

15.293 Opioid abatement trust fund.

- (1) As used in this section, "commission" means the Kentucky Opioid Abatement Advisory Commission created in KRS 15.291.
- (2) There is hereby established in the State Treasury a trust and agency account to be known as the opioid abatement trust fund. Moneys in the fund are hereby appropriated for the purposes set forth in KRS 15.291, distributed as described in subsection (3) of this section, and shall not be appropriated or transferred by the General Assembly for any other purposes.
- (3) The fund shall consist of:
 - (a) Fifty percent (50%) of all proceeds received by the Commonwealth, counties, consolidated local governments, urban-county governments, and cities of the Commonwealth in any settlement or judgment or bankruptcy proceeding against McKesson Corporation, Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation, Johnson & Johnson, and any named defendant in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio, and any of their affiliates or subsidiaries related to opioid manufacturing or distribution to the extent included in a settlement agreement; and
 - (b) Any other moneys received from state appropriations, gifts, grants, or federal funds.
- (4)
 - (a) The fund shall not consist of the remaining fifty percent (50%) of all proceeds received by the Commonwealth, counties, consolidated local governments, urban-county governments, and cities of the Commonwealth in any settlement or judgment or bankruptcy proceeding against McKesson Corporation, Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation, Johnson & Johnson, and any named defendant in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio, and any of their affiliates or subsidiaries related to opioid manufacturing or distribution to the extent included in a settlement agreement.
 - (b) The remaining fifty percent (50%) of all proceeds not included in the fund shall be paid to counties, consolidated local governments, urban-county governments, and cities of the Commonwealth in accordance with the negotiation class distribution metrics established in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio. To the extent that the negotiation class distribution metrics would result in a city receiving a sum total of less than thirty thousand dollars (\$30,000) in any individual settlement, judgment, or bankruptcy proceeding, such payments shall be made to the county, consolidated local government, or urban-county government in which that city sits.
 - (c)
 1. Each recipient of moneys from the fund shall submit on an annual basis a certification that the funds were used consistent with the criteria in KRS 15.291(5), a description of the use of such funds, and such other information as the commission requests through

administrative regulation.

2.
 - a. Each county, consolidated local government, urban-county government, or city of the Commonwealth that receives any proceeds under paragraph (b) of this subsection shall submit, on an annual basis a certification that the funds were used consistent with the criteria in KRS 15.291(5), a list of fund recipients and amounts, a description of the use of the funds, and any other information as the commission requests through the promulgation of an administrative regulation.
 - b. If a trustee is appointed under paragraph (b) of this subsection, the certifications shall be sent to the trustee, and the trustee will compile and submit one (1) report to the commission.
 - c. If a trustee is not appointed, the certifications shall be submitted to the commission as provided by administrative regulation.
 - d. Funds shall be withheld from any county, consolidated local government, urban-county government, or city of the Commonwealth that does not comply with this paragraph until such time as compliance is achieved.
- (d) To the extent that a settlement has been reached in any litigation against the companies listed in paragraph (a) of this subsection, each county, consolidated local government, urban-county government, city, political subdivision, and public agency, as that term is defined in KRS 61.805(2), of the Commonwealth shall be deemed to have released its claims against the companies listed in paragraph (a) of this subsection and their affiliates and subsidiaries to the extent referenced in a settlement agreement, consent judgment, order, or other document that reflects the terms of any settlement.
- (5) Amounts deposited in the fund shall be used only for the purposes described in KRS 15.291.
- (6) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (7) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (8) Moneys in the fund shall be distributed no less than annually.
- (9)
 - (a) The Department of Law may recover its reasonable costs of litigation from the moneys received under subsection (3)(a) of this section.
 - (b) The Department of Law may recover any direct costs, including employee time, used to perform or administer the duties required by this section and KRS 15.291 from the moneys received under subsection (3)(a) of this section. The Department of Law shall report all such recovered costs to the commission no less than annually.
- (10) The commission shall continue to make distributions from the fund as long as defendants in the opioid litigation make payments to the Commonwealth or until the time that the moneys in the fund are exhausted.

Effective: April 26, 2022

History: Amended 2022 Ky. Acts ch. 240, sec. 1, effective April 26, 2022. --
Created 2021 Ky. Acts ch. 113, sec. 2, effective March 24, 2021.

Legislative Research Commission Note (4/26/2022). The language in subsection (4)(d) of this statute has been modified in codification from the way it was enacted in order to reflect the Governor's line-item veto of 2022 House Bill 92 (2022 Ky. Acts ch. 240, sec. 1).