

1           AN ACT relating to transactional precious metals.

2           WHEREAS, several states have introduced or enacted legislation to recognize  
3           transactional gold and silver; and

4           WHEREAS, the use of gold and silver as a medium of exchange has a historical  
5           basis in fostering economic stability and individual liberty; and

6           WHEREAS, the Constitution of the United States under Article 1, Section 10,  
7           allows for the states to declare gold and silver legal tender for use in payment of debts,  
8           taxes, fees, and other obligations; and

9           WHEREAS, recognizing gold and silver as legal tender promotes economic justice  
10          by allowing citizens of every economic stratus access to the ability to preserve their  
11          wealth by hedging against inflation with precious metals; and

12          WHEREAS, establishing voluntary mechanisms for the use of precious metals in  
13          transactions enhances Kentucky's economic resilience; and

14          WHEREAS, allowing the use of gold and silver as legal tender provides individuals  
15          and businesses within Kentucky an alternative option for preserving and exchanging  
16          wealth;

17          NOW, THEREFORE,

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

19          ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO  
20          READ AS FOLLOWS:

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

22          ***(a) "Bullion depository" means an entity providing vault facilities within the***  
23          ***United States for the storage of gold bullion and silver bullion that:***

24          ***1. Complies with the prescribed London Bullion Market Association or***  
25          ***equivalent best practice guidelines; and***

26          ***2. Provides accounts that:***

27          ***a. Hold gold bullion and silver bullion; and***

1                   **b. Allow account holders to buy, sell, save, and spend gold bullion**  
2                   **and silver bullion;**

3                   **(b) "Depository agent" means a private entity authorized by the State Treasurer**  
4                   **to operate a bullion depository or perform related services under this**  
5                   **section;**

6                   **(c) "Electronic payment system" means an electronic platform or payment**  
7                   **system that enables participating vendors to receive and process a payment**  
8                   **from an account holder of a bullion depository using gold specie and silver**  
9                   **specie held in the bullion depository as the basis for the payment**  
10                   **transaction;**

11                   **(d) "Gold bullion" and "silver bullion":**

12                   **1. Means, as applicable, refined precious gold or silver metal that is:**

13                   **a. In any shape or form; and**

14                   **b. Valued primarily based on its metal content and not on its form**  
15                   **or function; and**

16                   **2. Includes, as applicable, gold coin and silver coin;**

17                   **(e) "Gold coin" and "silver coin" means, as applicable, gold or silver metal**  
18                   **that is:**

19                   **1. In bars or other physical forms certified at least:**

20                   **a. For gold metal, ninety-nine and one-half percent (99.5%) pure;**  
21                   **and**

22                   **b. For silver metal, ninety-nine and nine-tenths percent (99.9%)**  
23                   **pure; and**

24                   **2. Coined, stamped, or imprinted with its weight and purity;**

25                   **(f) "Gold specie" and "silver specie" means, as applicable, gold or silver**  
26                   **bullion that:**

27                   **1. Has intrinsic value; and**

1                   2. *Is used or intended for use as money;*

2                   (g) *"Governing authority":*

3                   1. *Means any government, agency, authority, board, bureau,*  
4                   *commission, committee, council, department, government corporation,*  
5                   *institution, legislative body, political subdivision, instrumentality, or*  
6                   *other entity of this state; and*

7                   2. *Includes:*

8                   a. *Any city, county, charter county government, urban-county*  
9                   *government, consolidated local government, unified local*  
10                   *government, public school district, public institution of*  
11                   *education, special district, or municipal corporation of this state;*  
12                   *and*

13                   b. *Any government, agency, authority, board, bureau, department,*  
14                   *commission, council, committee, instrumentality, or other entity*  
15                   *of an entity referenced in subdivision a. of this subparagraph;*

16                   (h) *"Legal tender" means a recognized medium of exchange for the payment of*  
17                   *debts, taxes, fees, and other obligations;*

18                   (i) *"Person" includes:*

19                   1. *A natural person;*

20                   2. *Any type or form of corporation, company, partnership,*  
21                   *proprietorship, association, or other legal entity; and*

22                   3. *A government, governmental subdivision or agency, governing*  
23                   *authority, or other body politic; and*

24                   (j) *"Social credit scoring system" means a system of recordkeeping, data*  
25                   *collection, or scoring that:*

26                   1. *Evaluates, monitors, or ranks an individual's or entity's behavior,*  
27                   *beliefs, associations, or compliance with government or corporate*

### **standards; and**

2. Conditions access to services, benefits, or opportunities based on an evaluation, monitoring, or ranking referenced in subparagraph 1. of this paragraph.

**(b) Gold specie or silver specie may be used for the payment of:**

1. Debts between private parties, if the parties mutually agree to use of the specie; and

2. Taxes, fees, or other obligations owed to the Commonwealth of Kentucky or a governing authority, if the Commonwealth of Kentucky or governing authority agrees to accept the specie as payment.

(c) Except as provided in paragraph (b) of this subsection, a person shall not be required to accept gold specie or silver specie as payment.

15 (3) *Subject to subsections (4) and (9) of this section, the State Treasurer:*

16        (a) Shall promulgate administrative regulations in accordance with KRS  
17        *Chapter 13A:*

1. To designate or establish a bullion depository for the secure storage of gold bullion and silver bullion to facilitate transactions under this section:

**2. To authorize and approve one (1) or more electronic payment systems to facilitate transactions under this section; and**

### 3. *That are otherwise necessary to implement this section: and*

(b) May:

**1. Operate the bullion depository directly or contract with a depository agent; and**

? Contract with one (1) or more private entities to develop or operate

**any electronic payment system.**

(4) The administrative regulations promulgated by the State Treasurer under subsection (3) of this section shall establish requirements for ensuring:

**(a) The designated or established bullion depository is:**

## 1. Secure;

### 3. Accessible for use by any person:

(b) Each authorized and approved electronic payment system:

### **1. Is reliable; and**

2. Complies with applicable state and federal laws, including this section and any lawful administrative regulations promulgated under this section;

(c) That any depository agent or contracted entity operates in the best interests of the Commonwealth of Kentucky and the account holders of the designated or established bullion depository;

(d) With respect to the designated or established bullion depository, that the following is regularly verified:

1. The gold bullion and silver bullion held by the depository; and

**2. Compliance with this section by the depository, including any lawful administrative regulations promulgated under this section;**

(e) That each authorized and approved electronic payment system and any participating vendors are:

**1. Authorized to do business in this state; and**

**2. Compliant with state and federal money transmitter laws;**

**(f) That appropriate fraud prevention measures are implemented by:**

**1. The designated or established bullion depository;**

**2. Any depository agent or contracted entity;**

- 1        3. Each authorized and approved electronic payment system; and
- 2        4. Each participating vendor of an authorized and approved electronic
- 3        payment system; and

4        (g) 1. The privacy of the bullion depository's account holders and the  
5        participants of each authorized and approved electronic payment  
6        system, which shall include, at a minimum, that transaction  
7        information shall not, except to the extent the State Treasurer deems  
8        necessary to enforce and effectuate this section, be:

- 9        a. Shared with any person other than the account holder or  
10        participant without proper court authorization; or
- 11        b. Used in any sort of social credit scoring system implemented or  
12        maintained by the United States, a state of the United States, a  
13        foreign country or jurisdiction, an intergovernmental  
14        organization, or any government, agency, agent, instrumentality,  
15        central bank, or other entity thereof.

16        2. a. The United States, a state of the United States, a foreign country  
17        or jurisdiction, an intergovernmental organization, or any  
18        government, agency, agent, instrumentality, central bank, or  
19        other entity thereof shall not use an account holder's or  
20        participant's transaction information in violation of  
21        subparagraph 1.b. of this paragraph.

22        b. Any account holder or participant aggrieved by a violation of  
23        subdivision a. of this subparagraph shall have a cause of action  
24        against the alleged violator in any court of competent  
25        jurisdiction to obtain all appropriate relief, which shall include,  
26        without limitation:

27        i. Injunctive relief;



1        (9) The State Treasurer shall implement this section within one (1) year of the  
2        effective date of this section.

3        (10) Nothing in this section shall be construed to authorize, endorse, create, or  
4        implement:

5        (a) A central bank digital currency; or

6        (b) Any mechanism for surveillance, social credit scoring, or behavioral  
7        conditioning, or any other form of social or economic control, by the  
8        Commonwealth of Kentucky or a governing authority.

9        ➔Section 2. KRS 141.019 is amended to read as follows:

10      In the case of taxpayers other than corporations:

11      (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
12      those taxpayers the deductions allowed individuals by Section 62 of the Internal  
13      Revenue Code and adjusting as follows:

14      (a) Exclude income that is exempt from state taxation by the Kentucky  
15      Constitution and the Constitution and statutory laws of the United States;

16      (b) Exclude income from supplemental annuities provided by the Railroad  
17      Retirement Act of 1937 as amended and which are subject to federal income  
18      tax by Pub. L. No. 89-699;

19      (c) Include interest income derived from obligations of sister states and political  
20      subdivisions thereof;

21      (d) Exclude employee pension contributions picked up as provided for in KRS  
22      6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
23      and 161.540 upon a ruling by the Internal Revenue Service or the federal  
24      courts that these contributions shall not be included as gross income until such  
25      time as the contributions are distributed or made available to the employee;

26      (e) Exclude Social Security and railroad retirement benefits subject to federal  
27      income tax;

1 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
2 brought against a manufacturer or distributor of "Agent Orange" for damages  
3 resulting from exposure to Agent Orange by a member or veteran of the  
4 Armed Forces of the United States or any dependent of such person who  
5 served in Vietnam;

6 (g) 1. a. For taxable years beginning after December 31, 2005, but before  
7 January 1, 2018, exclude up to forty-one thousand one hundred ten  
8 dollars (\$41,110) of total distributions from pension plans, annuity  
9 contracts, profit-sharing plans, retirement plans, or employee  
10 savings plans; and  
11 b. For taxable years beginning on or after January 1, 2018, exclude  
12 up to thirty-one thousand one hundred ten dollars (\$31,110) of  
13 total distributions from pension plans, annuity contracts, profit-  
14 sharing plans, retirement plans, or employee savings plans.  
15 2. As used in this paragraph:  
16 a. "Annuity contract" has the same meaning as set forth in Section  
17 1035 of the Internal Revenue Code;  
18 b. "Distributions" includes but is not limited to any lump-sum  
19 distribution from pension or profit-sharing plans qualifying for the  
20 income tax averaging provisions of Section 402 of the Internal  
21 Revenue Code; any distribution from an individual retirement  
22 account as defined in Section 408 of the Internal Revenue Code;  
23 and any disability pension distribution; and  
24 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
25 savings plans" means any trust or other entity created or organized  
26 under a written retirement plan and forming part of a stock bonus,  
27 pension, or profit-sharing plan of a public or private employer for

the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(h) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(i) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;

(j) Exclude any capital gains income attributable to property taken by eminent domain;

(k) 1. Exclude all income from all sources for members of the Armed Forces who are on active duty and who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.

2. For the purposes of this paragraph, "all income from all sources" shall

1                    include all federal and state death benefits payable to the estate or any  
2                    beneficiaries;

3                    (l)    Exclude all military pay received by members of the Armed Forces while on  
4                    active duty;

5                    (m)    1.    Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
6                    or 168; and

7                    2.    Exclude the amounts allowed by KRS 141.0101 for depreciation;

8                    (n)    Include the amount deducted under 26 U.S.C. sec. 199A;

9                    (o)    Ignore any change in the cost basis of the surviving spouse's share of property  
10                   owned by a Kentucky community property trust occurring for federal income  
11                   tax purposes as a result of the death of the predeceasing spouse;

12                   (p)    Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and  
13                   278, related to the tax treatment of forgiven covered loans, deductions  
14                   attributable to those loans, and tax attributes associated with those loans for  
15                   taxable years ending on or after March 27, 2020, but before January 1, 2022;  
16                   ~~and~~

17                   (q)    For taxable years beginning on or after January 1, 2020, but before March 11,  
18                   2023, allow the same treatment of restaurant revitalization grants in  
19                   accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,  
20                   related to the tax treatment of the grants, deductions attributable to those  
21                   grants, and tax attributes associated with those grants; and

22                   (r)    **Ignore any capital gains and losses attributable to the sale or exchange of**  
23                   **gold specie and silver specie as defined in Section 1 of this Act; and**

24                   (2)    Net income shall be calculated by subtracting from adjusted gross income all the  
25                   deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
26                   modified by KRS 141.0101, except:

27                   (a)    Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

- (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering losses allowed under Section 165(d) of the Internal Revenue Code;
- (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;
- (f) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);
- (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;
- (h) Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and
- (i) A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.

1            ➔Section 3. KRS 141.039 is amended to read as follows:

2     In the case of corporations:

3        (1) Gross income shall be calculated by adjusting federal gross income as defined in

4            Section 61 of the Internal Revenue Code as follows:

5            (a) Exclude income that is exempt from state taxation by the Kentucky

6            Constitution and the Constitution and statutory laws of the United States;

7            (b) Exclude all dividend income;

8            (c) Include interest income derived from obligations of sister states and political

9            subdivisions thereof;

10           (d) Exclude fifty percent (50%) of gross income derived from any disposal of

11           coal covered by Section 631(c) of the Internal Revenue Code if the

12           corporation does not claim any deduction for percentage depletion, or for

13           expenditures attributable to the making and administering of the contract

14           under which such disposition occurs or to the preservation of the economic

15           interests retained under such contract;

16           (e) Include the amount calculated under KRS 141.205;

17           (f) Ignore the provisions of Section 281 of the Internal Revenue Code in

18           computing gross income;

19           (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.

20           167 or 168;

21           (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and

22           278, related to the tax treatment of forgiven covered loans, deductions

23           attributable to those loans, and tax attributes associated with those loans for

24           taxable years ending on or after March 27, 2020, but before January 1, 2022;

25           [and]

26           (i) For taxable years beginning on or after January 1, 2020, but before March 11,

27           2023, allow the same treatment of restaurant revitalization grants in

1 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,  
2 related to the tax treatment of the grants, deductions attributable to those  
3 grants, and tax attributes associated with those grants; and

(i) Ignore any capital gains and losses attributable to the sale or exchange of gold specie and silver specie as defined in Section 1 of this Act; and

6 (2) Net income shall be calculated by subtracting from gross income:

7 (a) The deduction for depreciation allowed by KRS 141.0101;

8 (b) Any amount paid for vouchers or similar instruments that provide health

9 insurance coverage to employees or their families;

10 (c) All the deductions from gross income allowed corporations by Chapter 1 of

11 the Internal Revenue Code, as modified by KRS 141.0101, except:

12 1. Any deduction for a state tax which is computed, in whole or in part, by

13 reference to gross or net income and which is paid or accrued to any

14 state of the United States, the District of Columbia, the Commonwealth

15 of Puerto Rico, any territory or possession of the United States, or to any

16 foreign country or political subdivision thereof;

17 2. The deductions contained in Sections 243, 245, and 247 of the Internal

18 Revenue Code;

19 3. The provisions of Section 281 of the Internal Revenue Code shall be

20 ignored in computing net income;

21 4. Any deduction directly or indirectly allocable to income which is either

22 exempt from taxation or otherwise not taxed under the provisions of this

23 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.

24 276 and 278, related to the tax treatment of forgiven covered loans and

25 deductions attributable to those loans for taxable years ending on or

26 after March 27, 2020, but before January 1, 2022; and deductions

27 allowed under Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,

1 related to the tax treatment of restaurant revitalization grants and  
2 deductions attributable to those grants for taxable years beginning on or  
3 after January 1, 2020, but before March 11, 2023. Nothing in this  
4 chapter shall be construed to permit the same item to be deducted more  
5 than once;

6 5. Any deduction for amounts paid to any club, organization, or  
7 establishment which has been determined by the courts or an agency  
8 established by the General Assembly and charged with enforcing the  
9 civil rights laws of the Commonwealth, not to afford full and equal  
10 membership and full and equal enjoyment of its goods, services,  
11 facilities, privileges, advantages, or accommodations to any person  
12 because of race, color, religion, national origin, or sex, except nothing  
13 shall be construed to deny a deduction for amounts paid to any religious  
14 or denominational club, group, or establishment or any organization  
15 operated solely for charitable or educational purposes which restricts  
16 membership to persons of the same religion or denomination in order to  
17 promote the religious principles for which it is established and  
18 maintained;

19 6. Any deduction prohibited by KRS 141.205; and

20 7. Any dividends-paid deduction of any captive real estate investment  
21 trust; and

22 (d) 1. A deferred tax deduction in an amount computed in accordance with this  
23 paragraph.

24 2. For purposes of this paragraph:

25 a. "Net deferred tax asset" means that deferred tax assets exceed the  
26 deferred tax liabilities of the combined group, as computed in  
27 accordance with accounting principles generally accepted in the

United States of America; and

b. "Net deferred tax liability" means deferred tax liabilities that exceed the deferred tax assets of a combined group as defined in KRS 141.202, as computed in accordance with accounting principles generally accepted in the United States of America.

3. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with accounting principles generally accepted in the United States of America, as of January 1, 2019, shall be eligible for this deduction.

4. If the provisions of KRS 141.202 result in an aggregate increase to the member's net deferred tax liability, an aggregate decrease to the member's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the combined group shall be entitled to a deduction, as determined in this paragraph.

5. For ten (10) years beginning with the combined group's first taxable year beginning on or after January 1, 2026, a combined group shall be entitled to a deduction from the combined group's entire net income equal to one-tenth (1/10) of the amount necessary to offset the increase in the net deferred tax liability, decrease in the net deferred tax asset, or aggregate change from a net deferred tax asset to a net deferred tax liability. The increase in the net deferred tax liability, decrease in the net deferred tax asset, or the aggregate change from a net deferred tax asset to a net deferred tax liability shall be computed based on the change that would result from the imposition of the combined reporting requirement under KRS 141.202, but for the deduction provided under this paragraph as of June 27, 2019.

- 1                   6. The deferred tax impact determined in subparagraph 5. of this paragraph  
2                   shall be converted to the annual deferred tax deduction amount, as  
3                   follows:
  - 4                   a. The deferred tax impact determined in subparagraph 5. of this  
5                   paragraph shall be divided by the tax rate determined under KRS  
6                   141.040;
  - 7                   b. The resulting amount shall be further divided by the  
8                   apportionment factor determined by KRS 141.120 or 141.121 that  
9                   was used by the combined group in the calculation of the deferred  
10                  tax assets and deferred tax liabilities as described in subparagraph  
11                  5. of this paragraph; and
  - 12                  c. The resulting amount represents the total net deferred tax  
13                  deduction available over the ten (10) year period as described in  
14                  subparagraph 5. of this paragraph.
- 15                  7. The deduction calculated under this paragraph shall not be adjusted as a  
16                  result of any events happening subsequent to the calculation, including  
17                  but not limited to any disposition or abandonment of assets. The  
18                  deduction shall be calculated without regard to the federal tax effect and  
19                  shall not alter the tax basis of any asset. If the deduction under this  
20                  section is greater than the combined group's entire Kentucky net income,  
21                  any excess deduction shall be carried forward and applied as a deduction  
22                  to the combined group's entire net income in future taxable years until  
23                  fully utilized.
- 24                  8. Any combined group intending to claim a deduction under this  
25                  paragraph shall file a statement with the department on or before July 1,  
26                  2019. The statement shall specify the total amount of the deduction  
27                  which the combined group claims on the form, including calculations

1                   and other information supporting the total amounts of the deduction as  
2                   required by the department. No deduction shall be allowed under this  
3                   paragraph for any taxable year, except to the extent claimed on the  
4                   timely filed statement in accordance with this paragraph.

5           ➔Section 4. Section 1 of this Act may be cited as the Kentucky Transactional  
6           Gold and Silver Act.