

1 AN ACT relating to the promotion of organ and bone marrow donation.

2 WHEREAS, the General Assembly declares that there is a great need for living
3 organ and bone marrow donors in the Commonwealth; and

4 WHEREAS, potential living donors should be able to perform their lifesaving
5 service without the risk of loss of income or employment; and

6 WHEREAS, encouraging donation by living donors is in the interest of the public
7 health and is a public purpose;

8 NOW, THEREFORE,

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

10 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) As used in this section:

13 (a) 1. "Leave of absence period" means the period, not exceeding the hourly
14 equivalent of forty (40) hours for each living donor, during which an
15 employer provides a paid leave of absence to a living donor for the
16 specific purpose of organ or bone marrow donation.

17 2. "Leave of absence period" does not include a period during which a
18 living donor utilizes any annual or sick leave that the living donor has
19 been granted by the employer; and

20 (b) "Living donor" means an employee who is a Kentucky resident and is
21 absent from work solely for the purpose of donating an organ or bone
22 marrow.

23 (2) For taxable years beginning on or after January 1, 2024, but before January 1,
24 2028, there is hereby established a nonrefundable employers' organ and bone
25 marrow donation tax credit.

26 (3) (a) Except as provided in subsection (4) of this section, every employer
27 providing a paid leave of absence period to a living donor shall qualify for

1 the organ and bone marrow donation tax credit. An employer which
2 qualifies for the credit may apply that credit against:

3 1. Taxes on insurance companies imposed by KRS 136.320, 136.330,
4 136.340, 136.350, 136.370, 136.390, and 304.3-270; or

5 2. Taxes imposed by KRS 141.020 or 141.040 and 141.0401, and the
6 credit shall not be applied against any tax withheld by an employer
7 from an employee under KRS 141.310.

8 (b) For the credit against the taxes imposed by KRS 141.020 or 141.040 and
9 141.0401, the ordering of the credits shall be as provided in Section 2 of this
10 Act.

11 (c) An insurance company claiming a credit against the insurance premium tax
12 is not required to pay additional retaliatory tax levied pursuant to KRS
13 304.3-270.

14 (4) (a) The credit shall be equal to the sum of:

15 1. The amount of employee compensation paid during the leave of
16 absence period; and

17 2. The cost of temporary replacement help, if any, during the leave of
18 absence period.

19 (b) If the living donor on a paid leave of absence period is employed by an
20 employer organized as a pass-through entity, the credit shall be distributed
21 to each partner, member, or shareholder based on the partner's, member's,
22 or shareholder's distributive share of the income of the pass-through entity.

23 (5) Any amount of credit not used for the taxable year during which a leave of
24 absence was granted may be carried forward for no more than three (3) taxable
25 years. Credits shall not be carried back for use in preceding taxable years.

26 (6) The department shall promulgate administrative regulations in accordance with
27 KRS Chapter 13A as necessary to administer this section.

1 (7) Any claim for the credit shall be documented on the applicable tax return of the
2 employer in the manner specified by the department, including but not limited to
3 the following information:

4 (a) The employer's name, tax identification number, and address;

5 (b) Sufficient proof of the length and purpose of the living donor's leave of
6 absence period, including written verification by a physician or similar
7 documentation, which the department may require at its discretion; and

8 (c) The amount of the living donor's compensation and costs associated with
9 any temporary replacement help and proof that temporary replacement help
10 was needed because of the living donor's leave of absence period.

11 (8) In order to evaluate the effectiveness of this credit, the department shall report
12 the following information to the Interim Joint Committee on Appropriations and
13 Revenue on or before December 1, 2025, and on or before each December 1
14 thereafter, as long as the credit is claimed on a tax return:

15 (a) The number of returns claiming the employers' organ and bone marrow
16 donation credit;

17 (b) The total amount of credit claimed for each taxable year; and

18 (c) 1. In the case of all taxpayers other than corporations, based on ranges
19 of adjusted gross income of no larger than five thousand dollars
20 (\$5,000) for the taxable year, the total amount of tax credits claimed
21 and the number of returns claiming a tax credit for each adjusted
22 gross income range; and

23 2. In the case of all corporations, based on ranges of net income no
24 larger than fifty thousand (\$50,000) for the taxable year, the total
25 amount of tax credit claimed and the number of returns claiming a tax
26 credit for each net income range.

27 ➔Section 2. KRS 141.0205 is amended to read as follows:

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

4 (1) The nonrefundable business incentive credits against the tax imposed by KRS
5 141.020 shall be taken in the following order:

- 6 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 7 (b) The economic development credits computed under KRS 141.347, 141.381,
8 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
9 207, and 154.12-2088;
- 10 (c) The qualified farming operation credit permitted by KRS 141.412;
- 11 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 12 (e) The health insurance credit permitted by KRS 141.062;
- 13 (f) The tax paid to other states credit permitted by KRS 141.070;
- 14 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 15 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 16 (i) The tax credit for cash contributions in investment funds permitted by KRS
17 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
18 154.20-258;
- 19 (j) The research facilities credit permitted by KRS 141.395;
- 20 (k) The employer High School Equivalency Diploma program incentive credit
21 permitted under KRS 151B.402;
- 22 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 23 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 24 (n) The clean coal incentive credit permitted by KRS 141.428;
- 25 (o) The ethanol credit permitted by KRS 141.4242;
- 26 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 27 (q) The energy efficiency credits permitted by KRS 141.436;

- 1 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 2 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 3 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 4 (u) The distilled spirits credit permitted by KRS 141.389;
- 5 (v) The angel investor credit permitted by KRS 141.396;
- 6 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 7 on or after April 27, 2018, but before January 1, 2022;
- 8 (x) The inventory credit permitted by KRS 141.408;~~[-and]~~
- 9 (y) The renewable chemical production credit permitted by KRS 141.4231;**and**
- 10 **(z) The employers' organ and bone marrow donation credit permitted by**

11 **Section 1 of this Act.**

12 (2) After the application of the nonrefundable credits in subsection (1) of this section,

13 the nonrefundable personal tax credits against the tax imposed by KRS 141.020

14 shall be taken in the following order:

- 15 (a) The individual credits permitted by KRS 141.020(3);
- 16 (b) The credit permitted by KRS 141.066;
- 17 (c) The tuition credit permitted by KRS 141.069;
- 18 (d) The household and dependent care credit permitted by KRS 141.067;
- 19 (e) The income gap credit permitted by KRS 141.066; and
- 20 (f) The Education Opportunity Account Program tax credit permitted by KRS
- 21 141.522.

22 (3) After the application of the nonrefundable credits provided for in subsection (2) of

23 this section, the refundable credits against the tax imposed by KRS 141.020 shall be

24 taken in the following order:

- 25 (a) The individual withholding tax credit permitted by KRS 141.350;
- 26 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 27 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and

- 1 171.397(1)(b);
- 2 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 3 approved prior to April 27, 2018, or on or after January 1, 2022;
- 4 (e) The development area tax credit permitted by KRS 141.398; and
- 5 (f) The decontamination tax credit permitted by KRS 141.419.
- 6 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 7 tax imposed by KRS 141.040.
- 8 (5) The following nonrefundable credits shall be applied against the sum of the tax
- 9 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
- 10 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 11 (a) The economic development credits computed under KRS 141.347, 141.381,
- 12 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
- 13 207, and 154.12-2088;
- 14 (b) The qualified farming operation credit permitted by KRS 141.412;
- 15 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 16 (d) The health insurance credit permitted by KRS 141.062;
- 17 (e) The unemployment credit permitted by KRS 141.065;
- 18 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 19 (g) The coal conversion credit permitted by KRS 141.041;
- 20 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 21 ending prior to January 1, 2008;
- 22 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 23 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 24 154.20-258;
- 25 (j) The research facilities credit permitted by KRS 141.395;
- 26 (k) The employer High School Equivalency Diploma program incentive credit
- 27 permitted by KRS 151B.402;

- 1 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
2 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
3 (n) The clean coal incentive credit permitted by KRS 141.428;
4 (o) The ethanol credit permitted by KRS 141.4242;
5 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
6 (q) The energy efficiency credits permitted by KRS 141.436;
7 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
8 permitted by KRS 141.437;
9 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
10 (t) The railroad expansion credit permitted by KRS 141.386;
11 (u) The Endow Kentucky credit permitted by KRS 141.438;
12 (v) The New Markets Development Program credit permitted by KRS 141.434;
13 (w) The distilled spirits credit permitted by KRS 141.389;
14 (x) The film industry credit permitted by KRS 141.383 for applications approved
15 on or after April 27, 2018, but before January 1, 2022;
16 (y) The inventory credit permitted by KRS 141.408;
17 (z) The renewable chemical production tax credit permitted by KRS 141.4231;f
18 ~~and~~
19 (aa) The Education Opportunity Account Program tax credit permitted by KRS
20 141.522; and
21 (ab) The employers' organ and bone marrow donation credit permitted by
22 Section 1 of this Act.
23 (6) After the application of the nonrefundable credits in subsection (5) of this section,
24 the refundable credits shall be taken in the following order:
25 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
26 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
27 171.397(1)(b);

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

3 (d) The decontamination tax credit permitted by KRS 141.419.

4 ➔Section 3. KRS 131.190 is amended to read as follows:

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

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

16 (a) Information required in prosecutions for making false reports or returns of
17 property for taxation, or any other infraction of the tax laws;

18 (b) Any matter properly entered upon any assessment record, or in any way made
19 a matter of public record;

20 (c) Furnishing any taxpayer or his or her properly authorized agent with
21 information respecting his or her own return;

22 (d) Testimony provided by the commissioner or any employee of the department
23 in any court, or the introduction as evidence of returns or reports filed with the
24 department, in an action for violation of state or federal tax laws or in any
25 action challenging state or federal tax laws;

26 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
27 energy resources assessed under KRS 132.820, or owners of surface land

1 under which the unmined minerals lie, factual information about the owner's
2 property derived from third-party returns filed for that owner's property, under
3 the provisions of KRS 132.820, that is used to determine the owner's
4 assessment. This information shall be provided to the owner on a confidential
5 basis, and the owner shall be subject to the penalties provided in KRS
6 131.990(2). The third-party filer shall be given prior notice of any disclosure
7 of information to the owner that was provided by the third-party filer;

8 (f) Providing to a third-party purchaser pursuant to an order entered in a
9 foreclosure action filed in a court of competent jurisdiction, factual
10 information related to the owner or lessee of coal, oil, gas reserves, or any
11 other mineral resources assessed under KRS 132.820. The department may
12 promulgate an administrative regulation establishing a fee schedule for the
13 provision of the information described in this paragraph. Any fee imposed
14 shall not exceed the greater of the actual cost of providing the information or
15 ten dollars (\$10);

16 (g) Providing information to a licensing agency, the Transportation Cabinet, or
17 the Kentucky Supreme Court under KRS 131.1817;

18 (h) Statistics of gasoline and special fuels gallonage reported to the department
19 under KRS 138.210 to 138.448;

20 (i) Providing any utility gross receipts license tax return information that is
21 necessary to administer the provisions of KRS 160.613 to 160.617 to
22 applicable school districts on a confidential basis;

23 (j) Providing documents, data, or other information to a third party pursuant to an
24 order issued by a court of competent jurisdiction; or

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

26 1. KRS 139.519 for purposes of the sales and use tax refund on building
27 materials used for disaster recovery;

- 1 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 2 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 3 ENERGY STAR manufactured home credits;
- 4 4. KRS 141.383 for purposes of the film industry incentives;
- 5 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 6 tax credits and the job assessment fees;
- 7 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 8 7. KRS 141.396 for purposes of the angel investor tax credit;
- 9 8. KRS 141.389 for purposes of the distilled spirits credit;
- 10 9. KRS 141.408 for purposes of the inventory credit;
- 11 10. KRS 141.390 for purposes of the recycling and composting credit;
- 12 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 13 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 14 credit;
- 15 13. KRS 141.524 for purposes of the Education Opportunity Account
- 16 Program tax credit;
- 17 14. KRS 141.398 for purposes of the development area tax credit;
- 18 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 19 commercial mining of cryptocurrency;~~and~~
- 20 16. KRS 141.419 for purposes of the decontamination tax credit; and
- 21 17. Section 1 of this Act for purposes of the employers' organ and bone
- 22 marrow donation credit.

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

- 1 (4) Access to and inspection of information received from the Internal Revenue Service
2 is for department use only, and is restricted to tax administration purposes.
3 Information received from the Internal Revenue Service shall not be made available
4 to any other agency of state government, or any county, city, or other state, and
5 shall not be inspected intentionally and without authorization by any present
6 secretary or employee of the Finance and Administration Cabinet, commissioner or
7 employee of the department, or any other person.
- 8 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
9 requirements of KRS Chapter 137 and statistics of natural gas production as
10 reported to the department under the natural resources severance tax requirements
11 of KRS Chapter 143A may be made public by the department by release to the
12 Energy and Environment Cabinet, Department for Natural Resources.
- 13 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
14 submissions for the 1989 tax year, the department may make public or divulge only
15 those portions of mine maps submitted by taxpayers to the department pursuant to
16 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
17 out parcel areas. These electronic maps shall not be relied upon to determine actual
18 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
19 required under KRS Chapters 350 and 352 shall not be construed to constitute land
20 surveying or boundary surveys as defined by KRS 322.010 and any administrative
21 regulations promulgated thereto.
- 22 ➔Section 4. Section 1 of this Act may be cited as the Living Organ and Bone
23 Marrow Donor Assistance Act of 2023.