

CHAPTER 178**(HB 611)**

AN ACT relating to tax increment financing.

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

➔Section 1. KRS 65.7043 is amended to read as follows:

The purposes of KRS 65.7041 to 65.7083 are as follows:

- (1) KRS 65.7047 provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and **to** devote local resources to support the development of projects in those local development areas. Local development areas established under KRS 65.7047 and projects within local development areas shall not be eligible for participation by the Commonwealth; **and**
- (2) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and counties to establish development areas **for the redevelopment of previously developed land** 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 KRS 65.7049, 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by **Subchapter 30 of KRS Chapter 154**~~[KRS 65.7041 to 65.7083; and~~
- ~~(3) KRS 65.7071, 65.7073, 65.7075, 65.7077, 65.7079, and 65.7081 establish the requirements that must be met by a project within a development area for the project to receive participation from the Commonwealth].~~

➔Section 2. KRS 65.7045 is amended to read as follows:

As used in KRS 65.7041 to 65.7083:

- (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) **"Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010**~~["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 floodgates;~~
 - ~~(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) — Riverbank 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];~~
- ~~(4){(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;
- ~~(5){(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 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;
- ~~(6){(7)}~~ "City" means any city, consolidated local government, or urban-county government;
- ~~(7){(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 KRS 65.7069;]~~
- (8)~~(10)~~ "Commonwealth" means the Commonwealth of Kentucky;
- (9)~~(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;]~~
- (10)~~(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;
- (11)~~(14)~~ "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (12)~~(15)~~ "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;
- (13)~~(16)~~ "Establishment date" means the date on which a development area or a local development area is created. If the development area, *local development area*, development area plan, or local development area *plan* 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 KRS 65.7041 to 65.7083 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 KRS 65.7075;~~
- (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;]~~
- (14)~~(19)~~ "Governing body" means the body possessing legislative authority in a city or county;
- (15)~~(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 subsection (28)~~(35)~~(c) of this section, in a development area or a local development area;
- (16)~~(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;]~~
- (17)~~(22)~~ "Issuer" means a city, county, or agency issuing increment bonds;
- (18)~~(23)~~ "Local development area" means a development area established under KRS 65.7047;
- (19)~~(24)~~ "Local development area agreement" means an agreement entered into under KRS 65.7047;
- (20)~~(25)~~ "Local participation agreement" means the agreement entered into under KRS 65.7063;
- (21)~~(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 *license* taxes, excluding occupational *license* taxes that have already been pledged to support an economic development project within the development area; and
 3. ***The occupational license fee permitted by Section 8 of this Act; and***
- (b) Revenues derived by any taxing district other than school districts or fire districts from real property ad valorem taxes;
- (22)~~{(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);
- (23)~~{(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 KRS 131.020;}
- (24)~~{(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 ***governing body***~~{office}~~ determines that the amount of ***local***~~{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 ***governing body***~~{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 ***local***~~{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 the 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.}~~
- (25)~~{(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;

- ~~(26)~~~~(32)~~ "Planning unit" means a planning commission established pursuant to KRS Chapter 100;
- ~~(27)~~~~(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 KRS 65.7073, 65.7075, or 65.7077 if incremental revenues from the Commonwealth are to be included;~~
- ~~(34) "Project grant agreement" means an agreement entered into under KRS 65.7079;~~
- ~~(28)~~~~(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;
- ~~(29)~~~~(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 ~~KRS 65.7075~~;
- ~~(30)~~~~(38)~~ "Special fund" means a special fund created under KRS 65.7061 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;
- ~~(31)~~~~(41)~~ "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; ~~and~~
- ~~(32)~~ "***Tax incentive agreement***" means ***an agreement entered into under Section 20 of this Act; and***
- ~~(33)~~~~(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 ***tax incentive*** ~~[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 ***tax incentive*** ~~[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; ***and***
 - (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 KRS 65.7073, or 65.7077, 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 KRS 65.7075, 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 3. KRS 65.7047 is amended 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 ~~on~~ⁱⁿ 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 KRS 65.7057.
- (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 KRS 65.7061, 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 KRS 65.7041 to 65.7083 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 4. KRS 65.7051 is amended 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 KRS 65.7049(1) and (2), identification of the conditions in the proposed development area that meet the criteria set forth in KRS 65.7049(3), and confirmation that the requirements of KRS 65.7049(4) 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, *a legal description of the development area, and geographic reference points*;
 - (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 KRS 65.7053.

➔Section 5. KRS 65.7053 is amended to read as follows:

- (1) An ordinance establishing a development area shall include the following provisions:
 - (a) A *legal* description of the boundaries of the development area, *and geographic reference points*;
 - (b) The establishment date;
 - (c) The termination date, including a provision that allows the termination date to be extended as provided in *subsection (33) of Section 2 of this Act* ~~[KRS 65.7045(42)]~~;
 - (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 KRS 65.7049;
 - (f) A finding supporting the need to employ redevelopment assistance in the development area;
 - (g) A provision adopting the development plan required by KRS 65.7051(1);
 - (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 *authority*~~[office]~~ if the development activity includes projects subject to a *tax incentive*~~[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 6. KRS 65.7055 is amended to read as follows:

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to KRS 65.7049, 65.7051, and 65.7053, 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, ***a revised legal description of the development area, and revised geographic reference points, and identification of new***~~[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 KRS 65.7051(2) and (3). 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 7. KRS 65.7057 is amended 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 *or* 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 city, county, or combination of cities and counties establishing a development area or a local development area may pledge revenues collected pursuant to the occupational license fee permitted by Section 8 of this Act.*
- (5) 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 KRS 65.7063.
- ~~(6)(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 KRS 65.7047.

➔SECTION 8. A NEW SECTION OF KRS 65.7041 TO 65.7083 IS CREATED TO READ AS FOLLOWS:

- (1) *Any city, county, or combination of cities and counties establishing a development area or local development area may, as a condition of employment, impose an occupational license fee against each person employed in the development area or local development area through the adoption of an ordinance imposing such fee. The imposition of the fee shall be subject to the following:*
- (a) *The occupational license fee shall be imposed only against persons whose jobs are newly created as a result of a project within the development area or local development area. A job is not newly created if it occurs due to the relocation of a job from another location within the Commonwealth;*
 - (b) *The person against whom the assessment is imposed shall be subject to the state tax imposed by KRS 141.020;*
 - (c) *The assessment or any combination of assessments imposed by a city, a county, or a combination of cities and counties within the development area or local development area shall not exceed two percent (2%) of gross wages of the person; and*
 - (d) *The imposition of a fee shall be reported to the Kentucky Economic Development Finance Authority established by KRS 154.20-010.*
- (2) (a) *Each person against whom an assessment is imposed shall be entitled to a credit against any jurisdictionwide local occupational license fee levied by the city, county, or combination of cities and counties that established the development area or local development area if the jurisdictionwide levy has not previously been made available as a credit against assessments imposed under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154.*
- (b) *The amount of the credit shall not exceed the amount of the jurisdictionwide occupational license fee paid to that city, county, or combination of cities and counties by the person subject to the assessment.*
 - (c) *If the city, county, or combination of cities and counties imposing the occupational license fee within the development area or local development area does not levy a jurisdictionwide occupational license fee, the employee shall not be entitled to a credit against any other city's or county's occupational license fee or any income tax levied by the Commonwealth.*
- (3) *Each employer in the development area or local development area shall, for each employee subject to an occupational license fee levied pursuant to this section:*
- (a) *Collect the occupational license fee by deducting the occupational license fee from each paycheck of its employees;*
 - (b) *Promptly remit the occupational license fee to the official charged with collecting revenues in the development area or local development area;*
 - (c) *Make its payroll books and records available to the official charged with collecting revenues in the development area or local development area at a reasonable time as specified by the city, county, or cities and counties establishing the development area or local development area; and*
 - (d) *File with the official charged with collecting revenues in the development area or local development area any documentation with regard to the occupational license fee as required by the city, county, or cities and counties establishing the development area or local development area.*
- (4) *Any assessment of a person under this section shall permanently lapse on the earlier of:*
- (a) *The termination date;*
 - (b) *The date on which any bonds issued in connection with the project are retired; or*
 - (c) *The date on which any loans or other financing incurred in connection with the establishment of the development area or local development area mature or are paid in full.*
- (5) *If a company, against whose employees an assessment is levied under this section, enters into an agreement with the economic development authority under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154 allowing the company to impose a job development assessment fee as part of that agreement, the total assessment levied against the employee for state inducements and the development area or local development area shall not exceed six percent (6%), subject to subsection (6) of this section.*

- (6) *If an eligible company under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154 locates or expands within a development area or local development area, the assessment imposed under this section shall not exceed the lesser of two percent (2%) or the difference between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154.*

➔Section 9. KRS 65.7061 is amended to read as follows:

During any time when incremental revenues have been pledged pursuant to a local participation agreement ~~or~~ 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 KRS 65.7083.
- (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, **and** 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 10. KRS 65.7063 is amended 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, **or wage assessments 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, **including a legal description of the parcels included in 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 KRS 65.7061, 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 KRS 65.7041 to 65.7083 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 11. KRS 65.7083 is amended to read as follows:

- (1) ~~(a)~~ Any agency that enters into a local participation agreement ~~or~~ local development area agreement ~~or project grant agreement~~ for the release of incremental revenues during the period of a local participation agreement ~~or~~ local development area agreement ~~or project grant agreement~~ shall, after each calendar year, in which a local participation agreement ~~or~~ 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 ~~authority~~ *office* on a calendar year basis the amount of incremental revenues ~~and occupational license fees~~ collected ~~where applicable.~~
- ~~(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 12. A NEW SECTION OF KRS 65.7041 TO 65.7083 IS CREATED TO READ AS FOLLOWS:

- (1) *Oversight and responsibility for the Commonwealth's participation in tax increment financing shall be transferred from the Tax Increment Financing Commission to the Kentucky Economic Development Finance Authority, established by KRS 154.20-10, on the effective date of this Act.*
- (2) *On and after the effective date of this Act, the Tax Increment Financing Commission and the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue shall cease to exist.*

- (3) *All documentation and records relating to state participation in all tax increment financing programs and all agreements authorized by all prior and existing statutes shall be transferred by the Tax Increment Financing Commission and the Division of Tax Increment Financing to the Kentucky Economic Development Finance Authority.*
- (4) *The Division of Tax Increment Financing shall obtain authorization from all affected entities prior to the transfer of any confidential tax information to the Kentucky Economic Development Finance Authority.*
- (5) *Members of the Tax Increment Financing Commission and staff of the Division of Tax Increment Financing shall cooperate fully with the Kentucky Economic Development Finance Authority in the transfer of all necessary records and information.*
- (6) *Tax increment financing projects established under prior tax increment financing laws and agreements entered into under prior tax increment financing laws shall be administered and interpreted in accordance with the law in effect at the time the project was approved and the agreement entered into.*

➔Section 13. KRS 139.515 is amended to read as follows:

- (1) As used in this section:
 - (a) "Agency" has the same meaning as in *Section 14 of this Act*~~[KRS 65.7045]~~;
 - (b) "Signature project" means a project that meets the requirements established by *Section 18 of this Act*~~[KRS 65.7075]~~; 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 14 of this Act*~~[KRS 65.7045]~~, may be refunded to the agency under the conditions established by subsection (3) of this section.
 - (b) The ~~authority~~~~office~~, as defined in *Section 14 of this Act*~~[KRS 65.7045(29)]~~, 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 ~~tax incentive~~~~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 *due under each application for refund based upon the actual percentage of total 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 reported in the refund request*~~[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) (a) 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.
- (b) *Failure to file a refund request within the timeframes provided in paragraph (a) of this subsection shall result in an adjustment to the refund amount paid as follows:*
1. *For late refund requests filed within the first one hundred twenty (120) days after the request was due, for each month or portion thereof that the refund request is late, the refund amount shall be reduced by one twelfth (1/12) of the total amount determined by the department to be due to the agency.*
 2. *Any refund request filed more than one hundred twenty (120) days after the timeframes provided in paragraph (a) of this subsection shall be rejected and no refunds shall be paid for the time period covered by the request.*
- (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 14. Subchapter 30 of KRS Chapter 154 is hereby established, and KRS 65.7045 is repealed, reenacted and amended as a new section thereof to read as follows:

As used in *this subchapter* ~~[KRS 65.7041 to 65.7083]:~~

- (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 *tax incentive* ~~[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 floodgates;
 - (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) Riverbank 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) **"Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010**~~["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 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;
- ~~(b)~~ The date on which a local participation agreement is executed; or
- ~~(c)~~ the date on which a *tax incentive*~~[project grant]~~ agreement is executed;
- ~~(9)~~ "Commission" means the State Tax Increment Financing Commission established by KRS 65.7069;
- ~~(10)~~ "Commonwealth" means the Commonwealth of Kentucky;
- ~~(10)~~~~(11)~~ "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- ~~(11)~~~~(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;
- ~~(12)~~ "*Department*" means the *Department of Revenue*~~(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;
- ~~(13)~~~~(14)~~ "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- ~~(14)~~~~(15)~~ "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 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 KRS 65.7041 to 65.7083 from the original establishment date;
- ~~(15)~~~~(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*~~[KRS 65.7075]~~;
- ~~(16)~~~~(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;
- ~~(17)~~~~(19)~~ "Governing body" means the body possessing legislative authority in a city or county;
- ~~(18)~~~~(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 subsection (35)(c) of this section, in a development area or a local development area~~;
- ~~(19)~~~~(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, *or* 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 KRS 65.7047;
- ~~(24)~~ "Local development area agreement" means an agreement entered into under KRS 65.7047;
- ~~(20)~~~~(25)~~ "Local participation agreement" means the agreement entered into under KRS 65.7063;
- ~~(21)~~~~(26)~~ "Local tax revenues" *has the same meaning as in Section 2 of this Act* ~~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);~~
- (22)~~(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 KRS 131.020;~~
- (23)~~(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 *within* ~~from~~ the footprint ~~of a project~~ during the last calendar year prior to the commencement date. If the *authority* ~~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 *authority* ~~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 *authority* ~~office~~ shall be specified in the *tax incentive* ~~project grant~~ agreement. If state tax revenues were derived from the footprint ~~of the 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 *authority* ~~office~~.

The method for increasing old revenues shall be set forth in the *tax incentive* ~~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.
- (24)~~(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;}~~

~~(25){(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* ~~[KRS 65.7073, 65.7075, or 65.7077 if incremental revenues from the Commonwealth are to be included];~~

~~{(34) "Project grant agreement" means an agreement entered into under KRS 65.7079;~~

~~(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.;~~
- (26)~~(37)~~ "Signature project" means a project approved under *Section 18 of this Act*~~[KRS 65.7075];~~
- ~~(38) "Special fund" means a special fund created under KRS 65.7061 in which all incremental revenues shall be deposited.;~~
- (27)~~(39)~~ "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);
- (28)~~(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;
- (29) *"Tax incentive agreement" means an agreement entered into in accordance with Section 20 of this Act*~~(41) — "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; and~~
- (30)~~(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 *tax incentive*~~[project grant]~~ agreement satisfying the requirements of *Sections 17 or 19 of this Act*~~[KRS 65.7073, or 65.7077]~~, a date established by the *tax incentive*~~[project grant]~~ agreement that is no more than twenty (20) years from the activation date. However, the termination date for a *tax incentive*~~[project grant]~~ agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the *tax incentive*~~[project grant]~~ agreement relates; and
- (b)~~(f)~~ For a project grant agreement satisfying the requirements of *Section 18 of this Act*~~[KRS 65.7075]~~, a date established by the *tax incentive*~~[project grant]~~ agreement that is no more than thirty (30) years from the activation date. However, the termination date for a *tax incentive*~~[project grant]~~ agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the *tax incentive*~~[project grant]~~ agreement relates.

➔SECTION 15. A NEW SECTION OF SUBCHAPTER 30 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that the establishment of 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 this subchapter, and the purposes to be accomplished thereunder are proper.*

➔Section 16. KRS 65.7071 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 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*~~[KRS 65.7073]~~, 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*~~[KRS 65.7075]~~, is the Signature Projects Program. The third program, the criteria and details of which are set forth in *Section 19 of this Act*~~[KRS 65.7077]~~, 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 KRS 65.7049, 65.7051, and 65.7053, or an agency designated as the entity managing a development area established pursuant to KRS 65.7049, 65.7051, and 65.7053, may submit an application to the *authority*~~[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 *authority*~~[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 KRS 65.7049.
 2. The *staff of the authority*~~[office]~~ shall review the application to determine if the applicant has met all of the statutory and regulatory requirements established by *this subchapter*~~[KRS 65.7041 to 65.7083]~~ 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 *authority*~~[commission]~~ for approval.
 3. a. Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to *Section 17 of this Act*~~[KRS 65.7073]~~, along with any supporting materials, shall be referred by the *staff of the authority to the authority*~~[office to the commission]~~ for consideration.

- b. i. Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to **Subsection (2)(b) of Section 18 or Section 19 of this Act**~~[KRS 65.7075(2)(b) or 65.7077]~~ 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 **staff of the authority**~~[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 **staff of the authority**~~[office]~~ shall refer the application and supporting information to the **authority**~~[commission]~~ for consideration.
- (b) Additional standards and requirements for the application process shall be established by the **authority**~~[office]~~ through the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (3) (a) The **authority**~~[commission]~~ may request any materials and make any inquiries concerning an application that the **authority**~~[commission]~~ deems necessary.
- (b) The **authority**~~[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**~~[KRS 65.7075]~~.
- (4) Upon review of an application and other information available, the **authority**~~[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**~~[KRS 65.7073, 65.7075, or 65.7077]~~, 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 **this subchapter**~~[KRS 65.7041 to 65.7083]~~, 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 **authority**~~[commission]~~ shall be implemented through the execution of a **tax incentive**~~[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**~~[KRS 65.7079]~~.
- (6) (a) The **authority**~~[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 *staff of the authority*~~[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 *authority*~~[commission]~~, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the *authority*~~[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. KRS 65.7073 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 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 ~~authority~~~~commission~~ shall review the application and supporting information as provided in **Section 16 of this Act**~~[KRS 65.7071]~~.
- (5) The ~~authority~~~~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 ~~authority~~~~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 ~~authority~~~~commission~~ shall be implemented through the execution of a **tax incentive**~~project grant~~ agreement between the Commonwealth and the agency, city, or county, in accordance with **Section 20 of this Act**~~[KRS 65.7079]~~.

➔Section 18. KRS 65.7075 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 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 March 23, 2007, but that have a project grant agreement executed pursuant to **Section 20 of this Act**~~[KRS 65.7079]~~ 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 March 23, 2007, but that have a project grant agreement executed pursuant to the provisions of **Section 20 of this Act**~~[KRS 65.7079]~~ 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. KRS 65.7051 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 KRS 65.7053(1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m);
 - c. KRS 65.7049, 65.7053(2) and (3), 65.7057, 65.7059, 65.7061, 65.7063, 65.7065, and 65.7067, relating to local development areas, shall apply;
 - d. An application for state participation shall *have been*~~be~~ submitted as provided in *Section 16 of this Act*~~KRS 65.7071~~. The application shall include the information required by *subsection (2)(a)1.a. and b. of Section 16 of this Act*~~KRS 65.7071(2)(a)1.a. and b.~~;
 - e. The report provided for in *subsection (2)(a)3.b. of Section 16 of this Act*~~KRS 65.7071(2)(a)3.b.~~ shall not be required, and the certification required by *subsection (6)(b) of Section 16 of this Act*~~KRS 65.7071(6)(b)~~ shall not be required;
 - f. A project grant agreement shall be executed in accordance with *Section 20 of this Act*~~KRS 65.7079~~; and
 - g. *Section 21*~~KRS 65.7081~~ and *Section 22 of this Act*~~65.7083~~ 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 KRS 91A.390 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 *authority*~~commission~~ shall review proposed expenditures for inclusion in the *tax incentive*~~project grant~~ agreement. The *authority*~~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 *tax incentive*~~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*~~KRS 65.7071(6)(b)~~; 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 *this subchapter* ~~[KRS 65.7041 to 65.7083]~~.
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 *authority* ~~[commission]~~ shall review proposed expenditures for inclusion in the *tax incentive* ~~[project grant]~~ agreement. The *authority* ~~[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 *tax incentive* ~~[project grant]~~ agreement.
- (3) The *authority* ~~[commission]~~ shall review the application, the certification required by *Section 16 of this Act* ~~[KRS 65.7071]~~, if applicable, and supporting information as provided in *Section 16 of this Act* ~~[KRS 65.7071]~~.
- (4) The *authority* ~~[commission]~~ shall specifically identify the state taxes from which incremental revenues will be pledged. The *authority* ~~[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 *tax incentive* ~~[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 *authority* ~~[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 *tax incentive* ~~[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 *determination* ~~[certification]~~ required by *subsection (2) of Section 13 of this Act*, the *authority* ~~[KRS 139.515(2), the commission]~~ shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined in KRS 139.515(1), and shall establish an approximate percentage of the total anticipated expenditures that are not included in the *tax incentive* ~~[project grant]~~ agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the *authority* ~~[office]~~ to the Department of Revenue, which shall use the information in administering the sales tax refund permitted by KRS 139.515.

- (7) If state income taxes or local occupational license taxes are included for a project that includes office space, the ~~authority~~~~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 ~~authority~~~~commission~~ shall be implemented through the execution of a ~~tax incentive~~~~project grant~~ agreement between the Commonwealth and the agency, city, or county in accordance with ~~Section 20 of this Act~~~~KRS 65.7079~~.

➔Section 19. KRS 65.7077 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 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 (2) 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 KRS 65.7049(3);
 - (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 ~~authority~~~~commission~~ as required by ~~subsection (6)(b) of Section 16 of this Act~~~~KRS 65.7071(6)(b)~~.
- (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* ~~[KRS 65.7071]~~, and supporting information as provided in *Section 16 of this Act* ~~[KRS 65.7071]~~.
- (7) The *authority* ~~[commission]~~ shall specifically identify the state taxes from which incremental revenues will be pledged. The *authority* ~~[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 *tax incentive* ~~[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 *authority* ~~[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 *tax incentive* ~~[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 *tax incentive* ~~[project grant]~~ agreement.
- (9) If state income taxes or local occupational licenses taxes are included for a project that includes office space, the *authority* ~~[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 *authority* ~~[commission]~~ shall be implemented through the execution of a *tax incentive* ~~[project grant]~~ agreement between the Commonwealth and the agency, city, or county in accordance with *Section 20 of this Act* ~~[KRS 65.7079]~~.

➔Section 20. KRS 65.7079 is amended to read as follows:

- (1) The terms and conditions of the *tax incentive* ~~[project grant]~~ agreement shall be negotiated between the *authority* ~~[commission]~~ and the agency. The *tax incentive* ~~[project grant]~~ agreement shall include but not be limited to the following provisions:
- (a) Identification of the parties to the *tax incentive* ~~[project grant]~~ agreement and the duties and responsibilities of each party to the *tax incentive* ~~[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 *tax incentive* ~~[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 *tax incentive* ~~[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 **tax incentive**~~[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 **authority**~~[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 **tax incentive**~~[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 **authority**~~[office]~~;
 - (m) A requirement that the **authority**~~[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 KRS 139.515, and as determined by the **authority**~~[commission]~~ pursuant to KRS 65.7075(6); and
 - (o) Any other provisions not inconsistent with **this subchapter**~~[KRS 65.7041 to 65.7083]~~ deemed necessary or appropriate by the parties to the **tax incentive**~~[project grant]~~ agreement.
- (2) Any pledge of incremental revenues in a **tax incentive**~~[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 **tax incentive**~~[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 **tax incentive**~~[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 **tax incentive**~~[project grant]~~ agreement.

➔Section 21. KRS 65.7081 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 to read as follows:

- (1) (a) Prior to any incremental revenues being released by the Commonwealth for any project, the **authority**~~[office]~~ shall certify that the minimum capital investment has been made as required by the **tax incentive**~~[project grant]~~ agreement.
- (b) Incremental revenues received after the activation date but prior to certification of the minimum capital investment~~[being made]~~ shall be **retained**~~[held in a non interest bearing escrow account]~~ by the Commonwealth until the minimum capital investment is certified by the **authority**~~[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 **authority, the incremental revenues**~~[commission, the escrow]~~ shall be forfeited to the Commonwealth.
- (2) The **authority**~~[office]~~ shall monitor all **tax incentive**~~[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 **authority**~~[office]~~ shall track the amount of incremental revenues released to each agency under each **tax incentive**~~[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 SUBCHAPTER 30 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Any agency that enters into a tax incentive agreement for the release of incremental revenues shall, after each calendar year, in which a tax incentive agreement is in effect, notify the authority that incremental revenues are due, and in consultation with the authority, the agency shall determine the amount of the incremental revenues due from the Commonwealth.*
- (b) *The agency shall present to the authority the total increment due from the Commonwealth. The authority shall review and verify the information submitted and shall certify the verified amount.*
- (2) *Upon certification of the total incremental revenues due from the Commonwealth by the authority, 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 authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the tax incentive 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 tax incentive agreement.*
- (3) *The Department of Revenue 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 Commonwealth's increment for that period.*

➔Section 23. 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 recordkeeping 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) 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) 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) 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) 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) 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) 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 24. KRS 154.01-010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Agribusiness" or "agricultural business entity" means any person, partnership, limited partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;
- (2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;
- (3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;
- (4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;
- (5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;
- (6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs, including but not limited to engineering, architectural, legal, and accounting fees which are necessary for the project;
- (9) "Local and regional economic development interest" means any local business or economic development interest, including but not limited to chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;
- (10) "Industrial entity" means any corporation, limited liability company, partnership, limited partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;
- (11) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, including repair, restoration, or conversion of tobacco warehouses, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

- (12) "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including but not limited to secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;
- (13) "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;
- (14) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;
- (15) "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;
- (16) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;
- (17) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;
- (18) "Person" means an individual, partnership, joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;
- (19) "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;
- (20) (a) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise.
- (b) "Project" shall include but is not limited to agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; repair, restoration, or conversion of tobacco warehouses for an economic development or commercial use; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities.
- (c) Except for airport-related facilities, *and tax increment financing projects approved under Subchapter 30 of this chapter*, "project" shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;
- (21) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- (22) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (20) of this section;
- (23) "Reclamation development plan" means a plan submitted to the Environmental and Public Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development

Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;

- (24) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;
- (25) "State" means the Commonwealth of Kentucky; and
- (26) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, the limited liability entity tax imposed by KRS 141.0401, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

➔Section 25. KRS 154.20-033 is amended to read as follows:

The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Subchapters 20 to 28 **and 30** of this chapter, including but not limited to:

- (1) Employing fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incident to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan, grant, assessment, incentive, inducement, or tax credit under this chapter directly to the person providing consultation, advisory, legal or other services; and
- (2) Imposing and collecting fees and charges in connection with any transaction and providing for reasonable penalties for delinquent payment of fees and charges.

➔Section 26. 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 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**~~[KRS 65.7075(2)(a)]~~. 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**~~[KRS 65.7075(2)(a)3.e.]~~ 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.

Signed by Governor April 24, 2008.