

# KY H 249, Enacted - Line Item Vetoed - Final

Kentucky

SUMMARY: Allows a remote retailer no later than the first day of the calendar month that is at most sixty days after the threshold requirement is met to register for a sales and use tax permit; eliminates the requirement of a marketplace provider to register for a second sales and use tax number for its marketplace retailers and replace it with the option to obtain a second sales and use tax number or to report sales on its own number.

Legislative History and Analysis Changes in Bill text reflected as:

~~Text Deleted~~

*Text Added*

~~Text Vetoed~~

Current Legislative Status

01/11/2021 INTRODUCED.

01/11/2021 Filed as Bill Request Number: 1244

01/11/2021 To HOUSE Committee on COMMITTEES.

02/04/2021 To HOUSE Committee on APPROPRIATIONS AND REVENUE.

02/09/2021 Taken from HOUSE Committee on APPROPRIATIONS AND REVENUE.

02/09/2021 1st Reading.

02/09/2021 Returned to HOUSE Committee on APPROPRIATIONS AND REVENUE.

02/09/2021 Posted in committee.

02/23/2021 From HOUSE Committee on APPROPRIATIONS AND REVENUE: Reported favorably with Substitute.

02/23/2021 2nd Reading, to Committee on RULES.

02/23/2021 Posted for passage in Regular Orders of the Day.

02/23/2021 Floor Amendment filed. Amendment No. (1).

02/24/2021 Floor Amendment filed to Committee Substitute. Amendment No. (2), (3), (4) and (5).

02/25/2021 3rd Reading.

02/25/2021 Committee Substitute adopted on HOUSE floor.

02/25/2021 Floor Amendment adopted on HOUSE Floor. Amendment No. (2) (4) and (5).

02/25/2021 Passed HOUSE. \*\*\*\*\*To SENATE.

02/26/2021 To SENATE Committee on COMMITTEES.

03/01/2021 To SENATE Committee on APPROPRIATIONS AND REVENUE.

03/01/2021 Taken from SENATE Committee on APPROPRIATIONS AND REVENUE.

03/01/2021 1st Reading.

03/01/2021 Returned to SENATE Committee on APPROPRIATIONS AND REVENUE.

03/02/2021 Taken from SENATE Committee on APPROPRIATIONS AND REVENUE.

03/02/2021 2nd Reading.

03/02/2021 Returned to SENATE Committee on APPROPRIATIONS AND REVENUE.

03/15/2021 From SENATE Committee on APPROPRIATIONS AND REVENUE: Reported favorably with substitute (1) and amendment (1-title).

03/15/2021 To Rules.

03/15/2021 Posted for passage in Regular Orders of the Day.

03/16/2021 3rd Reading.

03/16/2021 Committee Substitute (1) and Amendment adopted on SENATE floor: Amendment No. (1-title).

03/16/2021 Passed SENATE. \*\*\*\*\*To HOUSE for concurrence.

03/16/2021 To HOUSE Committee on RULES.

03/16/2021 Taken from RULES Committee.

03/16/2021 Posted for passage for Concurrence.

03/16/2021 HOUSE concurred in SENATE substitute (1) and amendment (1-title).

03/16/2021 Enrolled.

03/16/2021 \*\*\*\*\*To GOVERNOR.

03/26/2021 Line Item Vetoed by GOVERNOR.

03/29/2021 Posted for Consideration of GOVERNOR'S LINE ITEM VETO. 03/29/2021 Line Item Veto overridden by HOUSE.

03/29/2021 Posted for Consideration of GOVERNOR'S LINE ITEM VETO.

03/29/2021 Line Item Veto overridden by SENATE.

03/29/2021 Act No. 156

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session: Kentucky 2021 Regular Sessioncite: 2021 KY H 249

Enacted - Line Item Vetoed – Final March 26, 2021

Petrie

KENTUCKY LEGISLATURE HB 249

2021 Regular Session

(Act Ch. 156)

AN ACT relating to revenue, making an appropriation therefor, and declaring an emergency. Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the department **of Revenue** .

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

Section 16. KRS 141.383 is amended to read as follows:

(1) As used in this section:

(a) "Above-the-line production crew" *has the same meaning as in Section 17 of this Act* ~~means the same as defined in KRS 148.542~~ ;

(b) "Approved company" *has the same meaning as in Section 17 of this Act* ~~means the same as defined in KRS 148.542~~ ;

(c) "Authority" *has the same meaning as in Section 17 of this Act*;

(d) "Below-the-line production crew" *has the same meaning as in Section 17 of this Act* ~~means the same as defined in KRS~~

148.542 ;

~~(d) "Cabinet" means the same as defined in KRS 148.542;~~

~~(e) "Office" means the same as defined in KRS 148.542;~~

~~(f) "Qualifying expenditure" has the same meaning as in Section 17 of this Act means the same as defined in KRS 148.542 ;~~

~~(f) (g) "Qualifying payroll expenditure" has the same meaning as in Section 17 of this Act means the same as defined in KRS 148.542 ;~~

~~(g) (h) "Secretary" has the same meaning as in Section 17 of this Act means the same as defined in KRS 148.542 ;~~and

~~(h) (i) "Tax incentive agreement" has the same meaning as in Section 17 of this Act means the same as defined in KRS 148.542 .~~

(2) (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.

(b) The incentive available under paragraph (a) of this section is:

1. A refundable credit for applications approved prior to April 27, 2018; ~~and~~
2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018, *but before January 1, 2022; and*
3. *A refundable credit for applications approved on or after January 1, 2022, if the provisions of paragraph (c) of this subsection are met.*

~~(c) 1. Beginning on April 27, 2018,~~ The total tax incentive approved under ~~Section 18 of this Act KRS148.544~~ shall be limited to:

~~a. One hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year through the calendar year 2021; and thereafter.~~

~~b. Seventy-five million dollar (\$75,000,000) for the calendar year 2022 and each calendar year thereafter.~~

~~2. Beginning January 1, 2022, to qualify for the refundable credit, all applicants shall:~~

~~a. Begin production within six (6) months of filing an application with the authority; and~~

~~b. Complete production within two (2) years of their production start date. On April 27, 2018, if applications have been approved during the 2018 calendar year which~~

~~exceed the amount in subparagraph 1. of this paragraph, the Kentucky Film Office shall immediately cease in approving any further applications for tax incentives.~~

- (3) *Beginning January 1, 2022*, an approved company may receive a refundable tax credit ~~on and after July 1, 2010, but only for applications approved prior to April 27, 2018,~~ if:
- (a) The *department cabinet* has received notification from the *authority office* that the approved company has satisfied all requirements of *Sections 18 and 19 of this Act* ~~KRS 148.542 to 148.546~~; and
  - (b) The approved company has provided a detailed cost report and sufficient documentation to the *authority office*, which has been forwarded by the *authority office* to the *department cabinet*, that:
    - 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and
    - 2. The approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures.
- (4) Interest shall not be allowed or paid on any refundable credits provided under this section.
- (5) The *department may cabinet shall* promulgate administrative regulations ~~under in accordance with~~ KRS Chapter 13A to administer this section.
- (6) On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the *department cabinet* shall report to the *authority and the Interim Joint Committee on Appropriations and Revenue office* the names of the approved companies and the amounts of refundable income tax credit claimed.
- (7) No later than September 1, 2021, and by September 1 every four (4) years thereafter, the department and the Cabinet for Economic Development shall cooperatively provide historical data related to the tax credit allowed in this section and Sections 18 and 19 of this Act, including data items beginning with tax credits claimed for taxable years beginning on or after January 1, 2018:*
- (a) The name of the taxpayer claiming the tax credit;*
  - (b) The date that the application was approved and the date the filming or production was completed;*
  - (c) The taxable year in which the taxpayer claimed the tax credit;*
  - (d) The total amount of the tax credit, including any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future;*

- (e) *Whether the taxpayer is a Kentucky-based company as defined in Section 17 of this Act;*
  - (f) *Whether the taxpayer films or produces a:*
    - 1. *Feature-length film, television program, or industrial film;*
    - 2. *National touring production of a Broadway show; or*
    - 3. *Documentary;*
  - (g) *Whether the filming or production was performed:*
    - 1. *Entirely in an enhanced county; or*
    - 2. *In whole or in part in any Kentucky county other than in an enhanced incentive county;*
  - (h) *The amount of qualifying expenditures incurred by the taxpayer;*
  - (i) *The amount of qualifying payroll expenditures paid to:*
    - 1. *Resident below-the-line crew; and*
    - 2. *Nonresident below-the-line production crew; including the number of crew members in each category;*
  - (j) *The amount of qualifying payroll expenditures paid to:*
    - 1. *Resident above-the-line crew; and*
    - 2. *Nonresident above-the-line crew; including the number of crew members in each category; and*
  - (k) *A brief description of the type of motion picture or entertainment production project.*
- (8) *The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.*

SECTION 17. SUBCHAPTER 61 OF KRS CHAPTER 154 IS ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this subchapter:*

- (1) *“Above-the-line production crew” means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;*
- (2) *“Animated production” means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion*

*of movement;*

- (3) “Approved company” means an eligible company approved for incentives provided under Section 16 and Section 18 of this Act;**
- (4) “Authority” means the Kentucky Economic Development Finance authority created in KRS 154.20-010;**
- (5) “Below-the-line production crew” means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. “Below-the-line production crew” includes but is not limited to:**

  - (a) Casting assistants;**
  - (b) Costume design;**
  - (c) Extras;**
  - (d) Gaffers;**
  - (e) Grips;**
  - (f) Location managers;**
  - (g) Production assistants;**
  - (h) Set construction staff; and**
  - (i) Set design staff;**
- (6) “Commonwealth” means the Commonwealth of Kentucky;**
- (7) “Compensation” means compensation included in adjusted gross income as defined in KRS 141.010;**
- (8) “Documentary” means a production based upon factual information and not subjective interjections;**
- (9) “Eligible company” means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;**
- (10) “Employee” has the same meaning as in KRS 141.010;**
- (11) “Enhanced incentive county” has the same meaning as in KRS 154.32-010;**
- (12) “Feature-length film” means a live-action or animated production that is:**

  - (a) More than thirty (30) minutes in length; and**
  - (b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;**
- (13) “Industrial film” means a business-to-business film that may be viewed**

*by the public, including but not limited to videos used for training or for viewing at a trade show;*

*(14) "Kentucky-based company" has the same meaning as in KRS 164.6011;*

*(15)(a) "Motion picture or entertainment production" means:*

*1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:*

- a. A feature-length film;*
- b. A television program;*
- c. An industrial film; or*
- d. A documentary; or*

*2. A national touring production of a Broadway show produced in Kentucky.*

*(b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;*

*(16) "Obscene" has the same meaning as in KRS 531.010;*

*(17) "Person" has the same meaning as in KRS 141.010;*

*(18)(a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:*

- 1. The production script and synopsis;*
- 2. Set construction and operations, wardrobe, accessories, and related services;*
- 3. Lease or rental of real property in Kentucky as a set location;*
- 4. Photography, sound synchronization, lighting, and related services;*
- 5. Editing and related services;*
- 6. Rental of facilities and equipment;*
- 7. Vehicle leases;*
- 8. Food; and*
- 9. Accommodations.*

*(b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;*

*(19) "Qualifying payroll expenditure" means compensation paid to above-*



*the-line crew and below-the-line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;*

*(20) "Resident" has the same meaning as in KRS 141.010;*

*(21) "Secretary" means the secretary of the Cabinet for Economic Development;*

*(22) "Tax incentive agreement" means the agreement entered into pursuant to Section 19 of this Act between the authority and the approved company; and*

*(24) "Television program" means any live-action or animated production or documentary, including but not limited to:*

*(a) An episodic series;*

*(b) A miniseries;*

*(c) A television movie; or*

*(d) A television pilot;*

*that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.*

SECTION 18. A NEW SECTION OF SUBCHAPTER 61 OF KRS CHAPTER 154 IS CREATED TO READ ASFOLLOWS:

*(1) The purposes of KRS 141.383 and this subchapter are to encourage:*

*(a) The film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;*

*(b) The development of a film and entertainment industry in Kentucky;*

*(c) Increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and*

*(d) The development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.*

*(2) The authority, together with the Department of Revenue, shall administer the tax credit established by KRS 141.383, this section, and Section 19 of this Act.*

*(3) To qualify for the tax incentive provided in subsection (5) of this section, the following requirements shall be met:*

*(a) For an approved company that is also a Kentucky-based company that:*

*1. Films or produces a feature-length film, television program, or*

*industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);*

- 2. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or*
- 3. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and*

*(b) For an approved company that is not a Kentucky-based company that:*

- 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); or*
- 2. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).*

*(4) Beginning on January 1, 2022, the total tax incentive approved under KRS 141.383 and this subchapter shall be limited to seventy-five million dollars (\$75,000,000) for calendar year 2022 and each calendar year thereafter.*

*(5) (a) To qualify for the tax incentive available under KRS 141.383 and this subchapter all applicants shall:*

- 1. Begin filming or production within six (6) months of filing an application with the authority; and*
- 2. Complete filming or production within two (2) years of the filming or production start date.*

*(b) The tax credit shall be against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, and shall be refundable as provided in KRS 141.383.*

*(c) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:*

- a. Qualifying expenditures;*
- b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and*

- c. *Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.*
- 2. a. *To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (c) of this subsection.*
  - b. *The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.*
  - c. *For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:*
    - 1. *Thirty percent (30%) of the approved company's:*
      - a. *Qualifying expenditures;*
      - b. *Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and*
      - c. *Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and*
    - 2. *Thirty-five percent (35%) of the approved company's:*
      - a. *Qualifying payroll expenditures paid to resident below-the-line production crew; and*
      - b. *Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.*

SECTION 19. A NEW SECTION OF SUBCHAPTER 61 OF KRS CHAPTER 154 IS CREATED TO READ ASFOLLOWS:

- (1) *An eligible company shall, at least thirty (30) days prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the authority. The application shall include:*
  - (a) *The name and address of the applicant;*
  - (b) *Verification that the applicant is a Kentucky-based company;*

- (c) The production script or a detailed synopsis of the script;*
  - (d) The locations where the filming or production will occur;*
  - (e) The anticipated date on which filming or production shall begin;*
  - (f) The anticipated date on which the production will be completed;*
  - (g) The total anticipated qualifying expenditures;*
  - (h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;*
  - (i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;*
  - (j) The address of a Kentucky location at which records of the production will be kept;*
  - (k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth; and*
  - (l) Any other information the authority may require.*
- (2) The authority shall notify the eligible company within thirty (30) days after receiving the application of its status.*
- (3) Upon receipt of the application and any additional information submitted, the authority shall consider all submitted information and, if appropriate, authorize the execution of a tax incentive agreement between the authority and the approved company, if the amount of anticipated tax credit from the application would not make the total tax credit approved for the calendar year exceed the annual tax credit cap under subsection (4) of Section 18 of this Act.*
- (4) The tax incentive agreement shall include the following provisions:*
- (a) The duties and responsibilities of the parties;*
  - (b) A detailed description of the motion picture or entertainment production for which incentives are requested;*
  - (c) The anticipated qualifying expenditures and qualifying payroll expenditures for resident and nonresident above-the-line and below-the-line crews by county;*
  - (d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;*
  - (e) That the approved company shall:*
    - 1. Begin production within six (6) months of filing an application with the authority; and*

*2. Complete production within two (2) years of their production start date.*

- (f) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;*
- (g) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;*
- (h) That the approved company shall submit to the authority within one hundred eighty (180) days of the completion of the motion picture or entertainment production a detailed cost report of the qualifying expenditures, qualifying payroll expenditures, and final script;*
- (i) That the approved company shall provide the authority with documentation that the approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures for which an incentive under this subchapter is sought;*
- (j) That, if the authority determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:
  - 1. The authority may deny the incentives available to the approved company;*
  - 2. Both the authority and the Department of Revenue may pursue any remedy provided under the tax incentive agreement;*
  - 3. The authority may terminate the tax incentive agreement; and*
  - 4. Both the authority and the Department of Revenue may pursue any other remedy at law to which it may be entitled;**
- (k) That the authority and the Department of Revenue shall monitor the tax incentive agreement;*
- (l) That the approved company shall provide to the authority and the Department of Revenue all information necessary to monitor the tax incentive agreement;*
- (m) That the authority may share information with the Department of Revenue and the Interim Joint Committee on Appropriations and Revenue or any other entity the authority determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;*
- (n) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture or entertainment production was produced or filmed in the Commonwealth of Kentucky;*
- (o) That the approved company shall include screen credits in its final production, indicating the approved company received tax incentives*

*from the Commonwealth of Kentucky;*

- (p) Terms of default;*
  - (q) The method and procedures by which the approved company shall request and receive the incentive provided under Section 16 and Section 18 of this Act;*
  - (r) That the approved company may be required to pay an administrative fee as authorized undersubsection (5) of this section; and*
  - (s) Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.*
- (5) The authority may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars (\$500), whichever is greater.*
- (6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.*
- (7) The authority shall notify the Department of Revenue upon approval of an approved company.*

*The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production, and any other information required by the department .*

- (8) Within one hundred eighty days (180) days of completion of the motion picture or entertainment production, the approved company shall submit to the authority a detailed cost report of:*
- (a) Qualifying expenditures;*
  - (b) Qualifying payroll expenditures for resident and nonresident above-the-line crew by county;*
  - (c) Qualifying payroll expenditures for resident and nonresident below-the-line crew by county; and*
  - (d) The final script.*
- (9)(a) The authority, together with the secretary, shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.*
- (b) Upon confirmation that all requirements of the tax incentive agreement have been met, the authority and the secretary shall review the final script, and if they determine that the motion picture or entertainment production does not:*

1. *Contain visual or implied scenes that are obscene; or*

2. *Negatively impact the economy or the tourism industry of the Commonwealth; the authority shall forward the detailed cost report to the Department of Revenue for calculation of the refundable credit.*

*(10) The Department of Revenue shall:*

*(a) Verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures; and*

*(b) Notify the authority of the total amount of refundable credit available on qualifying expenditures and qualifying payroll expenditures.*

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

Section 20. KRS 131.190 is amended to read as follows:

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

(k) Providing information to the Legislative Research Commission under:

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

4. *Section 16 of this Act* ~~KRS 148.544~~ for purposes of the film industry incentives;

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

Section 22. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government-Departments headed by elected officers:

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

(f) Office of the Secretary.

1. Office of Finance.

2. Office of Government Relations and Administration.

3. Office of Film and Tourism Development.

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

Section 23. KRS 148.522 is amended to read as follows:

- (1) The Tourism, Arts and Heritage Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance, the Office of Government Relations and Administration, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Arts and Cultural Heritage, ~~the Office of Film and Tourism Development~~, the Kentucky Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- ~~(2) The Tourism, Arts and Heritage Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.~~
- (3) ~~(4)~~ The Kentucky Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (4) ~~(5)~~ The Divisions of Tourism Services, Marketing and Administration, and Communications and Promotions are created within the Kentucky Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 24. KRS 148.850 is amended to read as follows:

- (1) The Tourism Development Finance Authority is created within the Tourism, Arts and Heritage Cabinet. The authority shall consist of nine (9) members appointed by the Governor, at least one (1) of whom shall represent the film industry and at least one (1) of whom shall represent individuals with professional experience in financial management or economic development. The members of the authority shall serve without compensation but shall be entitled to reimbursement for their necessary expenses incurred in performing their duties. Of the members initially appointed to the authority, two (2) members shall be appointed for terms of one (1) year, three (3) members shall be appointed for terms of two (2) years, and two (2) members shall be appointed for terms of three (3) years. Thereafter, the members of the authority shall be appointed for terms of four (4) years.

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

Section 31. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

- (w) The film industry credit permitted by KRS 141.383 for applications approved



on or after April 27, 2018 , *but before January 1, 2022* ;

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual withholding tax credit permitted by KRS 141.350;
- (b) The individual estimated tax payment credit permitted by KRS 141.305;
- (c) The certified rehabilitation credit permitted by KRS 171.3961 , **and** 171.397(1)(b) , *and Section 29 of this Act*; and
- (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018 , *or on or after January 1, 2022* .

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

- (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018 , *but before January 1, 2022* ;

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

- (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018 , *or on or after January 1, 2022* .

\*\*\*\*\* TEXT OMITTED. DOES NOT PERTAIN TO FILM \*\*\*\*\*

Section 35. The following KRS sections are repealed:

148.542 Definitions for KRS 148.542 to 148.546.

148.544 Purposes of KRS 141.383 and 148.542 to 148.546--Kentucky Film Office--Eligibility for refundable motion picture or entertainment production tax incentives--Incentives available.

148.546 Application for motion picture or entertainment production tax incentives--Tax incentive agreement-- Required terms--Administrative fee--Review--Verification of expenditure reports--Annual reports.

148.548 Kentucky Film Commission--Functions and purpose--Members--Meetings--Nonvoting ex officio members.

Section 36. On January 1, 2022, the affairs of the Kentucky Film Office and the Kentucky Film Commission shall be concluded. Any records, files, documents, equipment, staff, supporting budgets, and any and all unexpended funds associated with the Kentucky Film Office and the Kentucky Film Commission, and all historical files and records related to the motion picture or entertainment production tax incentives shall be transferred to the Secretary of the Kentucky Economic Development Cabinet for the transition to the Kentucky Economic Development Finance Authority. All administrative regulations, decisions, and actions promulgated, made, or taken by the Kentucky Film Office or the Kentucky Film Commission that have not been repealed or rescinded shall continue in effect after January 1, 2022.

Section 37. Sections 3 to 8 and 26 to 28 of this Act take effect July 1, 2021.

Section 38. Sections 9 and 10 apply to taxable years beginning on or after January 1, 2022.

Section 39. Section 35 of this Act takes effect on January 1, 2022.

Section 40. Whereas an appropriation is required to be made to the emergency disaster relief account created in Section 32 of this Act in the current fiscal year, an emergency is declared to exist, and Section 32 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.