



**INDUSTRIAL REVENUE BONDS**  
**AND**  
**KENTUCKY PROPERTY TAX ABATEMENTS**

**Presentation to the Bourbon Barrel Taxation Task Force**

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## INDUSTRIAL REVENUE BONDS: OVERVIEW

- Industrial revenue bonds (“**Bonds**”) are authorized by KRS §§ 103.200 to 103.285.
- Statutes were enacted and Bonds first authorized in 1946 (1946 Ky. Acts ch. 58).
- May be issued by a city, county, KEDFA, an air board or a riverport authority (“**Issuer**”).
- The type of Bonds relevant here are:
  - A type of local economic development incentive available to be used by Issuers.
  - A method to finance capital assets of a Project that enables the Project to obtain a state and local property tax abatement on those assets.



## INDUSTRIAL REVENUE BONDS: OVERVIEW

- Purpose of the Bonds is “to promote the economic development of the Commonwealth, to relieve conditions of unemployment, to encourage the increase of industry in this state, and to aid in the retention of existing industry through improved energy efficiency in manufacturing facilities, or through conversion of energy facilities to more readily available fuels.” *[KRS § 103.210(1).]*
- Bonds can finance the cost of any “**industrial building.**” *[Id.]*
- “**Industrial Building**” is defined in KRS § 103.200(1)(a):
  - Can include land, land improvements, buildings, machinery, equipment, software and any other real and personal properties.
  - Must be suitable for at least one of the 15 activities, uses or facilities identified in the statute.



## Bond Examples

<b>Company</b>	<b>Issuer</b>	<b>Project</b>
Tractor Supply Company	City of Franklin	Distribution center
Lakeshore Equipment Company	City of Midway	Distribution center
Columbia Sportswear Co.	Henderson Regional IDA	Distribution center
Institutional Dist., Inc. (Gordon Food Svc.)	City of Shephedersville	Distribution center
The Kroger Co.	Boone County	Distribution center
Fed Ex Ground Package System, Inc.	Boone County (multiple)	Distribution facility
Paducah Convention Hotel, LLC	City of Paducah	Downtown hotel project
KY Fresh Harvest, LLC	Lincoln County	Greenhouses
Aisin Automotive Casting, LLC	London-Laurel County IDA	Manufacturing (auto parts)
Nifco North America, Inc.	City of Shelbyville	Manufacturing (auto parts)
Danimer Scientific Kentucky, Inc.	City of Winchester	Manufacturing (biopolymers)
Heaven Hill Distilleries, Inc.	Nelson County (multiple)	Manufacturing (bourbon whses.)
Jim Beam Brands	Bullitt County	Manufacturing (bourbon whses.)
Wacker Chemical Corp.	Calvert City	Manufacturing (chemicals)
Brown-Forman Co./Old Forester	Lou./Jeff. County Metro Govt.	Manufacturing (distillery)
Brown-Forman Co./Woodford Reserve	Woodford County (multiple)	Manufacturing (distillery/bourbon whses.)
Maker's Mark Distillery	Marion County (multiple)	Manufacturing (distillery/bourbon whses.)

## Bond Examples

<b>Company</b>	<b>Issuer</b>	<b>Project</b>
Bardstown Bourbon Company	Nelson County	Manufacturing (distillery/bourbon whses.)
Jim Beam Brands	Nelson County	Manufacturing (distillery/bourbon whses.)
Duke Energy North America, LLC	Marshall County	Manufacturing (electricity)
Bluegrass Generating Station, LLC	Oldham County	Manufacturing (electricity)
Riverside Generating Company, LLC	Lawrence County	Manufacturing (electricity)
Foothills Generating Company, LLC	Lawrence County	Manufacturing (electricity)
Custom Food Products LLC	Bath County	Manufacturing (food products)
Fritz Winter North America LP	City of Franklin	Manufacturing (iron foundry)
Bowling Green Metalforming (MAGNA)	South Central Ky. RDA (multiple)	Manufacturing (metal stamping)
Argent Metal Technologies	Gallatin County	Manufacturing (metals)
Riken Elastomers	City of Hopkinsville (multiple)	Manufacturing (plastics)
Sister Schubert's Homemade Rolls, Inc.	Hart County	Manufacturing (bread rolls)
T. Marzetti Company	Hart County	Manufacturing (salad dressing)
Accumetric, LLC	City of Elizabethtown	Manufacturing (sealants/adhesives)
North American Stainless, L.P.	Carroll County (multiple)	Manufacturing (steel)
Bilstein Cold Rolled Steel, L.P.	Warren County	Manufacturing (steel)
Nucor Corporation	Meade County	Manufacturing (steel)
Florida Tile, Inc.	Anderson County (multiple)	Manufacturing (tile)
Churchill Downs Inc.	Lou./Jeff. County Metro Govt.	Racetrack upgrades



## MANUFACTURING PROJECTS QUALIFY FOR BOND-FINANCING

- KRS § 103.200(1)(a) – Manufacturing Projects:

**"Building"** or **"industrial building"** means any land and building or buildings (including office space related and subordinate to any of the facilities enumerated below), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

- (a) Any activity, business, or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining, or manufactured products and solar-generated electricity, together with storage, warehousing, and distribution facilities in respect thereof; ...

[+14 other categories of activities and facilities].



## INDUSTRIAL REVENUE BONDS: OVERVIEW

- The Bonds are a method of conduit financing – the conduit borrower (industrial user or “**Company**”), rather than the conduit Issuer, is responsible for making payments to bondholders. *[KRS §§ 103.230(2)]*
- The debt of the Bonds is secured by the revenues from the Project that the debt finances and the cash flow from the Project is used to pay the Bondholders. *[Id.]*
- The Bonds are not general obligations of Issuer. *[Id.]*
- The Bonds are not backed by a pledge of Issuer’s credit or taxing power. *[Id.]*
- The Bonds do not constitute an indebtedness of Issuer within the meaning of the KY Constitution and do not reduce or impact Issuer’s constitutional borrowing capacity. *[Id.]*
- Maximum term of the Bonds is now 40 years (prior to July 15, 2020, maximum term was 30 years). *[KRS §§ 103.2101(7) and 103.220(1).]*



## PROPERTY TAX ABATEMENT

- The Project (land, building, equipment, etc.) is exempt from state and local real and personal property taxes as long as Issuer holds title to the Project and leases it to Company, subject to a state-only tax on the leasehold.
- Fee Title to Project Exempted from Tax – Held by Issuer (governmental entity) and is exempt from state and local property taxation:

All properties, both real and personal, which a city or county may acquire to be rented or leased to an industrial concern according to KRS 103.200 to 103.280, shall be exempt from taxation to the same extent as other public property used for public purposes, as long as the property is owned by the city or county. *[KRS § 103.285]*





## PROPERTY TAX ABATEMENT

- Leasehold Interest in Project – Held by Company
  - State Property Taxes: Since July 15, 2002, the state tax rate applicable to the leasehold interest is a function of the asset leased (e.g., real property, manufacturing equipment, other tangible personal property, etc.). KEDFA must approve a reduction in the applicable state tax rate to \$0.015 per \$100 of fair cash value ("**FCV**"). [*KRS §§ 132.020(1)(f)1. and 103.210(3)*]
  - Local Property Taxes: Leasehold interest is exempt from local property taxes:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except ... the following classes of property, which shall be subject to taxation for state purposes only: ...

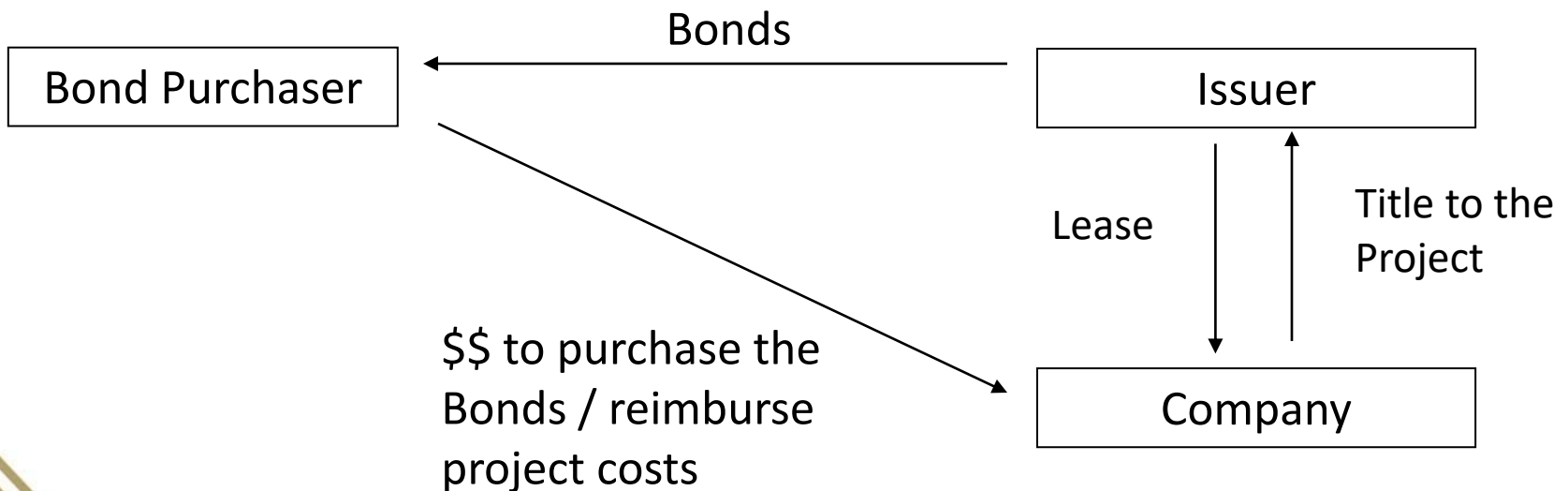
(7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing. [*KRS § 132.200(7)*]

## INDUSTRIAL REVENUE BONDS: PROCESS

- “Bond Inducement Resolution” adopted (“ordinance or resolution ... adopted by the legislative body of the city or the fiscal court of the county ... specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one (1) time, and the maximum rate of interest the bonds are to bear” and “that the industrial building ... is to be acquired pursuant to the provisions of KRS 103.200 to 103.285.”) [*KRS § 103.210(1) and (2)*].
- Issuer adopts a “Bond Ordinance” authorizing issuance of the Bonds.
- Closing – Bonds issued and bond structure established:
  - Company transfers title to the Project to Issuer (bill of sale, deed, etc.).
  - Issuer leases the Project back to Company during term of the Bonds.
  - Deed and lease agreement are recorded.
  - Issuer issues (sells) the Bonds; Purchaser purchases the Bonds.
  - Bond proceeds reimburse Company for the costs of the Project (acquisition and construction).
  - Lease payments are sole source of repayment of the Bonds.
  - Periodic lease payments from Company fund the periodic Bond amortization payments to the Purchaser of the Bonds.
  - Upon repayment of the Bonds (after 40 years), the lease terminates and Issuer transfers title to the Project to Company for a nominal payment.

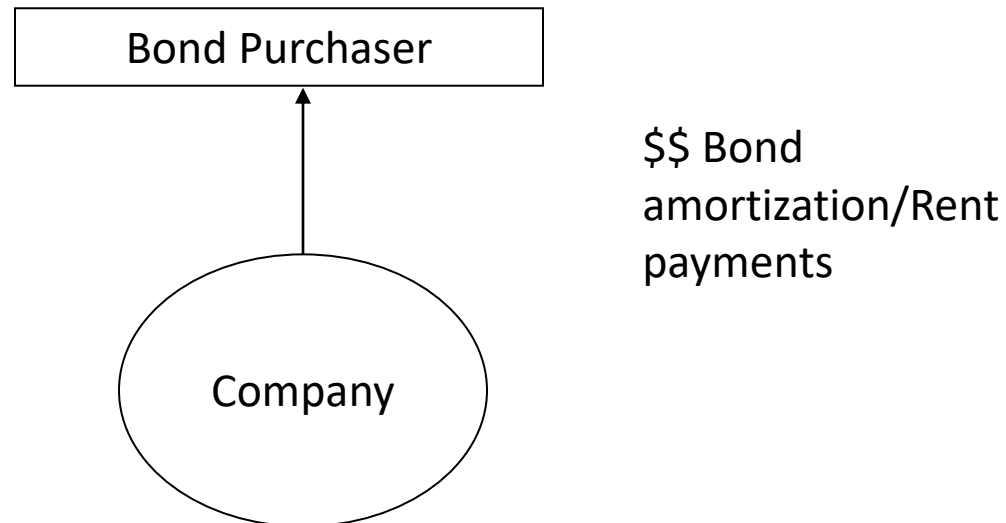
## CLOSING – GRAPHICAL DEPICTION

- Issuer issues Bonds to finance acquisition and construction of the Project; the Bonds are purchased by a Purchaser (third party of Company affiliate)
- Proceeds from the sale of the Bonds paid to Company to reimburse the costs of acquiring/constructing/equipping the Project



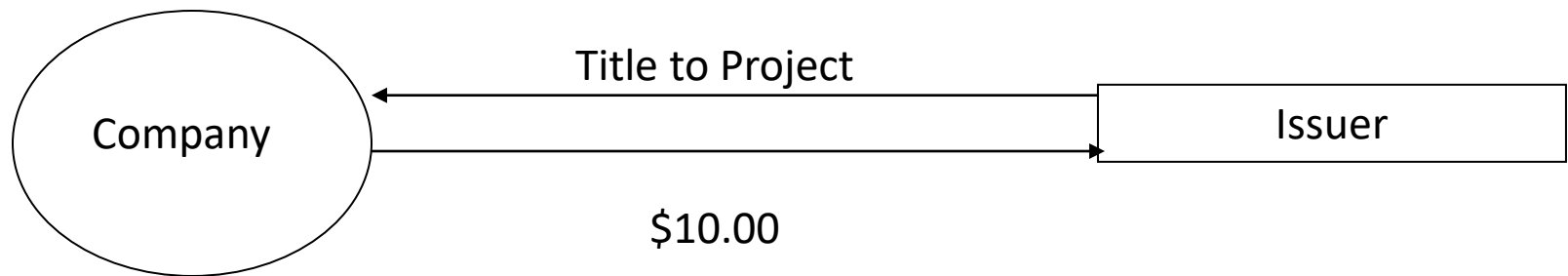
## PERIODIC LEASE/BOND PAYMENTS – GRAPHICAL DEPICTION

- Issuer owns the Project and leases it to Company for the up to 40-year Bond term for rent-equivalent Bond payments
- Company leases the Project from Issuer for the up to 40-year Bond term and pays rent equal to the debt service on the Bonds
- Issuer assigns the right to receive rent payments from Company to the Bond Purchaser and payments are made directly by the Company to the Purchaser (or to a bond trustee under a trust indenture)



## Maturation of Bonds – Graphical Depiction

- After (up to) 40 years, the Bonds mature and are retired and Issuer transfers title to the Project to Company for a nominal payment





## PROPERTY TAX REPORTING

- The County PVA receives a copy of the deed, codes the Project real property transferred to the Issuer and financed by the Bonds as “exempt”, and removes the Project real property from the real property tax roll.
- The PVA will create a new “leasehold” parcel on the real property tax roll which is valued each year and subject to state-only property tax.
- Listing:
  - Recording of the deed and the lease agreement lists the leasehold interest in Project real property for taxation. *[KRS § 132.220]*
  - Company annually lists its leasehold interest in Project tangible personal property on its tangible personal property tax return.
- Annual Tax Bills: The County Clerk prepares and the Sheriff bills and collects state real and tangible personal property taxes due on Company’s leasehold interests in the Project assets.



## OTHER CONSIDERATIONS - PILOTS

- Issuer may require “payments in lieu of taxes” (PILOTs) to the school district and other affected local taxing districts.
- PILOTs are negotiated amounts Company contractually agrees to pay during the term of the Bonds.
- Typically memorialized in a PILOT Agreement executed as part of the issuance of the Bonds.



## OTHER CONSIDERATIONS – KEDFA APPROVAL

- For Bonds issued prior to July 15, 2002, the state tax rate levied on Company's leasehold interest in the Project is \$0.015 per \$100 of FCV.
- State tax rate reduction now requires prior KEDFA approval.
- Issuer and Company jointly apply to KEDFA (usually before issuance of the bonds).
- KEDFA approves the application at its monthly public meeting.





## OTHER CONSIDERATIONS – KEDFA APPROVAL

- KEDFA’s current application evaluation criteria:
  - Jobs to be retained and created by the Project;
  - Salary and benefits to be paid to Project employees;
  - Amount of Project capital investment;
  - County unemployment rate;
  - Other incentives awarded or sought for the Project;
  - Whether the Project is a relocation or a new business;
  - Estimated new tax revenues;
  - Size and percentage of the abated tax;
  - PILOT Agreements and local support for the Project.
- KEDFA’s current policy is to require PILOTs to the school district of all school property taxes that otherwise would be due.
- KEDFA may require state PILOTs to match PILOTs paid to other local taxing districts.



## Questions

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