

CHAPTER 95

(HB 549)

AN ACT relating to incentives for development and redevelopment and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds and declares that the establishment of development areas, local development areas, and projects which result in increased property values, increased employment opportunities, and increased economic activity in communities within the Commonwealth serves a public purpose.*
- (2) *The General Assembly further finds and declares that the authority prescribed in Sections 1 to 22 of this Act, and the purposes to be accomplished thereunder, are proper.*
- (3) *A city or county creating or expanding a development area or local development area, shall, to the greatest extent it determines to be reasonably feasible in carrying out the provisions of Sections 1 to 22 of this Act, afford maximum opportunity for the rehabilitation, development, renovation, or improvement of a development area or local development area by private enterprise.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 22 of this Act are as follows:

- (1) *Section 4 of this Act provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and devote local resources to support the development of projects in those local development areas. Local development areas established under Section 4 of this Act and projects within local development areas shall not be eligible for participation by the Commonwealth.*
- (2) *Sections 5, 6, and 7 of this Act provide a framework for cities and counties to establish development areas within their jurisdictional boundaries, and to devote local resources to providing redevelopment assistance and supporting projects in those development areas. Projects within development areas established pursuant to Sections 5, 6, and 7 of this Act shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Sections 1 to 22 of this Act; and*
- (3) *Sections 16, 17, 18, 19, 20, and 21 of this Act establish the requirements that must be met by a project within a development area for the project to receive participation from the Commonwealth.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 22 of this Act:

- (1) *"Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The Commonwealth or governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the project grant agreement shall notify the office. The agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area or local development area;*
- (2) *"Agency" means:*
 - (a) *An urban renewal and community development agency established under KRS Chapter 99;*
 - (b) *A development authority established under KRS Chapter 99;*
 - (c) *A nonprofit corporation;*
 - (d) *A housing authority established under KRS Chapter 80;*
 - (e) *An air board established under KRS 183.132 to 183.160;*
 - (f) *A local industrial development authority established under KRS 154.50-301 to 154.50-346;*
 - (g) *A riverport authority established under KRS 65.510 to 65.650; or*
 - (h) *A designated department, division, or office of a city or county;*

- (3) *"Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. Approved public infrastructure costs includes but is not limited to costs incurred for the following:*
- (a) *Land preparation, including demolition and clearance work;*
 - (b) *Buildings;*
 - (c) *Sewers and storm drainage;*
 - (d) *Curbs, sidewalks, promenades, and pedways;*
 - (e) *Roads;*
 - (f) *Street lighting;*
 - (g) *The provision of utilities;*
 - (h) *Environmental remediation;*
 - (i) *Floodwalls and flood gates;*
 - (j) *Public spaces or parks;*
 - (k) *Parking;*
 - (l) *Easements and rights of way;*
 - (m) *Transportation facilities;*
 - (n) *Public landings;*
 - (o) *Amenities, such as fountains, benches, and sculptures; and*
 - (p) *River bank modifications and improvements;*
- (4) *"Approved signature project costs" means:*
- (a) *The acquisition of land for portions of the project that are for infrastructure; and*
 - (b) *Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;*
- that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;*
- (5) *"Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;*
- (6) *"Capital investment" means:*
- (a) *Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;*
 - (b) *The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident thereto, including recording fees;*
 - (c) *The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;*
 - (d) *All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;*
 - (e) *All costs that are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of a project; and*

- (f) *All other costs of a nature comparable to those described in this subsection;*
- (7) *"City" means any city, consolidated local government, or urban-county government;*
- (8) *"Commencement date" means:*
- (a) *The date on which a local development area agreement is executed; or*
- (b) *The date on which a local participation agreement is executed; or*
- (c) *The date on which a project grant agreement is executed;*
- (9) *"Commission" means the State Tax Increment Financing Commission established by Section 15 of this Act;*
- (10) *"Commonwealth" means the Commonwealth of Kentucky;*
- (11) *"County" means any county, consolidated local government, charter county, unified local government, or urban-county government;*
- (12) *"CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;*
- (13) *"Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;*
- (14) *"Development area" means an area established under Sections 5, 6, and 7 of this Act;*
- (15) *"Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 26, 28, 34, or 48 of KRS Chapter 154;*
- (16) *"Establishment date" means the date on which a development area or a local development area is created. If the development area, development area plan, or local development area is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under Sections 1 to 22 of this Act from the original establishment date;*
- (17) *"Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to Section 18 of this Act;*
- (18) *"Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made;*
- (19) *"Governing body" means the body possessing legislative authority in a city or county;*
- (20) *"Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in paragraph (c) of subsection (35) of this section, in a development area or a local development area;*
- (21) *"Incremental revenues" means:*
- (a) *The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, a project within a development area, or a local development area; or*
- (b) *The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint of a project within a development area;*
- (22) *"Issuer" means a city, county, or agency issuing increment bonds;*
- (23) *"Local development area" means a development area established under Section 4 of this Act;*
- (24) *"Local development area agreement" means an agreement entered into under Section 4 of this Act;*

- (25) *"Local participation agreement" means the agreement entered into under Section 12 of this Act;*
- (26) *"Local tax revenues" means:*
- (a) *Revenues derived by a city or county from one (1) or more of the following sources:*
 1. *Real property ad valorem taxes; and*
 2. *Occupational taxes, excluding occupational taxes that have already been pledged to support an economic development project within the development area; and*
 - (b) *Revenues derived by any taxing district other than school districts or fire districts from real property ad valorem taxes;*
- (27) *"Low-income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);*
- (28) *"New revenues" means:*
- (a) *The amount of local tax revenues received by a taxing district with respect to a development area or a local development area in any calendar year beginning with the year in which the activation date occurred; or*
 - (b) *The amount of state tax revenues received by the Commonwealth with respect to the footprint of a project in any calendar year beginning with the year in which the activation date occurred;*
- (29) *"Office" means the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue, established by Section 26 of this Act;*
- (30) *"Old revenues" means:*
- (a) *The amount of local tax revenues received by a taxing district with respect to a development area or a local development area during the last calendar year prior to the commencement date; or*
 - (b)
 1. *The amount of state tax revenues received by the Commonwealth from the footprint of a project during the last calendar year prior to the commencement date. If the office determines that the amount of state tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the office may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of state tax revenues. The amount determined by the office shall be specified in the project grant agreement. If state tax revenues were derived from the footprint of project prior to the commencement date, old revenues shall increase each calendar year by:*
 - a. *The percentage increase, if any, of the CPI or a comparable index; or*
 - b. *An alternative percentage increase that is determined to be appropriate by the office.**The method for increasing old revenues shall be set forth in the project grant agreement;*
 2. *If state revenues were derived from the footprint of the project prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.*
- (31) *"Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:*
- (a) *Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;*
 - (b) *Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or*
 - (c) *Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to*

their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

- (32) *"Planning unit" means a planning commission established pursuant to KRS Chapter 100;*
- (33) *"Project" means any property, asset, or improvement located in a development area or a local development area and certified by the governing body as:*
- (a) *Being for a public purpose; and*
 - (b) *Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and*
 - (c) *Contributing to economic development or tourism; and*
 - (d) *Meeting the additional requirements established by Section 17, 18, or 19 of this Act if incremental revenues from the Commonwealth are to be included;*
- (34) *"Project grant agreement" means an agreement entered into under Section 20 of this Act;*
- (35) *"Redevelopment assistance," as utilized within a development area, includes the following:*
- (a) *Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;*
 - (b) *Programs to market and promote the development area and attract new businesses and residents;*
 - (c) *Grant and loan programs to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;*
 - (d) *Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for-profit, or nonprofit lenders to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;*
 - (e) *Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;*
 - (f) *Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;*
 - (g) *Provision of technical, financial, or other assistance in connection with:*
 - 1. *Applications to the Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01-450; or*
 - 2. *Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.01-510 to 224.01-532; and*
 - (h) *Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:*
 - 1. *Assembly and replatting of lots or parcels;*
 - 2. *Rehabilitation of existing structures and improvements;*
 - 3. *Demolition of structures and improvements and construction of new structures and improvements;*
 - 4. *Programs of temporary or permanent relocation assistance for businesses and residents;*
 - 5. *The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and*

6. *The acquisition and construction of projects;*

- (36) *"Service payment agreement" means an agreement between a city, county, or issuer of increment bonds or other obligations and any person, whereby the person agrees to guarantee the receipt of incremental revenues, or the payment of debt charges, or any portion thereof, on increment bonds or other obligations issued by the city, county, or issuer;*
- (37) *"Signature project" means a project approved under Section 18 of this Act;*
- (38) *"Special fund" means a special fund created under Section 11 of this Act in which all incremental revenues shall be deposited;*
- (39) *"State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);*
- (40) *"State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:*
- (a) *State real property ad valorem taxes;*
 - (b) *Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;*
 - (c) *Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;*
 - (d) *Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and*
 - (e) *Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:*
 1. *Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and*
 2. *Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;*
- (41) *"Taxing district" means any city, county, or special taxing district other than school districts and fire districts; and*
- (42) *"Termination date" means:*
- (a) *For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date, provided that if a project grant agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the project grant agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;*
 - (b) *For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;*
 - (c) *For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the local participation agreement relates;*
 - (d) *For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates;*

- (e) *For a project grant agreement satisfying the requirements of Section 17 of this Act or Section 19 of this Act, a date established by the project grant agreement that is no more than twenty (20) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates; and*
- (f) *For a project grant agreement satisfying the requirements of Section 18 of this Act, a date established by the project grant agreement that is no more than thirty (30) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *Any city or county may establish a local development area pursuant to this section, subject to the following conditions:*
 - (a) *A local development area shall be a previously undeveloped tract of land;*
 - (b) *No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month period in any county;*
 - (c) *The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the local development areas and development areas shall be valued as of the establishment date; and*
 - (d) *Unless the ordinance establishing a local development area requires an earlier termination date, a local development area shall cease to exist on the termination date.*
- (2) *A city or county shall take the following steps to establish or modify a local development area:*
 - (a) *The city or county shall hold a public hearing to solicit input from the public regarding the local development area. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed local development area. The notice shall include a summary of the projects proposed for the local development area;*
 - (b) *After the public hearing, the city or county shall adopt an ordinance which shall include the following provisions:*
 1. *A description of the boundaries of the local development area;*
 2. *The establishment date and the termination date;*
 3. *A name for the local development area for identification purposes;*
 4. *Approval of any agreements relating to the local development area;*
 5. *A provision establishing a special fund for the local development area or any project within the local development area;*
 6. *A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;*
 7. *A provision for periodic analysis and review by the governing body of the development activity in the local development area;*
 8. *Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and*
 9. *Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and*

- (c) *If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.*
- (3) *Funding for projects in a local development area shall be provided in accordance with Section 9 of this Act.*
- (4) *A local development area agreement shall be executed among the agencies and taxing districts involved in administering, providing financing, or pledging incremental revenues within the local development area. The local development area agreement shall be adopted by a city or county by ordinance and by any other taxing district or agency by resolution, and shall include but not be limited to the following provisions:*
 - (a) *Identification of the parties to the local development area agreement and the duties and responsibilities of each entity under the agreement;*
 - (b) *Specific identification of the tax increments released or pledged by type of tax by each taxing district;*
 - (c) *The anticipated benefit to be received by each taxing district for the release or pledge, including:*
 - 1. *A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local development area agreement; and*
 - 2. *The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;*
 - (d) *A detailed description of the local development area;*
 - (e) *A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;*
 - (f) *A requirement that pledged incremental revenues will be deposited in a special fund pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;*
 - (g) *Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;*
 - (h) *The commencement date, activation date, and termination date; and*
 - (i) *Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the agreement.*
- (5) *Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local development area agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or county may establish a development area pursuant to Sections 5, 6, and 7 of this Act to encourage reinvestment in and development and reuse of areas of the city or county under the following conditions:

- (1) *The area shall be contiguous and shall be no more than three (3) square miles;*
- (2) *The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;*
- (3) *The governing body of the city or county shall determine that the development area has two (2) or more of the following conditions:*
 - (a) *Substantial loss of residential, commercial, or industrial activity or use;*

- (b) *Forty percent (40%) or more of the households are low-income households;*
 - (c) *More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;*
 - (d) *Substantial abandonment of residential, commercial, or industrial structures;*
 - (e) *Substantial presence of environmentally contaminated land;*
 - (f) *Inadequate public improvements or substantial deterioration in public infrastructure; or*
 - (g) *Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; and*
- (4) *The governing body of the city or county shall find that all of the following are true:*
- (a) *That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and*
 - (b) *That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and*
 - (c)
 1. *That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or*
 2. *If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *Any city or county seeking to establish a development area shall adopt a development plan. The development plan may be developed by a city, a county, or a city and county jointly, or may be proposed by an agency or by a private entity. The plan shall include the following:*
- (a) *Assurances that the proposed development area meets the requirements of subsections (1) and (2) of Section 5 of this Act, identification of the conditions in the proposed development area that meet the criteria set forth in subsection (3) of Section 5 of this Act, and confirmation that the requirements of subsection (4) of Section 5 of this Act have been met;*
 - (b) *A detailed description of the existing uses and conditions of real property in the development area;*
 - (c) *A map showing the boundaries of the proposed development area;*
 - (d) *A map showing proposed improvements and uses therein, including the identification of any proposed projects, along with a narrative description of the proposed improvements, projects, and uses within the development area;*
 - (e) *A description of the redevelopment assistance proposed to be employed in the development area, including the manner and location of such assistance;*
 - (f) *A detailed financial plan containing projections of the cost of the proposed redevelopment assistance to be provided, proposed projects to be funded, proposed sources of funding for these costs, projected incremental revenues, and the projected time frame during which financial obligations will be incurred;*
 - (g) *Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance anticipated to be required to implement the development plan; and*
 - (h) *If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.*

- (2) *Prior to adoption of a development plan, the city or county shall hold a public hearing to solicit input from the public regarding the plan. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed development area. The notice shall include a summary of the redevelopment assistance proposed to be employed, identification of projects proposed for the development area, and a statement that a copy of the development plan is available for inspection at the business office of the city or county.*
- (3) *Prior to publication of a hearing notice pursuant to subsection (2) of this section, a copy of the development plan shall be filed with the city clerk of each city having jurisdiction within the proposed development area, and with the county fiscal court.*
- (4) *A city or county having jurisdiction within the proposed development area not initially participating in a proposed development plan shall have the opportunity to determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.*
- (5) *At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with Section 7 of this Act.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *An ordinance establishing a development area shall include the following provisions:*
 - (a) *A description of the boundaries of the development area;*
 - (b) *The establishment date;*
 - (c) *The termination date, including a provision that allows the termination date to be extended as provided in subsection (42) of Section 3 of this Act;*
 - (d) *A name for the development area for identification purposes;*
 - (e) *A finding that the conditions in the development area meet the criteria described in Section 5 of this Act;*
 - (f) *A finding supporting the need to employ redevelopment assistance in the development area;*
 - (g) *A provision adopting the development plan required by subsection (1) of Section 6 of this Act;*
 - (h) *Approval of any agreements relating to the development area, including any local participation agreements;*
 - (i) *A provision establishing a special fund for the development area or any project within the development area;*
 - (j) *A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;*
 - (k) *A provision for periodic analysis and review by the governing body of the development activity in the development area, a review of the progress in meeting the stated goals of the development area, and a requirement that the review and analysis be forwarded to the office if the development activity includes projects subject to a project grant agreement;*
 - (l) *Designation of the agency or agencies responsible for oversight, administration, and implementation of the development ordinance; and*
 - (m) *Any other provisions, findings, limitations, rules, or procedures regarding the proposed development area or a project within the development area and its establishment or maintenance deemed necessary by the city or county.*
- (2) *An ordinance establishing a development area may designate an existing agency to oversee and administer implementation of a development area ordinance or a portion thereof.*
- (3) *Unless the ordinance establishing a development area requires an earlier date, a development area shall cease to exist on the termination date.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to Sections 5, 6, and 7 of this Act, including the addition of a project, use of new or different redevelopment assistance within the development area, or amendment of the development area boundaries shall be made as follows, provided that any amendment adopted shall not extend the existence of development area beyond the termination date:

- (1) *An amendment to the development plan shall be adopted by the city or county. The proposed development plan amendment shall include the following:*
 - (a) *Identification of the development area to which the amendment applies;*
 - (b) *A copy of the development plan as revised by the amendment;*
 - (c) *A narrative description of the proposed changes to the original development area plan and how those changes will impact the original development plan;*
 - (d) *If the amendment changes the boundaries, or in any way amends maps filed with the original development plan, a revised map identifying the new boundaries, improvements, or projects proposed in the amendment;*
 - (e) *A description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance relating to the proposed amendment;*
 - (f) *A financial plan relating to the proposed amendment, including the proposed cost of providing any redevelopment assistance and proposed projects to be funded, the sources of funding to meet those costs, projected incremental revenues, and the projected time period during which financial obligations will be incurred;*
 - (g) *Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance required to implement the proposed amendment; and*
 - (h) *If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.*
- (2) *Prior to the adoption of an amendment to a development plan, the city or county shall comply with the hearing and notice provisions set forth in subsections (2) and (3) of Section 6 of this Act. The notice provided in relation to an amendment to the development plan shall include a summary of how the amendment changes the development plan and shall identify new redevelopment assistance and projects proposed by the amendment.*
- (3) *The city or county shall adopt any amendment to the development plan and any amendment to the development area by ordinance. The ordinance shall include the following provisions:*
 - (a) *A provision adopting the amendment to the development plan required by subsection (1) of this section;*
 - (b) *Approval of any local participation agreements or other agreements relating to the amendment;*
 - (c) *The identification of any new or different state or local tax revenues pledged by any taxing district or the Commonwealth to support the provision of redevelopment assistance or projects identified in the amendment;*
 - (d) *A finding that the amendment does not increase the aggregate value of taxable real property included in all the redevelopment areas and the local development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable-real property within all of the local development areas and development areas shall be valued as of the establishment date; and*
 - (e) *Any other provisions, findings, limitations, rules, or procedures regarding the amendment deemed necessary by the city or county.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *To provide funding for redevelopment assistance or projects in a development area or projects in a local development area:*

- (a) *Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to one hundred percent (100%) of the incremental local tax revenues generated in the development area or local development area from a project within the development area or local development area for up to thirty (30) years from the activation date;*
- (b) *The amount of incremental revenues shall be determined for each type of tax separately; and*
- (c) *Local tax revenues from a development area that have not been pledged to support redevelopment assistance or projects within the development area, or from a local development area that have not been pledged to support projects within the local development area, may be used to support other economic development projects, provided that local tax revenues shall not be pledged more than once. Thus, local tax revenues pledged to support increment bonds issued for the development area or local development area shall not also be pledged to support a specific project within the development area or local development area, and those revenues shall not be pledged to support any other program, development, or undertaking.*
- (2) *Any city may pledge revenues collected under a special assessment imposed under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.*
- (3) *Any county may levy a special assessment under the terms and conditions established for cities under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.*
- (4) *Any pledge of incremental revenues or other revenues related to a development area by a taxing district shall be accomplished through the execution of a local participation agreement in accordance with Section 12 of this Act.*
- (5) *Any pledge of incremental revenues or other revenues related to a local development area by a taxing district shall be accomplished through the execution of a local development area agreement in accordance with Section 4 of this Act.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city, county, or agency with bonding authority may issue increment bonds and may pledge incremental revenues to the payment of the increment bonds.

- (1) *Increment bonds shall be issued, administered, and regulated by ordinance adopted by the governing body which shall:*
 - (a) *Declare the necessity of the incremental bond issue;*
 - (b) *State the principal amount or maximum principal amount of the increment bonds to be issued;*
 - (c) *State the purpose of the increment bond issue;*
 - (d) *State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;*
 - (e) *State any provisions for a special fund, mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;*
 - (f) *Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing the rate or rates of interest to be paid on the increment bonds;*
 - (g) *State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this subsection, subject to any limitations stated in the proceedings;*
 - (h) *If the increment bonds are payable solely from incremental revenues, include a determination that the incremental revenues are adequate to make the debt charges so long as the increment bonds are outstanding; and*
 - (i) *Include any other provisions deemed appropriate by the governing body.*

- (2) *Increment bonds issued pursuant to this section shall not mature on a date beyond the termination date of the development area or local development area.*
- (3) *Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this section shall mature as determined by the governing body consistent with the termination date.*
- (4) *The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds insofar as they do not conflict with the provisions of Sections 1 to 22 of this Act. If they do conflict, the provisions of Sections 1 to 22 of this Act shall apply.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

During any time when incremental revenues have been pledged pursuant to a local participation agreement, local development area agreement, or project grant agreement, or that increment bonds are outstanding, the city, county, or issuer, as the case may be, shall maintain a special fund, which shall be pledged for the retirement of increment bonds, if such bonds are outstanding, and the payment of costs related to a project in a development area or local development area, or providing redevelopment assistance in a development area.

- (1) *Officials charged with collecting revenues for any taxing district that has pledged incremental revenues under a local participation agreement or a local development area agreement shall, for each year a local participation agreement or local development area agreement is in effect or any increment bonds are outstanding with respect to a development area or local development area, submit those incremental revenues for deposit in the special fund. The amount of incremental revenues shall be determined under Section 22 of this Act.*
- (2) *Funds deposited in a special fund shall be disbursed at the times and in the amounts required to pay the costs of any debt charges on incremental bonds, approved public infrastructure costs, signature project costs and, in a development area, redevelopment assistance. However, there shall be no disbursements for other redevelopment assistance in a development area, or approved public infrastructure costs, or approved signature project costs in a development area or local development area, if the funds are required to pay debt charges on increment bonds.*
- (3) *Amounts in a special fund which exceed the amount required to pay debt charges and, in a development area, costs of redevelopment assistance in any fiscal year shall be used to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues. Amounts beyond this may be used to pay the costs of additional projects or, in a development area, redevelopment assistance.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *A local participation agreement shall be executed among the agencies and taxing districts involved in administering or providing financing or pledging incremental revenues to support the implementation of a development plan in a development area. The local participation agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:*
 - (a) *Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;*
 - (b) *Specific identification of the incremental revenues released or pledged by type of tax by each taxing district;*
 - (c) *The anticipated benefit to be received by each taxing district for the release or pledge, including:*
 1. *A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local participation agreement; and*
 2. *The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;*
 - (d) *A detailed description of the development area;*
 - (e) *A description of each proposed project that is the subject of a local participation agreement, including an estimate of the costs of construction, acquisition, and development;*

- (f) *A requirement that pledged incremental revenues will be deposited in a special fund established pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;*
 - (g) *Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;*
 - (h) *The commencement date, activation date, and termination date; and*
 - (i) *Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the agreement.*
- (2) *Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *A city, county, or issuer may enter into a service payment agreement.*
- (2) *The service payment agreement may provide that the city, county, or issuer shall have a lien on property described in the service payment agreement equal to the amount of periodic payments due under the service payment agreement. The service payment agreement may further provide that any lien created pursuant to this section shall be governed by the provisions set forth in KRS 91A.280, provided that a lien created pursuant to this section shall not have the priority established in KRS 91A.280 in relation to an existing lien on the property covered by the agreement unless, prior to recording the service payment agreement, the lien holder under the service payment agreement provides notice of the lien created by the service payment agreement to the holder of the existing lien, and the holder of the existing lien consents to the priority in writing. If written consent is not obtained, the priority of the lien created under this subsection in relation to the prior lien shall be determined in the same manner as a mortgage lien under KRS 382.280.*
- (3) *A lien authorized by this section shall not be valid and enforceable until evidence of the lien has been recorded in the office of the county clerk. The lien shall commence upon the issuance of increment bonds or other obligations and shall continue until other funding sources pledged to and derived from the project that is the subject of the service payment agreement are sufficient to make, when due, all payments on the increment bonds or other obligations identified in the service payment agreement. Upon termination of a lien authorized by this section, a release shall be filed by the city, county, or issuer with the county clerk.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Real property located within a development area shall not be eligible for participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The State Tax Increment Financing Commission is hereby created as an independent agency of the state within the meaning of KRS Chapter 12. The commission shall be composed of the following members:*
 - (a) *The secretary of the Finance and Administration Cabinet, who shall be the chairman thereof;*
 - (b) *The state budget director;*
 - (c) *The secretary of the Cabinet for Economic Development;*
 - (d) *The secretary of the Commerce Cabinet;*
 - (e) *The chairperson of the Kentucky Economic Development Finance Authority;*
 - (f) *The dean of the University of Kentucky Gatton College of Business and Economics; and*
 - (g) *The dean of the University of Louisville College of Business and Public Administration.*

- (2) *The commission shall review all applications for state participation in tax increment financing projects and shall approve those proposals it determines meet the requirements established by Sections 16, 17, 18, 19, 20 and 21 of this Act.*
- (3) *Members of the commission shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.*
- (4) *Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.*
- (5) *The commission shall meet at least two (2) times each year, but may meet more frequently upon the call of the chairman or a request made by any four (4) members of the commission.*
- (6) *The commission shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the commission with necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.*
- (7) *The commission shall prepare bylaws and shall establish procedures applicable to the operations of the commission.*
- (8) *The commission shall have the authority to promulgate any regulations necessary for the administration of Sections 15, 16, 17, 18, 19, 20, and 21 of this Act in accordance with KRS Chapter 13A.*
- (9) *On or before February 15, 2008, and each year thereafter, the commission shall provide the Governor and the Legislative Research Commission with an annual report, which shall include, but shall not be limited to the following for the prior calendar year:*
 - (a) *A list of applications considered by the commission during the prior calendar year, including the name of the applicant, a description of the project, the local tax revenues or other revenues pledged, the level of participation requested from the Commonwealth, and whether the application was approved; and*
 - (b) *For each approved application, the report shall include:*
 1. *The total commitment made by the Commonwealth, detailed by type of tax and estimated incremental revenues pledged for each tax;*
 2. *The length of the commitment; and*
 3. *The portion of the development area included in the project.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commonwealth shall offer three (3) tax increment financing participation programs. The first program, the criteria and details of which are set forth in Section 17 of this Act, relates to a pledge of state real property ad valorem taxes only. The second program, the criteria and details of which are set forth in Section 18 of this Act, is the Signature Projects Program. The third program, the criteria and details of which are set forth in Section 19 of this Act, relates to the pledge of state tax revenues to support mixed use development in blighted urban areas.*
- (2) (a) *A city or county that has established a development area pursuant to Sections 5, 6, and 7 of this Act, or an agency designated as the entity managing a development area established pursuant to Sections 5, 6, and 7 of this Act, may submit an application to the office requesting that the Commonwealth participate in a project.*
 1. *The application shall identify the specific program under which state participation is being requested and shall include the following attachments, in addition to any requirements developed by the office pursuant to paragraph (b) of this subsection:*
 - a. *A copy of the ordinance adopted by the city or county establishing the development area;*
 - b. *A copy of the local participation agreement; and*
 - c. *Data and information supporting the determinations and findings required by Section 5 of this Act.*

2. *The office shall review the application to determine if the applicant has met all of the statutory and regulatory requirements established by Sections 1 to 22 of this Act and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for participation by the Commonwealth shall be reviewed by the commission for approval.*
 3.
 - a. *Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to Section 17 of this Act, along with any supporting materials, shall be referred by the office to the commission for consideration.*
 - b.
 - i. *Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to paragraph (b) of subsection (2) of Section 18 of this Act or Section 19 of this Act shall be required to submit a report prepared by an independent consultant or financial adviser as described in subsection (6) of this section for the application to be complete. The office shall notify such applicants of the report requirements and shall provide information regarding the contents and requirements for the report at the same time it notifies the applicant of the results of its preliminary review.*
 - ii. *Upon receipt and review of the report, the office shall refer the application and supporting information to the commission for consideration.*
- (b) *Additional standards and requirements for the application process shall be established by the office through the promulgation of administrative regulations in accordance with KRS Chapter 13A.*
- (3)
 - (a) *The commission may request any materials and make any inquiries concerning an application that the commission deems necessary.*
 - (b) *The commission shall, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, establish commercially reasonable limitations on the financing costs that may be recovered under the provisions of Section 18 of this Act.*
 - (4) *Upon review of an application and other information available, the commission may pledge all or a portion of the state real property ad valorem tax incremental revenue of the Commonwealth or state tax revenues attributable to the footprint of the project, as limited by Section 17, 18, or 19 of this Act, whichever is applicable.*
 - (a) *If incremental revenues are pledged from less than one hundred percent (100%) of the footprint of the project, a description of the included portion of the development area shall be provided.*
 - (b) *State tax revenues from the development area that have not been pledged to projects within the development area may be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860, provided that state tax revenues shall not be pledged more than once during the existence of the development area. Thus, state tax revenues pledged to support increment bonds issued for the development area, or a project in the development area shall not be pledged to support any other development area, project, program, development, or undertaking during the life of the development area. If less than one hundred percent (100%) of incremental revenues are pledged pursuant to the provisions of Sections 1 to 22 of this Act, the remaining incremental revenues shall not be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860.*
 - (5) *The pledge of incremental state real property ad valorem tax revenues or state tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, as the case may be, in accordance with Section 20 of this Act.*
 - (6)
 - (a) *The commission shall engage the services of a qualified independent outside consultant or financial adviser to analyze the data related to the project and the development area and prepare the report required by subsection (2) of this section. The report shall include the following:*
 1. *The estimated approved public infrastructure costs for the project and, if relevant, approved signature project costs, financing costs, and costs associated with land preparation, demolition, and clearance;*
 2. *The feasibility of the project, taking into account the scope and location of the project;*

3. *The estimated amount of local tax revenues and state tax revenues, as applicable, that would be generated by the project over the period, which may be up to twenty (20) years or thirty (30) years, as applicable, from the activation date;*
 4. *The estimated amount of local tax revenues and state tax revenues, as applicable, that would be displaced within the Commonwealth, for the purpose of quantifying economic activity which is being shifted over the same period as that set forth in subparagraph 3. of this paragraph. The projections for displaced activity shall include economic activity that is lost to the Commonwealth as a result of the project, as well as economic activity that is diverted to the project that formerly took place at existing establishments within the Commonwealth prior to the commencement date of the project;*
 5. *The estimated amount of local and state old revenues that would have been generated in the footprint of the project in the absence of the project, computed over the same time period as set forth in subparagraph 3. of this paragraph;*
 6. *In the process of estimating the revenues and impacts prescribed in subparagraphs 3. and 4. of this paragraph, the independent outside consultant shall not consider any of the following:*
 - a. *Revenues or economic impacts associated with any projects within the development area where the new project will be located; and*
 - b. *Revenues or economic impacts associated with economic development projects and approved Kentucky Tourism Development Act projects under KRS Chapter 148;*
 7. *The relationship of the estimated incremental revenues to the financing needs, including any increment bonds, of the project;*
 8. *When estimating the fiscal impact of the project, the consultant shall evaluate the amount of revenue estimated in subparagraph 3. of this paragraph and shall deduct the amounts estimated in subparagraphs 4. and 5. of this paragraph. The resulting difference shall be compared to the estimated incremental revenues to determine the presence or absence of a positive fiscal impact; and*
 9. *A determination that the project will not occur if not for the designation of the development area, the granting of incremental revenues by the taxing district or districts, other than the Commonwealth, and the granting of the state tax incremental revenues.*
- (b)
1. *The independent consultant or financial advisor shall consult with the Office of State Budget Director, and the Finance and Administration Cabinet in the development of the report.*
 2. *The Office of State Budget Director and the office, in collaboration with the independent consultant or financial advisor, shall agree on a methodology to be used and assumptions to be made by the independent consultant or financial consultant in preparing its report.*
 3. *On the basis of the independent consultant's report and the other materials provided, prior to any approval of a project by the commission, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the commission whether there is a projected net positive economic impact to the Commonwealth and the expected amount of state tax incremental revenues from the project.*
 4. *The city, county, or agency making the application shall pay all costs associated with the independent consultant's or financial advisor's report.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commonwealth Participation Program for State Real Property Ad Valorem Tax Revenues is hereby established.*
- (2) *State participation under this program shall be limited to the support of approved public infrastructure costs determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements.*
- (3) *A project shall meet all of the following criteria to be considered for state participation under this program:*
 - (a) *The project shall represent new economic activity in the Commonwealth;*

- (b) *The project shall result in a minimum capital investment of ten million dollars (\$10,000,000); and*
- (c) *Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.*
- (4) *The commission shall review the application and supporting information as provided in Section 16 of this Act.*
- (5) *The commission may pledge up to one hundred percent (100%) of the Commonwealth's state real property ad valorem tax incremental revenue from the footprint of a project, provided that the maximum amount of incremental revenues that may be pledged during the term of the state participation agreement for a project shall not exceed one hundred percent (100%) of approved public infrastructure costs.*
- (6) *As part of the approval process, the commission shall determine the following:*
 - (a) *The footprint of the project;*
 - (b) *The maximum amount of approved public infrastructure costs;*
 - (c) *That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;*
 - (d) *The termination date of the project grant agreement, not to exceed twenty (20) years from the activation date; and*
 - (e) *Any adjustments to be made to old revenues in determining incremental revenues during each year of the term of the project grant agreement.*
- (7) *The pledge of incremental state real property ad valorem tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, in accordance with Section 20 of this Act.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The Signature Project Program is hereby established. The purpose of this program is to encourage private investment in the development of major projects that will have a significant impact on the Commonwealth of Kentucky and are judged to be of such a magnitude that the effect upon the location of such project warrants extraordinary public support.*
- (2) *There shall be two (2) separate initiatives under this program. The first initiative, the criteria and details of which are set forth in paragraph (a) of this subsection, shall apply to qualifying projects that are not the subject of a contract under KRS 65.495 in effect on or before the effective date of this Act, but that have a project grant agreement executed pursuant to Section 20 of this Act prior to January 1, 2008. The second initiative, the criteria and details of which are set forth in paragraph (b) of this subsection, shall apply to projects that meet the specified requirements on or after January 1, 2008.*
 - (a) *For projects that are not the subject of a contract under KRS 65.495 in effect on or before the effective date of this Act, but that have a project grant agreement executed pursuant to the provisions of Section 20 of this Act prior to January 1, 2008:*
 - 1. *The criteria for qualification shall be as follows:*
 - a. *The project shall represent new economic activity in the Commonwealth; and*
 - b. *The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000).*
 - 2. *The following provisions shall apply to projects that meet the criteria established in subparagraph 1. of this paragraph:*
 - a. *Section 6 of this Act shall not apply to the establishment of a development area;*
 - b. *The city or county in which the project is located shall adopt an ordinance establishing the development area. The ordinance shall be adopted in accordance with subsection (1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m) of Section 7 of this Act;*

- c. *Section 5, subsections (2) and (3) of Section 7 and Sections 9, 10, 11, 12, 13, and 14 of this Act, relating to local development areas, shall apply;*
 - d. *An application for state participation shall be submitted as provided in Section 16 of this Act. The application shall include the information required by subsection (2)(a)1.a. and b. of Section 16 of this Act;*
 - e. *The report provided for in subsection (2)(a)3.b. of Section 16 of this Act shall not be required, and the certification required by subsection (6)(b) of Section 16 of this Act shall not be required;*
 - f. *A project grant agreement shall be executed in accordance with Section 20 of this Act; and*
 - g. *Sections 21 and 22 of this Act shall apply.*
3. *Projects that meet the criteria established in subparagraph 1. of this paragraph shall be eligible for the following:*
- a. *Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use tax paid, may be recovered;*
 - b. *Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs may be recovered;*
 - c. *In a county containing a city of the first class, the local participation agreement may provide for the release of up to eighty percent (80%) of the increment from the tax levied under Section 27 of this Act derived by the governing body within the project development area. The amount released shall not exceed a base amount of four hundred thousand dollars (\$400,000) in the first year of the local participation agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%); and*
 - d. *Up to one hundred percent (100%) of approved signature project costs, excluding any sales and use taxes paid, subject to the following:*
 - i. *The commission shall review proposed expenditures for inclusion in the project grant agreement. The commission may approve the type of expenditures it determines are necessary for completion of the private development; and*
 - ii. *Approved signature project costs shall be detailed in the project grant agreement.*
- (b) *Beginning January 1, 2008:*
- 1. *A project shall meet all of the following criteria to be considered for state participation under this program:*
 - a. *The project shall represent new economic activity in the Commonwealth;*
 - b. *The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000);*
 - c. *The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of this Act; and*
 - d. *Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.*
 - 2. *Projects that meet the criteria established by subparagraph 1. of this paragraph shall comply with all relevant provisions of Sections 1 to 22 of this Act.*
 - 3. *Projects that meet the criteria established by subparagraphs 1. and 2. of this paragraph shall be eligible to recover:*

- a. *Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use taxes paid;*
 - b. *Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs; and*
 - c. *Up to one hundred percent (100%) of approved signature project costs, excluding sales and use taxes paid subject to the following:*
 - i. *The commission shall review proposed expenditures for inclusion in the project grant agreement. The commission may approve the type of expenditures it determines are necessary for completion of the private development; and*
 - ii. *Approved signature project costs shall be detailed in the project grant agreement.*
- (3) *The commission shall review the application, the certification required by Section 16 of this Act, if applicable, and supporting information as provided in Section 16 of this Act.*
- (4) *The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed one hundred percent (100%) of approved public infrastructure costs, approved signature project costs, and financing costs.*
- (5) *As part of the approval process, the commission shall determine the following:*
- (a) *The footprint of the project;*
 - (b) *The maximum amount of approved public infrastructure costs, approved signature project costs, and financing costs;*
 - (c) *That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;*
 - (d) *The termination date of the project grant agreement, not to exceed thirty (30) years from the activation date;*
 - (e) *Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement; and*
 - (f) *Any approved signature project costs;*
- (6) *For the purpose of making the certification required by subsection (2) of Section 28 of this Act, the commission shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined in subsection (1) of Section 28 of this Act, and shall establish an approximate percentage of the total anticipated expenditures that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the office to the Department of Revenue, which shall use the information in administering the sales tax refund permitted by Section 28 of this Act.*
- (7) *If state income taxes or local occupational license taxes are included for a project that includes office space, the commission shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.*
- (8) *The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of this Act.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The Commonwealth Participation Program for Mixed Use Redevelopment in Blighted Urban Areas is hereby established.*
- (2) *State participation under this program shall be limited to the support of approved public infrastructure costs and costs associated with land preparation, demolition, and clearance determined to be necessary to*

support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements, land preparation, demolition, and clearance.

(3) *As used in this section:*

(a) *"Mixed-use" means a project that includes at least two qualified uses;*

(b) *"Qualified use" means:*

1. *Retail;*
2. *Residential;*
3. *Office;*
4. *Restaurant; or*
5. *Hospitality.*

To be a qualified use, the use must comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and

(c) *"Retail" means an establishment predominantly engaged in the sale of tangible personal property subject to the tax imposed by KRS Chapter 139, but shall not include restaurants.*

(4) *To be considered for state participation under this program, a project shall:*

(a) *Be located in an area that has three (3) or more of the conditions listed in subsection (3) of Section 5 of this Act;*

(b) *Be a mixed use project;*

(c) *Represent new economic activity in the Commonwealth;*

(d) *Result in a capital investment between twenty million dollars (\$20,000,000) and two hundred million dollars (\$200,000,000);*

(e) *Not include any retail establishment that exceeds twenty thousand (20,000) square feet of finished square footage;*

(f) *Include pedestrian amenities and public space; and*

(g) *Result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of this Act.*

(5) *The following costs may be recovered pursuant to this section:*

(a) *Up to one hundred percent (100%) of approved public infrastructure costs; and*

(b) *Up to one hundred percent (100%) of expenses for land preparation, demolition, and clearance necessary for the development to occur.*

(6) *The commission shall review the application, the certification required by Section 16 of this Act, and supporting information as provided in Section 16 of this Act.*

(7) *The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed the costs and expenses determined under subsection (5) of this section.*

(8) *As part of the approval process, the commission shall determine the following:*

(a) *The footprint of the project;*

(b) *That the proposed project meets the requirements established by subsection (4) of this section;*

(c) *The maximum amount of approved public infrastructure costs and expenses for land preparation, demolition, and clearance;*

- (d) *That the local revenues pledged to support the public infrastructure of the project and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;*
 - (e) *The termination date of the project grant agreement; and*
 - (f) *Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.*
- (9) *If state income taxes or local occupational licenses taxes are included for a project that includes office space, the commission shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.*
- (10) *The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of this Act.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *The terms and conditions of the project grant agreement shall be negotiated between the commission and the agency. The project grant agreement shall include but not be limited to the following provisions:*
- (a) *Identification of the parties to the project grant agreement and the duties and responsibilities of each party to the project grant agreement;*
 - (b) *The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the project;*
 - (c) *1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the project grant agreement; and*
2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;
 - (d) *A detailed description of each project that is the subject of the project grant agreement, including an estimate of the costs of construction or acquisition and development;*
 - (e) *Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;*
 - (f) *The approved public infrastructure costs and, when applicable, approved signature project costs, approved financing costs, and approved costs relating to land preparation, demolition, and clearance that may be recovered;*
 - (g) *The minimum capital investment required, and the date by which the minimum capital investment is expected to occur;*
 - (h) *Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the project grant agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;*
 - (i) *The termination date;*
 - (j) *A requirement that the agency, city, or county annually certify to the office the use of incremental revenues for the payment of approved project costs within the development area;*
 - (k) *A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a project grant agreement that exceeds, in a given year, the amounts needed to:*
 - 1. Pay the current financing costs; and*
 - 2. Maintain a fully funded reserve;**to provide for the retirement or defeasance of all or a portion of the remaining financing costs related to approved public infrastructure costs, and approved signature project costs secured by the incremental revenues;*
 - (l) *A requirement that the agency, city, or county make periodic accountings to the office;*

- (m) *A requirement that the office monitor and verify approved public infrastructure costs, financing costs and approved signature project costs and minimum capital investment; and*
 - (n) *For a signature project, the eligible refund percentage for the sales tax as permitted under Section 28 of this Act, and as determined by the commission pursuant to subsection (6) of Section 18 of this Act; and*
 - (o) *Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the project grant agreement.*
- (2) *Any pledge of incremental revenues in a project grant agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a project grant agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.*
 - (3) *Any project grant agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the project grant agreement.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Prior to any incremental revenues being released by the Commonwealth for any project, the office shall certify that the minimum capital investment has been made as required by the project grant agreement.*
- (b) *Incremental revenues received after the activation date but prior to certification of the minimum capital investment being made shall be held in a non-interest bearing escrow account by the Commonwealth until the minimum capital investment is certified by the office. The incremental revenues shall be released to the agency upon certification. If the minimum capital investment is not certified within the time period established by the commission, the escrow shall be forfeited to the Commonwealth.*
- (2) *The office shall monitor all project grant agreements and shall verify for each project expenditure identified as approved public infrastructure costs and where applicable, financing costs, approved signature project costs and expenses for land preparation, demolition and clearance.*
- (3) *The office shall track the amount of incremental revenues released to each agency under each project grant agreement.*
- (4) *The office shall prepare a quarterly report for the commission updating the status of each project subject to a project grant agreement, including expenditures qualifying as approved public infrastructure costs and, where applicable, financing costs, approved signature project costs, and expenses for land preparation, demolition and clearance to date and incremental revenues from the Commonwealth released to date.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Any agency that enters into a local participation agreement, local development area agreement, or project grant agreement for the release of incremental revenues during the period of a local participation agreement, local development area agreement, or project grant agreement shall, after each calendar year, in which a local participation agreement, local development area agreement, or project grant agreement is in effect, notify each taxing district obligated under the local participation agreement or local development area agreement and the Commonwealth, if applicable, that incremental revenues are due and, in consultation with each taxing district, and the Commonwealth, if applicable, the agency shall determine the amount of incremental revenues due from each taxing district or the Commonwealth, if applicable.*
- (b) *The agency shall present to the office the total increment due from the Commonwealth. The office shall review and verify the information submitted and shall certify the verified amount.*
- (2) *Upon notice from the agency, each taxing district obligated under a local participation agreement or local development area agreement shall release to the agency the incremental revenues due under the local participation agreement or local development area agreement. The agency shall certify to the office on a calendar year basis the amount of incremental revenues collected.*

- (3) *Upon certification of the total incremental revenues due from the Commonwealth by the office, the Department of Revenue shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the office shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the project grant agreement. Upon notification, the Finance and Administration Cabinet shall release to the agency the Commonwealth's portion of the total incremental revenues due under the project grant agreement.*
- (4) *The Department of Revenue or local taxing district shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the taxing district's or Commonwealth's increment for that period.*

SECTION 23. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.490 to 65.499 shall apply only to development areas which were established by a county containing a city of the first class or a city of the first class prior to the effective date of this Act, and that are subject to the provisions of a grant contract, Interlocal Cooperation Agreement or Master Agreement executed prior to the effective date of this Act.

SECTION 24. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.680 to 65.699 shall apply only to development areas which are:

- (1) *Established under KRS 65.686 by a city or county prior to the effective date of this Act; and*
- (2) *Subject to the provisions of a grant contract executed prior to the effective date of this Act.*

Section 25. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 92.305 and 91.285, unless the context otherwise requires:

- (1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:
 - (a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or
 - (b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or
 - (c) Has been tax delinquent for a period of at least three (3) years; *or*
 - (d) *Is located within a development area established under Sections 5, 6, and 7 of this Act.*
- (2) For purposes of local taxation in cities of any class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of any class, county containing a city of the first class, or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city, county containing a city of the first class, or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 26. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
 - (a) *Office of the Commissioner of the Department of Revenue, which shall include but not be limited to the Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with*

the project agency in administering the grant contract and shall serve as the record keeping unit for all state tax increment financing projects;

- (b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;
- (c)~~(b)~~ Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
- (d)~~(e)~~ Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;
- (e)~~(d)~~ Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:
1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
 2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
 3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);
- (f)~~(e)~~ Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

~~(g)~~~~(f)~~ Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

~~(h)~~~~(g)~~ Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

Section 27. KRS 91A.390 is amended to read as follows:

- (1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.
- (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.
- (3) A portion of the money collected from the imposition of this tax, as determined by the ~~tax~~ tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, *including projects described in subsection (2)(a) of Section 18 of this Act*. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in

KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant, *except as provided in subsection (2)(a)3.c. of Section 18 of this Act*. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

- (4) A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the room rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the regular tax and shall be used for the purpose of funding additional promotion of tourist and convention business.
- (5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.
- (6) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.
- (7) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.
- (8) The fiscal court or legislative body of a consolidated local government or city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county, consolidated local government, or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.
- (9) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

SECTION 28. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (I) *As used in this section:*
 - (a) *"Agency" has the same meaning as in Section 3 of this Act;*
 - (b) *"Signature project" means a project that meets the requirements established by Section 18 of this Act; and*
 - (c) *"Tangible personal property used in the construction of a signature project" means tangible personal property that:*

1. *Consists of:*
 - a. *Permanently incorporated building materials and fixtures that are an improvement to real property on the signature project;*
 - b. *Building materials temporarily incorporated into the signature project for infrastructure support during construction; or*
 - c. *Temporarily incorporated specialized forms for concrete that are for exclusive use on the qualifying signature project; and*
 2. *Is not machinery or equipment.*
- (2) (a) *Notwithstanding any other provision of KRS Chapter 139 and KRS 134.580, the sales or use tax paid on the purchase of tangible personal property used in the construction of the portion of a signature project that does not relate to approved public infrastructure costs or approved signature project costs, as defined in Section 3 of this Act, may be refunded to the agency under the conditions established by subsection (3) of this section.*
 - (b) *The office, as defined in subsection (29) of Section (3) of this Act, shall notify the department upon the approval of a signature project. The notification shall include the name of the signature project, the name of the agency, the name of the project developer, the commencement date of the project grant agreement, and the percentage of total anticipated expenditures for tangible personal property used in the construction of a signature project that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs.*
 - (c) *The department shall determine the total amount of eligible refund by multiplying total sales and use tax paid during the period covered by the application by the percentage provided by the office under the provisions of paragraph (b) of this subsection reduced by the amount of vendor compensation taken in accordance with KRS 139.570.*
 - (3) *To qualify for the refund established by subsection (2) of this section, the agency shall collect from the purchasers of tangible personal property used in the construction of the signature project all documentation relating to the payment of sales or use tax, and shall file an application for refund of the sales or use tax paid by the purchasers as reflected in the documentation collected. Requests for refund shall be filed annually during the first twelve (12) years the project grant agreement is in effect, and shall cover purchases made during the immediately preceding year. Requests for refund shall be filed in the manner directed by the cabinet.*
 - (4) *The agency shall file the first year refund request within sixty (60) days following the end of the fiscal year in which the project grant agreement is executed. The agency shall file the final refund request within sixty (60) days following the end of the eleventh fiscal year following the fiscal year in which the project grant agreement was executed, or within sixty (60) days after construction is complete, whichever date is earlier. All other annual refund requests shall be filed within sixty (60) days after the completion of each fiscal year.*
 - (5) *Interest shall not be allowed or paid on any refund made under the provisions of this section.*
 - (6) *The agency shall execute information sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify construction material costs.*

Section 29. Whereas there are some projects that need to begin immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 23, 2007.