

1 AN ACT relating to occupational license fees.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Associated with" means an employee:*

7 *1. Works an average of thirty percent (30%) or more of his or her*  
8 *workdays during the calendar year within the corporate office; and*

9 *2. Performs remote work that requires continuous or material reliance*  
10 *on centralized technological systems or operational assets that are*  
11 *located within the corporate office;*

12 *(b) "Corporate office" means the office, located within the Commonwealth of*  
13 *Kentucky, where a business's officers or other management staff direct,*  
14 *control, or coordinate all or a portion of the business's business activities,*  
15 *and the office:*

16 *1. Was subject to the influence of an executed incentive agreement; and*

17 *2. Has an average of one thousand (1,000) or more employees associated*  
18 *with the corporate office during the calendar year;*

19 *(c) "Incentive agreement" means a written agreement between a local*  
20 *government and a business entered into on or after January 1, 2001, that*  
21 *includes occupational license fee incentives, infrastructure improvements,*  
22 *land conveyance, or other economic inducements to operate the business's*  
23 *corporate office within the jurisdiction of the local government;*

24 *(d) "Local government" means a city, urban-county government, charter*  
25 *county government, consolidated local government, or unified local*  
26 *government located within the Commonwealth;*

27 *(e) "Occupational license fees" means any occupational license fee levied on*

1 salaries, wages, commissions, or other compensation under KRS 91.200,  
2 92.280, or 92.281;

3 (f) "Remote work" means:

4 1. For purposes of subsection (2) of this section, work performed by an  
5 employee at a location other than the corporate office or a satellite  
6 office of the business located within the Commonwealth; and

7 2. For purposes of subsection (3) of this section, work performed by an  
8 employee at a location other than the state government office to which  
9 the employee is assigned; and

10 (g) "Satellite office":

11 1. Means a physical location within the Commonwealth, other than the  
12 corporate office, used by the business to conduct business activities  
13 under the business's direction and control; and

14 2. Does not include a home office within a residence, temporary sites,  
15 virtual offices, or a third-party location not subject to the business's  
16 operational control.

17 (2) (a) Except for any portion of an employee's wages apportioned by the employer  
18 for work performed at a satellite office, one hundred percent (100%) of the  
19 wages of an employee associated with the corporate office shall be  
20 apportioned to the local government where the corporate office is located,  
21 regardless of where the employee performs his or her work, including  
22 remote work, and shall be subject to the occupational license fees imposed  
23 by the local government where the corporate office is located.

24 (b) This subsection shall apply for a period of fifty (50) years from the date of  
25 the execution of the incentive agreement.

26 (3) One hundred percent (100%) of the wages of an employee assigned to a state  
27 government office shall be apportioned to the local government where the state

1 government office is located and the employee is assigned, regardless of where  
2 the employees performs his or her work, including remote work, and shall be  
3 subject to the occupational license fees imposed by the local government where  
4 the state government office is located.

5 (4) An employee subject to occupational license fee requirements under subsection  
6 (2) or (3) of this section may submit a refund claim to the local government that  
7 received the occupational license fees for any workdays the employee physically  
8 worked outside of the local government's jurisdiction, subject to the provisions of  
9 KRS 67.750 to 67.795.

10 (5) (a) Subject to the provisions of KRS 67.750 to 67.795, a local government  
11 receiving occupational license fees pursuant to this section shall establish a  
12 procedure for the submission and review of refund claims submitted to it  
13 under subsection (4) of this section, including requirements for:

- 14 1. Documentation of work location;
- 15 2. Proof of occupational license fees withheld;
- 16 3. Employer verification; and
- 17 4. Any additional criteria necessary to determine eligibility.

18 (b) Refunds shall be prorated based on the percentage of time the employee  
19 physically worked outside of the local government's jurisdiction and shall  
20 be processed within ninety (90) days of receipt of a completed claim.

21 (c) A local government that issues a refund to an employee under this  
22 subsection shall inform any other tax district located within the  
23 Commonwealth where the employee claimed to have physically worked in  
24 conformance with KRS 67.791.

25 (d) Subject to the terms of an applicable incentive agreement, a local  
26 government issuing a refund to an employee under this subsection may seek  
27 reimbursement from the party to the incentive agreement for any portion of

1           *the incentive payment the local government made to the party prior to*  
2           *issuing the employee refund if the incentive payment was based on*  
3           *occupational license fee revenues that are attributable to the employee*  
4           *receiving the refund.*

5           ➔Section 2. KRS 67.780 is amended to read as follows:

6           *(1)* Every employer making payment of compensation to an employee shall deduct and  
7           withhold upon the payment of the compensation any tax imposed against the  
8           compensation by a tax district. Amounts withheld shall be paid to the levying tax  
9           district in accordance with KRS 67.783.

10          *(2)* A tax district may impose minimum and maximum tax liabilities for the tax on  
11          compensation.

12          *(3) Compensation subject to withholding under this section may be subject to*  
13          *apportionment under Section 1 of this Act.*

14          ➔Section 3. This Act shall apply only to the withholding, apportionment, and  
15          distribution of occupational license fees for wages paid on or after the effective date of  
16          this Act. This Act shall not establish any cause of action, claim, or right to recover  
17          occupational license fees apportioned or distributed to another local government prior to  
18          the effective date of this Act.

19          ➔Section 4. If any provision of this Act or its application thereof to any person or  
20          circumstance is held invalid, the invalidity shall not affect the other provisions or  
21          applications of the Act that can be given effect without the invalid provision or  
22          application, and to this end the provisions of this Act are severable.

23          ➔Section 5. This Act may be cited as the Economic Development Incentive  
24          Retention Act.