

1 AN ACT relating to wage assessments for remote workers.

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

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

5 *(1) For purposes of this section:*

6 *(a) "Approved company" means an eligible company that has received final*  
7 *approval to receive incentives under this section;*

8 *(b) "Eligible company" means any corporation, limited liability company,*  
9 *partnership, limited partnership, sole proprietorship, business trust, or any*  
10 *other entity with a proposed project with the purpose of providing up-front*  
11 *costs in recruiting new remote workers to locate in the Commonwealth;*

12 *(c) "Employer" means the company that is paying the wages, withholding the*  
13 *income tax, and imposing the wage assessment of the remote worker;*

14 *(d) "Remote worker" means:*

15 *1. Any individual who:*

16 *a. Permanently relocates to the Commonwealth as a result of an*  
17 *eligible company's project and resides in this state for a*  
18 *minimum of one hundred eighty-three (183) days;*

19 *b. Works from his or her principal place of residence in Kentucky*  
20 *for a business entity that is only doing business in this state*  
21 *through the presence of employees located in this state; and*

22 *c. Earns gross income of at least fifty thousand dollars (\$50,000);*  
23 *or*

24 *2. Any individual who accepts employment with a Kentucky-based employer*  
25 *after relocating to this state and qualifying as a remote worker under*  
26 *subparagraph 1. of this paragraph; and*

27 *(e) "Wage" means the per hour earnings of a full-time remote employee,*

1           including wages, tips, overtime, bonuses, and commissions, as reflected on  
2           the employee's federal form W-2 wage and tax statement, but excludes  
3           employee benefits;

4   (2) For taxable years beginning on or after January 1, 2022, the department shall  
5           provide incentives for an approved company that offers incentive grants to and  
6           pays all up-front costs associated with attracting remote workers, including costs  
7           associated with:

8           (a) Marketing and advertising;

9           (b) Recruitment, including projected grants;

10          (c) Vetting;

11          (d) Relocation; and

12          (e) Employee retainment.

13   (3) (a) To qualify for the incentives provided in this section, an approved company  
14           shall raise, commit, and demonstrate an investment in accordance with  
15           subsection (2) of this section of at least ten million dollars (\$10,000,000)  
16           annually.

17           (b) The approved company shall agree to these costs, which shall be for the  
18           length of the program.

19   (4) The employer shall impose a wage assessment of at least four percent (4%) of the  
20           gross wages of each remote worker subject to Kentucky income tax under KRS  
21           141.020, who:

22           (a) Is in this state as a result of the eligible company's efforts to recruit the  
23           remote worker; and

24           (b) Remains in this state for a minimum of one hundred eighty-three (183) days  
25           during the tax year.

26   (5) The wage assessment shall continue if the remote worker accepts new  
27           employment with a Kentucky-based employer upon relocation to this state under

1 the approved company's recruitment efforts.

2 (6) The Commonwealth may cease the assessment of wages on January 1 following  
3 the fifth year of which the remote worker's wage assessment has been collected by  
4 paying the eligible company an amount equal to eight (8) times the total amount  
5 of the prior taxable year's wage assessment for that remote worker.

6 (7) Any assessment of the wages of a remote worker shall permanently cease when  
7 the remote worker permanently moves his or her domicile to another state.

8 (8) The application, approval, and review process under this section shall be as  
9 follows:

10 (a) An eligible company may submit an application that includes:

11 1. The name of the applicant and identification number;

12 2. The projected number of new full-time remote workers that will  
13 relocate to Kentucky;

14 3. A description of the projected costs that will be incurred by the eligible  
15 company in the recruitment and retention of remote workers; and

16 4. Demonstration and description of proven funds of at least ten million  
17 dollars (\$10 million);

18 (b) Once a determination of approval is made by the department, it shall:

19 1. Provide a notification of approval to the eligible company;

20 2. Monitor the approved company annually to determine if it is  
21 successfully able to recruit remote workers as projected in paragraph  
22 (a) of this subsection; and

23 3. Monitor costs of the approved company annually to determine if the  
24 projected and required costs as established in subsections (2) and (3)  
25 of this section are being met.

26 If at any time, the approved company becomes ineligible for incentives  
27 under this section, the department shall discontinue working with the

1           company going forward, and wage assessment payments shall still continue  
2           for remote workers already incentivized through up-front costs provided for  
3           under subsection (2) of this section;

4           (c) Once a determination of approval is made by the department, the company  
5           shall provide:

6           1. The taxpayer identification number of the remote worker; and

7           2. The projected county of location of the remote worker; and

8           (d) The department shall:

9           1. Establish standards for approval of eligible companies through the  
10           promulgation of administrative regulations in accordance with KRS  
11           Chapter 13A; and

12           2. Request any materials and make any inquiries concerning an  
13           application that the authority deems necessary.

14           (9) Any employer required to withhold Kentucky income tax in accordance with KRS  
15           141.310 and who assesses and withholds from remote workers a wage assessment  
16           according to the guidelines established in this section, shall offset the fee against  
17           the Kentucky income tax required to be withheld under KRS 141.310. The  
18           amount of the offset shall be equal to four percent (4%) of the total wages.

19           (10) The department shall pay in four (4) equal quarterly installments the wage  
20           assessment amount to the eligible company based on actual new payroll  
21           generated from the prior quarter, within sixty (60) days of the end of the prior  
22           quarter.

23           (11) (a) The purpose of this section is to attract remote workers to the  
24           Commonwealth and provide incentives for eligible companies to invest in  
25           attracting this remote workforce to Kentucky.

26           (b) In order for the General Assembly to evaluate the fulfillment of the  
27           purposes stated in this section, the department shall provide the following

1 information on a cumulative basis for each taxable year to provide a  
 2 historical impact of the tax incentives to the Commonwealth:

3 1. The name and address of the employers that employ remote workers  
 4 under this section;

5 2. The name and address of the employees;

6 3. The total number of participating employees, by county, as reflected  
 7 on the return filed for the taxable year; and

8 4. Based on ranges of adjusted gross income of no larger than five  
 9 thousand dollars (\$5,000) for the taxable year, the total amount of  
 10 wage assessment for each adjusted gross income range.

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

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

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

23 (a) Information required in prosecutions for making false reports or returns of  
 24 property for taxation, or any other infraction of the tax laws;

25 (b) Any matter properly entered upon any assessment record, or in any way made  
 26 a matter of public record;

27 (c) Furnishing any taxpayer or his or her properly authorized agent with

- 1 information respecting his or her own return;
- 2 (d) Testimony provided by the commissioner or any employee of the department  
3 in any court, or the introduction as evidence of returns or reports filed with the  
4 department, in an action for violation of state or federal tax laws or in any  
5 action challenging state or federal tax laws;
- 6 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
7 energy resources assessed under KRS 132.820, or owners of surface land  
8 under which the unmined minerals lie, factual information about the owner's  
9 property derived from third-party returns filed for that owner's property, under  
10 the provisions of KRS 132.820, that is used to determine the owner's  
11 assessment. This information shall be provided to the owner on a confidential  
12 basis, and the owner shall be subject to the penalties provided in KRS  
13 131.990(2). The third-party filer shall be given prior notice of any disclosure  
14 of information to the owner that was provided by the third-party filer;
- 15 (f) Providing to a third-party purchaser pursuant to an order entered in a  
16 foreclosure action filed in a court of competent jurisdiction, factual  
17 information related to the owner or lessee of coal, oil, gas reserves, or any  
18 other mineral resources assessed under KRS 132.820. The department may  
19 promulgate an administrative regulation establishing a fee schedule for the  
20 provision of the information described in this paragraph. Any fee imposed  
21 shall not exceed the greater of the actual cost of providing the information or  
22 ten dollars (\$10);
- 23 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
24 the Kentucky Supreme Court under KRS 131.1817;
- 25 (h) Statistics of gasoline and special fuels gallonage reported to the department  
26 under KRS 138.210 to 138.448;
- 27 (i) Providing any utility gross receipts license tax return information that is

1 necessary to administer the provisions of KRS 160.613 to 160.617 to  
2 applicable school districts on a confidential basis;

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

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

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

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

9 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
10 ENERGY STAR manufactured home credits;

11 4. KRS 141.383 for purposes of the film industry incentives;

12 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization  
13 tax credits and the job assessment fees;

14 6. KRS 141.068 for purposes of the Kentucky investment fund;

15 7. KRS 141.396 for purposes of the angel investor tax credit;

16 8. KRS 141.389 for purposes of the distilled spirits credit;

17 9. KRS 141.408 for purposes of the inventory credit;

18 10. KRS 141.390 for purposes of the recycling and composting credit;

19 11. KRS 141.3841 for purposes of the selling farmer tax credit;

20 12. KRS 141.4231 for purposes of the renewable chemical production tax  
21 credit;

22 13. KRS 141.524 for purposes of the Education Opportunity Account  
23 Program tax credit;

24 14. KRS 141.398 for purposes of the development area tax credit;~~and~~

25 15. KRS 139.516 for the purposes of the sales and use tax exemption on the  
26 commercial mining of cryptocurrency; and

27 16. Section 1 of this Act for the purposes of remote worker wage

1                                    assessments.

- 2        (3)    The commissioner shall make available any information for official use only and on  
3            a confidential basis to the proper officer, agency, board or commission of this state,  
4            any Kentucky county, any Kentucky city, any other state, or the federal government,  
5            under reciprocal agreements whereby the department shall receive similar or useful  
6            information in return.
- 7        (4)    Access to and inspection of information received from the Internal Revenue Service  
8            is for department use only, and is restricted to tax administration purposes.  
9            Information received from the Internal Revenue Service shall not be made available  
10           to any other agency of state government, or any county, city, or other state, and shall  
11           not be inspected intentionally and without authorization by any present secretary or  
12           employee of the Finance and Administration Cabinet, commissioner or employee of  
13           the department, or any other person.
- 14       (5)    Statistics of crude oil as reported to the department under the crude oil excise tax  
15           requirements of KRS Chapter 137 and statistics of natural gas production as  
16           reported to the department under the natural resources severance tax requirements  
17           of KRS Chapter 143A may be made public by the department by release to the  
18           Energy and Environment Cabinet, Department for Natural Resources.
- 19       (6)    Notwithstanding any provision of law to the contrary, beginning with mine-map  
20           submissions for the 1989 tax year, the department may make public or divulge only  
21           those portions of mine maps submitted by taxpayers to the department pursuant to  
22           KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
23           out parcel areas. These electronic maps shall not be relied upon to determine actual  
24           boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
25           required under KRS Chapters 350 and 352 shall not be construed to constitute land  
26           surveying or boundary surveys as defined by KRS 322.010 and any administrative  
27           regulations promulgated thereto.