

1 AN ACT relating to revenue.

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

3 ➔SECTION 1. KRS 132.010 IS REPEALED AND REENACTED TO READ
4 AS FOLLOWS:

5 *As used in this chapter:*

6 *(1) "Agricultural land" means:*

7 *(a) Any tract of land, including all income-producing improvements, of at least*
8 *ten (10) contiguous acres in area used for the production of livestock,*
9 *livestock products, poultry, poultry products and/or the growing of tobacco*
10 *and/or other crops including timber;*

11 *(b) Any tract of land, including all income-producing improvements, of at least*
12 *five (5) contiguous acres in area commercially used for aquaculture; or*

13 *(c) Any tract of land devoted to and meeting the requirements and*
14 *qualifications for payments pursuant to agriculture programs under an*
15 *agreement with the state or federal government;*

16 *(2) "Agricultural or horticultural value" means the use value of agricultural or*
17 *horticultural land based upon income-producing capability and comparable sales*
18 *of farmland purchased for farm purposes where the price is indicative of farm*
19 *use value, excluding sales representing purchases for farm expansion, better*
20 *accessibility, and other factors which inflate the purchase price beyond farm use*
21 *value, if any, considering the following factors as they affect a taxable unit:*

22 *(a) Relative percentages of tillable land, pasture land, and woodland;*

23 *(b) Degree of productivity of the soil;*

24 *(c) Risk of flooding;*

25 *(d) Improvements to and on the land that relate to the production of income;*

26 *(e) Row crop capability including allotted crops other than tobacco;*

27 *(f) Accessibility to all-weather roads and markets; and*

- 1 (g) Factors which affect the general agricultural or horticultural economy,
2 such as interest, price of farm products, cost of farm materials and supplies,
3 labor, or any economic factor which would affect net farm income;
- 4 (3) (a) "Broadcast" means the transmission of audio, video, or other signals,
5 through any electronic, radio, light, or similar medium or method now in
6 existence or later devised over the airwaves to the public in general.
- 7 (b) "Broadcast" shall not apply to operations performed by multichannel video
8 programming service providers as defined in KRS 136.602 or any other
9 operations that transmit audio, video, or other signals, exclusively to
10 persons for a fee;
- 11 (4) "Compensating tax rate" means that rate which, rounded to the next higher one-
12 tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and
13 applied to the current year's assessment of the property subject to taxation by a
14 taxing district, excluding new property and personal property, produces an
15 amount of revenue approximately equal to that produced in the preceding year
16 from real property. However, in no event shall the compensating tax rate be a rate
17 which, when applied to the total current year assessment of all classes of taxable
18 property, produces an amount of revenue less than was produced in the preceding
19 year from all classes of taxable property. For purposes of this subsection,
20 "property subject to taxation" means the total fair cash value of all property
21 subject to full local rates, less the total valuation exempted from taxation by the
22 homestead exemption provision of the Constitution of Kentucky and the
23 difference between the fair cash value and agricultural or horticultural value of
24 agricultural or horticultural land;
- 25 (5) "County" means any county, consolidated local government, urban-county
26 government, unified local government, or charter county government;
- 27 (6) "County judge/executive" means the chief executive officer of any county,

1 consolidated local government, urban-county government, unified local
2 government, or charter county government;

3 (7) "Department" means the Department of Revenue;

4 (8) "Fiscal court" means the legislative body of any county, consolidated local
5 government, urban-county government, unified local government, or charter
6 county government;

7 (9) "Government restriction on use" means a limitation on the use of at least fifty
8 percent (50%) of the individual dwelling units of a multi-unit rental housing in
9 order to receive a federal or state government incentive based on low-income
10 renter restrictions, including the following government incentives:

11 (a) A tax credit under Section 42 of the Internal Revenue Code;

12 (b) Financing derived from exempt facility bonds for qualified residential
13 rental projects under Section 142 of the Internal Revenue Code;

14 (c) A low-interest loan under Section 235 or 236 of the National Housing Act
15 or Section 515 of the Housing Act of 1949;

16 (d) A rent subsidy;

17 (e) A guaranteed loan;

18 (f) A grant; or

19 (g) A guarantee;

20 (10) "Hazardous substances" has the same meaning as in KRS 224.1-400;

21 (11) "Heavy equipment rental agreement" means the short-term rental contract under
22 which qualified heavy equipment is rented without an operator for a period:

23 (a) Not to exceed three hundred sixty-five (365) days; or

24 (b) That is open-ended under the terms of the contract with no specified end
25 date;

26 (12) "Heavy equipment rental company" means an entity that is primarily engaged in
27 a line of business described in Code 532412 or 532310 of the North American

1 Industry Classification System Manual in effect on January 1, 2019;

2 (13) "Homestead" means real property maintained as the permanent residence of the
3 owner with all land and improvements adjoining and contiguous thereto
4 including but not limited to lawns, drives, flower or vegetable gardens,
5 outbuildings, and all other land connected thereto;

6 (14) "Horticultural land" means any tract of land, including all income-producing
7 improvements, of at least five (5) contiguous acres in area commercially used for
8 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
9 flowers, or ornamental plants;

10 (15) "Intangible personal property" means stocks, mutual funds, money market
11 funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash,
12 credits, patents, trademarks, copyrights, tobacco base, allotments, annuities,
13 deferred compensation, retirement plans, and any other type of personal property
14 that is not tangible personal property;

15 (16) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,
16 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid
17 species;

18 (17) "Low income" means earning at or below eighty percent (80%) of the area
19 median income as defined by the United States Department of Housing and
20 Urban Development for the location of the multi-unit rental housing;

21 (18) "Manufactured home" means a structure manufactured after June 15, 1976, in
22 accordance with the National Manufactured Housing Construction and Safety
23 Standards Act, transportable in one (1) or more sections, which when erected on
24 site measures eight (8) body feet or more in width and thirty-two (32) body feet or
25 more in length, and which is built on a permanent chassis and designed to be
26 used as a dwelling, with or without a permanent foundation, when connected to
27 the required utilities, and includes the plumbing, heating, air-conditioning, and

1 electrical systems contained therein. It may be used as a place of residence,
2 business, profession, or trade by the owner, lessee, or their assignees and may
3 consist of one (1) or more units that can be attached or joined together to
4 comprise an integral unit or condominium structure;

5 (19) "Mobile home" means a structure manufactured on or before June 15, 1976,
6 that was not required to be constructed in accordance with the National
7 Manufactured Housing Construction and Safety Standards Act, transportable in
8 one (1) or more sections, which when erected on site measures eight (8) body feet
9 or more in width and thirty-two (32) body feet or more in length, and which is
10 built on a permanent chassis and designed to be used as a dwelling, with or
11 without a permanent foundation, when connected to the required utilities, and
12 includes the plumbing, heating, air-conditioning, and electrical systems
13 contained therein. It may be used as a place of residence, business, profession, or
14 trade by the owner, lessee, or their assigns and may consist of one (1) or more
15 units that can be attached or joined together to comprise an integral unit or
16 condominium structure;

17 (20) "Modular home" means a structure which is certified by its manufacturer as
18 being constructed in accordance with all applicable provisions of the Kentucky
19 Building Code and standards adopted by the local authority which has
20 jurisdiction, transportable in one (1) or more sections, and designed to be used as
21 a dwelling on a permanent foundation when connected to the required utilities,
22 and includes the plumbing, heating, air-conditioning, and electrical systems
23 contained therein;

24 (21) "Multi-unit rental housing" means residential property or project consisting of
25 four (4) or more individual dwelling units and does not include:
26 (a) Assisted living facilities; or
27 (b) Duplexes or single-family units unless they are included as part of a larger

1 property that is subject to government restriction on use;

2 (22) "Net assessment growth" means the difference between:

3 (a) The total valuation of property subject to taxation by the county, city, school
4 district, or special district in the preceding year, less the total valuation
5 exempted from taxation by the homestead exemption provision of the
6 Constitution of Kentucky in the current year over that exempted in the
7 preceding year; and

8 (b) The total valuation of property subject to taxation by the county, city, school
9 district, or special district for the current year;

10 (23) "New property" means the net difference in taxable value between real property
11 additions and real property deletions to the property tax roll for the current year;

12 (24) "Personal property" means every species and character of property, tangible and
13 intangible, other than real property;

14 (25) "Prefabricated home" means a manufactured home, a mobile home, or a
15 modular home;

16 (26) "Pollutant or contaminant" has the same meaning as in KRS 224.1-400;

17 (27) "Qualified heavy equipment" means machinery and equipment, including
18 ancillary equipment and any attachments used in conjunction with the machinery
19 and equipment, that is:

20 (a) Primarily used and designed for construction, mining, forestry, or industrial
21 purposes, including but not limited to cranes, earthmoving equipment, well-
22 drilling machinery and equipment, lifts, material handling equipment,
23 pumps, generators, and pollution-reducing equipment; and

24 (b) Held in a heavy equipment rental company's inventory for:

25 1. Rental under a heavy equipment rental agreement; or

26 2. Sale in the regular course of business;

27 (28) "Qualifying voluntary environmental remediation property" means real property

1 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where
2 the Energy and Environment Cabinet has made a determination that:

3 (a) All releases of hazardous substances, pollutants, contaminants, petroleum,
4 or petroleum products at the property occurred prior to the property owner's
5 acquisition of the property;

6 (b) The property owner has made all appropriate inquiry into previous
7 ownership and uses of the property in accordance with generally accepted
8 practices prior to the acquisition of the property;

9 (c) The property owner or a responsible party has provided all legally required
10 notices with respect to hazardous substances, pollutants, contaminants,
11 petroleum, or petroleum products found at the property;

12 (d) The property owner is in compliance with all land use restrictions and does
13 not impede the effectiveness or integrity of any institutional control;

14 (e) The property owner complied with any information request or
15 administrative subpoena under KRS Chapter 224; and

16 (f) The property owner is not affiliated with any person who is potentially liable
17 for the release of hazardous substances, pollutants, contaminants,
18 petroleum, or petroleum products on the property pursuant to KRS 224.1-
19 400, 224.1-405, or 224.60-135, through:

20 1. Direct or indirect familial relationship;

21 2. Any contractual, corporate, or financial relationship, excluding
22 relationships created by instruments conveying or financing title or by
23 contracts for sale of goods or services; or

24 3. Reorganization of a business entity that was potentially liable;

25 (29) "Real property":

26 (a) Means all lands within this state and improvements thereon; and

27 (b) For property assessed on January 1, 2024, and on January 1, 2025,

1 includes but is not limited to mains, pipes, pipelines, and conduits that are:

2 1. Authorized to be installed in, upon, or under any public or private
3 street or place; and

4 2. Used or to be used for or in connection with the collection,
5 transmission, distribution, conducting, sale, or furnishing of heat,
6 steam, water, sewage, natural or manufactured gas, or electricity to or
7 for the public;

8 (30) "Real property additions" means:

9 (a) Property annexed or incorporated by a municipal corporation, or any other
10 taxing jurisdiction; however, this definition shall not apply to property
11 acquired through the merger or consolidation of school districts, or the
12 transfer of property from one (1) school district to another;

13 (b) Property, the ownership of which has been transferred from a tax-exempt
14 entity to a nontax-exempt entity;

15 (c) The value of improvements to existing nonresidential property;

16 (d) The value of new residential improvements to property;

17 (e) The value of improvements to existing residential property when the
18 improvement increases the assessed value of the property by fifty percent
19 (50%) or more;

20 (f) Property created by the subdivision of unimproved property, provided, that
21 when the property is reclassified from farm to subdivision by the property
22 valuation administrator, the value of the property as a farm shall be a
23 deletion from that category;

24 (g) Property exempt from taxation, as an inducement for industrial or business
25 use, at the expiration of its tax exempt status;

26 (h) Property, the tax rate of which will change, according to the provisions of
27 KRS 82.085, to reflect additional urban services to be provided by the taxing

1 jurisdiction, provided, however, that the property shall be considered real
2 property additions only in proportion to the additional urban services to be
3 provided to the property over the urban services previously provided; and

4 (i) The value of improvements to real property previously under assessment
5 moratorium;

6 (31) "Real property deletions" means the value of real property removed from, or
7 reduced over the preceding year on, the property tax roll for the current year;

8 (32) "Recreational vehicle" means a vehicular type unit primarily designed as
9 temporary living quarters for recreational, camping, or travel use, which either
10 has its own motive power or is mounted on or drawn by another vehicle. The
11 basic entities are camping trailer, motor home, travel trailer, and truck camper.

12 As used in this subsection:

13 (a) "Camping trailer" means a vehicular portable unit mounted on wheels and
14 constructed with collapsible partial side walls which fold for towing by
15 another vehicle and unfold at the camp site to provide temporary living
16 quarters for recreational, camping, or travel use;

17 (b) "Motor home" means a vehicular unit designed to provide temporary living
18 quarters for recreational, camping, or travel use built on or permanently
19 attached to a self-propelled motor vehicle chassis or on a chassis cab or van
20 which is an integral part of the completed vehicle;

21 (c) "Travel trailer" means a vehicular unit, mounted on wheels, designed to
22 provide temporary living quarters for recreational, camping, or travel use,
23 and of a size or weight that does not require special highway movement
24 permits when drawn by a motorized vehicle, and with a living area of less
25 than two hundred twenty (220) square feet, excluding built-in equipment
26 such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath and
27 toilet rooms; and

- 1 (d) "Truck camper" means a portable unit constructed to provide temporary
2 living quarters for recreational, travel, or camping use, consisting of a roof,
3 floor, and sides, designed to be loaded onto and unloaded from the bed of a
4 pick-up truck;
- 5 (33) "Release" has the same meaning as in either or both KRS 224.1-400 and 224.60-
6 115;
- 7 (34) "Resident" means any person who has taken up a place of abode within this state
8 with the intention of continuing to abide in this state; any person who has had his
9 or her actual or habitual place of abode in this state for the larger portion of the
10 twelve (12) months next preceding the date as of which an assessment is due to be
11 made shall be deemed to have intended to become a resident of this state;
- 12 (35) "Residential unit" means all or that part of real property occupied as the
13 permanent residence of the owner;
- 14 (36) "Special benefits" means those benefits that are provided by public works not
15 financed through the general tax levy but through special assessments against the
16 benefited property;
- 17 (37) "Special purpose governmental entity" has the same meaning as in KRS
18 65A.010, and as used in this chapter includes only those special purpose
19 governmental entities with the authority to levy ad valorem taxes and that are not
20 specifically exempt from the provisions of this chapter by another provision of the
21 Kentucky Revised Statutes;
- 22 (38) "Taxing district" means any entity with the authority to levy a local ad valorem
23 tax, including special purpose governmental entities;
- 24 (39) "Taxpayer" means any person made liable by law to file a return or pay a tax;
25 and
- 26 (40) "Veteran service organization" means an organization wholly dedicated to
27 advocating on behalf of military veterans and providing charitable programs in

1 *honor and on behalf of military veterans.*

2 ➔Section 2. KRS 132.017 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Local governmental entity" includes a county fiscal court and legislative
5 body of a city, urban-county government, consolidated local government,
6 charter county government, unified local government, or other taxing district;
7 and

8 (b) "Next regular election" means the regular election that occurs immediately
9 after all statutory requirements for levying a property tax rate have been met,
10 regardless of whether the election occurs in the same or a subsequent calendar
11 year as the levy of the property tax rate.

12 (2) (a) 1. Except as provided in subparagraph 2. of this paragraph, the portion of a
13 tax rate levied by an ordinance, order, resolution, or motion of a local
14 governmental entity or district board of education subject to recall as
15 provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go
16 into effect forty-five (45) days after its passage.

17 2. When a tax rate is levied by a district board of education or other taxing
18 district that is primarily located in a county containing an urban-county
19 government or a consolidated local government, the portion of a tax rate
20 levied by an ordinance, order, resolution, or motion of a district board of
21 education or other taxing district subject to recall as provided for in KRS
22 68.245, 132.023, 132.027, and 160.470, shall go into effect fifty (50)
23 days after its passage.

24 (b) During the same forty-five (45) day or fifty (50) day time period provided by
25 paragraph (a) of this subsection, any three (3) qualified voters, who reside in
26 the area where the tax levy will be imposed, may commence petition
27 proceedings to protest the passage of the ordinance, order, resolution, or

1 motion by filing an affidavit with the county clerk. The affidavit shall state:

- 2 1. The three (3) qualified voters constitute the members of the petition
3 committee;
- 4 2. The petition committee will be responsible for circulating the petition;
- 5 3. The petition committee will file the petition in the proper form within
6 the same forty-five (45) day or fifty (50) day time period provided by
7 paragraph (a) of this subsection;
- 8 4. The names and addresses of the petition committee members;
- 9 5. The address to which all notices to the committee are to be sent; and
- 10 6. For petition committees filing petitions in response to a tax rate levied
11 by a district board of education or other taxing district that is primarily
12 located in a county containing an urban-county government or a
13 consolidated local government, whether or not the petition committee is
14 willing to incur all of the expenses associated with electronic petition
15 signatures. If the petition committee is not willing to incur all of the
16 expenses, then electronic petition signatures shall not be allowed for the
17 petition.

18 (c) Upon receipt of the affidavit, the county clerk shall immediately:

- 19 1. Notify the petition committee of all statutory requirements for the filing
20 of a valid petition under this section;
- 21 2. Notify the petition committee that the clerk will publish a notice
22 identifying the tax levy being challenged and providing the names and
23 addresses of the petition committee in a newspaper of general
24 circulation within the county, if:
 - 25 a. There is a newspaper within the county in which to publish the
26 notice; and
 - 27 b. The petition committee remits an amount equal to the cost of

1 publishing the notice determined in accordance with the provisions
2 of KRS 424.160 at the time of the filing of the affidavit.

3 If the petition committee elects to have the notice published, the clerk
4 shall publish the notice within five (5) days of receipt of the affidavit;
5 and

6 3. Deliver a copy of the affidavit to the appropriate local governmental
7 entity or district board of education.

8 (d) The petition shall meet the following requirements:

9 1. All papers of the petition shall be substantially uniform in size and style
10 and shall be assembled in one (1) instrument for filing;

11 2. Each sheet of the petition may contain the names of voters from more
12 than one (1) voting precinct;

13 3. Each nonelectronic petition signature shall be executed in ink or
14 indelible pencil;

15 4. Each electronic petition signature shall comply with the requirements of
16 the Uniform Electronic Transactions Act, KRS 369.101 to 369.120;

17 5. Each petition signature shall be followed by the printed name, street
18 address, birth month, and birth year of the person signing; and

19 6. a. i. Except for petitions filed in response to a tax rate levied by a
20 district board of education, the petition shall be signed by a
21 number of registered and qualified voters residing in the
22 affected jurisdiction equal to at least ten percent (10%) of the
23 total number of votes cast in the last preceding presidential
24 election.

25 ii. For petitions filed in response to a tax rate levied by a district
26 board of education, the petition shall be signed by at least
27 five thousand (5,000) registered and qualified voters residing

1 in the affected jurisdiction or signed by a number of
2 registered and qualified voters residing in the affected
3 jurisdiction equal to at least ten percent (10%) of the total
4 number of votes cast in the last preceding presidential
5 election, whichever is less.

6 b. Electronic petition signatures shall be included in determining
7 whether the required number of petition signatures has been
8 obtained when:

9 i. The expenses associated with the electronic petition
10 signatures have been incurred in accordance with paragraph
11 (b)6. of this subsection;

12 ii. The electronic petition signatures comply with the
13 requirements of this subsection; and

14 iii. The petition was filed in response to a tax rate levied by a
15 district board of education or other taxing district that is
16 primarily located in a county containing an urban-county
17 government or a consolidated local government.

18 c. The inclusion of an invalid petition signature on a page shall not
19 invalidate the entire page of the petition, but shall instead result in
20 the invalid petition signature being stricken and not counted.

21 (e) Upon the filing of the petition with the county clerk, the ordinance, order,
22 resolution, or motion shall be suspended from going into effect until after the
23 election referred to in subsection (3) of this section is held, or until the
24 petition is finally determined to be insufficient and no further action may be
25 taken pursuant to paragraph (i) of this subsection.

26 (f) The county clerk shall immediately notify the presiding officer of the
27 appropriate local governmental entity or district board of education that the

1 petition has been received and shall, within thirty (30) days of the receipt of
2 the petition, make a determination of whether the petition contains enough
3 signatures of qualified voters to place the ordinance, order, resolution, or
4 motion before the voters.

5 (g) If the county clerk finds the petition to be sufficient, the clerk shall certify to
6 the petition committee and the local governmental entity or district board of
7 education within the thirty (30) day period provided for in paragraph (f) of
8 this subsection that the petition is properly presented and in compliance with
9 the provisions of this section, and that the ordinance, order, resolution, or
10 motion levying the tax will be placed before the voters for approval.

11 (h) If the county clerk finds the petition to be insufficient, the clerk shall, within
12 the thirty (30) day period provided for in paragraph (f) of this subsection,
13 notify, in writing, the petition committee and the local governmental entity or
14 district board of education of the specific deficiencies found. Notification
15 shall be sent by certified mail and shall be published at least one (1) time in a
16 newspaper of general circulation within the county containing the local
17 governmental entity or district board of education levying the tax. If there is
18 not a newspaper within the county in which to publish the notification, then
19 the notification shall be posted at the courthouse door.

20 (i) A final determination of the sufficiency of a petition shall be subject to final
21 review by the Circuit Court of the county in which the local governmental
22 entity or district board of education is located, and shall be limited to the
23 validity of the county clerk's determination. Any petition challenging the
24 county clerk's final determination shall be filed within ten (10) days of the
25 issuance of the clerk's final determination.

26 (j) The local governmental entity or district board of education may cause the
27 cancellation of the election by reconsidering and amending the ordinance,

1 order, resolution, or motion to levy a tax rate which will produce no more
 2 revenue from real property, exclusive of revenue from new property~~—as~~
 3 ~~defined in KRS 132.010~~, than four percent (4%) over the amount of revenue
 4 produced by the compensating tax rate~~—defined in KRS 132.010~~ from real
 5 property. The action by the local governmental entity or district board of
 6 education shall be valid only if taken within fifteen (15) days following the
 7 date the clerk finds the petition to be sufficient.

8 (3) (a) If an election is necessary under the provisions of subsection (2) of this
 9 section:

10 1. The local governmental entity shall cause to be submitted to the voters
 11 of the district at the next regular election, the question as to whether the
 12 property tax rate shall be levied; or

13 2. The district board of education shall cause to be submitted to the voters
 14 of the district in a called common school election not less than thirty-
 15 five (35) days nor more than forty-five (45) days from the date the
 16 signatures on the petition are validated by the county clerk, or at the next
 17 regular election, at the option of the district board of education, the
 18 question as to whether the property tax rate shall be levied. The cost of a
 19 called common school election shall be borne by the school district
 20 holding the election. Any called common school election shall comply
 21 with the provisions of KRS 118.025.

22 (b) If an election under paragraph (a) of this subsection is held in conjunction
 23 with a regular election, the question as to whether the property tax rate shall
 24 be levied shall be submitted to the county clerk no later than the second
 25 Tuesday in August preceding the regular election.

26 (c) In an election held under paragraph (a) of this subsection, the question shall
 27 be framed to ask whether the voter is for the levy of the property tax rate. If a

1 majority of the votes cast upon the question oppose its passage, the ordinance,
2 order, resolution, or motion shall not go into effect. If a majority of the votes
3 cast upon the question favor its passage, the ordinance, order, resolution, or
4 motion shall become effective.

5 (d) If the ordinance, order, resolution, or motion fails to pass pursuant to an
6 election held under paragraph (a) of this subsection, the property tax rate
7 which will produce four percent (4%) more revenues from real property,
8 exclusive of revenue from new property~~[as defined in KRS 132.010]~~, than the
9 amount of revenue produced by the compensating tax rate~~[defined in KRS~~
10 ~~132.010]~~, shall be levied without further approval by the local governmental
11 entity or district board of education.

12 (e) Local, state, and federal tax dollars shall not be used to advocate, in partial
13 terms, for or against any public question that appears on the ballot in this
14 subsection. For purposes of this section, "local" means and includes any city,
15 county, urban-county government, consolidated local government, unified
16 local government, charter county, or special district.

17 (4) Notwithstanding any statutory provision to the contrary, if a local governmental
18 entity or district board of education has not established a final tax rate as of
19 September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or
20 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all
21 districts having a tax rate established by that date; and a second set of bills shall be
22 prepared and collected in the regular manner, according to the provisions of KRS
23 Chapter 132, upon establishment of final tax rates by the remaining districts.

24 (5) If a second billing is necessary, the collection period shall be extended to conform
25 with the second billing date.

26 (6) All costs associated with the second billing shall be paid by the taxing district or
27 districts requiring the second billing.

1 ➔Section 3. KRS 132.020 is amended to read as follows:

- 2 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes
3 at the rate of:
- 4 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
5 of value of all real property directed to be assessed for taxation;
- 6 (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of
7 all motor vehicles qualifying for permanent registration as historic motor
8 vehicles under KRS 186.043;
- 9 (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
- 10 1. Machinery actually engaged in manufacturing;
- 11 2. Commercial radio and television equipment used to receive, capture,
12 produce, edit, enhance, modify, process, store, convey, or transmit audio
13 or video content or electronic signals which are broadcast over the air to
14 an antenna, including radio and television towers used to transmit or
15 facilitate the transmission of the signal broadcast and equipment used to
16 gather or transmit weather information, but excluding telephone and
17 cellular communication towers; and
- 18 3. Tangible personal property which has been certified as a pollution
19 control facility as defined in KRS 224.1-300. In the case of tangible
20 personal property certified as a pollution control facility which is
21 incorporated into a landfill facility, the tangible personal property shall
22 be presumed to remain tangible personal property for purposes of this
23 paragraph if the tangible personal property is being used for its intended
24 purposes;
- 25 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the
26 operating property of railroads or railway companies that operate solely
27 within the Commonwealth;

- 1 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
2 held for sale in the regular course of business, which includes:
- 3 1. Machinery and equipment held in a retailer's inventory for sale or lease
4 originating under a floor plan financing arrangement;
 - 5 2. Motor vehicles:
 - 6 a. Held for sale in the inventory of a licensed motor vehicle dealer,
7 including licensed motor vehicle auction dealers, which are not
8 currently titled and registered in Kentucky and are held on an
9 assignment pursuant to KRS 186A.230; or
 - 10 b. That are in the possession of a licensed motor vehicle dealer,
11 including licensed motor vehicle auction dealers, for sale, although
12 ownership has not been transferred to the dealer;
 - 13 3. Raw materials, which includes distilled spirits and distilled spirits
14 inventory;
 - 15 4. In-process materials, which includes distilled spirits and distilled spirits
16 inventory, held for incorporation in finished goods held for sale in the
17 regular course of business; and
 - 18 5. Qualified heavy equipment;
- 19 (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
20 value of all:
- 21 1. Privately owned leasehold interests in industrial buildings, as defined
22 under KRS 103.200, owned and financed by a tax-exempt governmental
23 unit, or tax-exempt statutory authority under the provisions of KRS
24 Chapter 103, upon the prior approval of the Kentucky Economic
25 Development Finance Authority, except that the rate shall not apply to
26 the proportion of value of the leasehold interest created through any
27 private financing;

- 1 2. Qualifying voluntary environmental remediation property, provided the
2 property owner has corrected the effect of all known releases of
3 hazardous substances, pollutants, contaminants, petroleum, or petroleum
4 products located on the property consistent with a corrective action plan
5 approved by the Energy and Environment Cabinet pursuant to KRS
6 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not
7 financed through a public grant or the petroleum storage tank
8 environmental assurance fund. This rate shall apply for a period of three
9 (3) years following the Energy and Environment Cabinet's issuance of a
10 No Further Action Letter or its equivalent, after which the regular tax
11 rate shall apply;
- 12 3. Tobacco directed to be assessed for taxation;
- 13 4. Unmanufactured agricultural products;
- 14 5. Aircraft not used in the business of transporting persons or property for
15 compensation or hire;
- 16 6. Federally documented vessels not used in the business of transporting
17 persons or property for compensation or hire, or for other commercial
18 purposes; and
- 19 7. Privately owned leasehold interests in residential property described in
20 KRS 132.195(2)(g); and
- 21 (g) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all
22 other property directed to be assessed for taxation shall be paid by the owner
23 or person assessed, except as provided in KRS 132.030, 132.200, 136.300,
24 and 136.320, providing a different tax rate for particular property.
- 25 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
26 shall be reduced to compensate for any increase in the aggregate assessed value of
27 real property to the extent that the increase exceeds the preceding year's assessment

- 1 by more than four percent (4%), excluding:
- 2 (a) The assessment of new property~~[as defined in KRS 132.010(8)]~~;
- 3 (b) The assessment from property which is subject to tax increment financing
4 pursuant to KRS Chapter 65; and
- 5 (c) The assessment from leasehold property which is owned and financed by a
6 tax-exempt governmental unit, or tax-exempt statutory authority under the
7 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
8 one-half cents (\$0.015) pursuant to subsection (1)(f) of this section. In any
9 year in which the aggregate assessed value of real property is less than the
10 preceding year, the state rate shall be increased to the extent necessary to
11 produce the approximate amount of revenue that was produced in the
12 preceding year from real property.
- 13 (3) By July 1 each year, the department shall compute the state tax rate applicable to
14 real property for the current year in accordance with the provisions of subsection
15 (2) of this section and certify the rate to the county clerks for their use in preparing
16 the tax bills. If the assessments for all counties have not been certified by July 1, the
17 department shall, when either real property assessments of at least seventy-five
18 percent (75%) of the total number of counties of the Commonwealth have been
19 determined to be acceptable by the department, or when the number of counties
20 having at least seventy-five percent (75%) of the total real property assessment for
21 the previous year have been determined to be acceptable by the department, make
22 an estimate of the real property assessments of the uncertified counties and compute
23 the state tax rate.
- 24 (4) If the tax rate set by the department as provided in subsection (2) of this section
25 produces more than a four percent (4%) increase in real property tax revenues,
26 excluding:
- 27 (a) The revenue resulting from new property~~[as defined in KRS 132.010(8)]~~;

1 (b) The revenue from property which is subject to tax increment financing
2 pursuant to KRS Chapter 65; and

3 (c) The revenue from leasehold property which is owned and financed by a tax-
4 exempt governmental unit, or tax-exempt statutory authority under the
5 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
6 one-half cents (\$0.015) pursuant to subsection (1) of this section;

7 the rate shall be adjusted in the succeeding year so that the cumulative total of each
8 year's property tax revenue increase shall not exceed four percent (4%) per year.

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

19 ➔Section 4. KRS 132.0225 is amended to read as follows:

20 (1) (a) A taxing district that does not elect to attempt to set a rate that will produce
21 more than four percent (4%) in additional revenue, exclusive of revenue from
22 new property~~[as defined in KRS 132.010]~~, over the amount of revenue
23 produced by the compensating tax rate~~[as defined in KRS 132.010]~~ shall
24 establish a final tax rate within forty-five (45) days of the department's
25 certification of the county's property tax roll.

26 (b) For boards of education, the forty-five (45) days shall begin from the date of
27 the department's certification to the chief state school officer as required by

1 KRS 160.470(4).

2 (c) A city that does not elect to have city ad valorem taxes collected by the sheriff
3 as provided in KRS 91A.070(1) shall be exempt from the forty-five (45) day
4 deadline.

5 (d) Any nonexempt taxing district that fails to meet the forty-five (45) day
6 deadline shall be required to use the compensating tax rate for that year's
7 property tax bills.

8 (2) A taxing district that elects to attempt to set a rate that will produce more than four
9 percent (4%) in additional revenue, exclusive of revenue from new property ~~as~~
10 ~~defined in KRS 132.010~~, over the amount of revenue produced by the
11 compensating tax rate ~~as defined in KRS 132.010~~ shall follow the provisions of
12 KRS 132.017.

13 ➔Section 5. KRS 132.027 is amended to read as follows:

14 (1) No city or urban-county government shall levy a tax rate which exceeds the
15 compensating tax rate ~~defined in KRS 132.010~~ until the city or urban-county
16 government has complied with the provisions of subsection (2) of this section.

17 (2) (a) Cities or urban-county governments proposing to levy a tax rate which
18 exceeds the compensating tax rate ~~defined in KRS 132.010~~ shall hold a
19 public hearing to hear comments from the public regarding the proposed tax
20 rate. The hearing shall be held in the principal office of the taxing district, or,
21 in the event the taxing district has no office, or the office is not suitable for a
22 hearing, the hearing shall be held in a suitable facility as near as possible to
23 the geographic center of the district.

24 (b) The city or urban-county government shall advertise the hearing by causing to
25 be published at least twice in two (2) consecutive weeks, in the newspaper of
26 largest circulation in the county, a display type advertisement of not less than
27 twelve (12) column inches, the following:

- 1 1. The tax rate levied in the preceding year, and the revenue produced by
- 2 that rate;
- 3 2. The tax rate proposed for the current year and the revenue expected to
- 4 be produced by that rate;
- 5 3. The compensating tax rate and the revenue expected from it;
- 6 4. The revenue expected from new property and personal property;
- 7 5. The general areas to which revenue in excess of the revenue produced in
- 8 the preceding year is to be allocated;
- 9 6. A time and place for the public hearing which shall be held not less than
- 10 seven (7) days nor more than ten (10) days after the day the second
- 11 advertisement is published;
- 12 7. The purpose of the hearing; and
- 13 8. A statement to the effect that the General Assembly has required
- 14 publication of the advertisement and the information contained therein.
- 15 (c) In lieu of the two (2) published notices, a single notice containing the required
- 16 information may be sent by first-class mail to each person owning real
- 17 property in the taxing district, addressed to the property owner at his residence
- 18 or principal place of business as shown on the current year property tax roll.
- 19 (d) The hearing shall be open to the public. All persons desiring to be heard shall
- 20 be given an opportunity to present oral testimony. The taxing district may set
- 21 reasonable time limits for testimony.
- 22 (3) (a) That portion of a tax rate levied by an action of a city or urban-county
- 23 government which will produce revenue from real property, exclusive of
- 24 revenue from new property, more than four percent (4%) over the amount of
- 25 revenue produced by the compensating tax rate~~[defined in KRS 132.010]~~
- 26 shall be subject to a recall vote or reconsideration by the taxing district, as
- 27 provided for in KRS 132.017, and shall be advertised as provided for in

1 paragraph (b) of this subsection.

2 (b) The city or urban-county government shall, within seven (7) days following
3 adoption of an ordinance to levy a tax rate which will produce revenue from
4 real property, exclusive of revenue from new property~~[as defined in KRS~~
5 ~~132.010]~~, more than four percent (4%) over the amount of revenue produced
6 by the compensating tax rate~~[defined in KRS 132.010]~~, cause to be
7 published, in the newspaper of largest circulation in the county, a display type
8 advertisement of not less than twelve (12) column inches the following:

- 9 1. The fact that the city or urban-county government has adopted a rate;
- 10 2. The fact that the part of the rate which will produce revenue from real
11 property, exclusive of new property~~[as defined in KRS 132.010]~~, in
12 excess of four percent (4%) over the amount of revenue produced by the
13 compensating tax rate~~[defined in KRS 132.010]~~ is subject to recall, and
- 14 3. The name, address, and telephone number of the county clerk of the
15 county or urban-county in which the taxing district is located, with a
16 notation to the effect that that official can provide the necessary
17 information about the petition required to initiate recall of the tax rate.

18 ➔Section 6. KRS 132.825 is amended to read as follows:

- 19 (1) It shall be the duty of all persons providing communications services or
20 multichannel video programming services defined under KRS 136.602 owning or
21 having any interest in tangible personal property in this state to list or have listed
22 the property with the department between January 1 and May 15 in each year
23 reporting the full details, a correct description of the property and its value.
- 24 (2) The department shall have sole power to value and assess all tangible personal
25 property of multichannel video programming service providers and
26 communications service providers. Such property shall be valued and assessed in
27 accordance with procedures established for locally assessed tangible property. The

1 department shall develop forms for reporting.

2 (3) Providers of multichannel video programming services or communications services
3 shall not be required to list, and the department shall not assess intangible property~~†~~
4 ~~as defined in KRS 132.010~~.

5 (4) It is the intent of KRS 136.600 to 136.660 to relieve communications service
6 providers and multichannel video programming service providers from the tax
7 liability imposed under KRS 136.120 by:

8 (a) Requiring real, tangible, and intangible property owned by communications
9 service providers and multichannel video programming service providers to
10 be assessed and taxed in the same manner as real, tangible, and intangible
11 property of all other taxpayers under KRS Chapter 132 excluding KRS
12 132.030; and

13 (b) Replacing revenues received from communications service providers and
14 multichannel video programming service providers under KRS 136.120,
15 attributable to the franchise portion of operating property as defined in KRS
16 136.115, with the levy imposed under KRS 136.616.

17 To the extent that any tangible or intangible property was considered a part of the
18 franchise portion of operating property under KRS 136.115 and 136.120 for tax
19 periods ending prior to January 1, 2006, for a communications service provider or a
20 multichannel video programming service provider, such property shall be exempt
21 from taxation under KRS Chapter 132 and shall not be listed, valued or assessed
22 under this section for tax periods beginning on or after December 31, 2005.

23 (5) It is also the intent of KRS 136.600 to 136.660 that for communications service
24 providers and multichannel video programming service providers the following
25 items, to the extent these items are intangible property, shall be exempt from
26 taxation under KRS Chapter 132 and shall not be listed, valued, or assessed by the
27 department or local jurisdictions. The items include but shall not be limited to:

- 1 (a) Franchises;
- 2 (b) Certificates of public convenience and necessity;
- 3 (c) Licenses;
- 4 (d) Authorizations issued by the Federal Communications Commission or any
- 5 state public service commission;
- 6 (e) Customer lists;
- 7 (f) Assembled labor force;
- 8 (g) Goodwill;
- 9 (h) Managerial skills;
- 10 (i) Business enterprise value;
- 11 (j) Speculative value; and
- 12 (k) Any other type of personal property that is not tangible personal property.
- 13 (6) Any person dissatisfied with or aggrieved by the finding or ruling of the department
- 14 may appeal the finding or ruling in the manners provided in KRS 131.110.
- 15 (7) All persons in whose name property is assessed shall remain bound for the tax,
- 16 notwithstanding that they may have sold or parted with it.
- 17 (8) The department shall allocate the assessed value of property described in subsection
- 18 (1) of this section among the counties, cities, and taxing districts. The assessed
- 19 value shall be allocated to the county, city, or taxing district where the property is
- 20 situated.
- 21 (9) The department shall certify, unless otherwise specified, to the county clerk of each
- 22 county in which any of the property assessment listed by the corporation is liable to
- 23 local taxation, the amount of tangible personal property liable for county, city, or
- 24 district tax.
- 25 (10) No appeal shall delay the collection or payment of taxes based upon the assessment
- 26 in controversy. The taxpayer shall pay all state, county, and district taxes due on the
- 27 valuation that the taxpayer claims as the true value as stated in the protest filed

1 under KRS 131.110. When the valuation is finally determined upon appeal, the
 2 taxpayer shall be billed for any additional tax and interest at the tax interest rate as
 3 defined in KRS 131.010(6), from the date the tax would have become due if no
 4 appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

5 (11) The certification of valuation shall be filed by each county clerk in the clerk's office
 6 and shall be certified by the county clerk to the proper collecting officer of the
 7 county, city, or taxing district for collection. Any district that has the value certified
 8 by the department shall pay an annual fee to the department that represents an
 9 allocation of the department's operating and overhead expenses incurred in
 10 generating the valuations. This fee shall be determined by the department and shall
 11 apply to valuations for tax periods beginning on or after January 1, 2005.

12 ➔Section 7. KRS 140.300 is amended to read as follows:

13 As used in KRS 140.310 to 140.360, these words shall have the following meaning:

14 (1) "Agricultural land" ***has the same meaning as***~~[means that real estate which is~~
 15 ~~defined]~~ in KRS 132.010~~[(9)]~~.

16 (2) "Horticultural land" ***has the same meaning as***~~[means that real estate which is~~
 17 ~~defined]~~ in KRS 132.010~~[(10)]~~.

18 (3) "Agricultural or horticultural value" ***has the same meaning as***~~[means the value as~~
 19 ~~defined]~~ in KRS 132.010~~[(11)]~~.

20 (4) "Qualified real estate" means real property which:

21 (a) Is either horticultural or agricultural land;

22 (b) Has been used for agricultural or horticultural purposes for five (5) years prior
 23 to the death of the owner of the real estate or a joint owner thereof; and

24 (c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of
 25 decedent for Kentucky inheritance tax purposes.

26 (5) "Qualified person" means the spouse of a deceased owner of agricultural or
 27 horticultural land; the children, adopted children, and stepchildren of that deceased

1 owner; the spouses and issue of that deceased owner's children, adopted children,
2 and stepchildren, and is a person who proposes to devote the real property to
3 agricultural or horticultural purposes for at least five (5) years after the death of the
4 decedent in whose estate the agricultural or horticultural land is subject to
5 assessment.

6 ➔Section 8. KRS 217.015 is amended to read as follows:

7 For the purposes of KRS 217.005 to 217.215:

- 8 (1) "Advertisement" means all representations, disseminated in any manner or by any
9 means, other than by labeling, for the purpose of inducing, or which are likely to
10 induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
- 11 (2) "Bread" and "enriched bread" mean only the foods commonly known and described
12 as white bread, white rolls, white buns, enriched white bread, enriched rolls, and
13 enriched white buns, as defined under the federal act. For the purposes of KRS
14 217.136 and 217.137, "bread" or "enriched bread" also means breads that may
15 include vegetables or fruit as an ingredient;
- 16 (3) "Cabinet" means the Cabinet for Health and Family Services or its designee;
- 17 (4) "Color" means but is not limited to black, white, and intermediate grays;
- 18 (5) "Color additive" means a material that:
- 19 (a) Is a dye, pigment, or other substance made by a process of synthesis or similar
20 artifice, or extracted, isolated, or otherwise derived, with or without
21 intermediate or final change of identity, from a vegetable, animal, mineral, or
22 other source. Nothing in this paragraph shall be construed to apply to any
23 pesticide chemical, soil or plant nutrient, or other agricultural chemical solely
24 because of its effect in aiding, retarding, or otherwise affecting, directly or
25 indirectly, the growth or other natural physiological process of produce of the
26 soil and thereby affecting its color, whether before or after harvest; or
- 27 (b) When added or applied to a food, drug, or cosmetic, or to the human body or

1 any part thereof, is capable, alone or through reaction with another substance,
2 of imparting color. "Color additive" does not include any material that has
3 been or may in the future be exempted under the federal act;

4 (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not
5 securely protected from dust, dirt, and as far as may be necessary by all reasonable
6 means, from all foreign or injurious contaminants;

7 (7) "Cosmetic" means:

8 (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into,
9 or otherwise applied to the human body or any part thereof for cleansing,
10 beautifying, promoting attractiveness, or altering the appearance; and

11 (b) Articles intended for use as a component of those articles, except that the term
12 shall not include soap;

13 (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6),
14 KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments,
15 apparatus, and contrivances, including their components, parts, and accessories,
16 intended:

17 (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease
18 in man or other animals; or

19 (b) To affect the structure or any function of the body of man or other animals;

20 (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject
21 by or pursuant to the lawful order of a practitioner, including the packaging,
22 labeling, or compounding necessary to prepare the substance for that delivery;

23 (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the
24 use of an ultimate user;

25 (11) "Drug" means:

26 (a) Articles recognized in the official United States pharmacopoeia, official
27 homeopathic pharmacopoeia of the United States, or official national

- 1 formulary, or any supplement to any of them;
- 2 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or
- 3 prevention of disease in man or other animals;
- 4 (c) Articles, other than food, intended to affect the structure or any function of the
- 5 body of man or other animals; and
- 6 (d) Articles intended for use as a component of any article specified in this
- 7 subsection but does not include devices or their components, parts, or
- 8 accessories;
- 9 (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other
- 10 nutritional ingredients necessary to make it conform to the definition and standard
- 11 of enriched flour as defined under the federal act;
- 12 (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental
- 13 Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
- 14 (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it
- 15 relates to foods and cosmetics, 15 U.S.C. ~~sec. [secs.]~~ 1451 et seq., and all
- 16 amendments thereto;
- 17 (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C.
- 18 ~~sec. [secs.]~~ 301 et seq., 52 Stat. sec. 1040 et seq., or amendments thereto;
- 19 (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed,
- 20 evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been
- 21 added, or which has been blended or compounded with, any fat or oil other than
- 22 milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of
- 23 substances used for flavoring purposes only, so that the resulting product is an
- 24 imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or
- 25 frozen desserts, whether or not condensed, evaporated, concentrated, frozen,
- 26 powdered, dried, or desiccated, whether in bulk or in containers, hermetically
- 27 sealed or unsealed. This definition does not mean or include any milk or cream

1 from which no part of the milk or butter fat has been extracted, whether or not
2 condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has
3 been added any substance rich in vitamins, nor any distinctive proprietary food
4 compound not readily mistaken for milk or cream or for condensed, evaporated,
5 concentrated, powdered, dried, or desiccated milk or cream, if the compound is
6 prepared and designed for the feeding of infants or young children, sick or infirm
7 persons, and customarily used on the order of a physician, and is packed in
8 individual containers bearing a label in bold type that the contents are to be used for
9 those purposes; nor shall this definition prevent the use, blending, or compounding
10 of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in
11 bulk or in containers, hermetically sealed or unsealed, to or with which has been
12 added, blended or compounded no other fat or oil other than milk or butter fat;

13 (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour,
14 plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising
15 wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour,
16 defined under the federal act;

17 (18) "Food" means:

- 18 (a) Articles used for food or drink for man or other animals;
- 19 (b) Chewing gum; and
- 20 (c) Articles used for components of any such article;

21 (19) "Food additive" means any substance the intended use of which results or may be
22 reasonably expected to result, directly or indirectly, in its becoming a component or
23 otherwise affecting the characteristics of any food, including any substance
24 intended for use in producing, manufacturing, packing, processing, preparing,
25 treating, packaging, transporting, or holding food; and including any source of
26 radiation intended for any of these uses, if the substance is not generally
27 recognized, among experts qualified by scientific training and experience to

1 evaluate its safety, as having been adequately shown through scientific procedures
2 or, in the case of a substance used in a food prior to January 1, 1958, through either
3 scientific procedures or experience based on common use in food to be safe under
4 the conditions of its intended use; except that the term does not include:

- 5 (a) A pesticide chemical in or on a raw agricultural commodity;
- 6 (b) A pesticide chemical to the extent that it is intended for use or is used in the
7 production, storage, or transportation of any raw agricultural commodity;
- 8 (c) A color additive; or
- 9 (d) Any substance used in accordance with a sanction or approval granted prior to
10 the enactment of the Food Additives Amendment of 1958, pursuant to the
11 federal act; the Poultry Products Inspection Act, 21 U.S.C. ~~sec.~~^{secs.} 451 et
12 seq.; or the Meat Inspection Act of 1907; and amendments thereto;

13 (20) "Food processing establishment" means any commercial establishment in which
14 food is manufactured, processed, or packaged for human consumption, but does not
15 include retail food establishments, home-based processors, or home-based
16 microprocessors;

17 (21) "Food service establishment" means any fixed or mobile commercial establishment
18 that engages in the preparation and serving of ready-to-eat foods in portions to the
19 consumer, including but not limited to: restaurants; coffee shops; cafeterias; short
20 order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains;
21 taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding
22 establishments; private, public or nonprofit organizations or institutions routinely
23 serving food; catering kitchens; commissaries; charitable food kitchens; or similar
24 places in which food is prepared for sale or service on the premises or elsewhere
25 with or without charge. It does not include food vending machines, establishments
26 serving beverages only in single service or original containers, or retail food stores
27 which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

- 1 (22) "Food storage warehouse" means any establishment in which food is stored for
2 subsequent distribution;
- 3 (23) "Immediate container" does not include package liners;
- 4 (24) "Imminent health hazard" means a significant threat or danger to health that is
5 considered to exist when there is evidence sufficient to show that a product,
6 practice, circumstance, or event creates a situation that requires immediate
7 correction or cessation of operation to prevent illness or injury based on:
- 8 (a) The number of potential illnesses or injuries; or
9 (b) The nature, severity, and duration of the anticipated illness or injury;
- 10 (25) "Interference" means threatening or otherwise preventing the performance of lawful
11 inspections or duties by agents of the cabinet during all reasonable times of
12 operation;
- 13 (26) "Label" means a display of written, printed, or graphic matter upon the immediate
14 container of any article; and a requirement made by or under authority of KRS
15 217.005 to 217.215 that any word, statement, or other information appearing on the
16 label shall not be considered to be complied with unless the word, statement, or
17 other information also appears on the outside container or wrapper, if any there be,
18 of the retail package of the article, or is easily legible through the outside container
19 or wrapper;
- 20 (27) "Labeling" means all labels and other written, printed, or graphic matter:
- 21 (a) Upon an article or any of its containers or wrappers; or
22 (b) Accompanying the article;
- 23 (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act,
24 as amended, and under which definition its label is required to bear the statement
25 "Caution: Federal law prohibits dispensing without prescription.";
- 26 (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C.
27 ~~sec. 1260 et seq.~~ 71 et seq., 34 Stat. sec. 1260 et seq., including any amendments thereto;

- 1 (30) "New drug" means:
- 2 (a) Any drug the composition of which is such that the drug is not generally
- 3 recognized among experts qualified by scientific training and experience to
- 4 evaluate the safety of drugs as safe for use under the conditions prescribed,
- 5 recommended, or suggested in the labeling thereof; or
- 6 (b) Any drug the composition of which is such that the drug, as a result of
- 7 investigations to determine its safety for use under prescribed conditions, has
- 8 become so recognized, but which has not, otherwise than in the investigations,
- 9 been used to a material extent or for a material time under the conditions;
- 10 (31) "Official compendium" means the official United States pharmacopoeia, official
- 11 homeopathic pharmacopoeia of the United States, official national formulary, or
- 12 any supplement to any of them;
- 13 (32) "Person" means an individual, firm, partnership, company, corporation, trustee,
- 14 association, or any public or private entity;
- 15 (33) "Pesticide chemical" means any substance that alone in chemical combination, or in
- 16 formulation with one or more other substances, is an "economic poison" within the
- 17 meaning of the Federal Insecticide, Fungicide and Rodenticide Act and
- 18 amendments thereto, and that is used in the production, storage, or transportation of
- 19 raw agricultural commodities;
- 20 (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products
- 21 Inspection Act, 21 U.S.C. ~~sec.~~^{secs.} 451 et seq., Pub. L. 85-172, 71 Stat. sec. 441,
- 22 and any amendments thereto;
- 23 (35) "Practitioner" means medical or osteopathic physicians, dentists, chiropractors, and
- 24 veterinarians who are licensed under the professional licensing laws of Kentucky to
- 25 prescribe and administer drugs and devices. "Practitioner" includes optometrists
- 26 when administering or prescribing pharmaceutical agents authorized in KRS
- 27 320.240(12) to (14), advanced practice registered nurses as authorized in KRS

1 314.011 and 314.042, physician assistants when administering or prescribing
2 pharmaceutical agents as authorized in KRS 311.858, and health care professionals
3 who are residents of and actively practicing in a state other than Kentucky and who
4 are licensed and have prescriptive authority under the professional licensing laws of
5 another state, unless the person's Kentucky license has been revoked, suspended,
6 restricted, or probated, in which case the terms of the Kentucky license shall
7 prevail;

8 (36) "Prescription" means a written or oral order for a drug or medicine, or combination
9 or mixture of drugs or medicines, or proprietary preparation, that is signed, given,
10 or authorized by a medical, advanced practice registered nurse, dental, chiropody,
11 veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure,
12 mitigation, treatment, or prevention of disease in man or other animals;

13 (37) "Prescription blank" means a document that conforms with KRS 217.216 and is
14 intended for prescribing a drug to an ultimate user;

15 (38) "Raw agricultural commodity" means any food in its raw or natural state, including
16 all fruits that are washed, colored, or otherwise treated in their unpeeled natural
17 form prior to marketing;

18 (39) "Retail food establishment" means any food service establishment, retail food store,
19 or a combination of both within the same establishment;

20 (40) "Retail food store" means any fixed or mobile establishment where food or food
21 products, including prepackaged, labeled sandwiches or other foods to be heated in
22 a microwave or infrared oven at the time of purchase, are offered for sale to the
23 consumer, and intended for off-premises consumption, but does not include
24 establishments which handle only prepackaged, snack-type, nonpotentially
25 hazardous foods, markets that offer only fresh fruits and vegetables for sale, food
26 service establishments, food and beverage vending machines, vending machine
27 commissaries, food processing establishments, or home-based processors;

- 1 (41) "Salvage distributor" means a person who engages in the business of distributing,
2 peddling, or otherwise trafficking in any salvaged merchandise;
- 3 (42) "Salvage processing plant" means an establishment operated by a person engaged in
4 the business of reconditioning, labeling, relabeling, repackaging, reconditioning,
5 sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or
6 distributes for human or animal consumption or use any salvaged food, beverage,
7 including beer, wine and distilled spirits, vitamins, food supplements, dentifrices,
8 cosmetics, single-service food containers or utensils, containers and packaging
9 materials used for foods and cosmetics, soda straws, paper napkins, or any other
10 product of a similar nature that has been damaged or contaminated by fire, water,
11 smoke, chemicals, transit, or by any other means;
- 12 (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;
- 13 (44) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 14 (45) "Temporary food service establishment" means any food service establishment
15 which operates at a fixed location for a period of time, not to exceed fourteen (14)
16 consecutive days;
- 17 (46) "Traffic" has the same meaning as ~~it does~~ in KRS 218A.010;
- 18 (47) "Ultimate user" has the same meaning as ~~it does~~ in KRS 218A.010;
- 19 (48) If an article is alleged to be misbranded because the labeling is misleading, or if an
20 advertisement is alleged to be false because it is misleading, in determining whether
21 the labeling or advertisement is misleading, there shall be taken into account,
22 among other things, not only representations made or suggested by statement, word,
23 design, device, sound, or in any combination thereof, but also the extent to which
24 the labeling or advertisement fails to reveal facts that are material in the light of the
25 representations or material with respect to consequences which may result from the
26 use of the article to which the labeling or advertisement relates under the conditions
27 of use prescribed in the labeling or advertisement thereof or under the conditions of

- 1 use as are customary or usual;
- 2 (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be
3 considered to be a representation that it is a germicide, except in the case of a drug
4 purporting to be, or represented as, an antiseptic for inhibitory use as a wet
5 dressing, ointment, dusting powder, or other use involving prolonged contact with
6 the body;
- 7 (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs,
8 devices, or cosmetics shall be considered to include the manufacture, production,
9 processing, packing, exposure, offer, possession, and holding of those articles for
10 sale, the sale, dispensing, and giving of those articles, and the supplying or applying
11 of those articles in the conduct of any food, drug, or cosmetic establishment;
- 12 (51) "Home" means a primary residence occupied by the processor, that contains only
13 two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators
14 used for cold storage. This equipment shall have been designed for home use and
15 not for commercial use, and shall be operated in the kitchen within the residence;
- 16 (52) "Formulated acid food product" means an acid food in which the addition of a small
17 amount of low-acid food results in a finished equilibrium pH of 4.6 or below that
18 does not significantly differ from that of the predominant acid or acid food;
- 19 (53) "Acidified food product" means a low-acid food to which acid or acidic food is
20 added and which has a water activity value greater than 0.85, and a finished
21 equilibrium pH of 4.6 or below;
- 22 (54) "Low-acid food" means foods, other than alcoholic beverages, with a finished
23 equilibrium pH greater than 4.6, and a water activity value greater than 0.85;
- 24 (55) "Acid food" means foods that have a natural pH of 4.6 or below;
- 25 (56) "Home-based processor" means a person who in his or her home, produces or
26 processes non-potentially hazardous foods, including but not limited to dried herbs,
27 spices, nuts, candy, dried grains, whole fruit and vegetables, mixed-greens, jams,

1 jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or
2 cookies, and who has a gross income of no more than sixty thousand dollars
3 (\$60,000) annually from the sale of the products;

4 (57) "Home-based microprocessor" means a farmer who, in the farmer's home or
5 certified or permitted kitchen, produces or processes foods, including but not
6 limited to acid foods, formulated acid food products, acidified food products, or
7 low-acid canned foods, and who has a gross income of no more than sixty thousand
8 dollars (\$60,000) annually from the sale of the product;

9 (58) "Certified" means any person or home-based microprocessor who:

10 (a) Has attended the Kentucky Cooperative Extension Service's microprocessing
11 program or pilot microprocessing program and has been identified by the
12 Kentucky Cooperative Extension Service as having satisfactorily completed
13 the prescribed course of instruction; or

14 (b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;

15 (59) "Farmer" means a person who is a resident of Kentucky and owns or rents
16 agricultural land as defined in ~~[pursuant to subsection (9) of]~~ KRS 132.010 or
17 horticultural land as defined in ~~[pursuant to subsection (10) of]~~ KRS 132.010. For
18 the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a
19 resident of Kentucky and has grown the primary horticultural and agronomic
20 ingredients used in the home-based microprocessed products which they have
21 produced; and

22 (60) "Farmers market temporary food service establishment" means any temporary food
23 service establishment operated by a farmer who is a member of the market which
24 operates within the confines of a farmers market registered with the Kentucky
25 Department of Agriculture for the direct-to-consumer marketing of Kentucky-
26 grown farm products from approved sources for a period of time not to exceed two
27 (2) days per week for any consecutive six (6) months period in a calendar year.