

1 AN ACT relating to worker fairness in the construction industry.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 9 of this Act:*

6 *(1) "Capital project" has the same meaning as in KRS 7A.010;*

7 *(2) "Commissioner" means the commissioner of the Department of Workplace*
8 *Standards under the direction and supervision of the secretary of the Education*
9 *and Labor Cabinet;*

10 *(3) "Construction project" means the building, altering, maintaining, moving,*
11 *rehabilitating, repairing, renovating, or demolishing, or activities relating to the*
12 *excavating of any commercial or industrial building, structure, or improvement,*
13 *or other commercial or industrial development or improvement to a capital*
14 *project;*

15 *(4) "Department" means the Department of Workplace Standards in the Education*
16 *and Labor Cabinet;*

17 *(5) "Employer" means any subcontractor that employs individuals;*

18 *(6) "E-Verify" or "E-Verify program" means the electronic verification of the*
19 *federal employment authorization program of the Illegal Immigration Reform*
20 *and Immigrant Responsibility Act of 1996, 8 U.S.C. sec. 1324a, as amended, and*
21 *operated by the United States Department of Homeland Security, or a successor*
22 *program;*

23 *(7) "Performing services" means the performance of commercial construction;*

24 *(8) "Prime contractor" means a person, company, or other legal entity permitted by*
25 *law to do business within the Commonwealth of Kentucky who engages in*
26 *construction by providing goods or services through a contractual agreement*
27 *with a consumer for whom the work is being performed and is responsible for the*

- 1 completion of the construction project;
- 2 (9) "Public agency" has the same meaning as in KRS 61.870;
- 3 (10) "Secretary" means the secretary of the Education and Labor Cabinet;
- 4 (11) "Subcontractor" means a person, company, or other legal entity with no
- 5 contractual obligation to the consumer for whom the work is being performed,
- 6 hired by a prime contractor or subcontractor, of any tier within the project's
- 7 supply system, to perform a specified task for a project set forth in a contractual
- 8 agreement between the prime contractor and consumer, including but not limited
- 9 to an employer that has established a successor firm, corporation, or partnership
- 10 if the two (2) entities share at least three (3) of the following characteristics or
- 11 capabilities:
- 12 (a) Perform similar work;
- 13 (b) Occupy the same premises;
- 14 (c) Share the same telephone or facsimile number;
- 15 (d) Share the same email address or website;
- 16 (e) Perform work in the same geographic area;
- 17 (f) Employ substantially the same workforce;
- 18 (g) Utilize the same tools and equipment;
- 19 (h) Employ or engage the services of any person or persons involved in the
- 20 direction or control of the other; or
- 21 (i) List substantially the same work experience.

22 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

23 READ AS FOLLOWS:

- 24 (1) A subcontractor shall not misclassify an employee on a capital project as an
- 25 independent contractor.
- 26 (2) A person performing services for a prime contractor or subcontractor is
- 27 presumed to be an employee of the prime contractor or subcontractor. Factors to

1 be considered in determining if a person is an employee or an independent
2 contractor include the following:

3 (a) The permanency of the working relationship between the parties;

4 (b) The degree of skill required for the rendering of the services;

5 (c) The worker's investment in equipment or materials for the task;

6 (d) The worker's opportunity for profit or loss, depending upon his or her skill;

7 (e) The degree of the alleged employer's right to control the manner in which
8 the work is performed; and

9 (f) Whether the service rendered is an integral part of the alleged employer's
10 business.

11 (3) The failure to withhold federal or state income taxes or to pay unemployment
12 compensation contributions or workers' compensation premiums with respect to
13 an individual's wages shall not be considered in making a determination under
14 this section.

15 (4) An individual's act of securing workers' compensation insurance with a carrier
16 as a sole proprietor, partnership, or otherwise shall not be binding on any
17 determination under this section.

18 (5) If a person has been determined to be an independent contractor in accordance
19 with the criteria set forth in subsection (2) of this section, he or she shall be
20 subject to Sections 1 to 9 of this Act in regard to the classification of individuals
21 performing services for the person.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) Any person performing services for the subcontractor who has a reasonable
25 belief, based on good faith and without malicious intent, that the prime
26 contractor or subcontractor is in violation of or has violated Section 2, 4, or 6 of
27 this Act may file a complaint with the department.

1 (2) (a) Upon receipt of a complaint filed pursuant to subsection (1) of this section,
2 the department shall conduct an investigation to ascertain the facts relating
3 to an alleged violation. The investigation may be made by written or oral
4 inquiry, field visit, conference, or any method or combination of methods
5 the department deems appropriate. Upon request of the department, the
6 subcontractor shall ensure that payroll records are open to inspection by the
7 department.

8 (b) If the commissioner determines that a subcontractor has violated a
9 provision of Section 2, 4, or 6 of this Act, the commissioner may:

- 10 1. Issue and cause to be served an order to cease and desist from further
11 violation to the offending contractor;
- 12 2. Initiate actions to collect the amount of any wages, salary,
13 employment benefits, or other compensation denied or lost to any
14 person adversely affected by the violation;
- 15 3. In the case of unlawful retaliation provide all legal or equitable relief
16 as appropriate;
- 17 4. Assess civil penalties set forth in Section 10 of this Act; and
- 18 5. Take affirmative or other action as deemed reasonable to eliminate the
19 effect of a violation pursuant to the authority granted in this chapter
20 and KRS Chapter 336.

21 (3) All orders or decisions of the commissioner may be appealed, and upon appeal an
22 administrative hearing shall be conducted in accordance with KRS Chapter 13B.
23 The secretary shall conduct the hearing as soon as practicable and shall give
24 notice of the hearing to the parties not less than twenty (20) days in advance of
25 the date set for the hearing. A hearing officer shall preside over the conduct of
26 the administrative hearing. All final orders of the secretary shall be subject to
27 judicial review instituted by the filing of a petition in Franklin Circuit Court or

1 the Circuit Court in which the appealing party resides or operates a place of
2 business.

3 (4) Complaints received by the department pursuant to subsection (1) of this section
4 shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

5 (5) The department shall provide a copy of the complaint that initiated the
6 investigation to the subcontractor who is the subject of the investigation upon
7 request of that subcontractor.

8 (6) The department shall maintain a list of subcontractors who have received a final
9 determination of a third violation of Section 2 of this Act and provide that list to
10 the Finance and Administration Cabinet upon request. The secretary shall also
11 make the list available to the public and display the list on the website of the
12 Education and Labor Cabinet.

13 (7) A prime contractor shall not be responsible or in any manner liable under
14 Sections 1,2,3,5,6,7,8, and 9 of this Act for any subcontractor's failure to properly
15 classify persons performing services as employees.

16 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
17 READ AS FOLLOWS:

18 A prime contractor or subcontractor, or any agent of any prime contractor or
19 subcontractor, shall not retaliate through discharge or in any other manner against
20 any person with regard to the terms or conditions of his or her employment for taking
21 any of the following actions:

22 (1) Making or threatening to make a complaint to a contractor, subcontractor, prime
23 contractor, a coworker, or a state or federal agency that rights guaranteed under
24 Sections 1 to 9 of this Act have been violated;

25 (2) Causing any proceeding to be instituted under Section 3 or 5 of this Act; or

26 (3) Providing information to investigators or testifying before any public body
27 conducting an investigation, hearing, or inquiry into any violation of a law, rule,

1 or administrative regulation by the employer.

2 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
3 READ AS FOLLOWS:

4 If the department fails to take action within one hundred eighty (180) days following
5 the filing of a complaint, the complaint shall be dismissed without prejudice. Nothing
6 shall preclude the filing of the same or a similar complaint following the dismissal of a
7 complaint without prejudice.

8 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) (a) Each prime contractor or subcontractor shall post in a prominent and
11 accessible place on the site where the construction project is performed a
12 legible statement, provided by the commissioner, that describes the:

13 1. Responsibility of prime contractors or subcontractors to pay taxes
14 required by state and federal law;

15 2. Rights of employees to workers' compensation, unemployment
16 benefits, minimum wage, overtime, and other federal and state
17 workplace protections;

18 3. Protections against retaliation in Section 4 of this Act; and

19 4. Penalties set forth in Section 10 of this Act if the contractor or
20 subcontractor fails to properly classify an individual as an employee.

21 (b) The notice shall contain contact information for individuals to file
22 complaints or inquire with the commissioner about employment
23 classification status.

24 (c) The posted statement shall be constructed of materials capable of
25 withstanding adverse weather conditions.

26 (2) Within thirty (30) days of the effective date of this section, the commissioner shall
27 create the notice described in this section and post the notice on the Education

1 and Labor Cabinet's website for downloading by prime contractors or
2 subcontractors.

3 (3) Each prime contractor or subcontractor shall maintain a certified payroll
4 documenting all wages and taxes for all employees working on the project. The
5 prime contractor or subcontractor shall provide a copy of the payroll upon
6 request of the Education and Labor Cabinet within seven (7) working days.

7 (4) Each contract for a capital project shall require a prime contractor and any
8 subcontractors to enroll and verify the work eligibility of all employees through
9 the E-Verify program and submit to a public agency the E-Verify case number
10 for any employee before the employee begins working on the capital project. If a
11 contractor or subcontractor knowingly or intentionally fails to comply with this
12 subsection, the contractor or subcontractor is prohibited from working on all
13 capital projects for public agencies for twelve (12) months.

14 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
15 READ AS FOLLOWS:

16 The commissioner shall promulgate administrative regulations in accordance with
17 KRS Chapter 13A to implement and administer Sections 1 to 9 of this Act.

18 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
19 READ AS FOLLOWS:

20 Upon the issuance of an order, decision, or determination that a subcontractor has
21 misclassified employees as independent contractors, the commissioner shall provide a
22 copy of the order, decision, or determination to the commissioner of the Department of
23 Revenue, the commissioner of the Department of Workers' Claims, and the Office of
24 Unemployment Insurance no later than sixty (60) days after the issuance of the order,
25 decision, or determination. Information provided to agencies under this section shall
26 be confidential and shall not be published or open to public inspection.

27 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

1 READ AS FOLLOWS:

2 Sections 1 to 9 of this Act shall not be interpreted or construed to alter, supersede, or
3 repeal other provisions of the Kentucky Revised Statutes, including those relating to
4 wages and hours, occupational safety and health, workers' compensation, and
5 unemployment insurance, but shall be held to be ancillary and supplemental thereto.

6 ➔Section 10. KRS 337.990 is amended to read as follows:

7 The following civil penalties shall be imposed by the Education and Labor Cabinet, in
8 accordance with the provisions in KRS 336.985, for violations of the provisions of this
9 chapter:

- 10 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
11 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
12 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
13 wages when due him or her under KRS 337.020 shall constitute a separate offense.
- 14 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
15 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 16 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
17 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
18 for each offense and shall make full payment to the employee by reason of the
19 violation. Each failure to pay an employee the wages as required by KRS 337.055
20 shall constitute a separate offense.
- 21 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
22 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
23 and shall also be liable to the affected employee for the amount withheld, plus
24 interest at the rate of ten percent (10%) per annum.
- 25 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
26 penalty of not less than one hundred dollars (\$100) nor more than one thousand
27 dollars (\$1,000) for each offense and shall make full payment to the employee by

1 reason of the violation.

2 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
3 of not less than one hundred dollars (\$100) nor more than one thousand dollars
4 (\$1,000) for each offense and each day that the failure continues shall be deemed a
5 separate offense.

6 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
7 337.345, ~~and~~ KRS 337.385 to 337.405, or Section 6 of this Act, or willfully
8 hinders or delays the commissioner or the commissioner's authorized representative
9 in the performance of his or her duties under KRS 337.295, or fails to keep and
10 preserve any records as required under KRS 337.320 and 337.325, or falsifies any
11 record, or refuses to make any record or transcription thereof accessible to the
12 commissioner or the commissioner's authorized representative shall be assessed a
13 civil penalty of not less than one hundred dollars (\$100) nor more than one
14 thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars
15 (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9)
16 and each day the employer violates KRS 337.285(4) to (9) shall constitute a
17 separate offense and penalty.

18 (8) Any employer who pays or agrees to pay wages at a rate less than the rate
19 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant
20 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)
21 nor more than one thousand dollars (\$1,000).

22 (9) Any employer who discharges or in any other manner discriminates against any
23 employee because the employee has made any complaint to his or her employer, to
24 the commissioner, or to the commissioner's authorized representative that he or she
25 has not been paid wages in accordance with KRS 337.275 and 337.285 or
26 regulations issued thereunder, or because the employee has caused to be instituted
27 or is about to cause to be instituted any proceeding under or related to KRS

1 337.385, or because the employee has testified or is about to testify in any such
2 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
3 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than
4 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

5 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not
6 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

7 (11) A person shall be assessed a civil penalty of not less than one hundred dollars
8 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or
9 in any other manner discriminates against an employee because the employee has:

10 (a) Made any complaint to his or her employer, the commissioner, or any other
11 person; or

12 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
13 337.420 to 337.433; or

14 (c) Testified, or is about to testify, in any such proceedings.

15 (12) (a) Upon a final determination of a violation of Section 2 of this Act, the prime
16 contractor or subcontractor shall be assessed a civil penalty not to exceed
17 two hundred fifty dollars (\$250) per each improperly classified person. For
18 each subsequent violation occurring within five (5) years, the prime
19 contractor or subcontractor shall be assessed a civil penalty not to exceed
20 three thousand dollars (\$3,000) per each improperly classified person. Any
21 prime contractor or subcontractor who receives a final determination of a
22 third violation within the five (5) year period following the initial violation
23 shall be ineligible to contract to provide services to the Commonwealth or to
24 respond to or perform work awarded to any person pursuant to a request for
25 proposals or invitation to bid pursuant to KRS Chapter 45A, 56, 162, 164,
26 176, 425, or any other provision of the Kentucky Revised Statutes which
27 governs the awarding of bids or contracts for construction funded in any

1 way by local or state funds or financed through tax increment financing
2 pursuant to KRS Chapter 65.

3 **(b) 1. Any prime contractor or subcontractor who willfully violates Section 2**
4 **of this Act, or obstructs the commissioner, the commissioner's**
5 **authorized representative, or any other person authorized to inspect**
6 **places of employment, shall be liable for civil penalties up to double**
7 **the amount provided in paragraph (a) of this subsection.**

8 **2. The increased civil penalty provided in subparagraph 1. of this**
9 **paragraph shall be imposed in cases in which a prime contractor's or**
10 **subcontractor's conduct is proven by a preponderance of the evidence**
11 **to be willful.**

12 **3. As used in this paragraph, "willfully violates" means a prime**
13 **contractor or subcontractor knew or should have known that his or**
14 **her conduct was prohibited.**

15 **(c) The civil penalties imposed in this subsection shall be in addition to any**
16 **other penalties provided or recovered under other provisions of the**
17 **Kentucky Revised Statutes or federal law.**

18 **(d) Any person who intentionally violates Section 2 of this Act shall be guilty of**
19 **a Class A misdemeanor.**

20 **(13) Any person who the commissioner determines has filed a complaint under**
21 **Section 3 of this Act in bad faith or with malicious intent shall be assessed a civil**
22 **penalty of not less than one hundred dollars (\$100) nor more than one thousand**
23 **dollars (\$1,000).**

24 **(14) A prime contractor or subcontractor who violates Section 4 of this Act shall be**
25 **assessed a civil penalty of not less than one hundred dollars (\$100) nor more than**
26 **one thousand dollars (\$1,000).**

27 **(15) A subcontractor that is a corporation, any officer of the corporation, or any**

1 shareholder who owns or controls at least ten percent (10%) of the outstanding
2 stock of the corporation who knowingly permits the corporation to willfully
3 violate Section 2 or 4 of this Act shall also be in violation of and subject to the
4 civil penalties issued in the commissioner's order, decision, or determination.

5 (16) Any penalties imposed under this section by the commissioner may be appealed,
6 and upon appeal an administrative hearing shall be conducted in accordance
7 with KRS Chapter 13B.

8 ➔Section 11. KRS 45A.145 is amended to read as follows:

9 (1) Unless otherwise provided in the statute making appropriations therefor, multiyear
10 contracts for supplies and services may be entered into for periods not extending
11 beyond the end of the biennium in which the contract was made, if funds for the
12 first fiscal year of the contemplated contract are available at the time of contracting.
13 Payment and performance obligations for succeeding fiscal years shall be subject to
14 the availability of funds therefor.

15 (2) Prior to the utilization of a contract as described in subsection (1) of this section, it
16 shall be determined in writing by the chief purchasing officer:

17 (a) That estimated requirements cover the period of the contract and are
18 reasonably firm and continuing; and

19 (b) That such contract will serve the best interests of the Commonwealth by
20 encouraging effective competition or otherwise promoting economies in state
21 procurement.

22 (3) When funds are not appropriated or otherwise made available to support
23 continuation of performance in a subsequent year of a contract as described in
24 subsection (1) of this section, the contract for such subsequent year may be
25 canceled and the contractor shall be reimbursed for the reasonable value of any
26 nonrecurring costs incurred but not amortized in the price of the supplies or services
27 delivered under the contract. The cost of cancellation may be paid from:

- 1 (a) Appropriations currently available for performance of the contract; or
- 2 (b) Appropriations currently available for procurement of similar supplies or
- 3 services and not otherwise obligated; or
- 4 (c) Appropriations made specifically for the payment of such cancellation costs.

5 **(4) Notwithstanding subsections (1) to (3) of this section, any subcontractor or any**
6 **corporate officer or shareholder who owns or controls at least ten percent (10%)**
7 **of the outstanding stock of the corporation that has two (2) or more final**
8 **determinations of a violation of Section 2 or 4 of this Act within a five (5) year**
9 **period shall not be awarded a contract under this chapter or KRS Chapter 175,**
10 **176, 177, or 180 for a period of two (2) years from the date of the last final**
11 **determination of a violation.**

12 ➔Section 12. KRS 131.190 is amended to read as follows:

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

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

- 24 (a) Information required in prosecutions for making false reports or returns of
- 25 property for taxation, or any other infraction of the tax laws;
- 26 (b) Any matter properly entered upon any assessment record, or in any way made
- 27 a matter of public record;

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

- 1 (i) Providing any utility gross receipts license tax return information that is
- 2 necessary to administer the provisions of KRS 160.613 to 160.617 to
- 3 applicable school districts on a confidential basis;
- 4 (j) Providing documents, data, or other information to a third party pursuant to an
- 5 order issued by a court of competent jurisdiction;
- 6 (k) Publishing administrative writings on its official website in accordance with
- 7 KRS 131.020(1)(b); or
- 8 (l) Providing information to the Legislative Research Commission under:
 - 9 1. KRS 139.519 for purposes of the sales and use tax refund on building
 - 10 materials used for disaster recovery;
 - 11 2. KRS 141.436 for purposes of the energy efficiency products credits;
 - 12 3. KRS 141.437 for purposes of the ENERGY STAR home and the
 - 13 ENERGY STAR manufactured home credits;
 - 14 4. KRS 141.383 for purposes of the film industry incentives;
 - 15 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
 - 16 credit and the job assessment fees;
 - 17 6. KRS 141.068 for purposes of the Kentucky investment fund;
 - 18 7. KRS 141.396 for purposes of the angel investor credit;
 - 19 8. KRS 141.389 for purposes of the distilled spirits credit;
 - 20 9. KRS 141.408 for purposes of the inventory credit;
 - 21 10. KRS 141.390 for purposes of the recycling and composting credits;
 - 22 11. KRS 141.3841 for purposes of the selling farmer credit;
 - 23 12. KRS 141.4231 for purposes of the renewable chemical production
 - 24 credit;
 - 25 13. KRS 141.524 for purposes of the Education Opportunity Account
 - 26 Program credit;
 - 27 14. KRS 141.398 for purposes of the development area credit;

- 1 15. KRS 139.516 for purposes of the sales and use tax exemptions for the
2 commercial mining of cryptocurrency;
- 3 16. KRS 141.419 for purposes of the decontamination credit;
- 4 17. KRS 141.391 for purposes of the qualified broadband investment credit;
- 5 18. KRS 139.499 for purposes of the sales and use tax exemptions for a
6 qualified data center project; and
- 7 19. KRS 139.5325 for purposes of the sales and use tax incentive for a
8 qualifying attraction.
- 9 (3) The commissioner shall make available any information for official use only and on
10 a confidential basis to the proper officer, agency, board or commission of this state,
11 any Kentucky county, any Kentucky city, any other state, or the federal
12 government, under reciprocal agreements whereby the department shall receive
13 similar or useful information in return.
- 14 (4) Access to and inspection of information received from the Internal Revenue Service
15 is for department use only, and is restricted to tax administration purposes.
16 Information received from the Internal Revenue Service shall not be made available
17 to any other agency of state government, or any county, city, or other state, and
18 shall not be inspected intentionally and without authorization by any present
19 secretary or employee of the Finance and Administration Cabinet, commissioner or
20 employee of the department, or any other person.
- 21 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
22 requirements of KRS Chapter 137 and statistics of natural gas production as
23 reported to the department under the natural resources severance tax requirements
24 of KRS Chapter 143A may be made public by the department by release to the
25 Energy and Environment Cabinet, Department for Natural Resources.
- 26 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
27 submissions for the 1989 tax year, the department may make public or divulge only

1 those portions of mine maps submitted by taxpayers to the department pursuant to
2 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
3 out parcel areas. These electronic maps shall not be relied upon to determine actual
4 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
5 required under KRS Chapters 350 and 352 shall not be construed to constitute land
6 surveying or boundary surveys as defined by KRS 322.010 and any administrative
7 regulations promulgated thereto.

8 (7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
9 the department shall provide a copy of any assessment for failure to pay business,
10 corporate, or personal income tax by a prime contractor or subcontractor in the
11 construction industry arising out of the misclassification of an employee, on a
12 confidential basis, to the commissioner of the Department of Workplace
13 Standards, the commissioner of the Department of Workers' Claims, and the
14 Office of Unemployment Insurance no later than sixty (60) days after the
15 issuance of the assessment.

16 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO
17 READ AS FOLLOWS:

18 Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, the
19 Office of Unemployment Insurance shall provide a copy of any assessment for failure
20 to pay unemployment insurance taxes by a prime contractor or subcontractor in the
21 construction industry arising out of the misclassification of an employee to the
22 commissioner of the Department of Workplace Standards, the commissioner of the
23 Department of Workers' Claims, and the commissioner of the Department of Revenue
24 no later than sixty (60) days after the issuance of the assessment.

25 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO
26 READ AS FOLLOWS:

27 Notwithstanding any confidentiality provisions to the contrary contained in this

1 chapter, the commissioner of the Department of Workers' Claims shall provide a copy
2 of any order relating to the misclassification of an employee, the intentional and
3 material underpayment or concealment of payroll, or the failure to secure workers'
4 compensation in the construction industry to the commissioner of the Department of
5 Workplace Standards, the commissioner of the Department of Revenue, and the Office
6 of Unemployment Insurance no later than sixty (60) days after the issuance of the
7 order.

8 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
9 READ AS FOLLOWS:

10 The secretary shall develop a training program to educate the public on the
11 classification of persons as employees or independent contractors in the construction
12 industry based upon the criteria established in Section 2 of this Act. The training
13 program shall:

14 (1) Be offered to employers, employees, and prime contractors and subcontractors
15 throughout the state;

16 (2) Be offered in the workplace, as well as other locations around the state;

17 (3) Include a workplace poster, to be developed by the Education and Labor Cabinet,
18 explaining the criteria of employee classification; and

19 (4) Begin no later than September 1, 2026.

20 ➔Section 16. Sections 1 to 9, 13, and 14 of this Act may be cited as the Kentucky
21 Workers Fairness Act.

22 ➔Section 17. Sections 1 to 14 of this Act take effect January 1, 2027.