

CHAPTER 36**(HB 260)**

AN ACT relating to tax increment financing.

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

➔Section 1. KRS 154.30-050 is amended 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 KRS 154.30-070 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 KRS 154.30-070 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 submitted as provided in KRS 154.30-030. The application shall include the information required by KRS 154.30-030(2)(a) 1.a. and b.;
 - e. The report provided for in KRS 154.30-030(2)(a) 3.b. shall not be required, and the certification required by KRS 154.30-030(6)(b) shall not be required;
 - f. A project grant agreement shall be executed in accordance with KRS 154.30-070; and
 - g. KRS 154.30-080 and 154.30-090 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.

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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 shall review proposed expenditures for inclusion in the tax incentive agreement. The authority 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 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 KRS 154.30-030(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.
 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 shall review proposed expenditures for inclusion in the tax incentive agreement. The authority 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 agreement.
 - (3) The authority shall review the application, the certification required by KRS 154.30-030, if applicable, and supporting information as provided in KRS 154.30-030.
 - (4) The authority shall specifically identify the state taxes from which incremental revenues will be pledged. The authority may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the tax incentive 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 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 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 required by KRS 139.515(2), the authority 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 agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the authority 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 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 shall be implemented through the execution of a tax incentive agreement between the Commonwealth and the agency, city, or county in accordance with KRS 154.30-070.
- (9) ***Notwithstanding the minimum capital investment of two hundred million dollars (\$200,000,000) required by subsection (2)(b)1.b. of this section, the authority may, upon application of an agency that:***
- (a) ***Was approved to proceed with a project after January 1, 2008, but before January 1, 2013, that, at the time of approval pledged to make the two hundred million dollar (\$200,000,000) investment requirement; and***
 - (b) ***Had a consultant report prepared pursuant to KRS 154.30-030(6);***
- approve a reduction in the required minimum capital investment to an amount not less than one hundred fifty million (\$150,000,000), subject to a corresponding adjustment of the maximum incremental revenue available for recovery as appropriate, based upon the recommendation of the consultant who prepared the report pursuant to KRS 154.30-030(6).***

Signed by Governor March 19, 2013.