

**CHAPTER 228****(HB 42)**

AN ACT relating to revenue bonds for city or county projects.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 103.200 is amended to read as follows:

- (1) As used in KRS 103.210 to 103.285, "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, together with storage, warehousing and distribution facilities in respect thereof;
  - (b) Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;
  - (c) Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;
  - (d) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;
  - (e) Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;
  - (f) Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;
  - (g) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial use;
  - (h) Any facilities for the furnishing of water if available on reasonable demand to members of the general public;
  - (i) Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;
  - (j) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;
  - (k) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;
  - (l) Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the heritage division and insures the preservation of not fewer than four (4) family units;
  - (m) Any activity, designed for the preservation of commercial or residential buildings which are on the National Register of Historic Places or within an area designated as a national historic district or approved by the heritage division; and

- (n) Any activity, including new construction, designed for revitalization or redevelopment of downtown business districts as designated by the issuer.
- (2) As used in KRS 103.210 to 103.285, "bonds" or "negotiable bonds" means bonds, notes, variable rate bonds, commercial paper bonds, bond anticipation notes or any other obligations for the payment of money issued by a city, county or other authority pursuant to KRS 103.210 to 103.285.
- (3) *As used in KRS 103.210 to 103.285, "substantiating documentation; means an independent finding, study, report, or assessment of the economic and financial impact of a project, which shall include a review of customary business practices, terms, and conditions for similar types of projects, both taxable and tax-exempt, in the current market environment.*

Section 2. KRS 103.2101 is amended to read as follows:

- (1) ~~In addition to the duties specified in KRS 103.286,~~ It shall be the duty of the *state local debt officer* ~~[Kentucky Private Activity Bond Allocation Committee]~~ to review only those projects authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1), and only off-street parking facilities, cable television, and mass communication facilities as authorized by paragraph (b) of KRS 103.200(1), whether by cities, counties, urban-county governments, air boards, *or* riverport authorities, ~~or the Kentucky Economic Development Finance Authority~~. *The Kentucky Private Activity Bond Allocation Committee shall review only those projects to be issued by the Kentucky Economic Development Finance Authority and authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1).* Such review shall include, but need not be limited to, the following:
- (a) *Whether the project creates long-term economic growth, creates or retains jobs in a previously designated empowerment or enterprise zone, or aids in the prevention or elimination of slums or blight* ~~[The economic need for the project in the area]~~.
- (b) Whether *there is substantiating documentation to demonstrate that* the project places an unjustified competitive disadvantage on existing business in the area.
- (c) *Whether there is substantiating documentation to demonstrate that* ~~if~~ normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.
- (d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.
- (e) The project's economic soundness.
- (2) If the committee *or the state local debt officer* finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.
- (3) The committee *and the state local debt officer* may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.
- (4) The committee *and the state local debt officer*, within fourteen (14) days of receiving application, shall notify *in writing* the agency or unit of government proposing the issuance of bonds, *the appropriate county judge/executive, mayor, and school superintendent*, and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein. *A hearing officer may conduct the hearing with a proposed order to the committee or the state local debt officer.*
- (5) The committee *and the state local debt officer* shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.

- (6) *When the revenues of the respective local government or school district are negatively impacted by the project, the committee and the state local debt officer shall require submission of a written statement of assurance that the appropriate county judge/executive, mayor, and school superintendent are in agreement with the negotiated financial arrangement. This written statement of assurance shall be used for advisory purposes.*
- (7) *The maximum length of any bond authorization under this section shall not exceed the anticipated useful life of the building or equipment purchased or thirty (30) years, whichever is shorter.*

Section 3. If the agency or unit of government proposing the issuance of bonds adopted a resolution indicating an intent to issue bonds for a project prior to February 1, 2006, then this project shall be subject to the provisions of KRS 103.2101 in effect upon the date of the passage of the resolution of intent to issue bonds.

**Approved April 22, 2006.**