

1 AN ACT relating to the opioid abatement trust fund.

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

3 ➔Section 1. KRS 15.293 is amended to read as follows:

- 4 (1) As used in this section, "commission" means the Kentucky Opioid Abatement  
5 Advisory Commission created in KRS 15.291.
- 6 (2) There is hereby established in the State Treasury a trust and agency account to be  
7 known as the opioid abatement trust fund. Moneys in the fund are hereby  
8 appropriated for the purposes set forth in KRS 15.291, distributed as described in  
9 subsection (3) of this section, and shall not be appropriated or transferred by the  
10 General Assembly for any other purposes.
- 11 (3) The fund shall consist of:
- 12 (a) Fifty percent (50%) of all proceeds received by the Commonwealth, counties,  
13 consolidated local governments, urban-county governments, and cities of the  
14 Commonwealth in any settlement or judgment ***or bankruptcy proceeding***  
15 against McKesson Corporation, Cardinal Health 5, LLC, Amerisourcebergen  
16 Drug Corporation, ~~and~~ Johnson & Johnson, ***and any named defendant in In***  
17 ***re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-***  
18 ***md-02804, in the United States District Court for the Northern District of***  
19 ***Ohio***, and any of their affiliates or subsidiaries related to opioid  
20 manufacturing or distribution to the extent included in a settlement agreement;  
21 and
- 22 (b) Any other moneys received from state appropriations, gifts, grants, or federal  
23 funds.
- 24 (4) (a) The fund shall not consist of the remaining fifty percent (50%) of all proceeds  
25 received by the Commonwealth, counties, consolidated local governments,  
26 urban-county governments, and cities of the Commonwealth in any settlement  
27 or judgment ***or bankruptcy proceeding*** against McKesson Corporation,

1 Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation, ~~and~~ Johnson  
2 & Johnson, **and any named defendant in In re National Prescription Opiate**  
3 **Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States**  
4 **District Court for the Northern District of Ohio**, and any of their affiliates or  
5 subsidiaries related to opioid manufacturing or distribution to the extent  
6 included in a settlement agreement.

7 (b) The remaining fifty percent (50%) of all proceeds not included in the fund  
8 shall be paid to counties, consolidated local governments, urban-county  
9 governments, and cities of the Commonwealth in accordance with an  
10 agreement reached among **at least fifty-one percent (51%) of the litigating**  
11 **counties, consolidated local governments, urban-county governments, and**  
12 **cities of the Commonwealth with pending claims who filed suit by January**  
13 **1, 2021, against named defendants in In re National Prescription Opiate**  
14 **Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States**  
15 **District Court for the Northern District of Ohio, to the extent referenced in**  
16 **a settlement agreement, consent judgment, order, or document that reflects**  
17 **the terms of any settlement, judgment, or bankruptcy declaration**~~them~~ that  
18 incorporates the criteria of KRS 15.291(5) **and the negotiation class**  
19 **distribution metrics established in In re National Prescription Opiate**  
20 **Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States**  
21 **District Court for the Northern District of Ohio**. If no such agreement is  
22 reached, the money shall be paid to a trustee appointed jointly by the  
23 Kentucky Association of Counties and the Kentucky League of Cities for  
24 distribution of the funds to counties, consolidated local governments, urban-  
25 county governments, and cities of the Commonwealth using the criteria listed  
26 in KRS 15.291(5).

27 (c) 1. Each recipient of moneys from the fund shall submit on an annual basis

- 1 a certification that the funds were used consistent with the criteria in  
2 KRS 15.291(5), a description of the use of such funds, and such other  
3 information as the commission requests through administrative  
4 regulation.
- 5 2. a. Each county, consolidated local government, urban-county  
6 government, or city of the Commonwealth that receives any  
7 proceeds under paragraph (b) of this subsection shall submit, on an  
8 annual basis a certification that the funds were used consistent  
9 with the criteria in KRS 15.291(5), a list of fund recipients and  
10 amounts, a description of the use of the funds, and any other  
11 information as the commission requests through the promulgation  
12 of an administrative regulation.
- 13 b. If a trustee is appointed under paragraph (b) of this subsection, the  
14 certifications shall be sent to the trustee, and the trustee will  
15 compile and submit one (1) report to the commission.
- 16 c. If a trustee is not appointed, the certifications shall be submitted to  
17 the commission as provided by administrative regulation.
- 18 d. Funds shall be withheld from any county, consolidated local  
19 government, urban-county government, or city of the  
20 Commonwealth that does not comply with this paragraph until  
21 such time as compliance is achieved.
- 22 (d) To the extent that a settlement has been reached in any litigation against the  
23 companies listed in paragraph (a) of this subsection, each county, consolidated  
24 local government, urban-county government, city, political subdivision, and  
25 public agency, as that term is defined in KRS 61.805(2), of the  
26 Commonwealth shall be deemed to have released its claims against the  
27 companies listed in paragraph (a) of this subsection and their affiliates and

1 subsidiaries to the extent referenced in a settlement agreement, consent  
2 judgment, order, or other document that reflects the terms of any settlement.

3 (5) Amounts deposited in the fund shall be used only for the purposes described in KRS  
4 15.291.

5 (6) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a  
6 fiscal year shall not lapse but shall be carried forward into the next fiscal year.

7 (7) Any interest earnings of the fund shall become a part of the fund and shall not lapse.

8 (8) Moneys in the fund shall be distributed no less than annually.

9 (9) (a) The Department of Law may recover its reasonable costs of litigation from the  
10 moneys received under subsection (3)(a) of this section.

11 (b) The Department of Law may recover any direct costs, including employee  
12 time, used to perform or administer the duties required by this section and  
13 KRS 15.291 from the moneys received under subsection (3)(a) of this section.

14 The Department of Law shall report all such recovered costs to the  
15 commission no less than annually.

16 (10) The commission shall continue to make distributions from the fund as long as  
17 defendants in the opioid litigation make payments to the Commonwealth or until  
18 the time that the moneys in the fund are exhausted.