

1 AN ACT relating to farmland retention.

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

3 ➔Section 1. KRS 154.60-040 is amended to read as follows:

4 (1) As used in this section:

5 (a) **"Actively engaged farmer" means a person who makes a significant**
 6 **contribution of:**

7 **1. Land, capital, and equipment to a farming operation; and**

8 **2. Active personal labor or management to a farming operation.**

9 **(b)** 1. "Agricultural assets" means:

10 a. Agricultural land which has been appraised by an individual
 11 certified by the Real Estate Appraisers Board created under KRS
 12 324A.015; and

13 b. Buildings, facilities, machinery, equipment, agricultural products,
 14 or horticultural products, if:

15 i. Owned by the same ~~seller~~~~[selling farmer]~~ owning the
 16 agricultural land sold to a **beginning farmer or actively**
 17 **engaged**~~[beginning]~~ farmer;

18 ii. Purchased at the same time and in the same transaction with
 19 the agricultural land; and

20 iii. Purchased with the intent to be used on the purchased
 21 agricultural land.

22 2. "Agricultural assets" does not mean:

23 a. A personal residence or any other residential structures; and

24 b. Any agricultural assets that have been previously included in an
 25 approved application for the **farmland retention tax credit**
 26 ~~[Kentucky selling farmer tax credit];~~

27 **(c)**~~(b)~~ "Agricultural land" means:

1 1. Any land located entirely in Kentucky that is zoned or permitted for
2 farming, if the jurisdiction where the land is located has enacted an
3 ordinance for zoning or permitting; and

4 2. a. Is a tract of land of at least ten (10) contiguous acres in area for a
5 farming operation for agricultural products; or

6 b. Is a tract of land of at least five (5) contiguous acres in area for a
7 farming operation for aquaculture or horticultural products;

8 owned by the seller~~[selling farmer]~~ prior to the sale;

9 ~~(d)~~~~(e)~~ "Agricultural products" means:

10 1. Livestock or livestock products;

11 2. Poultry or poultry products;

12 3. Milk or milk products; or

13 4. Field crops and other crops, including timber if approved by the
14 authority;

15 ~~(e)~~~~(d)~~ "Aquaculture" means the farming of fish, crustaceans, mollusks, aquatic
16 plants, algae, or other similar organisms;

17 ~~(f)~~ **"Beginning farmer" means an actively engaged farmer who has not**
18 **previously held an ownership interest in agricultural land used for a**
19 **farming operation for a period exceeding twenty (20) years prior to entering**
20 **into an agreement to purchase agricultural assets from a seller;**

21 ~~(g)~~~~(e)~~ "Farm product" means aquaculture, agricultural products, or
22 horticultural products;

23 ~~(h)~~~~(f)~~ 1. "Farming operation" means the management and operation of
24 agricultural assets for the purpose of pursuing a profitable commercial
25 business venture to produce agricultural products, horticultural products,
26 or both for sale.

27 2. "Farming operation" does not mean any:

- 1 ~~[a.—Hobby farm, as determined by the Internal Revenue Service;]~~
 2 a.~~[b.]~~ Nonprofit venture;
 3 b.~~[c.]~~ Farm used primarily for storing agricultural products or
 4 horticultural products; or
 5 c.~~[d.]~~ Farm used to grow or raise agricultural products or horticultural
 6 products primarily for use by the immediate family members or
 7 owners of the agricultural assets;

8 ~~(i)~~~~[g)]~~ "Horticultural products" means orchards, fruits, vegetables, nuts,
 9 flowers, or ornamental plants; ~~[and]~~

10 ~~(j)~~~~[h)]~~ "Immediate family member" means any of the following in relation to
 11 any owner or spouse of the owner of the agricultural assets:

- 12 1. Parent or grandparent;
- 13 2. Children or their spouses; or
- 14 3. Siblings or their spouses;

15 ~~(k)~~ "Significant Contribution" has the same meaning as in 7 C.F.R. sec
 16 1400.3.

17 (2) Any incentive offered to an eligible company under the *Farmland Retention Tax*
 18 *Credit Program*~~[Selling Farmer Tax Credit Program]~~ shall be negotiated by Cabinet
 19 for Economic Development officials and shall be subject to approval by the
 20 authority.

21 (3) The purpose of the *Farmland Retention Tax Credit Program*~~[Selling Farmer Tax~~
 22 ~~Credit Program]~~ is to promote the continued use of agricultural land in Kentucky
 23 for farming purposes by granting a tax credit to a seller~~[selling farmer]~~ who agrees
 24 to sell agricultural assets to a *beginning or actively engaged*~~[beginning]~~ farmer.

25 (4) Sellers~~[Selling farmers]~~ wanting to sell agricultural *land and* assets may be eligible
 26 for a tax credit up to five percent (5%) of the selling price of qualifying agricultural
 27 assets, subject to:

- 1 (a) A twenty-five thousand dollar (\$25,000) cap for each taxable year of the
 2 *seller when assets are sold to an actively engaged farmer who does not meet*
 3 *the definition of beginning farmer*~~[selling farmer]~~;
- 4 (b) *A fifty thousand dollar (\$50,000) cap for each taxable year of the seller*
 5 *when assets are sold to a beginning farmer;*
- 6 (c) A one hundred thousand dollar (\$100,000) lifetime cap for each *seller* selling
 7 *to an active* farmer;~~[and]~~
- 8 (d) *A two hundred thousand dollar (\$200,000) lifetime cap for each eligible*
 9 *entity selling to a beginning farmer or actively engaged; and*
- 10 (e)~~(e)~~ A proration by the authority based on the overall cap shared between the
 11 Small Business Tax Credit Program and the *Farmland Retention*~~[Selling~~
 12 ~~Farmer]~~ Tax Credit Program cap of three million dollars (\$3,000,000) under
 13 KRS 154.60-020.
- 14 (5) The tax credit allowed in subsection (4) of this section may be claimed under KRS
 15 141.3841.
- 16 (6) In order to be eligible to receive approval for a tax credit, a *the seller*~~[selling~~
 17 ~~farmer]~~ shall, at a minimum:
- 18 (a) 1. a. Be registered with the Kentucky Secretary of State; and
 19 b. Be in good standing with the Kentucky Secretary of State; or
 20 2. If not required to be registered with the Kentucky Secretary of State, be
 21 a *taxpayer*~~[resident]~~ of Kentucky;
- 22 (b) Prior to a sale of agricultural assets, be a small business with fifty (50) or
 23 fewer full-time employees and be the sole legal owner of agricultural assets
 24 sold to a beginning *actively engaged*~~[farmer]~~;
- 25 (c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily
 26 engaged in the business of selling agricultural assets for profit and not
 27 engaged in farming as a primary business activity;

- 1 (d) Not be a bank or any other similar lending or financial institution;
- 2 (e) Not be:
- 3 1. An owner, partner, member, shareholder, or trustee;
- 4 2. A spouse of an owner, partner, member, shareholder, or trustee;
- 5 3. An immediate family member of any of the owners, partners, members,
- 6 shareholders, or trustees;
- 7 of the beginning farmer to whom the seller~~[selling farmer]~~ is seeking to sell
- 8 agricultural assets;
- 9 (f) 1. Demonstrate management and operation of real and personal property
- 10 for the production of a farm product;
- 11 2. Execute and effectuate a purchase contract to sell agricultural land with
- 12 a beginning or actively engaged farmer for an amount evidenced by an
- 13 appraisal; and
- 14 (g) Sell, convey, and transfer ownership of related agricultural assets to a
- 15 beginning or actively engaged farmer~~[farmer]~~.
- 16 (7) In order for the seller~~[selling farmer]~~ to qualify for the tax credit, a beginning or
- 17 actively engaged farmer shall, at a minimum:
- 18 (a) 1. a. Be registered with the Kentucky Secretary of State; and
- 19 b. Be in good standing with the Kentucky Secretary of State; or
- 20 2. If not required to be registered with the Kentucky Secretary of State, be
- 21 a resident of Kentucky;
- 22 (b) Possess all licenses, registrations, and experience needed to legally operate a
- 23 farming operation within the jurisdiction for the agricultural land purchased
- 24 from the seller~~[a selling farmer]~~;
- 25 ~~[(c) Not previously have held an ownership interest in agricultural land used for a~~
- 26 ~~farming operation for a period exceeding ten (10) years prior to entering into~~
- 27 ~~an agreement to purchase agricultural assets from a selling farmer;]~~

1 ~~(c)~~~~(d)~~ Not have an ownership interest in any of the agricultural assets included
2 in the transaction with the seller~~[selling farmer]~~; and

3 ~~(d)~~~~(e)~~ Provide a majority of the management, and materially participate in the
4 operation of a for-profit farming operation located in Kentucky and purchased
5 from a seller~~[selling farmer]~~, with the intent to continue a for-profit farming
6 operation on the purchased agricultural land for a minimum of ten (10)~~[five~~
7 ~~(5)]~~ years after the sale date.

8 (8) The seller~~[selling farmer]~~ shall submit an application ~~[after consummation of the~~
9 ~~sale, transfer of title, and conveyance of agricultural assets together]~~with all
10 information necessary for the authority to determine eligibility for the tax credit.

11 **(9) The authority may consider applications prior to the consummation of the sale,**
12 **transfer of title, and conveyance of agricultural assets.**

13 ~~(10)~~~~(9)~~ An application for the farmland retention tax credit~~[selling farmer tax credit]~~
14 shall contain, at a minimum, information about the:

- 15 (a) **Seller and buyer**~~[Selling farmer and purchasing beginning farmer eligibility;]~~
16 (b) Purchase contract and closing statement;
17 (c) Documentation, such as a deed, title conveyance for the transfer of assets,
18 including verification of Kentucky residency; and
19 (d) Any other information the authority may require to determine eligibility for
20 the credit.

21 ~~(11)~~~~(10)~~ For each approved application, the authority shall transmit to the Department
22 of Revenue sufficient information about the seller~~[selling farmer]~~ to ensure
23 compliance with this section and KRS 141.3841, including the amount of approved
24 tax credit allowed to the selling farmer.}

25 ~~(11) Beginning January 1, 2020, the authority may approve selling farmer tax credits.]~~

26 **(12) The department may assess an additional ten percent (10%) penalty in excess of**
27 **the tax credit awarded.**

1 *(13) The farmland retention tax credit shall sunset on December 31, 2031. New*
 2 *applications shall not be accepted or considered on or after December 31, 2031.*
 3 *All outstanding applications with preliminary or final approval under this*
 4 *subchapter as of December 31, 2031, shall continue to be governed by the*
 5 *provisions of this subchapter.*

6 ➔Section 2. KRS 141.3841 is amended to read as follows:

- 7 (1) The *farmland retention*~~[selling farmers]~~ tax credit permitted by KRS 154.60-040:
- 8 (a) Shall be nonrefundable and nontransferable; and
- 9 (b) May be claimed against the taxes imposed in KRS 141.020 or 141.040 and
 10 141.0401, with the ordering of the credit as provided in KRS 141.0205.
- 11 (2) (a) The maximum amount of credit that may be claimed by a *seller*~~[selling~~
 12 ~~farmer]~~ in each taxable year is limited to:
- 13 1. No more than the total amount of credit approved by the Kentucky
 14 Economic Development Finance Authority;
- 15 2. Twenty-five thousand dollars (\$25,000) in any taxable year *if the sale is*
 16 *to an actively engaged farmer;* ~~[and]~~
- 17 *3. Fifty thousand dollars (\$50,000) in any taxable year if the sale is to a*
 18 *beginning farmer;*
- 19 ~~4[3].~~ No more than one hundred thousand dollars (\$100,000) total tax credit
 20 over the lifetime of the *seller made to an actively engaged farmer;*
 21 *and*~~[selling farmer.]~~
- 22 *5. No more than two hundred thousand dollars (\$200,000) total tax*
 23 *credit over the lifetime of the seller for sales made to beginning*
 24 *farmers.*
- 25 (b) The credit shall be first claimed on the tax return for the taxable year during
 26 which the credit was approved.
- 27 (c) Any unused credit in a taxable year may be carried forward for up to five (5)

1 taxable years and, if not utilized within the five (5) year period, shall be lost.

2 (3) In order for the General Assembly to evaluate the fulfillment of the purpose stated
3 in KRS 154.60-040, the department shall provide the following information, on a
4 cumulative basis, for each selling farmer, for each taxable year:

5 (a) The location, by county, of the agricultural assets sold to a beginning farmer
6 and approved for a tax credit under KRS 154.60-040;

7 (b) The total amount of tax credit approved by the Kentucky Economic
8 Development Finance Authority for each selling farmer;

9 (c) The amount of tax credit claimed for each selling farmer in each taxable year;
10 and

11 (d) 1. In the case of all taxpayers other than corporations, based on ranges of
12 adjusted gross income of no larger than five thousand dollars (\$5,000)
13 for the taxable year, the total amount of tax credits claimed and the
14 number of returns claiming a tax credit for each adjusted gross income
15 range; and

16 2. In the case of all corporations, based on ranges of net income no larger
17 than fifty thousand dollars (\$50,000) for the taxable year, the total
18 amount of tax credit claimed and the number of returns claiming a tax
19 credit for each net income range.

20 (4) The report required by subsection (3) of this section shall be submitted to the
21 Interim Joint Committee on Appropriations and Revenue beginning no later than
22 November 1, 2021, and no later than each November 1 thereafter, as long as the
23 credit is claimed on any return processed by the department.

24 **(5) The farmland retention tax credit shall sunset on December 31, 2031. New**
25 **applications shall not be accepted or considered on or after December 31, 2031.**
26 **All outstanding applications with preliminary or final approval under this**
27 **subchapter as of December 31, 2031 shall continue to be governed by Section 1 of**

1 *this Act.*

2 ➔Section 3. KRS 131.190 is amended to read as follows:

3 (1) No present or former commissioner or employee of the department, present or
4 former member of a county board of assessment appeals, present or former property
5 valuation administrator or employee, present or former secretary or employee of the
6 Finance and Administration Cabinet, former secretary or employee of the Revenue
7 Cabinet, or any other person, shall intentionally and without authorization inspect
8 or divulge any information acquired by him or her of the affairs of any person, or
9 information regarding the tax schedules, returns, or reports required to be filed with
10 the department or other proper officer, or any information produced by a hearing or
11 investigation, insofar as the information may have to do with the affairs of the
12 person's business.

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

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

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

18 (c) Furnishing any taxpayer or his or her properly authorized agent with
19 information respecting his or her own return;

20 (d) Testimony provided by the commissioner or any employee of the department
21 in any court, or the introduction as evidence of returns or reports filed with the
22 department, in an action for violation of state or federal tax laws or in any
23 action challenging state or federal tax laws;

24 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
25 energy resources assessed under KRS 132.820, or owners of surface land
26 under which the unmined minerals lie, factual information about the owner's
27 property derived from third-party returns filed for that owner's property, under

- 1 the provisions of KRS 132.820, that is used to determine the owner's
2 assessment. This information shall be provided to the owner on a confidential
3 basis, and the owner shall be subject to the penalties provided in KRS
4 131.990(2). The third-party filer shall be given prior notice of any disclosure
5 of information to the owner that was provided by the third-party filer;
- 6 (f) Providing to a third-party purchaser pursuant to an order entered in a
7 foreclosure action filed in a court of competent jurisdiction, factual
8 information related to the owner or lessee of coal, oil, gas reserves, or any
9 other mineral resources assessed under KRS 132.820. The department may
10 promulgate an administrative regulation establishing a fee schedule for the
11 provision of the information described in this paragraph. Any fee imposed
12 shall not exceed the greater of the actual cost of providing the information or
13 ten dollars (\$10);
- 14 (g) Providing information to a licensing agency, the Transportation Cabinet, or
15 the Kentucky Supreme Court under KRS 131.1817;
- 16 (h) Statistics of gasoline and special fuels gallonage reported to the department
17 under KRS 138.210 to 138.448;
- 18 (i) Providing any utility gross receipts license tax return information that is
19 necessary to administer the provisions of KRS 160.613 to 160.617 to
20 applicable school districts on a confidential basis;
- 21 (j) Providing documents, data, or other information to a third party pursuant to an
22 order issued by a court of competent jurisdiction;
- 23 (k) Publishing administrative writings on its official website in accordance with
24 KRS 131.020(1)(b); or
- 25 (l) Providing information to the Legislative Research Commission under:
- 26 1. KRS 139.519 for purposes of the sales and use tax refund on building
27 materials used for disaster recovery;

- 1 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 2 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 3 ENERGY STAR manufactured home credits;
- 4 4. KRS 141.383 for purposes of the film industry incentives;
- 5 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 6 credit~~{tax credits}~~ and the job assessment fees;
- 7 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 8 7. KRS 141.396 for purposes of the angel investor ~~{tax}~~ credit;
- 9 8. KRS 141.389 for purposes of the distilled spirits credit;
- 10 9. KRS 141.408 for purposes of the inventory credit;
- 11 10. KRS 141.390 for purposes of the recycling and composting
- 12 credits~~{credit}~~;
- 13 11. KRS 141.3841 for purposes of the farmland retention~~{selling farmer~~
- 14 ~~tax}~~ credit;
- 15 12. KRS 141.4231 for purposes of the renewable chemical production ~~{tax}~~
- 16 ~~}~~credit;
- 17 13. KRS 141.524 for purposes of the Education Opportunity Account
- 18 Program ~~{tax}~~ credit;
- 19 14. KRS 141.398 for purposes of the development area ~~{tax}~~ credit;
- 20 15. KRS 139.516 for the purposes of the sales and use tax exemptions
- 21 for~~{exemption on}~~ the commercial mining of cryptocurrency;
- 22 16. KRS 141.419 for purposes of the decontamination ~~{tax}~~ credit;
- 23 17. KRS 141.391 for purposes of the qualified broadband investment ~~{tax}~~
- 24 ~~}~~credit; and
- 25 18. KRS 139.499 for purposes of the sales and use~~{tax}~~
- 26 exemptions~~{exemption}~~ for a qualified data center project.

27 (3) The commissioner shall make available any information for official use only and on

1 a confidential basis to the proper officer, agency, board or commission of this state,
2 any Kentucky county, any Kentucky city, any other state, or the federal
3 government, under reciprocal agreements whereby the department shall receive
4 similar or useful information in return.

5 (4) Access to and inspection of information received from the Internal Revenue Service
6 is for department use only, and is restricted to tax administration purposes.
7 Information received from the Internal Revenue Service shall not be made available
8 to any other agency of state government, or any county, city, or other state, and
9 shall not be inspected intentionally and without authorization by any present
10 secretary or employee of the Finance and Administration Cabinet, commissioner or
11 employee of the department, or any other person.

12 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
13 requirements of KRS Chapter 137 and statistics of natural gas production as
14 reported to the department under the natural resources severance tax requirements
15 of KRS Chapter 143A may be made public by the department by release to the
16 Energy and Environment Cabinet, Department for Natural Resources.

17 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
18 submissions for the 1989 tax year, the department may make public or divulge only
19 those portions of mine maps submitted by taxpayers to the department pursuant to
20 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
21 out parcel areas. These electronic maps shall not be relied upon to determine actual
22 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
23 required under KRS Chapters 350 and 352 shall not be construed to constitute land
24 surveying or boundary surveys as defined by KRS 322.010 and any administrative
25 regulations promulgated thereto.

26 ➔Section 4. KRS 154.60-005 is amended to read as follows:

27 This subchapter shall be known as the Small Business Tax Credit and **Farmland**

1 **Retention** [~~Selling Farmer~~] Tax Credit Programs.

2 ➔Section 5. KRS 154.60-020 is amended to read as follows:

- 3 (1) The authority shall develop a Small Business Development Credit Program in
4 consultation with the Office of Entrepreneurship and Innovation to assist new or
5 existing small businesses operating in the Commonwealth. The nonrefundable
6 credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and
7 141.0401. The ordering of credits shall be as provided in KRS 141.0205.
- 8 (2) The authority shall determine the terms, conditions, and requirements for
9 application for the credit, in consultation with the Office of Entrepreneurship and
10 Innovation, subject to the provisions of subsection (3) of this section. The
11 application shall contain identification information about the number of eligible
12 positions created and filled, a calculation of the base employment of the small
13 business, verification of investment of five thousand dollars (\$5,000) or more in
14 qualifying equipment or technology, and other information the authority may
15 specify to determine eligibility for the credit.
- 16 (3) (a) The maximum amount of credits that may be committed in each fiscal year by
17 the authority and shared between the small business tax credit program and
18 the **Farmland Retention** [~~Selling Farmer~~] Tax Credit Program shall be capped
19 at three million dollars (\$3,000,000).
- 20 (b) In order to be eligible to receive final approval for a credit, a small business
21 shall, within the twenty-four (24) month period immediately preceding the
22 application submission date:
- 23 1. Create and fill one (1) or more eligible positions over the base
24 employment; and
 - 25 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or
26 technology.
- 27 (c) Each eligible position that is created and filled shall be maintained for twelve

1 (12) months. If a full-time employee filling a newly created eligible position
2 ceases to be employed by the small business for any reason, that employee
3 shall be replaced within forty-five (45) days in order for the eligible position
4 to maintain its eligible status, in addition to meeting all other applicable
5 requirements.

6 (d) The small business shall submit all information necessary for the authority to
7 determine credit eligibility for each year, and the amount of credit for which
8 the small business is eligible.

9 (e) The maximum amount of credit for each small business for each year shall not
10 exceed twenty-five thousand dollars (\$25,000).

11 (f) The credit shall be claimed on the tax return for the year during which the
12 credit was approved. Unused credits may be carried forward for up to five (5)
13 years.