall not include attorneys' fees.

➔Section 23. KRS 49.120 is amended to read as follows:

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- (1) All claims must be filed with the board~~[commission]~~ within one (1) year from the time the claim for relief accrued.
 - (2) The claim for relief shall be deemed to accrue at the time of the negligent act with regard to property damage.
 - (3) The claim for relief for personal injury shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury shall be commenced beyond two (2) years from the date on which the alleged negligent act or omission actually occurred.
 - (4) Notwithstanding subsection (3) of this section, the claim for relief for medical malpractice shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury as a result of medical malpractice shall be commenced beyond three (3) years from the date on which the alleged negligent act or omission of malpractice actually occurred.
 - (5) If at the time the alleged negligent act or omission occurred or if at the time the claim for relief accrued or thereafter, the claimant is an infant or of unsound mind or under any other legal disability to file suit, a guardian or next friend or committee or other qualified representative shall bring such action in the board~~[commission]~~ on behalf of such person within the same time limitation set forth herein or the claim is barred, notwithstanding KRS 413.170 and 413.280. If there is no guardian or committee or he is unwilling or unable to act or is himself a claimant, the board~~[commission]~~ shall appoint a guardian ad litem to represent the interests of the claimant under legal disability. The board~~[commission]~~ shall allow the guardian ad litem a reasonable fee for his services, to be taxed as costs.

➔Section 24. KRS 49.130 is amended to read as follows:

- (1) An award shall be made only after consideration of the facts surrounding the matter in

controversy, and no award shall be made unless the **Board of Claims**~~[commission]~~ is of the opinion that the damage claimed was caused by such negligence on the part of the Commonwealth or its agents as would entitle claimant to a judgment in an action at law if the state were amenable to such action.

- (2) **Furthermore, any damage claim awarded shall be reduced by the amount of payments received or the right to receive payment from workers' compensation insurance, Social Security programs, or other federal, state, or private programs designed to supplement income or pay claimant's expenses or damages incurred.**

➔Section 25. KRS 49.140 is amended to read as follows:

Orders, awards, and judgments of the **Board of Claims**~~[commission]~~ may be enforced by filing in the office of the clerk of the Franklin Circuit Court an authenticated copy of the order, award, or judgment, which, when ordered entered by the judge of the court, shall be entered on the order book and become to all effects and purposes an order, award, or judgment of the court, and be enforceable in a like manner.

➔Section 26. KRS 49.150 is amended to read as follows:

- (1) Appeals may be taken by a state agency from all awards of the **Board of Claims**~~[commission]~~ where the amount in controversy, exclusive of interest and costs, is more than two thousand five hundred dollars (\$2,500). Appeals shall be taken to the Circuit Court of the county wherein the hearing was conducted, provided, however, that an appeal involving a nonresident claimant may be taken by a state agency to the Franklin Circuit Court. Appeals shall be taken within thirty (30) days from the rendition of the award, and the method of appeals shall follow as nearly as may be the rules of civil procedure, except the Commonwealth shall not be required to execute bond.
- (2) Any claimant whose claim is two thousand five hundred dollars (\$2,500) or greater may within thirty (30) days after receipt of the copy of the report containing the final decision of

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the board~~[commission]~~, file a proceeding in the Circuit Court of the county wherein the hearing was conducted to review the decision of the board~~[commission]~~. A copy of the filing and complaint shall be served on the Attorney General in the manner provided by the rules of civil procedure.

- (3) The board~~[commission]~~, the state agency, and the claimant shall be necessary parties to such appeals. It shall not be necessary for the board~~[commission]~~ to file responsive pleadings unless it so desires.
- (4) The executive director of the Office of Claims and Appeals~~[commission]~~ shall within thirty (30) days after service of the summons file the entire original record ~~[properly bound]~~, with the clerk of the Circuit Court, after certifying that such record is the ~~commission's~~ entire original record of the Board of Claims and such record shall be considered by the Circuit Court in its review. If either party requests a transcript of the evidence in writing, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days from the date of the written request.
- (5) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the board~~[commission]~~. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the board~~[commission]~~ acted without or in excess of its powers; the award was procured by fraud; the award is not in conformity to the provisions of KRS 49.040 to 49.180; and whether the findings of fact support the award. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

➔Section 27. KRS 49.170 is amended to read as follows:

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- (1) Any action prosecuted to award, judgment, or final decision, including dismissal, under the provisions of KRS 49.040 to 49.180 shall preclude the right of a claimant to sue the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, or employees in the **Board of Claims**~~[commission]~~ or any other forum, except as provided in KRS 49.070(5) when the **board**~~[commission]~~ determines that it has no jurisdiction over the claim.
- (2) The final determination of the **board**~~[commission]~~ shall be given the same res judicata and collateral estoppel effect as any other judicial determination; and, if entered as provided in KRS 49.140, it shall be granted the full faith and credit given to judgments from the Commonwealth's courts in this state and the courts of the United States.

➔Section 28. KRS 49.180 is amended to read as follows:

No claim shall be brought before the **Board of Claims**~~[commission]~~ unless the value of the total amount of damages claimed therein is two hundred fifty dollars (\$250) or greater.

➔Section 29. KRS 49.190 is amended to read as follows:

KRS 49.200 to 49.250 shall apply to the **power and authority of the Board of Tax Appeals**~~[Kentucky Claims Commission's power and authority]~~ outlined in **subsection (1) of Section 13 of this Act**~~[KRS 49.020(2)]~~.

➔Section 30. KRS 49.200 is amended to read as follows:

The **Board of Tax Appeals**~~[commission]~~ shall maintain the following records:

- (1) A register wherein the **board**~~[commission]~~ shall enter by its title any proceedings appealed to it according to the date of its commencement. Thereafter, until after entry of the **board's**~~[commission's]~~ opinion and final order, there shall be noted therein according to the date, the filing or return of any paper or process or the making of any order, ruling, or other directive in or concerning such proceeding, and any other steps therein; and
- (2) The files of the **board**~~[commission]~~ consisting of all papers or other process filed with or

by the **board**~~[commission]~~.

➔Section 31. KRS 49.210 is amended to read as follows:

- (1) The **Board of Tax Appeals**~~[commission]~~ may hold hearings at any location within the Commonwealth, with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable. **When any member of the board is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the executive director of the Office of Claims and Appeals of an itemized statement of such expenses in accordance with the Finance and Administration Cabinet administrative regulations.**
- (2) When any member or employee of the **board**~~[commission]~~ is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the executive director of the ~~[commission]~~ of an itemized statement of such expenses in accordance with Finance and Administration Cabinet regulations.

➔Section 32. KRS 49.220 is amended to read as follows:

- (1) The **Board of Tax Appeals**~~[commission, pursuant to KRS 49.020,]~~ is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders, and determinations of any **revenue and taxation** agency~~[of state or county government]~~ affecting revenue and taxation. Administrative hearings before the **board**~~[commission]~~ shall be de novo and conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the **board**~~[commission]~~.
- (2) Any **revenue and taxation**~~[state or county]~~ agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the **board**~~[commission]~~ shall mail by certified mail notice of its ruling, order, or determination within three (3) working

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days from the date of the decision.

- (3) Any party aggrieved by any ruling, order, or determination of any revenue and taxation~~[state or county]~~ agency charged with the administration of any taxing or licensing measure may prosecute an appeal to the board~~[commission]~~ by filing a complaint or petition of appeal before the board~~[commission]~~ within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.
- (4) If the Department of Revenue is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the department and prosecutes an appeal to the commission as authorized in subsection (3) of this section, the commissioner of revenue shall, within twenty (20) days, certify in writing to the board~~[commission]~~ the assessment recommended.
- (5) The board~~[commission]~~ shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

➔Section 33. KRS 49.230 is amended to read as follows:

- (1) *The Board of Tax Appeals shall maintain the official record of the appeal, including evidence entered into the record at a hearing on the appeal, and the final action taken on each appeal.* All~~[proceedings before the commission shall be officially reported and all]~~ records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the board~~[commission]~~ include information provided to the Department of Revenue by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by

mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.

- (2) The full **board**~~[commission]~~ may hear an appeal or assign one (1) of its members or a hearing officer to hear an appeal. The final order in any appeal heard by a single member or a hearing officer shall be made and entered by a majority of the **board**~~[commission]~~. ***In any appeal referred to a hearing officer or one (1) member, the hearing officer or member shall tender a recommended order to the full board. The final order in any appeal heard by a single member or hearing officer shall be made and entered by a majority of the board.***
- (3) ***In cases heard by the full board, the board may request that a hearing officer assist the board with the following:***
- (a) Hear discovery issues and disputes prior to a scheduled hearing;***
 - (b) Receive evidence on behalf of the board during the prehearing phase in a particular case;***
 - (c) Make interlocutory rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case;***
 - (d) Draft the final order as directed by the board; and***
 - (e) Perform any other duties assigned.***

➔Section 34. KRS 49.240 is amended to read as follows:

- (1) The final orders of the **Board of Tax Appeals**~~[commission]~~ shall be binding upon all

parties until changed or modified by the courts of this state. If no appeal to the courts is prosecuted, the final order of the **board**~~[commission]~~ shall constitute a final determination.

- (2) If the **board**~~[commission]~~ finds that other issues are necessary to a full determination of the controversy, it may remand the whole proceeding to the agency from which the appeal was prosecuted for further determination. The parties may stipulate to the determination of the other issues without remand.
- (3) Any changes in ad valorem property tax assessment rolls, tax bills, or the application by any agency of the tax laws of the state shall be in conformity with the **board's**~~[commission's]~~ final order.
- (4) In the case of any appeal, any taxes, interest, or penalty paid but found by the **board**~~[commission]~~ to be in excess of that legally due shall be ordered refunded to the taxpayer.

➔Section 35. KRS 49.250 is amended to read as follows:

- (1) Any party aggrieved by any final order of the **Board of Tax Appeals**~~[commission]~~, except on appeals from a county board of assessment appeals, may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business in accordance with KRS Chapter 13B. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated.
- (2) If the appeal is from an order sustaining a tax assessment, collection of the tax shall be stayed by the filing of a petition or an appeal to any court. Full payment of the tax or a supersedeas bond is not required to appeal an order sustaining a tax assessment.

➔Section 36. KRS 49.260 is amended to read as follows:

KRS 49.270 to 49.490 shall apply to the **power and authority of the Crime Victims Compensation Board**~~[Kentucky Claims Commission's power and authority]~~ outlined in **Section**

13 of this Act~~[KRS 49.020(3)]~~.

➔Section 37. KRS 49.290 is amended to read as follows:

- (1) "Victim" shall also include nonresidents of this state who suffer losses as a direct result of criminal acts occurring within this state.
- (2) This section shall be operative only during those time periods during which the **Crime Victims Compensation Board**~~[commission]~~ determines that federal funds are available to the state for the compensation of victims of crime.

➔Section 38. KRS 49.300 is amended to read as follows:

In addition to the powers and authority outlined in KRS 49.020, the **Crime Victims Compensation Board**~~[commission]~~ shall have the following powers and duties:

- (1) To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of KRS 49.270 to 49.490, including administrative regulations for the approval of attorney's fees for representation before the **board**~~[commission]~~ or upon judicial review;
- (2) To hear and determine all matters relating to claims for compensation, and the power to reinvestigate or reopen claims without regard to statutes of limitations;
- (3) To request from prosecuting attorneys and law enforcement officers investigations and data to enable the **board**~~[commission]~~ to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of District Court records does not apply to proceedings under KRS 49.270 to 49.490;
- (4) To hold hearings in accordance with the provisions of KRS Chapter 13B. The powers provided in this subsection may be delegated by the **board**~~[commission]~~ to any member or employee thereof. If necessary to carry out any of its powers and duties, the **board**~~[commission]~~ may petition any Circuit Court for an order;
- (5) Upon the filing of an application by a claimant, to negotiate binding fee settlements with

the providers of services to claimants that may be eligible for an award under KRS 49.370(3);

- (6) To make available for public inspection all **board**~~[commission]~~ decisions and opinions, administrative regulations, written statements of policy, and interpretations formulated, promulgated, or used by it in discharging its functions;
- (7) To publicize widely the availability of reparations and information regarding the claims therefor; and
- (8) To make an annual report, by January 1 of each year, of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

➔Section 39. KRS 49.310 is amended to read as follows:

- (1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to KRS 49.270 to 49.490:
 - (a) A victim of criminally injurious conduct;
 - (b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;
 - (c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and
 - (d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.
- (2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the **Crime Victims Compensation Board**~~[commission]~~ may award compensation to a victim or dependent who is a relative, family, or household

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member of the offender only if the board~~[commission]~~ can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

- (3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for Health and Family Services.

➔Section 40. KRS 49.330 is amended to read as follows:

- (1) A claim form may be filed by a person eligible to receive an award, as provided in KRS 49.310 or, if such person is a minor, by his parent or guardian.
- (2) A claim form must be filed by the claimant not later than five (5) years after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than five (5) years after the death of the victim; provided, however, that upon good cause shown, the Crime Victims Compensation Board~~[commission]~~ may extend the time for filing if, in a particular case, the interest of justice so requires.
- (3) Claims shall be filed with the board~~[in the office of the commission in person or by mail]~~ in accordance with the administrative regulations promulgated by the board~~[commission]~~. Only printed claim forms supplied by the board~~[commission]~~ shall be accepted. The board~~[commission]~~ shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in KRS 49.270 to 49.490 and meeting the requirements as to form in the rules and regulations of the board~~[commission]~~.
- (4) Upon filing of a claim pursuant to KRS 49.270 to 49.490, the board~~[commission]~~ shall promptly notify the United States attorney (if a federal offense is involved), the Commonwealth's attorney or county attorney of the county wherein the crime is alleged to

have occurred. If, within ten (10) days after such notification, such United States attorney, Commonwealth's attorney, or county attorney advises the board~~[commission]~~ that a criminal prosecution is pending upon the same alleged crime and requests that action by the board~~[commission]~~ be deferred, the board~~[commission]~~ shall defer all proceedings under KRS 49.270 to 49.490 until such time as such criminal prosecution has been concluded and shall so notify such United States attorney, Commonwealth's or county attorney, and the claimant. When such criminal prosecution has been concluded such United States attorney, Commonwealth's or county attorney shall promptly so notify the board~~[commission]~~. Nothing in this section shall limit the authority of the board~~[commission]~~ to grant emergency awards pursuant to KRS 49.360.

➔Section 41. KRS 49.340 is amended to read as follows:

- (1) A claim, when accepted for filing, shall be assigned by the executive director of the Office of Claims and Appeals~~[commission]~~ to an investigator for investigation. All claims arising from the death of an individual as a direct result of a crime shall be considered together.
- (2) The investigator to whom such claim is assigned shall examine the papers filed in support of the claim and the validity of the claim. The investigation shall include but not be limited to an examination of police, court, and official records and reports concerning the crime.
- (3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the board~~[commission]~~ may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon an examination shall be filed with the investigator setting out findings, including results of all tests made, diagnosis, prognosis, and other conclusions.
- (4) For purposes of KRS 49.270 to 49.490, there is no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under

- KRS 49.270 to 49.490 in which that condition is an element.
- (5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.
- (6) Upon completion of the investigator's report, the claim shall be assigned to a board~~[commission]~~ member who may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of the claim within thirty (30) days of the assignment of the claim. If the board~~[commission]~~ member is unable to decide the claim upon the basis of the documents~~[papers]~~ and the report, **a hearing shall be ordered**~~[he shall order a hearing]~~.
- (7) The hearing shall be conducted in accordance with KRS Chapter 13B **and may be held at any location within the Commonwealth, with a view to securing opportunity for crime victims to appear before it with as little inconvenience and expense as practicable. When any member of the board is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the executive director of the Office of Claims and Appeals of an itemized statement of such expenses in accordance with Finance and Administration Cabinet administrative regulations.**
- (8)~~(7)~~ After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the board~~[commission]~~ member to whom the claim was assigned shall issue a recommended order either granting an award pursuant to KRS 49.370 or deny the claim. The board~~[commission]~~ shall review the recommended order and any exceptions filed to it, and shall by majority vote issue a final order.
- (9)~~(8)~~ A final order of the board~~[commission]~~ may be appealed by filing a petition for

judicial review in the county where the claim accrued or in Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 42. KRS 49.350 is amended to read as follows:

Following the initial filing of a claim, if a claimant or victim does not take such further steps as may be necessary to support or perfect the claim as may be required by the **Crime Victims Compensation Board**~~[commission]~~ within thirty (30) days after such requirement is made by the **board**~~[commission]~~, the claimant or victim shall be deemed in default. In such case the **board**~~[commission]~~ shall summarily deny the claim and the claimant or victim shall be forever barred from reasserting the claim. The **board**~~[commission]~~ may remit such proceedings on good cause shown that the failure to take the steps required by the **board**~~[commission]~~ was totally and completely beyond the control of the claimant or victim.

➔Section 43. KRS 49.360 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 49.340, if it appears to the **Crime Victims Compensation Board**~~[commission]~~ member to whom a claim is assigned, prior to taking action upon such claim that:
 - (a) Such claim is one with respect to which an award probably will be made; and
 - (b) Undue hardship will result to the claimant if immediate payment is not made; emergency payment under subsection (2) of this section may be made.
- (2) Upon such findings under subsection (1) of this section, the **board**~~[commission]~~ member may make an emergency award to the claimant pending a final decision in the case provided that:
 - (a) The amount of such emergency award shall not exceed five hundred dollars (\$500);
 - (b) The amount of such emergency award shall be deducted from any final award made to the claimant; and
 - (c) The excess of the amount of such emergency award over the amount of the final

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award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the board~~[commission]~~.

➔Section 44. KRS 49.370 is amended to read as follows:

- (1) No award shall be made unless the Crime Victims Compensation Board~~[commission]~~ or board~~[commission]~~ member, as the case may be, finds that:
 - (a) Criminally injurious conduct occurred;
 - (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
 - (c) Police or court records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police or court records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board~~[commission]~~, for good cause shown, finds the delay to have been justified.
- (2) Except for claims related to sexual assault, human trafficking, and domestic violence, the board~~[commission]~~ upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.
- (3) Any award made pursuant to KRS 49.270 to 49.490 shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board~~[commission]~~ stating what treatment is planned and for what period of time. The board~~[commission]~~ shall have the power to discontinue payment of mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award,

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provided they were stolen, destroyed, or damaged during the crime.

- (4) Any award made for loss of earnings or financial support may be considered for a claimant who has loss of support or wages due to the crime for which the claim is filed. Unless reduced pursuant to other provisions of KRS 49.270 to 49.490, the award shall be equal to net earnings at the time of the criminally injurious conduct; however, no such award shall exceed one hundred fifty dollars (\$150) for each week of lost earnings or financial support. The wage earner or source of support must have been employed or paying support at the time the crime occurred. Said employment or support shall be verified by the staff of the board~~[commission]~~ after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board~~[commission]~~ with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board~~[commission]~~ among the claimants.
- (5) The board~~[commission]~~ is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars (\$5,000).
- (6) Any award made under KRS 49.270 to 49.490 shall not exceed twenty-five thousand dollars (\$25,000) in total compensation to be received by or paid on behalf of a claimant from the fund.
- (7) No award shall be made for any type of property loss or damage, except as otherwise permitted in KRS 49.270 to 49.490.
- ➔Section 45. KRS 49.380 is amended to read as follows:
- (1) Upon the filing of an application for a claim with the Crime Victims Compensation Board~~[commission]~~, all debt collection actions by a creditor or the creditor's agent, against

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the claimant for a debt or expense covered under KRS 49.370(3) and related to the substance of the claim shall cease pending a resolution of the claim by the board~~[commission]~~, if the claimant:

- (a) Provides written notice to the creditor or creditor's agent that a claim has been submitted to the board~~[commission]~~; and
 - (b) Authorizes the creditor or creditor's agent to confirm with the board~~[commission]~~ the claimant's application with the board~~[commission]~~ and that the debt or expense upon which the collection action is based may be covered under KRS 49.370(3).
- (2) The board~~[commission]~~ shall, upon the written request of a creditor or creditor's agent, notify the creditor or creditor's agent when a claim has been resolved.

➔Section 46. KRS 49.390 is amended to read as follows:

- (1) Any award made pursuant to KRS 49.270 to 49.490 shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:
- (a) From or on behalf of the person who committed the crime;
 - (b) Under insurance programs mandated by law;
 - (c) From public funds;
 - (d) Under any contract of insurance wherein the claimant is the insured or beneficiary;
 - (e) As an emergency award pursuant to KRS 49.360; and
 - (f) From donations made on behalf of the victim or claimant toward expenses incurred as a result of the crime.
- (2) In determining the amount of an award, the Crime Victims Compensation Board~~[commission]~~ or board~~[commission]~~ member shall determine whether, because of his or her conduct, the claimant or the victim of such crime contributed to the infliction of the victim's injury, and shall reduce the amount of the award or reject the claim altogether,

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in accordance with such determination; however, the board~~[commission]~~ or board~~[commission]~~ member may disregard for this purpose the responsibility of the claimant or the victim for the victim's injury where the record shows that such responsibility was attributable to efforts by the claimant or victim to prevent a crime or an attempted crime from occurrence in his or her presence or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony. The board~~[commission]~~ or board~~[commission]~~ members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The board~~[commission]~~ or board~~[commission]~~ member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.

- (3) The board~~[commission]~~ or board~~[commission]~~ member may consider whether the victim's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award. If the board~~[commission]~~ or board~~[commission]~~ member finds that the claimant will not suffer serious financial hardship if not granted financial assistance pursuant to KRS 49.270 to 49.490, the board~~[commission]~~ or board~~[commission]~~ member shall deny an award. In determining such serious financial hardship, the board~~[commission]~~ or board~~[commission]~~ member shall consider all of the financial resources of the claimant. The board~~[commission]~~ shall establish specific standards by rule for determining such serious financial hardships.

➔Section 47. KRS 49.400 is amended to read as follows:

Any person who procures or attempts to procure compensation with the Crime Victims Compensation Board~~[commission]~~ by filing false information shall have the claim denied and be forever barred from filing a claim with this board~~[commission]~~.

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➔Section 48. KRS 49.410 is amended to read as follows:

- (1) The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to KRS 49.270 to 49.490 shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.
- (2) The **Crime Victims Compensation Board**~~[commission]~~ shall reconsider at least annually every award being paid in installments. An order or reconsideration of an award shall not require refund of amounts previously paid unless the award was obtained by fraud.

➔Section 49. KRS 49.420 is amended to read as follows:

- (1) The **Crime Victims Compensation Board**~~[commission]~~ may award a lump-sum payment not to exceed twenty-five thousand dollars (\$25,000) to the family of a police officer employed by a city, county, or urban-county government who is killed in the line of duty as a police officer for such city, county, or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county, or urban-county.
- (2) This section shall apply to any officer killed in the line of duty since January 1, 1986.

➔Section 50. KRS 49.430 is amended to read as follows:

The **Crime Victims Compensation Board**~~[commission]~~ may apply for funds from, and submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

➔Section 51. KRS 49.440 is amended to read as follows:

The Crime Victims Compensation Board shall maintain the official record of the claim, including evidence entered into the record at a hearing on the claim, and the final action taken on each claim. All records of proceedings shall be public records~~[The record of a proceeding before the commission or a commission member shall be a public record];~~ provided,

however, that any record or report obtained by the board~~[commission]~~, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

➔Section 52. KRS 49.450 is amended to read as follows:

- (1) Every person contracting with any person or the representative or assignee of any person accused or convicted of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the Crime Victims Compensation Board~~[commission]~~ any moneys which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his representatives.
- (2) After deducting all sums paid to the victim by the board~~[commission]~~, the board~~[commission]~~ shall deposit such moneys in its accounts for the benefit of and payable to any victim of crimes committed by such person, provided that such person is eventually convicted of the crime and provided further that such victim, within five (5) years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives.
- (3) Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by such person that five (5) years have elapsed from the board's~~[commission's]~~ receipt of such funds and that such person has not been convicted of said crime and further that no actions are pending against such person in connection with the crime or pursuant to this section, the board~~[commission]~~ shall immediately pay over any such moneys to such person.
- (4) Notwithstanding any inconsistent provision of the civil practice law and rules with respect to the timely bringing of an action, the five (5) year period provided for in subsection (2) of

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this section shall not begin to run until the board~~[commission]~~ has received such moneys.

- (5) Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this state.
- (6) The failure of a person to pay moneys to the board~~[commission]~~ in accordance with subsection (1) shall create a debt due and owing to the board~~[commission]~~ from that person and shall constitute a preferential lien to the state which may be collected by the board~~[commission]~~ by civil process.

➔Section 53. KRS 49.460 is amended to read as follows:

- (1) No right of action at law against a person who has committed a criminal act for damages as a consequence of such act shall be lost as a consequence of receiving benefits under the provisions of KRS 49.270 to 49.490. In the event any person receiving benefits under KRS 49.270 to 49.490 additionally seeks a remedy for damages from the person or persons who have committed the criminal act resulting in damages, then and in that event the Crime Victims Compensation Board~~[commission]~~ shall be subrogated to and have a lien upon any recovery so made to the extent of the payments made by the state to or on behalf of such person under KRS 49.270 to 49.490.
- (2) If compensation is awarded, the state is subrogated to all the claimant's rights to receive or recover benefits or advantages, for economic loss for which and to the extent only that compensation is awarded from a source which is, or, if readily available to the victim or claimant would be, a collateral source.

➔Section 54. KRS 49.480 is amended to read as follows:

- (1) There is established in the State Treasury the crime victims' compensation fund, hereinafter referred to as the "fund," to be administered by the Crime Victims Compensation Board~~[commission]~~. Nothing herein shall be construed to limit the power of the court to

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order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

- (2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; disbursements provided under KRS 42.320(2)(g); and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board~~[commission]~~ shall be used to provide assistance to programs for victims and the board~~[commission]~~ shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the board~~[commission]~~.

➔Section 55. KRS 49.490 is amended to read as follows:

- (1) There is established in the State Treasury the sexual assault victim assistance fund to be administered by the *Crime Victims Compensation Board*~~[commission]~~ for the purpose of funding medical examinations for victims of sexual assault as provided in subsection (4) of this section and in KRS 216B.400. All moneys deposited or paid into the sexual assault victim assistance fund are appropriated and shall be available to the commission. Funds shall be disbursed by the State Treasurer upon the warrant of the board~~[commission]~~.
- (2) The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations. Any federal matching funds received by the board~~[commission]~~ or the crime victims' compensation fund for sexual assault victim assistance payments shall be deposited into the sexual assault victim assistance fund.

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- (3) Any unencumbered or unallocated balances in the sexual assault victim assistance fund shall be invested as provided in KRS 42.500(9). Any income earned from investment, along with the unallocated or unencumbered balances in the fund, shall not lapse and shall be deemed a trust and agency account available solely for the purposes specified in subsection (1) of this section.
- (4) (a) For purposes of this section, a children's advocacy center is a center as defined in KRS 620.020 that operates consistent with administrative regulations promulgated by the Cabinet for Health and Family Services.
- (b) Upon receipt of a completed original claim form supplied by the board~~[commission]~~ and itemized bill for a child sexual abuse medical examination performed at a children's advocacy center, the board~~[commission]~~ shall reimburse the children's advocacy center for actual costs up to but not exceeding the amount of reimbursement established through administrative regulation promulgated by the Department for Medicaid Services.
- (c) Independent investigation by the board~~[commission]~~ shall not be required for payment of claims under this section; however, the board~~[commission]~~ may require additional documentation as proof that the medical examination was performed.
- (5) If sexual assault victim assistance funds are insufficient to pay claims under subsection (4) of this section or KRS 216B.400, payment shall be made from the crime victims' compensation fund.

➔Section 56. KRS 49.990 is amended to read as follows:

Any person who fails or refuses to obey a subpoena or order of the **Board of Tax Appeals, the Crime Victims Compensation Board, or the Board of Claims**~~[commission]~~ made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

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➔Section 57. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the **Board of Tax Appeals, Board of Claims, and Crime Victims Compensation Board**~~[Kentucky Claims Commission]~~ and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.
- (2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	\$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Commissioner of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000

Secretary of justice and public safety	50,000
Secretary of corrections	25,000
Commissioner for public health services	10,000
Secretary of labor	5,000
Commissioner for natural resources	50,000
State librarian	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for energy and environment	50,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health and family services	20,000
Commissioner of environmental protection	10,000
Secretary of public protection	10,000
Secretary of tourism, arts and heritage	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of <u>Board of Tax Appeals</u> [Kentucky Claims Commission].....	10,000
<u>Member of Board of Claims</u>	<u>10,000</u>
<u>Member of Crime Victims Compensation Board</u>	<u>10,000</u>
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

➔Section 58. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Department of Revenue.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the department distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.

- (6) If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.
- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9) (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:
1. His or her inability to pay in full; and
 2. That the agreement will facilitate collection by the department of the amounts owed.
- (b) The department may modify or terminate an installment payment agreement and may pursue statutory remedies against the taxpayer if it determines that:
1. The taxpayer has not complied with the terms of the agreement, including

- minimum payment requirements established by the agreement;
2. The taxpayers' financial condition has sufficiently changed;
 3. The taxpayer fails to provide any requested financial condition update information;
 4. The taxpayer gave false or misleading information in securing the agreement; or
 5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
- (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Department of Revenue personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may require.
- (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her

position. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) (a) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(b) No arrangement or contract shall be entered into for the service to:

1. Examine a taxpayer's books and records;
2. Collect a tax from a taxpayer; or
3. Provide legal representation of the department;

if any part of the compensation or other benefits paid or payable for the service is contingent upon or otherwise related to the amount of tax, interest, fee, or penalty assessed against or collected from the taxpayer. Any such arrangement or contract shall be void and unenforceable.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, or intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the commission shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the **Board of Tax Appeals**~~[commission]~~, the department shall be reimbursed by the taxpayer for its costs in defending the action. Any claims brought pursuant to this subsection shall be in accordance with KRS 49.040 to

49.180.

- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

➔Section 59. KRS 131.110 is amended to read as follows:

- (1) (a) The Department of Revenue shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the department within:
1. Forty-five (45) days from the date of notice, for assessments issued prior to July 1, 2018; and
 2. Sixty (60) days from the date of notice, for assessments issued on or after July 1, 2018.
- (b) Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 49.220.
- (c) 1. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.
2. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.
 3. The refusal of the extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the taxpayer may request a conference with the

department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

- (3) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Board of Tax Appeals~~[Kentucky Claims Commission]~~.
- (4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the department shall issue such ruling within thirty (30) days from the date the request is received by the department.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Board of Tax Appeals~~[Kentucky Claims Commission]~~ pursuant to the provisions of KRS 49.220.

➔Section 60. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

- (1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).
- (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due

date as extended by the department or, excluding underpayments determined under KRS 141.044 or 141.305, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).

- (3) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.
- (4) If any taxpayer fails or refuses to pay within sixty (60) days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- (5) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay

- a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).
- (6) If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.
- (7) If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.
- (8) If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.
- (9) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).
- (10) The penalties levied pursuant to subsection (4) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Board of Tax Appeals~~[Kentucky Claims Commission]~~ or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

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- (11) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.
- (12) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 61. KRS 131.622 is amended to read as follows:

- (1) (a) The following shall be contraband and subject to seizure and destruction:
1. Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612; or
 2. Any cigarettes in the possession of a retailer from a tobacco product manufacturer or brand family that has been removed from the directory.
- (b) Whenever any peace officer of this state, or any representative of the department, finds any contraband cigarettes, the cigarettes shall be immediately seized and stored in a depository to be selected by the officer or representative.
- (c) The seized cigarettes shall be held for a period of twenty (20) days to allow the owner or any person having an interest in the cigarettes to protest the seizure.
- (d) At the time of seizure, the officer or representative shall:
1. Notify the department of the nature and quantity of the cigarettes seized; and
 2. Deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face the date of seizure, and a notice that the cigarettes shall be destroyed if the seizure is not protested in writing to the Department of Revenue, Frankfort, Kentucky, within twenty (20) days from the seizure.

- (e) The owner or any person having an interest in the seized cigarettes may appeal to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ a final determination made by the department pursuant to KRS 49.220.
- (f) If the owner or any person having an interest in the seized cigarettes fails to protest the seizure before the end of the twenty (20) day holding period, the department shall destroy the seized cigarettes.
- (2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and attorneys' fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.
- (3) No stamping agent, distributor, retailer, or any other person shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent, distributor, retailer, or person knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.
- (4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state if in possession of proof that the cigarettes are intended for sale in another state.
- (5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any administrative regulation promulgated pursuant to KRS 131.600 to 131.630, the commissioner may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.600 to 131.630.

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➔Section 62. KRS 132.310 is amended to read as follows:

- (1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Department of Revenue, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Department of Revenue shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.
- (2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the Department of Revenue may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.
- (3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ as provided by **subsection (3) of Section 32 of this Act**~~[KRS 49.220(2)]~~.
- (4) Any property voluntarily listed as omitted property for taxation under this section shall be

subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

➔Section 63. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.200 to 49.250 relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the Department of Revenue directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

➔Section 64. KRS 132.620 is amended to read as follows:

- (1) The Department of Revenue shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.200 to 49.250, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The Department of Revenue shall notify

the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the board~~[Kentucky Claims Commission]~~, and an appeal may be taken from the final action of the board~~[Kentucky Claims Commission]~~ to the courts as provided by law.

- (2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

➔Section 65. KRS 133.120 is amended to read as follows:

- (1) (a) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his or her designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045, or during an extension granted under subsection (2)(d) of this section.
- (b) 1. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be:
- a. An attorney;
 - b. A certified public accountant;
 - c. A certified real estate broker;
 - d. A Kentucky licensed real estate broker;
 - e. An employee of the property owner;
 - f. A licensed or certified Kentucky real estate appraiser;
 - g. An appraiser who possesses a temporary practice permit or reciprocal

- license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
- h. Any other individual possessing a professional appraisal designation recognized by the department.
2. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the property valuation administrator any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (c) During this conference, the property valuation administrator or his or her deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property.
- (d) The property valuation administrator or his or her deputy shall keep a record of each conference which shall include but not be limited to the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference.
- (e) At the request of the taxpayer, the conference may be held by telephone.
- (2) (a) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals.

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- (b) The taxpayer shall appeal his or her assessment by filing in person or sending a letter or other written petition to the county clerk stating the reasons for appeal, identifying the property for which the appeal is filed, and stating the taxpayer's opinion of the fair cash value of the property.
 - (c) The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045 or no later than the last day of an extension granted under paragraph (d) of this subsection.
 - (d) A property valuation administrator may make a written request to the department to extend the deadline in his or her county of jurisdiction to allow the completion of the conferences requested during the inspection period required by subsection (1)(a) of this section and to extend the filing deadline for appeals to the board of assessment appeals. If approved by the department, the deadline for the completion of the conferences requested during the inspection period and filing appeals shall be extended for a period not to exceed twenty-five (25) days from the date of the original filing deadline.
 - (e) The county clerk shall notify the department of all assessment appeals and of the date and times of the hearings.
 - (f) The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or no later than the last day of an extension granted under paragraph (d) of this subsection, or upon the written recommendation of the

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department. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he or she so desires, in protest of an increase.

- (g) Any real property owner who has listed his or her property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he or she believes to be assessed at less than fair cash value, if he or she specifies in writing the individual properties for which the review is sought and factual information upon which his or her request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or no later than the last day of an extension granted under paragraph (d) of this subsection.
- (h) Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.
- (3) (a) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value.
- (b) The department may be present at the hearing and present any pertinent evidence as it pertains to the appeal.
- (c) The taxpayer shall provide factual evidence to support his or her appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the department, or any

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member of the board, his or her appeal shall be denied.

- (d) This information shall include but not be limited to the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages.
 - (e) The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his or her designated deputy and the taxpayer or his or her authorized representative.
- (4) (a) Any person receiving compensation to represent a property owner in an appeal before the board shall be:
- 1. An attorney;
 - 2. A certified public accountant;
 - 3. A certified real estate broker;
 - 4. A Kentucky licensed real estate broker;
 - 5. An employee of the taxpayer;
 - 6. A licensed or certified Kentucky real estate appraiser;
 - 7. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
 - 8. Any other individual possessing a professional appraisal designation recognized by the department.
- (b) A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the county board of assessment

- appeals any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the department.
- (6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he or she so desires, in protest of the action of the property valuation administrator.
- (7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.
- (8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.
- (9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he or she claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

- (10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and department, may appeal the decision to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~.
- (11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county, he or she the fiscal court shall arrange for substitute representation.
- (12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the department's recording as provided in KRS 61.874.
- (13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.
- ➔Section 66. KRS 133.170 is amended to read as follows:
- (1) When the Department of Revenue has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.
- (2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the

- aggregate increase to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220 within ten (10) days from the date of the certification.
- (3) Within ten (10) days from the date that the department's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.200 to 49.250 or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the department's action.
- (4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the Department of Revenue and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.
- (5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of

adjournment of the regular board session.

- (6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the Department of Revenue and to the other taxing districts participating in the tax.
- (7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ as provided in KRS 49.220, and appeals thereafter may be taken to the courts as provided in KRS 49.250.
- (8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.
- (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the Department of Revenue under the provisions of KRS 133.150.

➔Section 67. KRS 133.215 is amended to read as follows:

The sheriff shall be entitled to the fee prescribed by KRS 64.090 for serving a subpoena for the board of assessment appeals. He shall also have a like fee for serving a subpoena or notice for the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ regarding any proceeding for the assessment of property subject to local taxation. Said fees shall be paid out of the county levy.

➔Section 68. KRS 134.551 is amended to read as follows:

- (1) If a certificate of delinquency or personal property certificate of delinquency held by an individual is declared void by a court of competent jurisdiction because of the irregularity of taxing officers, the amount for which the certificate was issued shall be refunded by the state, county, and taxing districts on a pro rata basis. If a school district or county is unable

to make the refund currently when requested, it shall be given preference from the next year's revenue. The application for refund must be made within one (1) year after the judgment. The property covered by the void certificate shall be assessed immediately as omitted property and the tax bill shall be payable as soon as prepared.

- (2) (a) If a certificate of delinquency held by a third-party purchaser who paid the certificate of delinquency to the county clerk:
1. Is unenforceable because:
 - a. It is a duplicate certificate of delinquency;
 - b. The tax liability represented by the certificate of delinquency was satisfied prior to the purchase of the certificate of delinquency;
 - c. All or a portion of the certificate of delinquency is exonerated; or
 - d. The property to which the certificate of delinquency applies was not subject to taxes as a matter of law as certified by the property valuation administrator; or
 2. Should not have been sold because, on the date of the annual sale, the certificate of delinquency met the requirements for inclusion on the protected list pursuant to KRS 134.504(10) and it:
 - a. Was included on the protected list;
 - b. Was mistakenly left off the protected list; or
 - c. Became eligible for inclusion on the protected list between the date the protected list was submitted and the date of sale;
- the third-party purchaser may apply to the county clerk for a refund.
- (b) The application for refund filed with the county clerk shall include written proof that one (1) of the situations described in paragraph (a) of this subsection exists with regard to the certificate of delinquency for which a refund is sought.

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- (c) 1. Upon acceptance and approval of the application for refund, the county clerk shall approve a refund of the amount paid to the county clerk by the third-party purchaser in satisfaction of the certificate of delinquency. The refunded amount shall not include any filing fees paid by the third-party purchaser to the county clerk.
2. Amounts refunded to the third-party purchaser shall be deducted from amounts in the hands of the county clerk due to the state, county, taxing districts, sheriff, county attorney, and the county clerk on a pro rata basis, if the county clerk has sufficient funds in his or her hands to make the refund.
3. If the county clerk does not have sufficient funds to make the refund at the time the refund is approved, the county clerk may either:
- a. Retain the approved refund claim in his or her office and make the refund payment as soon as he or she has sufficient funds in his or her hands to make the refund payment; or
 - b. Provide a signed letter to the person to whom payment is due, which includes the amount due from each taxing jurisdiction or fee office, and which directs each taxing jurisdiction or fee official to pay to the person the amount due and owing from that taxing jurisdiction or fee official as reflected in the letter.
4. Upon the making of a refund to a third-party purchaser, the county clerk shall issue and file a release of the lien on the property assessed for taxes as provided in this subparagraph without charge to the third-party purchaser. The release shall be linked to the encumbrance in the county clerk's indexing system.
- a. The department shall prepare a release form to be used by the county clerk when a refund is paid under this paragraph. The form shall include, at a

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minimum, the following:

- i. The name and address of the taxpayer;
 - ii. The name and address of the third-party purchaser;
 - iii. The book and page number of the third-party purchaser's lis pendens filing;
 - iv. The property address;
 - v. The applicable tax year; and
 - vi. The map identification number or tax bill number.
- b. The release form shall be signed by the government official responsible for making the correction.
 - c. In addition to the signed release form, information filed by the county clerk shall include a copy of the documentation provided by the government official and a copy of the refund check or letter of refund authorization issued to the third-party purchaser. The county clerk shall record and file this information without a fee.
 - d. The county clerk shall also make any necessary corrections to the tax records within the office of the county clerk.
 - e. The county clerk shall return the release document to the taxpayer and shall provide a copy of the release document to the third-party purchaser.
- (d) If the county clerk denies the application for refund, or the property valuation administrator fails to certify that property was not subject to taxes as a matter of law, the third-party purchaser may appeal the decision of the county clerk or the property valuation administrator to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.

➔Section 69. KRS 134.580 is amended to read as follows:

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- (1) As used in this section, unless the context requires otherwise:
 - (a) "Agency" means the agency of state government which administers the tax to be refunded or credited; and
 - (b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.
- (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 49.220 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Board of Tax Appeals~~[Kentucky Claims Commission]~~ or courts may direct.
- (3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 49.220 and 131.110.
- (4) Notwithstanding any provision of this section, when an assessment of limited liability entity tax is made under KRS 141.0401 against a pass-through entity as defined in KRS 141.206, the corporation or individual partners, members, or shareholders of the pass-

through entity shall have the greater of the time period provided by this section or one hundred eighty (180) days from the date the assessment becomes final to file amended returns requesting any refund of tax for the taxable year of the assessment and to allow for items of income, deduction, and credit to be properly reported on the returns of the partners, members, or shareholders of the pass-through entity subject to adjustment.

- (5) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
- (6) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.
- (7) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.
- (8) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.
- (9) No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline

or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.

(10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

- (a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose;
- (b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn; and
- (c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.

(11) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

- (a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a

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combined return under the unitary business concept or to a consolidated return; and

- (b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

➔Section 70. KRS 136.050 is amended to read as follows:

- (1) Except where otherwise specially provided, all corporations required to make reports to the Department of Revenue shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.
- (2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Board of Tax Appeals~~[Kentucky Claims Commission]~~ acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

➔Section 71. KRS 136.658 is amended to read as follows:

- (1) The Local Distribution Fund Oversight Committee is hereby created and administratively attached to and staffed by the department. The oversight committee shall consist of nine (9) members appointed by the Governor and shall be representative of local government and state government officials. The Governor shall receive recommendations for four (4) members each from the Kentucky Association of Counties and the Kentucky League of Cities from which the Governor shall select two (2) members each. The Governor shall receive recommendations for two (2) members each from the Kentucky School Board Association, the Kentucky Superintendents Association, and the Kentucky School Administrators Association from which the Governor shall select one (1) member each. One (1) member shall be appointed by the Governor to represent the interests of special districts other than school districts. The remaining member shall be the commissioner of the Department for Local Government, who shall serve as chairperson of the oversight committee. The members shall serve for a term of three (3) years. Five (5) members of the oversight committee shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the oversight committee and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the oversight committee shall be filled by the Governor for the unexpired term.
- (2) The duties of the oversight committee shall be:
 - (a) To monitor the department's implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund and to report its findings to the commissioner of the department; and
 - (b) To act as a finder of fact for the commissioner of the department in disputes in and between political subdivisions, school districts, special districts, and sheriff departments, and between political subdivisions, school districts, special districts, and

- sheriff departments, and the department regarding the implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund.
- (3) The department shall provide the oversight committee with an annual report reflecting the amounts distributed to each participating political subdivision, school district, special district, or sheriff department.
- (4) Any political subdivision, school district, special district, or sheriff department may file a complaint and request a hearing with the oversight committee on a form prescribed by the committee. The oversight committee shall give notice to any political subdivision, school district, special district, or sheriff department that may be affected by the complaint. Any political subdivision, school district, special district, or sheriff department intending to respond to the complaint shall do so in writing within thirty (30) days of notice of the complaint.
- (5) In conducting its business:
- (a) The oversight committee shall give due notice of the times and places of its hearings;
 - (b) The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses;
 - (c) The oversight committee shall act by majority vote;
 - (d) The oversight committee shall adopt and publish rules of procedure and practice regarding its hearings; and
 - (e) The oversight committee shall make written findings and recommendations to the commissioner of the department.
- (6) The commissioner of the department shall review the findings and recommendations of the oversight committee and issue a final ruling within sixty (60) days of receipt of the recommendations.

(7) The parties in the dispute shall have the rights and duties to appeal any final ruling to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ under KRS 49.220.

(8) Nothing contained in this section shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the hearing process.

➔Section 72. KRS 137.160 is amended to read as follows:

(1) When the Department of Revenue has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.

(2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the department as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The department, in making its assessments, shall take into consideration transportation charges.

(3) The department shall, by the last day of the month in which the reports are required to be

made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.

➔Section 73. KRS 138.132 is amended to read as follows:

- (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid tobacco products or vapor products held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2)
 - (a) If a retailer, who is not a licensed retail distributor, purchases tobacco products or vapor products from a licensed distributor and the purchase invoice does not contain the separate identification and display of the tobacco products tax or vapor products tax, the retailer shall, within twenty-four (24) hours, notify the department in writing.
 - (b) The notification shall include the name and address of the person from whom the tobacco products or vapor products were purchased and a copy of the purchase invoice.
 - (c) The tobacco products or vapor products for which the required information was not included on the invoice shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the proper notice as required by this subsection.
 - (d) After the fifteen (15) day period, the retailer may pay the tax due on the tobacco products or vapor products described in paragraph (c) of this subsection according to administrative regulations promulgated by the department, and after which may proceed to sell the tobacco products or vapor products.
- (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products or vapor

- products for resale from a person not licensed under KRS 138.195(7), which is prohibited by KRS 138.140(2), the retailer may not sell those tobacco products or vapor products until the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b).
- (4) If, upon examination, the department determines that the retailer has failed to comply with the provisions of subsection (3) of this section, the retailer shall pay all tax and interest and applicable penalties due and the following shall apply:
- (a) For the first offense, an additional penalty shall be assessed equal to ten percent (10%) of the tax due;
 - (b) For a second offense within three (3) years or less of the first offense, an additional penalty shall be assessed equal to twenty-five percent (25%) of the tax due; and
 - (c) For a third offense or subsequent offense within three (3) years or less of the first offense, the tobacco products or vapor products shall be contraband and subject to seizure and forfeiture as provided in subsection (5) of this section.
- (5) (a) Whenever a representative of the department finds contraband tobacco products or contraband vapor products within the borders of this state, the tobacco products or vapor products shall be immediately seized and stored in a depository to be determined by the representative.
- (b) At the time of seizure, the representative shall deliver to the person in whose custody the tobacco products or vapor products are found a receipt for the seized products. The receipt shall state on its face that any inquiry concerning any tobacco products or vapor products seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
- (c) Immediately upon seizure, the representative shall notify the commissioner of the nature and quantity of the tobacco products or vapor products seized. Any seized tobacco products or vapor products shall be held for a period of twenty (20) days, and

if after that period no person has claimed the tobacco products or vapor products as his or her property, the commissioner shall cause the tobacco products or vapor products to be destroyed.

- (6) All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products or vapor products involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be contraband and subject to seizure and forfeiture as follows:
- (a) The department's representative shall seize the property and store the property in a safe place selected by the representative; and
 - (b) The representative shall proceed as provided in KRS 138.165(2). The commissioner shall cause the property to be sold after notice published pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as provided in KRS 138.165(2).
- (7) The owner or any person having an interest in the fixtures, materials, or personal property that has been seized as provided by subsection (6) of this section may apply to the commissioner for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the commissioner that the owner or person having an interest in the property was without fault, the department shall remit the forfeiture.
- (8) Any party aggrieved by an order entered under this section may appeal to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.

➔Section 74. KRS 138.165 is amended to read as follows:

- (1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2) (a) Whenever any peace officer of this state, or any representative of the department,

- finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, those cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent.
- (b) At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
- (c) Immediately upon seizure, the officer or agent shall notify the commissioner of the department of the nature and quantity of the goods seized.
- (d) Any seized goods shall be held for a period of twenty (20) days and if after that period no person has claimed the cigarettes, the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.
- (3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, the officer or agent shall immediately seize the vending machine and store the vending machine in a safe place selected by the officer or agent. The officer or agent shall proceed as provided in subsection (2) of this section and the commissioner of the department shall cause the vending machine to be sold, and the proceeds applied, as established in subsection (2) of this section.

- (4) No untax-paid cigarettes shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall proceed as provided in subsection (2) of this section and the commissioner of the department shall cause the motor vehicle to be sold, and the proceeds applied, as established in subsection (2) of this section.
- (5) (a) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the department for remission of the forfeiture for good cause shown.
- (b) If it is shown to the satisfaction of the department that~~[department that]~~ the owner was without fault in the possession, dispensing, or transportation of the untax-paid cigarettes, the department shall remit the forfeiture.
- (c) If the department determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the department may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the department of not more than fifty percent (50%) of the value of the property forfeited.
- All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.
- (6) Any party aggrieved by an order entered hereunder may appeal to the Board of Tax Appeals~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- ➔Section 75. KRS 138.195 is amended to read as follows:
- (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident

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wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

- (b) No person shall act as a distributor of tobacco products or vapor products without first obtaining a license from the department as set out in this section.
- (c) For licenses effective for periods beginning on or after July 1, 2015, no individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license under this section if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of or entered a plea of guilty or nolo contendere to:

- 1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes, tobacco products, or vapor products; or
- 2. A crime involving fraud, falsification of records, improper business transactions or reporting;

for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.

- (2) (a) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received.
- (b) Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid.
- (c) Each license shall be secured on or before July 1 of each year.
- (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which each license is secured.

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- (3) (a) Each sub-jobber shall secure a separate license for each place of business from which cigarettes, upon which the cigarette tax has been paid, are made available to retailers, whether the place of business is located within or without this state.
- (b) Each license shall be secured on or before July 1 of each year.
- (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which each license is secured.
- (4) (a) Each vending machine operator shall secure a license for the privilege of dispensing cigarettes, on which the cigarette tax has been paid, by vending machines.
- (b) Each license shall be secured on or before July 1 of each year.
- (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or portion thereof, for which each license is secured.
- (d) No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator and the license number assigned to that operator by the department.
- (e) The department shall prescribe by administrative regulation the manner in which the information shall be affixed to the vending machine.
- (5) (a) Each transporter shall secure a license for the privilege of transporting cigarettes within this state.
- (b) Each license shall be secured on or before July 1 of each year.
- (c) Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion thereof, for which each license is secured.
- (d) No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing:
1. The name and address of the consignor and consignee;
 2. The date acquired by the transporter;

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3. The name and address of the transporter;
 4. The quantity of cigarettes being transported; and
 5. The license number assigned to the transporter by the department.
- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the cigarette tax has not been paid. The license shall be secured on or before July 1 of each year. Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion thereof, for which the license is secured.
- (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products or vapor products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured.
2. a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.
 - b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products or vapor products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year, or portion thereof, for which the license is secured.
3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured, and the licensee shall be subject to the

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excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.

- (b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products or vapor products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars (\$100) for each year, or portion thereof, for which the license is secured.
- (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of that person's business is so diversified as to justify the requirement.
- (9) (a) The department may by administrative regulation require any person requesting a license or holding a license under this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of the licensees, and to protect the revenues of the state.
- (b) Failure on the part of the applicant or licensee to:
 - 1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder; or
 - 2. Permit an inspection of premises, machines, or vehicles by an authorized agent of the department at any reasonable time;shall be grounds for the denial or revocation of any license issued by the department, after due notice and a hearing by the department.
- (c) The commissioner may assign a time and place for the hearing and may appoint a conferee who shall conduct a hearing, receive evidence, and hear arguments.
- (d) The conferee shall thereupon file a report with the commissioner together with a recommendation as to the denial or revocation of the license.

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- (e) From any denial or revocation made by the commissioner on the report, the licensee may prosecute an appeal to the Board of Tax Appeals~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (f) Any person whose license has been revoked for the willful violation of any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder shall not be entitled to any license provided for in this section, or have any interest in any license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of two (2) years after the revocation.
- (10) No license issued pursuant to this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (11) Every manufacturer located or doing business in this state and the first person to import cigarettes into this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.
- (12) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (13) (a) Licensed distributors of tobacco products or vapor products shall pay and report the tobacco products tax or vapor products tax on or before the twentieth day of the calendar month following the month in which the possession or title of the tobacco products or vapor products are transferred from the licensed distributor to retailers or

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consumers in this state, as the case may be.

- (b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products or vapor products from a person who is not a distributor licensed under KRS 138.195(7)(a) shall report and pay the tobacco products tax or vapor products tax on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.
 - (c) If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.
 - (d) The department shall promulgate administrative regulations setting forth the details of the reporting requirements.
- (14) A tax return shall be filed for each reporting period whether or not tax is due.
- (15) Any license issued by the department under this section shall not be construed to waive or condone any violation that occurred or may have occurred prior to the issuance of the license and shall not prevent subsequent proceedings against the licensee.
- (16) (a) The department may deny the issuance of a license under this section if:
- 1. The applicant has made any material false statement on the application for the license; or
 - 2. The applicant has violated any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.754, or 248.756 or any administrative regulations promulgated thereunder.
- (b) If the department denies the applicant a license under this section, the department shall notify the applicant of the grounds for the denial, and the applicant may request a hearing and appeal the denial as provided in subsection (9) of this section.

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➔Section 76. KRS 138.340 is amended to read as follows:

- (1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210, or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the Department of Revenue. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the Department of Revenue. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the Department of Revenue to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220, subject to the condition that the licensee has made bond sufficient in the opinion of the Department of Revenue to protect the Commonwealth from loss of revenue.
- (2) The department may cancel the license:
 - (a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or
 - (b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

➔Section 77. KRS 138.354 is amended to read as follows:

- (1) No person shall make a false or fraudulent statement in an application for a refund permit

or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.

- (2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the Department of Revenue subject to appeal to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220, and may not be reissued until two (2) years have elapsed from the date of such revocation.
- (3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the Department of Revenue for any period in its discretion not exceeding six (6) months with the right of appeal to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the Department of Revenue for a period of not more than two (2) years subject to appeal to the Kentucky Claims Commission pursuant to KRS 49.220. No refund shall be made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

➔Section 78. KRS 138.355 is amended to read as follows:

If the department reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the department to show cause

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at a public hearing before the Department of Revenue why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220, subject to the condition that he make bond sufficient in the opinion of the department to protect the Commonwealth from loss of revenue.

➔Section 79. KRS 138.729 is amended to read as follows:

Any final ruling of the Department of Vehicle Regulation with regard to the administration of KRS 138.655 to 138.725 shall be appealed to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.

➔Section 80. KRS 150.645 is amended to read as follows:

- (1) An owner, lessee or occupant of premises who gives permission to another person to hunt, fish, trap, camp or hike upon the premises shall owe no duty to keep the premises safe for entry or use by the person or to give warning of any hazardous conditions on the premises, and the owner, lessee, or occupant, by giving his permission, does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed. The owner, lessee, or occupant giving permission for any of the purposes stated above shall not be liable for any injury to any person or property caused by the negligent acts of any person to whom permission is granted. This section shall not limit the liability which would otherwise exist for willful and malicious failure to guard or to warn against a dangerous condition, use, structure, or activity; or for injury suffered in any case where permission to hunt, fish, trap,

camp, or hike was granted for a consideration other than the consideration, if any, as set forth in KRS 411.190(1)(d), paid to said owner, lessee, or occupant by the state. The word "premises" as used in this section includes lands, private ways, and any buildings and structures thereon. Nothing in this section limits in any way any liability which otherwise exists.

- (2) Department employees who participate in bona fide wildlife management practices are agents of the department and state and, in the event property damage does occur, a claim for property damages may only be brought in the Board of Claims~~[Kentucky Claims Commission]~~ pursuant to KRS 49.040 to 49.180.

➔Section 81. KRS 186.070 is amended to read as follows:

- (1) (a) Every manufacturer of, or dealer in, motor vehicles in this state shall register with each county clerk in which his principal office or place of business and branch office, sub-agent, or agency is located, and pay an annual registration fee of twenty-five dollars (\$25) to each clerk.
- (b) Upon receipt of the twenty-five dollar (\$25) fee, the clerk shall issue the manufacturer or dealer a certificate of registration and one (1) dealer plate. Every manufacturer or dealer registered under this section shall be furnished additional dealer's plates upon the payment of fourteen dollars and fifty cents (\$14.50) for each additional plate requested. Three dollars (\$3) shall be retained by the clerk for each additional plate issued.
- (c) A motor vehicle bearing dealer's plates may be used on the highways only by the following people:
1. A licensed dealer, bona fide salesman, or employee of the dealer;
 2. A manufacturer or dealer licensed pursuant to the laws of this state transporting a motor vehicle to his place of retail business from a manufacturer or wholesale

- dealer in motor vehicles; and
3. A bona fide customer of a licensed dealer, or the customer's employees when a motor vehicle is being demonstrated. This provision shall be limited to one (1) trip or demonstration to the same prospective customer.
- (d) License plates issued under this section shall annually expire on December 31.
- (e) As used in this section, "bona fide salesman or employee" means a licensed salesman, or an employee, who is actively engaged in and devotes a substantial part of his time to the conduct of the dealer business.
- (f) A vehicle bearing a dealer plate, except when the vehicle is being transported to a dealer's place of business from a manufacturer, shall have, in the case of a new motor vehicle, a "monroney" sticker attached to the vehicle, or, in the case of a used motor vehicle, a Federal Trade Commission buyer's guide sticker attached to the vehicle.
- (2) (a) Each manufacturer and dealer when making application for dealer's plates shall file a verified statement on at least a quarterly basis with the county clerk, giving the name, address, and Social Security number of each dealer, and each bona fide salesman or employee entitled to the use of the plates for demonstration purposes only. When any bona fide registered salesman or employee is no longer employed by the manufacturer or dealer, the manufacturer or dealer shall file an amended verified statement with the clerk stating that fact, and when any additional salesmen or employees are employed, an amended verified statement showing their names and addresses shall be filed with the clerk so that the records in the clerk's office will at all times show the bona fide salesmen and employees actually in the service of the registered dealer or manufacturer;
- (b) The names of each dealer and each bona fide salesman and employee shall be entered by the clerk into the AVIS where it will be readily available to law enforcement

- agencies. The information shall be entered by the clerk immediately after each quarterly filing of the verified statement by the dealer;
- (c) Any person who is hired as a driver by a motor vehicle dealer for the limited, specific purpose of transporting a motor vehicle to or from that dealer's place of business may, for that purpose only, operate a motor vehicle bearing a dealer plate. For the purpose of that operation, the dealer shall provide to that driver a permit, provided by the Transportation Cabinet. The permit shall be valid for five (5) days from the date of issuance. A fee shall not be charged for the permit.
- (3) The license of any dealer or manufacturer may be revoked by the Transportation Cabinet for the violation of any of the provisions of this section. The manufacturer or dealer shall be given an opportunity to be heard in defense of the charge that he has violated any of the provisions of this section, and the Transportation Cabinet shall promulgate administrative regulations governing the revocation procedure. A manufacturer or dealer whose license is revoked may appeal the revocation to the Board of Tax Appeals~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220. The manufacturer or dealer whose license has been suspended shall be prohibited from engaging in the business of selling or buying motor vehicles. The license of any manufacturer or dealer shall be revoked for a period of one (1) year and his dealer's plates canceled if he violates any of the provisions of this section during this suspension period or has been suspended by the cabinet more than twice for violations of this section. At the end of the revocation or suspension period the manufacturer or dealer whose license has been revoked or suspended and dealer's plates canceled may follow the provisions of this section and again be registered and secure dealer's plates from the clerk.
- (4) The Transportation Cabinet shall be responsible for the issuance and cancellation of the plates provided for in this section, and the motor vehicle commission shall be responsible

for the enforcement of this section, except for the normal responsibilities of law enforcement agencies. The cabinet may promulgate administrative regulations pertaining to the administration of this section.

➔Section 82. KRS 211.392 is amended to read as follows:

- (1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Department of Revenue in the manner and form prescribed by the Department of Revenue and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Department of Revenue for the proper administration of this section. If the Department of Revenue finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the Department of Revenue shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or
 - (c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.

- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.
- (6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Department of Revenue to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Department of Revenue.
- (8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the Department of Revenue.
- (9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall

exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 83. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team

Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited to:

- (a) Basic treatment and sample gathering services; and
 - (b) Laboratory tests, as appropriate.
- (5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8) (a) The examinations provided in accordance with this section shall be paid for by the **Crime Victims Compensation Board**~~[Kentucky Claims Commission]~~ at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
- (b) Upon receipt of a completed claim form supplied by the board and an itemized billing for a forensic sexual assault examination or related services that are within the scope of practice of the respective provider and were performed no more than twelve (12)

months prior to submission of the form, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.

- (c) Independent investigation by the Crime Victims Compensation Board~~Kentucky Claims Commission~~ shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.
- (10) (a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child or a vulnerable adult is required, as set forth in KRS 209.030 and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.
- (b) If the victim chooses to report to law enforcement, the hospital shall notify law enforcement within twenty-four (24) hours.
- (c) 1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed,

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if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.
3. All samples collected pursuant to this section shall be stored for at least one (1) year from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.
4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within one (1) year after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. The victim shall be informed of this process at the time of the examination. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.

➔Section 84. KRS 224.1-310 is amended to read as follows:

- (1) Application for a pollution control tax exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the Department of Revenue for the proper administration

of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as a pollution control facility as defined in KRS 224.1-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

- (2) Before issuing a pollution control tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke such certificate whenever any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities; or
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.
- (3) Provided, however, that where the circumstances so require, the Department of Revenue in lieu of revoking such certificate may modify the same.
- (4) On the mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by

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certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.

- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the Department of Revenue to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the Department of Revenue.
- (8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the Department of Revenue.

➔Section 85. KRS 234.350 is amended to read as follows:

- (1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to

reasonable cause, the department may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.

- (2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the department may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the department his license.
- (3) If upon investigation the department ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the department may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the department.
- (4) Whenever a licensee ceases to engage in business within this state, he shall notify the department in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the department his license.
- (5) If the department takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant

to KRS 49.220 where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.

- (6) If the license is canceled by the department as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the department shall cancel the bond filed by the licensee.

➔Section 86. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The Office of Energy Policy shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the Office of Energy Policy, and shall afford to the applicant and to the Office of Energy Policy an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction,

- reconstruction, installation, or acquisition of the alcohol production facilities; or
- (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Office of Energy Policy. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Office of Energy Policy. The applicant or holder and the Office of Energy Policy shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the **Board of Tax Appeals**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights

pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Office of Energy Policy and the Department of Revenue.

- (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Office of Energy Policy and to the Department of Revenue.
- (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 87. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:
- (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, **Board of Claims**~~[Kentucky Claims Commission]~~, Special Fund, or any agent thereof:
1. Any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false,

- incomplete, or misleading information concerning any fact or thing material to a claim; or
2. Any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
- (b) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
- (c) Knowingly and with intent to defraud or deceive:
1. Receives money for the purpose of purchasing insurance, and fails to obtain insurance;
 2. Fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 3. Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
 - a. The rating of an insurance policy;
 - b. The financial condition of an insurer;
 - c. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or

- d. A document filed with the commissioner; or
4. Engages in any of the following:
- a. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or
 - b. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer;
- (d) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;
- (e) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
- (f) Engages in unauthorized insurance, as set forth in KRS 304.11-030; or
- (g) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) A person convicted of a violation of subsection (1) of this section shall be guilty of a Class A misdemeanor, unless the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is:
- (a) Five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (b) Ten thousand dollars (\$10,000) or more but less than one million dollars (\$1,000,000), in which case it is a Class C felony; or
 - (c) One million dollars (\$1,000,000) or more, in which case it is a Class B felony.
- (3) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall be guilty of engaging in organized crime, a Class B felony, if he or she

- engages in any of the activities set forth in KRS 506.120(1).
- (4) A person convicted of a crime established in this section shall be punished by:
- (a) Imprisonment for a term:
1. Not to exceed the period set forth in KRS 532.090 if the crime is a Class A misdemeanor; or
 2. Within the periods set forth in KRS 532.060 if the crime is a Class D, C, or B felony;
- (b) A fine, per occurrence, of:
1. For a misdemeanor, not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 2. For a felony, not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
- (c) Both imprisonment and a fine, as set forth in paragraphs (a) and (b) of this subsection.
- (5) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a crime established in this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (6) Any person damaged as a result of a violation of any provision of this section shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (7) The provisions of this section shall also apply to any agent, unauthorized insurer or its

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agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (6) of this section.

➔Section 88. KRS 342.1231 is amended to read as follows:

- (1) The funding commission may mail to the assessment payer a notice of any assessment assessed by it. The assessment shall be final if not protested in writing to the funding commission within thirty (30) days from the date of notice. Payment for the assessment, penalty and interest, and expenses shall be received by the funding commission within thirty (30) days from the date the notice becomes final. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the funding commission may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the assessment payer may request a conference with the funding commission. The request shall be granted in writing stating the date and time set for the conference. The assessment payer may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) After considering the assessment payer's protest, including any matters presented at the final conference, the funding commission shall issue a final ruling on any matter still in controversy, which shall be mailed to the assessment payer. The ruling shall state that it is a final ruling of the funding commission, generally state the issues in controversy, the funding commission's position thereon and set forth the procedure for prosecuting an appeal to the **Board of Claims**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (4) The assessment payer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the funding commission

shall issue such ruling within sixty (60) days or at the next board of directors meeting, whichever is later, from the date the request is received by the funding commission.

- (5) After a final ruling has been issued, the assessment payer may appeal to the **Board of Claims**~~[Kentucky Claims Commission]~~ pursuant to KRS 49.220.
- (6) The expenses incurred by the funding commission in conducting audits required in this chapter shall be paid by the audited entities in accordance with administrative regulations promulgated by the funding commission.
- (7) Notwithstanding any provision to the contrary, a notice of assessment under subsection (1) of this section shall not be collected unless the notice of assessment is mailed to the assessment payer not later than five (5) years from the due date of the quarterly premium report or the date the amended quarterly premium report is filed, whichever is later. A quarterly premium report shall not be amended later than one (1) year after the due date of the quarterly premium report.
- (8) Assessment payers shall preserve, retain, and provide all documents relevant to quarterly premium reports and subject to audits to the funding commission upon request during the completion of the audit.
- (9)
 - (a) The funding commission may mail the assessment payer notice of a refund amount to be returned to an insured. The insurance carrier shall pay the amount of the refund to the insured within sixty (60) days from the date of notice sent by the funding commission. If, after good faith efforts, the refund cannot be returned to the insured, the refund amount shall be remitted to the funding commission within thirty (30) days from the last date of attempting the refund.
 - (b) If a refund amount to an insured is unpaid on the date on which it is due, then that amount shall bear a penalty of one and one-half percent (1.5%) per month from that due date. The funding commission shall have the authority to waive part or all of the

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penalty where failure to pay is shown, to the satisfaction of the funding commission, to be for a reasonable cause.

- (10) "Assessment payer" as used in this section means insurance carrier, self-insured group, and self-insured employer.

➔Section 89. KRS 365.370 is amended to read as follows:

- (1) The department shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the department, it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.
- (2) The department may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the department promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.
- (3) All of the powers vested in the commissioner and Department of Revenue by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.
- (4) Any person aggrieved by any decision, order, or finding of the Department of Revenue, suspending or revoking any license, may appeal to the Board of Tax Appeals~~Kentucky Claims Commission~~ pursuant to KRS 49.220.

➔Section 90. KRS 452.505 is amended to read as follows:

The following actions may be brought in the Franklin Circuit Court, or in the Franklin District Court, or in any other Circuit Court or District Court having venue:

- (1) Actions to collect the revenue and all other claims, demands and penalties due the Commonwealth, or to have satisfaction made of judgments in favor of the Commonwealth, except those actions which are prosecuted by an appeal to the Board of Tax

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Appeals~~[Kentucky Claims Commission]~~ under the provisions of KRS 49.220 and 131.110.

- (2) Actions against persons required to collect money due the Commonwealth, to pay money into the State Treasury, or to do any other act connected with the payment of money into the State Treasury after it has been collected, and against the sureties, heirs, devisees or representatives of such persons.
- (3) Actions to surcharge and correct fee bills, accounts and settlements, with their debits and credits, and all claims against the Treasury allowed and approved by any court in the Commonwealth to any person.
- (4) Actions to recover any fraudulent, erroneous or illegal account, fee bill, charge, credit or claim approved and allowed or paid out of the Treasury to any person.
- (5) The defendant in any action brought in Franklin Circuit Court or Franklin District Court under the provisions of subsection (1) of this section for the collection of taxes assessed under KRS Chapter 141 shall at any time prior to the submission for judgment upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin Circuit Court or Franklin District Court.

➔Section 91. KRS 532.162 is amended to read as follows:

- (1) If the criminal garnishment is made upon the convicted person's earnings, the order of garnishment shall be a lien upon the earnings from the date of service on the garnishee until an order discontinuing the lien is entered. A convicted person may challenge the garnishment by filing a challenge to the garnishment with the sentencing court. The challenge shall be heard within ten (10) days of its filing or the nearest court date thereafter. Before the hearing, garnishment shall continue. Any moneys which the court determines were improperly garnished shall be repaid to the garnishee not later than thirty (30) days after the determination.

- (2) The circuit clerk's office shall disburse all collected reimbursement, restitution, and fees to the victim, the **Crime Victims Compensation Board**~~[Kentucky Claims Commission]~~, or the local government, whichever is appropriate. The clerk shall be entitled to collect a fee of two dollars and fifty cents (\$2.50) from each account for which a disbursement is made at the time of disbursement. In the event of challenge to a garnishment, the appropriate clerk's office shall not disburse those sums associated with the challenged garnishment until determination by the sentencing court regarding the propriety of the garnishment.

➔Section 92. KRS 533.030 is amended to read as follows:

- (1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.
- (2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:
- (a) Avoid injurious or vicious habits;
 - (b) Avoid persons or places of disreputable or harmful character;
 - (c) Work faithfully at suitable employment as far as possible;
 - (d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
 - (e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
 - (f) Support his dependents and meet other family responsibilities;
 - (g) Pay the cost of the proceeding as set by the court;
 - (h) Remain within a specified area;

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- (i) Report to the probation officer as directed;
 - (j) Permit the probation officer to visit him at his home or elsewhere;
 - (k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;
 - (l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court;
 - (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs associated with the device, including administrative and operating costs, shall be paid by the defendant. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of probation or conditional discharge provided for in this section; or
 - (n) During all or part of the period of probation or conditional discharge, participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions as provided in KRS 431.517.
- (3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred

expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the **Crime Victims Compensation Board**~~[Kentucky Claims Commission]~~, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

- (a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;
- (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by

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the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;

- (c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and
 - (d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.
- (4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.
 - (5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.
 - (6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532,

if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

➔Section 93. The General Assembly hereby confirms Executive Order 2020-708, dated August 31, 2020, to the extent that it is not otherwise confirmed or superseded by this Act, relating to the reorganization of the Public Protection Cabinet, abolishing the Kentucky Claims Commission, and establishing the Office of Claims and Appeals and the Boards attached thereto, namely the Board of Claims, the Board of Tax Appeals, and the Crime Victims Compensation Board.

➔Section 94. The initial membership of the Board of Claims, Board of Tax Appeals, and the Crime Victims Compensation Board shall consist of those individuals appointed by the Governor in Executive Order 2020-708, dated August 31, 2020, and the terms of these initial members shall expire on the dates set out in that order."