

154.20-228 Eligibility for approval of a proposed data center project.

- (1) The authority shall not approve a proposed data center project that otherwise meets the requirements of KRS 154.20-220 to 154.20-229 if the proposed data center project will result in the replacement of facilities existing in the state, except as provided in this section.
- (2) The authority may approve a proposed data center project that:
 - (a) Rehabilitates an existing data center used for activities of an eligible company, if:
 1. The data center to be rehabilitated has not been in operation for a period of ninety (90) or more consecutive days;
 2.
 - a. The current occupant of the data center to be rehabilitated has advertised a notice of closure; and
 - b. The eligible company proposing the data center project is not an affiliate of the current occupant of the data center to be rehabilitated; or
 3.
 - a. The data center to be rehabilitated is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction; and
 - b. The title to the data center to be rehabilitated prior to the sale is not vested in the eligible company;
 - (b) Replaces an existing data center of an eligible company if:
 1.
 - a. Title to the data center to be replaced:
 - i. Is held by exercise of the power of eminent domain; or
 - ii. May be taken pursuant to a nonappealable judgment granting authority to exercise the power of eminent domain; and
 - b. Normal operations at the data center to be replaced cannot be resumed within twelve (12) months; or
 2. The data center to be replaced has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 - (c) Replaces an existing data center located in the same county if the existing data center cannot be expanded due to the unavailability of real estate at or adjacent to the data center to be replaced. Any qualifying data center project satisfying the requirements of this paragraph shall be eligible for incentives under this subchapter only to the extent of the expansion. No incentives shall be available for the equivalent of the facility to be replaced or rehabilitated.
- (3) The authority shall not approve a proposed data center project under this section which results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.

Effective: July 15, 2024

History: Created 2024 Ky. Acts ch. 166, sec. 40, effective July 15, 2024.