

1 AN ACT relating to the promotion of living donor human organ and bone marrow
2 donation.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO
5 READ AS FOLLOWS:

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

7 *(a) "Human organ" means any part of a human intestine, kidney, liver, lung,*
8 *or pancreas;*

9 *(b) "Living donor" means a full-time employee of the executive, judicial, or*
10 *legislative branch of the Commonwealth of Kentucky who is absent from*
11 *work due to medical reasons associated with donating a human organ or*
12 *bone marrow; and*

13 *(c) 1. "Living organ donor leave" means a paid leave of absence provided to*
14 *a living donor for time off work from the donation of a human organ*
15 *or bone marrow and the recovery time associated with the donation;*
16 *and*

17 *2. "Living organ donor leave" does not include any other form of paid*
18 *leave that has been granted by the living donor's employer.*

19 *(2) The Commonwealth of Kentucky Living Organ Donor Leave Program is created.*
20 *A living donor may request to receive living organ donor leave for donating a*
21 *human organ or bone marrow.*

22 *(3) Before being approved to receive any amount of living organ donor leave, the*
23 *living donor shall submit verification of the human organ or bone marrow*
24 *donation procedure to his or her employer.*

25 *(4) Once approved, a living donor shall be granted living organ donor leave in an*
26 *amount of:*

27 *(a) Two hundred forty (240) hours for each human organ donation; and*

- 1 (b) Forty (40) hours for each bone marrow donation.
- 2 (5) A living donor may be approved to receive living organ donor leave each time the
3 living donor donates a human organ or bone marrow.
- 4 (6) A living donor shall not be required to use compensatory time, sick leave, or
5 annual leave before being eligible to receive living organ donor leave.
- 6 (7) While a living donor is on living organ donor leave, he or she shall be deemed a
7 state employee and shall receive the same treatment with respect to salary, wages,
8 and employee benefits.
- 9 (8) For purposes of determining seniority, pay or pay advancement, performance
10 awards, and the receipt of any benefit that may be affected by a leave of absence,
11 the service of the living donor shall be considered uninterrupted by the leave of
12 absence.
- 13 (9) The secretary of the Personnel Cabinet shall promulgate administrative
14 regulations in accordance with KRS Chapter 13A to implement the provisions of
15 the this section.

16 ➔Section 2. KRS 18A.025 is amended to read as follows:

- 17 (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015,
18 who shall be considered an employee of the state. The secretary shall be a graduate
19 of an accredited college or university and have at least five (5) years' experience in
20 personnel administration or in related fields, have known sympathies with the merit
21 principle in government and shall be dedicated to the preservation of this principle.
22 Additional education may be substituted for the required experience and additional
23 experience may be substituted for the required education.
- 24 (2) The secretary of the Personnel Cabinet or the secretary's designee, shall be
25 responsible for the coordination of the state's affirmative action plan, established by
26 KRS 18A.138.
- 27 (3) There is established within the Personnel Cabinet the following offices,

1 departments, and divisions, each of which shall be headed by either a commissioner,
2 executive director, or division director appointed by the secretary, subject to the
3 prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the
4 level of the appointment, except that the Kentucky Employees Deferred
5 Compensation Authority shall be headed by an executive director who shall be
6 appointed by the authority's board of directors:

7 (a) Office of the Secretary, which shall be responsible for communication with
8 state employees about personnel and other relevant issues and for the
9 administration and coordination of the following:

10 1. Office of Employee Relations, composed of the following programs:

11 a. Workers' Compensation Program pursuant to KRS 18A.375;

12 b. Sick leave Sharing Program, pursuant to KRS 18A.197;

13 c. Annual Leave Sharing Program, pursuant to KRS 18A.203;

14 d. Health and Safety Program;

15 e. Employee Assistance Program;

16 f. Employee Incentive Programs, pursuant to KRS 18A.202;~~and~~

17 g. Employee Mediation Program; *and*

18 **h. Living Organ Donor Leave Program, pursuant to Section 1 of**
19 **this Act;**

20 2. Office of Administrative Services, which shall be responsible for the
21 Personnel Cabinet's administrative functions, composed of the following
22 programs:

23 a. Division of Technology Services;

24 b. Division of Human Resources; and

25 c. Division of Financial Services;

26 3. Office of Legal Services, which shall provide legal services to the
27 Personnel Cabinet and to executive branch agencies and their

- 1 representatives upon request;
- 2 4. Office of Diversity, Equality, and Training, which shall coordinate and
- 3 implement diversity initiatives for state agencies, the affirmative action
- 4 plan established by KRS 18A.138, the state Equal Employment
- 5 Opportunity Program, and the Minority Management Trainee Program;
- 6 5. Governmental Services Center, which shall be responsible for employee
- 7 and managerial training and organizational development;
- 8 6. Kentucky Public Employees Deferred Compensation Authority, which
- 9 shall maintain a deferred compensation plan for state employees; and
- 10 7. Office of Public Affairs, which shall assist in all aspects of developing
- 11 and executing the strategic direction of the cabinet;
- 12 (b) Department of Human Resources Administration, which shall be composed of
- 13 the:
- 14 1. Division of Employee Management, which shall be responsible for
- 15 payroll, records, classification, and compensation. The division shall
- 16 also be responsible for implementing lay-off plans mandated by KRS
- 17 18A.113 to 118A.1132 and shall monitor and assist state agencies in
- 18 complying with the provisions of the federal Fair Labor Standards Act.
- 19 The division shall:
- 20 a. Maintain the central personnel files mandated by KRS 18A.020
- 21 and process personnel documents and position actions;
- 22 b. Operate and maintain a uniform payroll system and certify payrolls
- 23 as required by KRS 18A.125;
- 24 c. Maintain plans of classification and compensation for state service
- 25 and review and evaluate the plans; and
- 26 d. Coordinate and implement the employee performance evaluation
- 27 systems throughout state government; and

- 1 2. Division of Career Opportunities, which shall be responsible for
2 employment counseling, applicant processing, employment register, and
3 staffing analysis functions. The division shall:
- 4 a. Operate a centralized applicant and employee counseling program;
5 b. Operate, coordinate, and construct the examination program for
6 state employment;
7 c. Prepare registers of candidate employment; and
8 d. Coordinate outreach programs, such as recruitment and the
9 Administrative Intern Program; and
- 10 (c) Department of Employee Insurance, which shall be responsible for the:
- 11 1. Health Insurance Program, pursuant to KRS 18A.225;
12 2. Flexible Benefit Plan, pursuant to KRS 18A.227;
13 3. Division of Insurance Administration, which shall be responsible for
14 enrollment and service functions;
15 4. Division of Financial and Data Services, which shall be responsible for
16 fiscal and data analysis functions; and
17 5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.
- 18 (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to
19 KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and
20 implementation of policy. The secretary may employ, pursuant to the provisions of
21 this chapter, personnel necessary to execute the functions and duties of the
22 department.
- 23 ➔Section 3. KRS 18A.110 is amended to read as follows:
- 24 (1) The secretary shall promulgate comprehensive administrative regulations for the
25 classified service governing:
- 26 (a) Applications and examinations;
27 (b) Certification and selection of eligibles;

- 1 (c) Classification and compensation plans;
- 2 (d) Incentive programs;
- 3 (e) Lay-offs;
- 4 (f) Registers;
- 5 (g) Types of appointments;
- 6 (h) Attendance; hours of work; compensatory time; annual, court, military, sick,
- 7 voting, living organ donor, and special leaves of absence, provided that the
- 8 secretary shall not promulgate administrative regulations that would reduce
- 9 the rate at which employees may accumulate leave time below the rate
- 10 effective on December 10, 1985; and
- 11 (i) Employee evaluations.
- 12 (2) The secretary shall promulgate comprehensive administrative regulations for the
- 13 unclassified service.
- 14 (3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate
- 15 administrative regulations that would reduce an employee's salary; and
- 16 (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed
- 17 administrative regulation providing for an initial probationary period in excess
- 18 of six (6) months to the board for its approval.
- 19 (4) The secretary may promulgate administrative regulations to implement state
- 20 government's affirmative action plan under KRS 18A.138.
- 21 (5) (a) The administrative regulations shall comply with the provisions of this chapter
- 22 and KRS Chapter 13A, and shall have the force and effect of law after
- 23 compliance with the provisions of KRS Chapters 13A and 18A and the
- 24 procedures adopted thereunder;
- 25 (b) Administrative regulations promulgated by the secretary shall not expand or
- 26 restrict rights granted to, or duties imposed upon, employees and
- 27 administrative bodies by the provisions of this chapter; and

1 (c) No administrative body other than the Personnel Cabinet shall promulgate
2 administrative regulations governing the subject matters specified in this
3 section.

4 (6) Prior to filing an administrative regulation with the Legislative Research
5 Commission, the secretary shall submit the administrative regulation to the board
6 for review.

7 (a) The board shall review the administrative regulation proposed by the secretary
8 not less than twenty (20) days after its submission to it;

9 (b) Not less than five (5) days after its review, the board shall submit its
10 recommendations in writing to the secretary;

11 (c) The secretary shall review the recommendations of the board and may revise
12 the proposed administrative regulation if he deems it necessary; and

13 (d) After the secretary has completed the review provided for in this section, he
14 may file the proposed administrative regulation with the Legislative Research
15 Commission pursuant to the provisions of KRS Chapter 13A.

16 (7) The administrative regulations shall provide:

17 (a) For the preparation, maintenance, and revision of a position classification plan
18 for all positions in the classified service, based upon similarity of duties
19 performed and responsibilities assumed, so that the same qualifications may
20 reasonably be required for, and the same schedule of pay may be equitably
21 applied to, all positions in the same class. The secretary shall allocate the
22 position of every employee in the classified service to one (1) of the classes in
23 the plan. The secretary shall reallocate existing positions, after consultation
24 with appointing authorities, when it is determined that they are incorrectly
25 allocated, and there has been no substantial change in duties from those in
26 effect when such positions were last classified. The occupant of a position
27 being reallocated shall continue to serve in the reallocated position with no

1 reduction in salary;

2 (b) For a pay plan for all employees in the classified service, after consultation
3 with appointing authorities and the state budget director. The plan shall take
4 into account such factors as:

- 5 1. The relative levels of duties and responsibilities of various classes of
6 positions;
- 7 2. Rates paid for comparable positions elsewhere taking into consideration
8 the effect of seniority on such rates; and
- 9 3. The state's financial resources.

10 Amendments to the pay plan shall be made in the same manner. Each
11 employee shall be paid at one (1) of the rates set forth in the pay plan for the
12 class of position in which he is employed, provided that the full amount of the
13 annual increment provided for by the provisions of KRS 18A.355, and the full
14 amount of an increment due to a promotion, salary adjustment,
15 reclassification, or reallocation, shall be added to an employee's base salary or
16 wages;

17 (c) For open competitive examinations to test the relative fitness of applicants for
18 the respective positions. The examinations shall be announced publicly and
19 applications accepted at least ten (10) days prior to certification of a register,
20 and may be advertised through the press, radio, and other media. The secretary
21 shall continue to receive applications and examine candidates on a continuous
22 basis long enough to assure a sufficient number of eligibles to meet the needs
23 of the service. Except as provided by this chapter, he shall add the names of
24 successful candidates to existing eligible lists in accordance with their
25 respective ratings. The secretary shall be free to use any investigation of
26 education and experience and any test of capacity, knowledge, manual skill,
27 character, personal traits, or physical fitness, which in his judgment, serves the

- 1 need to discover the relative fitness of applicants;
- 2 (d) As provided by this chapter, for the establishment of eligible lists for
3 appointment, upon which lists shall be placed the names of successful
4 candidates in the order of their relative excellence in the respective
5 examinations. Except as provided by this chapter, an eligible's score shall
6 expire automatically one (1) year from the date of testing, unless the life of the
7 score is extended by action of the secretary for a period not to exceed one (1)
8 additional year. Except for those individuals exercising reemployment rights,
9 all eligibles may be removed from the register when a new examination is
10 established;
- 11 (e) For the rejection of candidates or eligibles who fail to comply with reasonable
12 requirements of the secretary in regard to such factors as age, physical
13 condition, training, and experience, or who have attempted any deception or
14 fraud in connection with an examination;
- 15 (f) Except as provided by this chapter, for the appointment of a person whose
16 score is included in the five (5) highest scores earned on the examination;
- 17 (g) For annual, sick, and special leaves of absence, with or without pay, or
18 reduced pay, after approval by the Governor as provided by KRS
19 18A.155(1)(d);
- 20 (h) For lay-offs, in accordance with the provisions of KRS 18A.113, 18A.1131,
21 and 18A.1132, by reasons of lack of work, abolishment of a position, a
22 material change in duties or organization, or a lack of funds;
- 23 (i) For the development and operation of programs to improve the work
24 effectiveness of employees in the state service, including training, whether in-
25 service or compensated educational leave, safety, health, welfare, counseling,
26 recreation, employee relations, and employee mobility without written
27 examination;

- 1 (j) For a uniform system of annual employee evaluation for classified employees,
2 with status, that shall be considered in determining eligibility for discretionary
3 salary advancements, promotions, and disciplinary actions. The administrative
4 regulations shall:
- 5 1. Require the secretary to determine the appropriate number of job
6 categories to be evaluated and a method for rating each category;
 - 7 2. Provide for periodic informal reviews during the evaluation period
8 which shall be documented on the evaluation form and pertinent
9 comments by either the employee or supervisor may be included;
 - 10 3. Establish a procedure for internal dispute resolution with respect to the
11 final evaluation rating;
 - 12 4. Permit a classified employee, with status, who receives either of the two
13 (2) lowest possible evaluation ratings to appeal to the Personnel Board
14 for review after exhausting the internal dispute resolution procedure.
15 The final evaluation shall not include supervisor comments on ratings
16 other than the lowest two (2) ratings;
 - 17 5. Require that an employee who receives the highest possible rating shall
18 receive the equivalent of two (2) workdays, not to exceed sixteen (16)
19 hours, credited to his or her annual leave balance. An employee who
20 receives the second highest possible rating shall receive the equivalent
21 of one (1) workday, not to exceed eight (8) hours, credited to his or her
22 annual leave balance; and
 - 23 6. Require that an employee who receives the lowest possible evaluation
24 rating shall either be demoted to a position commensurate with the
25 employee's skills and abilities or be terminated; and
- 26 (k) For other administrative regulations not inconsistent with this chapter and
27 KRS Chapter 13A, as may be proper and necessary for its enforcement.

1 (8) For any individual hired or elected to office before January 1, 2015, and paid
2 through the Kentucky Human Resources Information System, the Personnel Cabinet
3 shall not require payroll payments to be made by direct deposit or require the
4 individual to use a Web-based program to access his or her salary statement.

5 (9) To the extent that KRS 16.010 to 16.199 and administrative regulations
6 promulgated by the commissioner of the Department of Kentucky State Police
7 under authority granted in KRS Chapter 16 conflict with this section or any
8 administrative regulation promulgated by the secretary pursuant to authority granted
9 in this section, the provisions of KRS Chapter 16 shall prevail.

10 ➔Section 4. KRS 141.010 is amended to read as follows:

11 As used in this chapter, for taxable years beginning on or after January 1, 2018:

12 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means
13 the amount calculated in KRS 141.019;

14 (2) "Captive real estate investment trust" means a real estate investment trust as defined
15 in Section 856 of the Internal Revenue Code that meets the following requirements:

16 (a) 1. The shares or other ownership interests of the real estate investment trust
17 are not regularly traded on an established securities market; or

18 2. The real estate investment trust does not have enough shareholders or
19 owners to be required to register with the Securities and Exchange
20 Commission;

21 (b) 1. The maximum amount of stock or other ownership interest that is owned
22 or constructively owned by a corporation equals or exceeds:

23 a. Twenty-five percent (25%), if the corporation does not occupy
24 property owned, constructively owned, or controlled by the real
25 estate investment trust; or

26 b. Ten percent (10%), if the corporation occupies property owned,
27 constructively owned, or controlled by the real estate investment

1 trust.

2 The total ownership interest of a corporation shall be determined by
3 aggregating all interests owned or constructively owned by a
4 corporation; and

5 2. For the purposes of this paragraph:

6 a. "Corporation" means a corporation taxable under KRS 141.040,
7 and includes an affiliated group as defined in KRS 141.200, that is
8 required to file a consolidated return pursuant to KRS 141.200;
9 and

10 b. "Owned or constructively owned" means owning shares or having
11 an ownership interest in the real estate investment trust, or owning
12 an interest in an entity that owns shares or has an ownership
13 interest in the real estate investment trust. Constructive ownership
14 shall be determined by looking across multiple layers of a
15 multilayer pass-through structure; and

16 (c) The real estate investment trust is not owned by another real estate investment
17 trust;

18 (3) "Commissioner" means the commissioner of the department;

19 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal
20 Revenue Code;

21 (5) "Department" means the Department of Revenue;

22 (6) "Dependent" means those persons defined as dependents in the Internal Revenue
23 Code;

24 (7) "Doing business in this state" includes but is not limited to:

25 (a) Being organized under the laws of this state;

26 (b) Having a commercial domicile in this state;

27 (c) Owning or leasing property in this state;

- 1 (d) Having one (1) or more individuals performing services in this state;
- 2 (e) Maintaining an interest in a pass-through entity doing business in this state;
- 3 (f) Deriving income from or attributable to sources within this state, including
- 4 deriving income directly or indirectly from a trust doing business in this state,
- 5 or deriving income directly or indirectly from a single-member limited
- 6 liability company that is doing business in this state and is disregarded as an
- 7 entity separate from its single member for federal income tax purposes; or
- 8 (g) Directing activities at Kentucky customers for the purpose of selling them
- 9 goods or services.

10 Nothing in this subsection shall be interpreted in a manner that goes beyond the

11 limitations imposed and protections provided by the United States Constitution or

12 Pub. L. No. 86-272;

13 (8) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue

14 Code;

15 (9) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue

16 Code;

17 (10) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue

18 Code;

19 (11) "Financial institution" means:

20 (a) A national bank organized as a body corporate and existing or in the process

21 of organizing as a national bank association pursuant to the provisions of the

22 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,

23 1997, exclusive of any amendments made subsequent to that date;

24 (b) Any bank or trust company incorporated or organized under the laws of any

25 state, except a banker's bank organized under KRS 286.3-135;

26 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,

27 in effect on December 31, 1997, exclusive of any amendments made

1 subsequent to that date, or any corporation organized after December 31,
2 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
3 December 31, 1997; or

4 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
5 3101, in effect on December 31, 1997, exclusive of any amendments made
6 subsequent to that date, or any agency or branch of a foreign depository
7 established after December 31, 1997, that meets the requirements of 12 U.S.C.
8 sec. 3101 in effect on December 31, 1997;

9 (12) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
10 Revenue Code;

11 (13) "Gross income":

12 (a) In the case of taxpayers other than corporations, has the same meaning as in
13 Section 61 of the Internal Revenue Code; and

14 (b) In the case of corporations, means the amount calculated in KRS 141.039;

15 (14) "Human organ" means any part of a human intestine, kidney, liver, lung, or
16 pancreas;

17 (15) "Individual" means a natural person;

18 (16)~~(15)~~ "Internal Revenue Code" means:

19 (a) For taxable years beginning on or after January 1, 2018, but before January 1,
20 2019, the Internal Revenue Code in effect on December 31, 2017, including
21 the provisions contained in Pub. L. No. 115-97 apply to the same taxable year
22 as the provisions apply for federal purposes, exclusive of any amendments
23 made subsequent to that date, other than amendments that extend provisions
24 in effect on December 31, 2017, that would otherwise terminate; and

25 (b) For taxable years beginning on or after January 1, 2019, the Internal Revenue
26 Code in effect on December 31, 2018, exclusive of any amendments made
27 subsequent to that date, other than amendments that extend provisions in

1 effect on December 31, 2018, that would otherwise terminate;

2 ~~(17)~~~~(16)~~ "Limited liability pass-through entity" means any pass-through entity that
3 affords any of its partners, members, shareholders, or owners, through function of
4 the laws of this state or laws recognized by this state, protection from general
5 liability for actions of the entity;

6 ~~(18)~~~~(17)~~ "Modified gross income" means the greater of:

7 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any
8 amendments in effect on December 31 of the taxable year, and adjusted as
9 follows:

10 1. Include interest income derived from obligations of sister states and
11 political subdivisions thereof; and

12 2. Include lump-sum pension distributions taxed under the special
13 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

14 (b) Adjusted gross income as defined in subsection (1) of this section and
15 adjusted to include lump-sum pension distributions taxed under the special
16 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

17 ~~(19)~~~~(18)~~ "Net income":

18 (a) In the case of taxpayers other than corporations, means the amount calculated
19 in KRS 141.019; and

20 (b) In the case of corporations, means the amount calculated in KRS 141.039;

21 ~~(20)~~~~(19)~~ "Nonresident" means any individual not a resident of this state;

22 ~~(21)~~~~(20)~~ "Number of withholding exemptions claimed" means the number of
23 withholding exemptions claimed in a withholding exemption certificate in effect
24 under KRS 141.325, except that if no such certificate is in effect, the number of
25 withholding exemptions claimed shall be considered to be zero;

26 ~~(22)~~~~(21)~~ "Part-year resident" means any individual that has established or abandoned
27 Kentucky residency during the calendar year;

1 ~~(23)~~~~(22)~~ "Pass-through entity" means any partnership, S corporation, limited liability
2 company, limited liability partnership, limited partnership, or similar entity
3 recognized by the laws of this state that is not taxed for federal purposes at the
4 entity level, but instead passes to each partner, member, shareholder, or owner their
5 proportionate share of income, deductions, gains, losses, credits, and any other
6 similar attributes;

7 ~~(24)~~~~(23)~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal
8 Revenue Code;

9 ~~(25)~~~~(24)~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal
10 Revenue Code;

11 ~~(26)~~~~(25)~~ **"Qualified organ donation expenses" means unreimbursed travel expenses,**
12 **lodging expenses, child care expenses, and lost wages incurred by a taxpayer as a**
13 **direct result of the taxpayer's donation, while living, of all or part of one (1) or**
14 **more of the taxpayer's human organs for purposes of being transplanted into**
15 **another human being;**

16 ~~(27)~~ "Resident" means an individual domiciled within this state or an individual who is
17 not domiciled in this state, but maintains a place of abode in this state and spends in
18 the aggregate more than one hundred eighty-three (183) days of the taxable year in
19 this state;

20 ~~(28)~~~~(26)~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal
21 Revenue Code;

22 ~~(29)~~~~(27)~~ "State" means a state of the United States, the District of Columbia, the
23 Commonwealth of Puerto Rico, or any territory or possession of the United States;

24 ~~(30)~~~~(28)~~ "Taxable net income":

25 (a) In the case of corporations that are taxable in this state, means "net income" as
26 defined in subsection ~~(19)~~~~(18)~~ of this section;

27 (b) In the case of corporations that are taxable in this state and taxable in another

1 state, means "net income" as defined in subsection ~~(19)~~~~[(18)]~~ of this section
2 and as allocated and apportioned under KRS 141.120;

3 (c) For homeowners' associations as defined in Section 528(c) of the Internal
4 Revenue Code, means "taxable income" as defined in Section 528(d) of the
5 Internal Revenue Code. Notwithstanding the provisions of subsection (15) of
6 this section, the Internal Revenue Code sections referred to in this paragraph
7 shall be those code sections in effect for the applicable tax year; and

8 (d) For a corporation that meets the requirements established under Section 856
9 of the Internal Revenue Code to be a real estate investment trust, means "real
10 estate investment trust taxable income" as defined in Section 857(b)(2) of the
11 Internal Revenue Code, except that a captive real estate investment trust shall
12 not be allowed any deduction for dividends paid;

13 ~~(31)~~~~[(29)]~~ "Taxable year" means the calendar year or fiscal year ending during such
14 calendar year, upon the basis of which net income is computed, and in the case of a
15 return made for a fractional part of a year under the provisions of this chapter or
16 under administrative regulations prescribed by the commissioner, "taxable year"
17 means the period for which the return is made; and

18 ~~(32)~~~~[(30)]~~ "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue
19 Code and includes other income subject to withholding as provided in Section
20 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

21 ➔Section 5. KRS 141.019 is amended to read as follows:

22 For taxable years beginning on or after January 1, 2018, in the case of taxpayers other
23 than corporations:

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

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

- 1 Constitution and the Constitution and statutory laws of the United States;
- 2 (b) Exclude income from supplemental annuities provided by the Railroad
3 Retirement Act of 1937 as amended and which are subject to federal income
4 tax by Pub. L. No. 89-699;
- 5 (c) Include interest income derived from obligations of sister states and political
6 subdivisions thereof;
- 7 (d) Exclude employee pension contributions picked up as provided for in KRS
8 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
9 and 161.540 upon a ruling by the Internal Revenue Service or the federal
10 courts that these contributions shall not be included as gross income until such
11 time as the contributions are distributed or made available to the employee;
- 12 (e) Exclude Social Security and railroad retirement benefits subject to federal
13 income tax;
- 14 (f) Exclude any money received because of a settlement or judgment in a lawsuit
15 brought against a manufacturer or distributor of "Agent Orange" for damages
16 resulting from exposure to Agent Orange by a member or veteran of the
17 Armed Forces of the United States or any dependent of such person who
18 served in Vietnam;
- 19 (g) 1. a. For taxable years beginning after December 31, 2005, but before
20 January 1, 2018, exclude up to forty-one thousand one hundred ten
21 dollars (\$41,110) of total distributions from pension plans, annuity
22 contracts, profit-sharing plans, retirement plans, or employee
23 savings plans; and
- 24 b. For taxable years beginning on or after January 1, 2018, exclude
25 up to thirty-one thousand one hundred ten dollars (\$31,110) of
26 total distributions from pension plans, annuity contracts, profit-
27 sharing plans, retirement plans, or employee savings plans.

- 1 2. As used in this paragraph:
- 2 a. "Annuity contract" has the same meaning as set forth in Section
- 3 1035 of the Internal Revenue Code;
- 4 b. "Distributions" includes but is not limited to any lump-sum
- 5 distribution from pension or profit-sharing plans qualifying for the
- 6 income tax averaging provisions of Section 402 of the Internal
- 7 Revenue Code; any distribution from an individual retirement
- 8 account as defined in Section 408 of the Internal Revenue Code;
- 9 and any disability pension distribution; and
- 10 c. "Pension plans, profit-sharing plans, retirement plans, or employee
- 11 savings plans" means any trust or other entity created or organized
- 12 under a written retirement plan and forming part of a stock bonus,
- 13 pension, or profit-sharing plan of a public or private employer for
- 14 the exclusive benefit of employees or their beneficiaries and
- 15 includes plans qualified or unqualified under Section 401 of the
- 16 Internal Revenue Code and individual retirement accounts as
- 17 defined in Section 408 of the Internal Revenue Code;
- 18 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
- 19 income from an S corporation subject to the franchise tax imposed
- 20 under KRS 136.505 or the capital stock tax imposed under KRS
- 21 136.300; and
- 22 b. Exclude the portion of the distributive share of a shareholder's net
- 23 income from an S corporation related to a qualified subchapter S
- 24 subsidiary subject to the franchise tax imposed under KRS
- 25 136.505 or the capital stock tax imposed under KRS 136.300.
- 26 2. The shareholder's basis of stock held in an S corporation where the S
- 27 corporation or its qualified subchapter S subsidiary is subject to the

1 franchise tax imposed under KRS 136.505 or the capital stock tax
2 imposed under KRS 136.300 shall be the same as the basis for federal
3 income tax purposes;

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

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

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

13 2. For the purposes of this paragraph, "all income from all sources" shall
14 include all federal and state death benefits payable to the estate or any
15 beneficiaries;

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

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

20 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;~~and~~

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

22 **(o) 1. For taxable years beginning on or after January 1, 2021, and before**
23 **January 1, 2025, exclude an amount equal to the amount of qualified**
24 **organ donation expenses incurred by the taxpayer during the taxable**
25 **year, not to exceed ten thousand dollars (\$10,000).**

26 **2. The purpose of the deduction for qualified organ donation expenses**
27 **provided in subparagraph 1. of this paragraph is to encourage and**

1 support human organ donation.

2 3. The department shall provide to the Interim Joint Committee on
 3 Appropriations and Revenue no later than December 1, 2022, and on
 4 or before each December 1 thereafter as long as the deduction
 5 provided in subparagraph 1. of this paragraph is claimed on any
 6 return filed:

7 a. The number of tax returns claiming the deduction for each
 8 taxable year;

9 b. The total amount of the deductions claimed;

10 c. The cumulative total of the reduced tax liability by the type of
 11 organ donated;

12 d. The cumulative total of the reduced tax liability by county, based
 13 on the mailing address on the return claiming the deduction, for
 14 each taxable year; and

15 e. Based on ranges of adjusted gross income of no larger than five
 16 thousand dollars (\$5,000), the total amount of the reduced tax
 17 liability for each adjusted gross income range for each taxable
 18 year; and

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

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

23 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
 24 losses allowed under Section 165(d) of the Internal Revenue Code;

25 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;

26 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;

27 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous

1 deduction;

2 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
3 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
4 the estate of a decedent, unless there is filed with the income return a
5 statement that the deduction has not been claimed under KRS 140.090(1)(h);

6 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
7 any other deductions in lieu thereof;

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

20 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
21 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
22 and as modified by this section.

23 ➔Section 6. KRS 131.190 is amended to read as follows:

24 (1) No present or former commissioner or employee of the department, present or
25 former member of a county board of assessment appeals, present or former property
26 valuation administrator or employee, present or former secretary or employee of the
27 Finance and Administration Cabinet, former secretary or employee of the Revenue

1 Cabinet, or any other person, shall intentionally and without authorization inspect or
2 divulge any information acquired by him of the affairs of any person, or information
3 regarding the tax schedules, returns, or reports required to be filed with the
4 department or other proper officer, or any information produced by a hearing or
5 investigation, insofar as the information may have to do with the affairs of the
6 person's business.

- 7 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 8 (a) Information required in prosecutions for making false reports or returns of
9 property for taxation, or any other infraction of the tax laws;
 - 10 (b) Any matter properly entered upon any assessment record, or in any way made
11 a matter of public record;
 - 12 (c) Furnishing any taxpayer or his properly authorized agent with information
13 respecting his own return;
 - 14 (d) Testimony provided by the commissioner or any employee of the department
15 in any court, or the introduction as evidence of returns or reports filed with the
16 department, in an action for violation of state or federal tax laws or in any
17 action challenging state or federal tax laws;
 - 18 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
19 energy resources assessed under KRS 132.820, or owners of surface land
20 under which the unmined minerals lie, factual information about the owner's
21 property derived from third-party returns filed for that owner's property, under
22 the provisions of KRS 132.820, that is used to determine the owner's
23 assessment. This information shall be provided to the owner on a confidential
24 basis, and the owner shall be subject to the penalties provided in KRS
25 131.990(2). The third-party filer shall be given prior notice of any disclosure
26 of information to the owner that was provided by the third-party filer;
 - 27 (f) Providing to a third-party purchaser pursuant to an order entered in a

- 1 foreclosure action filed in a court of competent jurisdiction, factual
2 information related to the owner or lessee of coal, oil, gas reserves, or any
3 other mineral resources assessed under KRS 132.820. The department may
4 promulgate an administrative regulation establishing a fee schedule for the
5 provision of the information described in this paragraph. Any fee imposed
6 shall not exceed the greater of the actual cost of providing the information or
7 ten dollars (\$10);
- 8 (g) Providing information to a licensing agency, the Transportation Cabinet, or
9 the Kentucky Supreme Court under KRS 131.1817;
- 10 (h) Statistics of gasoline and special fuels gallonage reported to the department
11 under KRS 138.210 to 138.448;
- 12 (i) Providing any utility gross receipts license tax return information that is
13 necessary to administer the provisions of KRS 160.613 to 160.617 to
14 applicable school districts on a confidential basis;
- 15 (j) Providing documents, data, or other information to a third party pursuant to an
16 order issued by a court of competent jurisdiction; or
- 17 (k) Providing information to the Legislative Research Commission under:
- 18 1. KRS 139.519 for purposes of the sales and use tax refund on building
19 materials used for disaster recovery;
 - 20 2. KRS 141.436 for purposes of the energy efficiency products credits;
 - 21 3. KRS 141.437 for purposes of the ENERGY STAR home and the
22 ENERGY STAR manufactured home credits;
 - 23 4. KRS 148.544 for purposes of the film industry incentives;
 - 24 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
25 tax credits and the job assessment fees;
 - 26 6. KRS 141.068 for purposes of the Kentucky investment fund;
 - 27 7. KRS 141.396 for purposes of the angel investor tax credit;

- 1 8. KRS 141.389 for purposes of the distilled spirits credit;
- 2 9. KRS 141.408 for purposes of the inventory credit;~~and~~
- 3 10. KRS 141.390 for purposes of the recycling and composting credit; and
- 4 **11. Section 3 of this Act for purposes of the human organ donation tax**
- 5 **deduction.**

6 (3) The commissioner shall make available any information for official use only and on
7 a confidential basis to the proper officer, agency, board or commission of this state,
8 any Kentucky county, any Kentucky city, any other state, or the federal government,
9 under reciprocal agreements whereby the department shall receive similar or useful
10 information in return.

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

18 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
19 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
20 as reported to the Department of Revenue under the natural resources severance tax
21 requirements of KRS Chapter 143A may be made public by the department by
22 release to the Energy and Environment Cabinet, Department for Natural Resources.

23 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
24 submissions for the 1989 tax year, the department may make public or divulge only
25 those portions of mine maps submitted by taxpayers to the department pursuant to
26 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
27 out parcel areas. These electronic maps shall not be relied upon to determine actual

1 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
2 required under KRS Chapters 350 and 352 shall not be construed to constitute land
3 surveying or boundary surveys as defined by KRS 322.010 and any administrative
4 regulations promulgated thereto.