

154.20-220 Definitions for KRS 154.20-220 to 154.20-229.

As used in KRS 154.20-220 to 154.20-229:

- (1) "Affiliate" means the following:
 - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
 - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
 - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
 - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
 - (e) A grantor and a fiduciary of any trust;
 - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
 - (g) A fiduciary of a trust and a beneficiary of that trust;
 - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
 - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation, a partnership, or a limited partnership if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;
- (l) A corporation and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership or limited partnership and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
 - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company; and
- (n) Two (2) or more limited liability companies, if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;
- (2) "Approved company" means an eligible company that has received final approval from the authority;
- (3) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (4) "Colocation tenant" means an entity that contracts with the owner or operator for space within a qualified data center project;
- (5) "Commonwealth" means the Commonwealth of Kentucky;
- (6) "Data center equipment":
 - (a) Means computer equipment and software for the processing, storage, retrieval, or communication of data, used directly and exclusively in a qualified data center project, including but not limited to:
 - 1. a. Servers;
 - b. Routers;
 - c. Connections;
 - d. Monitoring and security systems for the data center equipment;
 - e. Fiber optic cabling and network equipment leading to and from the data center project; and
 - f. Other enabling machinery, equipment, and hardware;

regardless of whether the property is affixed to or incorporated into real property;

2. Equipment used in the operation of computer equipment or software or for the benefit of the data center project, including component parts, installations, refreshments, replacements, and upgrades, regardless of whether the property is affixed to or incorporated into real property;
 3. All equipment necessary for the transformation, generation, distribution, or management of electricity that is required to operate computer server equipment, including substations, generators, uninterruptible energy equipment, supplies, conduit, fuel piping and storage, cabling, duct banks, switches, switchboards, batteries, testing equipment, and backup generators;
 4. All equipment necessary to cool and maintain a controlled environment for the operation of the computer servers and other components of the data center project, including chillers, mechanical equipment, refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting, and filters;
 5. All water conservation systems for the equipment, including facilities or mechanisms that are designed to collect, conserve, and reuse water;
 6. All computer server equipment, chassis, networking equipment, switches, racks, fiber optic and copper cabling, trays, and conduit;
 7. All monitoring equipment and security systems for the data center project, including security system monitoring services;
 8. All software and prewritten computer software access services;
 9. Extended warranty services with respect to data center equipment; and
 10. Any other tangible personal property that is essential to the operations of the qualified data center project, excluding:
 - a. Electricity used by a qualified data center project; and
 - b. Property used for administrative purposes at the data center project, including office equipment; and
- (b) Does not include:
1. Construction equipment; or
 2. Building and construction materials permanently incorporated as an improvement to real property;
- (7) "Department" means the Department of Revenue;
- (8) "Eligible company":
- (a) Means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a qualified data center project; and
 - (b) Includes an operator, an owner, a project organizer, and a colocation tenant;
- (9) "Eligible costs" means expenditures made by the preliminarily approved company

or approved company after preliminary approval for the purchase, installation, repair, and replacement of data center equipment for the qualified data center project;

- (10) "Final approval" means the action taken by the authority to verify that, on or before the fifth anniversary of the preliminary approval, the minimum capital investment has been made, with respect to the data center project;
- (11) "Memorandum of agreement" means the agreement between the eligible company and the authority executed under KRS 154.20-229;
- (12) "Operator":
 - (a) Means any entity, other than an owner, a project organizer, or a colocation tenant:
 - 1. Operating a qualified data center project pursuant to a lease or other contract with the owner; and
 - 2. Responsible for the control, oversight, or maintenance of a data center project; and
 - (b) Includes:
 - 1. An affiliate of an operator;
 - 2. A licensed property management company;
 - 3. A property lessor; or
 - 4. Any other individual or entity responsible for the control, oversight, or maintenance of a data center project;
- (13) "Owner" means an entity, other than a project organizer, holding fee title to a data center project and includes an affiliate of an owner;
- (14) "Preliminary approval" means the action taken by the authority to enter into a memorandum of agreement with an eligible company;
- (15) "Project organizer" means an entity that:
 - (a) Solely provides qualified data center infrastructure for a qualified data center project; and
 - (b) Will enter into or has entered into a separate agreement with another entity for the purchase, use, or operation of the qualified data center infrastructure;
- (16) "Qualified data center infrastructure" means providing site development and organization for a qualified data center project, including but not limited to:
 - (a) An uninterruptible power supply, including electrical substations and backup generators for safety against power disruptions;
 - (b) Availability of water and natural gas service, including any necessary infrastructure; and
 - (c) Multiple layers of security, including:
 - 1. Physical security at the data center project, including fencing, entry control and monitoring, or security guards;
 - 2. Infrastructure monitoring, including monitoring for water, power, telecommunications, and internet connectivity; and

3. Environmental control measures, including sensors or responsive equipment for detecting fire, flood, or other natural disasters;
- (17) "Qualified data center project":
- (a) Means:
 1. Providing qualified data center infrastructure;
 2. Acquiring, leasing, rehabilitating, expanding, or constructing one (1) or more buildings that:
 - a. House a group of networked server computers in order to centralize the storage, management, and dissemination of data and information for a single project; and
 - b. Contain:
 - i. Dedicated cooling equipment for the computing machines and related infrastructure;
 - ii. Extra capacity for data redundancy, including the ability to maintain or replace equipment without a system shutdown; and
 - iii. Physically isolated systems to avoid disruption from both planned and unplanned events; or
 3. Any combination of the activities described in subparagraphs 1. and 2. of this paragraph;
 - (b) Has the following minimum capital investment on or before the fifth anniversary of the preliminary approval:
 1. For an owner, operator, or colocation tenant, at least:
 - a. Four hundred fifty million dollars (\$450,000,000) if located in a county having a population equal to or greater than one hundred thousand (100,000);
 - b. One hundred million dollars (\$100,000,000) if located in a county having a population greater than fifty thousand (50,000) but less than one hundred thousand (100,000); or
 - c. Twenty-five million dollars (\$25,000,000) if located in a county having a population of not more than fifty thousand (50,000);
determined using the county's population estimate from the most recently available five (5) year American Community Survey as published by the United States Census Bureau at the time of application by the eligible company; or
 2. For a project organizer, at least one hundred fifty million dollars (\$150,000,000); and
 - (c) Does not include any data center project that:
 1. Will result in the replacement of data centers existing in the Commonwealth;
 2. Applies for or accepts any other economic development incentives under KRS Chapter 154; or

3. Benefits from the sales and use tax exemption for the sale or purchase of electricity used in commercial mining of cryptocurrency; and
- (18) "Term" means the period of time for which a memorandum of agreement may be in effect, which shall not exceed:
- (a) Fifteen (15) years for a qualified data center project of a project organizer; and
 - (b) For any other qualified data center project:
 1. Fifty (50) years for a data center project having a capital investment equal to or greater than four hundred fifty million dollars (\$450,000,000); or
 2. Twenty-five (25) years for a data center project having a capital investment less than four hundred fifty million dollars (\$450,000,000).

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