

**81A.429 Payments following annexation of territory that contains active residential, commercial, or industrial uses -- Cost-sharing agreements -- Reporting to the Department for Local Government -- Administrative regulations.**

- (1) When a city annexes territory in a county that contains active residential, commercial, or industrial uses on a substantial part of the territory, and the crediting provisions set forth in KRS 68.197 apply to the county, the city shall remit payments to the county on January 1 of each year for a period of ten (10) years following the enactment of the ordinance finally annexing territory into the city, pursuant to the following formula unless the city and county otherwise agree in writing:
  - (a) The county shall calculate the amounts of ad valorem property, occupational licensure, and insurance premium taxes the county collected within the territory in the year prior to the proposed annexation;
  - (b) The county shall then add to the total amount of ad valorem property tax one hundred fifty percent (150%) of the occupational licensure tax and one hundred fifty percent (150%) of the insurance premium tax collected in the year prior to annexation; and
  - (c) The county shall then subtract from the figure calculated in paragraph (b) of this subsection the property tax, occupational licensure tax, and insurance premium tax revenue it has collected or anticipates it will be able to collect for each year following the annexation, which figure will represent the remittance payment required to be paid by the city to the county.

The county shall update its calculation of the figure in paragraph (c) of this subsection on a yearly basis, and shall provide the figure to the city at least thirty (30) days prior to the date on which payment is required to be made by the city. A city shall not be required to remit payments unless the county has provided the city with documentation confirming the figure calculated in paragraph (c) of this subsection.

- (2) (a) When a city proposes to annex territory that does not contain active residential, commercial, or industrial uses on a substantial part of the territory, the crediting provisions set forth in KRS 68.197 apply to the county in which the territory is located, and:
  1. The territory is not immediately contiguous to the existing city boundary and is connected only by a corridor, unless:
    - a. Existing water and sewer services were provided by the city to the territory on or before January 1, 2024; and
    - b. The county has not made a previous investment in infrastructure in the territory, not including routine road maintenance; or
  2. The territory is contiguous to the existing city boundary, but the city is not able to provide tangible benefits or services as a result of the annexation, including but not limited to:
    - a. Specialized infrastructure or utilities that the county itself cannot feasibly provide at the time of the annexation;

- b. The provision of public safety or emergency response services that the county itself cannot feasibly provide at the time of annexation; or
- c. The ability to sell alcoholic beverages in the territory to be annexed;

the county may, within fifteen (15) days after receiving written notice of the annexation from the city as required by KRS 81A.412(2) or 81A.420(1), enact a resolution stating that the county desires to negotiate with the city regarding the creation of an interlocal agreement for revenue and cost sharing related to development of the territory to be annexed. A copy of the resolution shall be immediately transmitted to the city.

- (b) If a city receives the resolution, it shall negotiate with the county to form an interlocal agreement that addresses participation between the county and city in:
  - 1. Cost sharing for public investment in the development of the area;
  - 2. Cost sharing for provision of municipal services within the area; and
  - 3. Revenue sharing of occupational tax revenue collected from the territory.
- (c) The negotiations shall be completed within sixty (60) days of the enactment of the resolution by the county, and the city shall not enact an ordinance finally annexing the territory into the city during that period.
- (d) If the parties fail to reach an agreement within the sixty (60) day period described in paragraph (c) of this subsection:
  - 1. The city may enact an ordinance finally annexing the territory into the city; and
  - 2. The county may elect to:
    - a. Not participate in the development of the territory; or
    - b. Participate with the city in the development of the territory.
- (e) If the county elects to participate with the city in development of the territory pursuant to subsection (2)(d)2.b. of this section, a cost and revenue sharing default option shall apply, under which the county shall provide funding for:
  - 1. Fifty percent (50%) of the costs associated with the public investment made in developing the territory; and
  - 2. Fifty percent (50%) of the costs associated with the provision of additional municipal services in the territory.

The city shall be required to remit to the county, on a yearly basis, fifty percent (50%) of the occupational tax revenue generated in the territory, or an amount of occupational tax revenue that would equal the amount that the county would collect from the territory pursuant to its countywide occupational tax rate in the absence of crediting, whichever is less. In no instance shall a county receive payments under this section that would exceed the amount it would collect from the territory pursuant to its countywide occupational tax rate in the absence of crediting. If a county would receive an

amount of revenue that is less than fifty percent (50%) of the occupational tax revenue generated in the territory pursuant to this paragraph, then its responsibility for funding pursuant to subparagraphs 1. and 2. of this paragraph shall be changed to a percentage equal to the percentage of revenue that the county would receive under this paragraph. A county may, during the sixty (60) day period discussed in paragraph (c) of this subsection, elect to impose a countywide occupational tax or raise its countywide occupational tax rate in conformance with statute.

- (f) Any agreement made pursuant to this subsection, including a default agreement under subsection (2)(e) of this section, shall be considered an interlocal agreement and be subject to the provisions of the Interlocal Cooperation Act, including the reporting requirements set forth in KRS 65.260.
- (3) When a city proposes to annex territory in a county in which the crediting provisions set forth in KRS 68.197 apply, the provisions of subsections (1) and (2) of this section shall not apply if the city and county are parties to an interlocal agreement concerning the sharing of occupational tax revenue between the city and county, and that agreement would apply to the proposed annexation.
- (4) (a) When a city completes an annexation of territory in a county in which the crediting provisions set forth in KRS 68.197 apply, the city shall submit to the Department for Local Government the information required by this subsection. The information shall be submitted within sixty (60) days following the enactment of the ordinance finally annexing the territory into the city, and shall include the following:
- 1. The information required in KRS 81A.470(1)(a) and (b);
  - 2. A statement indicating whether the annexation was subject to subsection (1), (2), or (3) of this section, or if the annexation was one in which the city provided tangible benefits or services as a result of the annexation pursuant to subsection (2)(a)2. of this section; and
  - 3. A copy of any interlocal agreement created as a result of compliance with this section or that applies as described in subsection (3) of this section.
- (b) The Department for Local Government may make reporting forms consistent with this subsection, and may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this subsection.

**Effective:** July 15, 2024

**History:** Created 2024 Ky. Acts ch. 158, sec. 6, effective July 15, 2024.