

CHAPTER 105

(HB 542)

AN ACT relating to tax increment financing.

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

➔Section 1. KRS 154.30-060 is amended 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:
 1. That includes at least two (2) qualified uses; *or*
 2. *That meets the requirements established by paragraph (b)2.b. of this subsection;*
 - (b) 1. "Qualified use" means:
 - a.~~{1.}~~ Retail;
 - b.~~{2.}~~ Residential;
 - c.~~{3.}~~ Office;
 - d.~~{4.}~~ Restaurant; *or*
 - e.~~{5.}~~ Hospitality.
 2. a. *Except as otherwise provided in paragraph (b)2.b. of this subsection,* 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
 - b. *In any location within the territory of a consolidated local government or an urban-county government, a project whose uses do not meet the requirements of paragraph (b)2.a. of this subsection may qualify as a mixed-use project if all of the following apply:*
 - i. *The project includes at least three (3) of the uses listed in paragraph (b)1. of this subsection;*
 - ii. *One (1) of those uses meets the requirements of paragraph (b)2.a. of this subsection; and*
 - iii. *The other uses, when combined, jointly 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)(a), or be a project described in KRS 65.7049(3)(b);
 - (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 as required by KRS 154.30-030(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 KRS 154.30-030, and supporting information as provided in KRS 154.30-030.
- (7) 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 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 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 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 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 agreement.
- (9) If state income taxes or local occupational licenses 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.
- (10) 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.

Signed by Governor April 10, 2014.