

CHAPTER 174**(HB 388)**

AN ACT relating to governmental regulatory authority and declaring an emergency.

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) (a) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and counties:
 1. To establish development areas for:
 - a. The redevelopment of previously developed land within their jurisdictional boundaries; and
 - b. The development of previously undeveloped land, if:
 - i. The project proposed for the development area includes an arena as part of the proposed development;
 - ii. The project is a mixed-use development located in a university research park;
 - iii. The project is a mixed-use development located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty-five thousand (25,000) military personnel, their families, military retirees, or civilian employees;~~or~~
 - iv. The project is a mixed-use development which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof; ~~or~~~~and~~
 - v. *The project is a mixed-use development that includes a tract of previously undeveloped land that was owned by a liberal arts educational institution within four (4) years prior to the effective date of this Act and the previously undeveloped land is bounded on one (1) side by a four (4) lane United States highway on the effective date of this Act. No more than fifty percent (50%) of the previously undeveloped land shall be used for qualified mixed uses; and*
 2. To devote local resources to providing redevelopment assistance and supporting projects in those development areas.
- (b) 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.

➔Section 2. 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, *each of which comprises at least twenty percent (20%) of the total finished square footage of the proposed project or represents at least twenty percent (20%) of the total capital investment*; or
 2. *That includes at least three (3) qualified uses:*
 - a. *One (1) of which comprises at least twenty percent (20%) of the total finished square footage of the proposed project or represents at least twenty percent (20%) of the total capital investment; and*
 - b. *The remainder of which, when combined, jointly comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent at least twenty percent (20%) of the total capital investment*~~[That meets the requirements established by paragraph (b)2.b. of this subsection];~~
- (b) ~~1. —~~ "Qualified use" means:
1. ~~a. —~~ Retail;
 2. ~~b. —~~ Residential;
 3. ~~c. —~~ Office;
 4. ~~d. —~~ Restaurant; or
 5. ~~e. —~~ 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.

➔Section 3. KRS 65.7049 is amended to read as follows:

Any city or county may establish a development area pursuant to this section, KRS 65.7051, and 65.7053 to encourage investment and reinvestment in and development, use, and reuse of areas of the city or county under the following conditions:

- (1) The area shall be contiguous and shall be no more than three (3) square miles;
- (2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;
- (3) The governing body of the city or county shall determine that the development area either:
 - (a) Has two (2) or more of the following conditions:
 - 1. Substantial loss of residential, commercial, or industrial activity or use;
 - 2. Forty percent (40%) or more of the households are low-income households;
 - 3. More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
 - 4. Substantial abandonment of residential, commercial, or industrial structures;
 - 5. Substantial presence of environmentally contaminated land;

6. Inadequate public improvements or substantial deterioration in public infrastructure; or
 7. Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; or
- (b) The project is a mixed-use development:
1. Located in a university research park;
 2. Located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty-five thousand (25,000) military personnel, their families, military retirees, or civilian employees; or
 3. ~~{The project is a mixed-use development}~~ Which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof; and
- (4) The governing body of the city or county shall find that all of the following are true for projects meeting the requirements of paragraph (a) of subsection (3) of this section:
- (a) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and
 - (b) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and
 - (c)
 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or
 2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.

➔Section 4. KRS 189.2301 is amended to read as follows:

The provisions of this chapter to the contrary notwithstanding, a vehicle that has a valid registration of a declared gross vehicle weight, including any towed unit, of eighty thousand (80,000) pounds or less shall be exempt from any axle weight provisions when operating on any state-maintained highway that is classified as a "AAA" highway, if the vehicle is hauling seventy-nine thousand nine hundred ninety-nine (79,999) pounds or less. A person operating a vehicle under the provisions of this section shall have written documentation verifying the weight of the load being hauled is seventy-nine thousand nine hundred ninety-nine (79,999) pounds or less. ***The provisions of this section shall not apply to any vehicle operating on the interstate highway system or any vehicle operating on any highway where the vehicle would exceed any posted bridge weight limit.***

➔Section 5. Sections 1 to 3 of this Act shall apply to applications for which a Tax Incentive Agreement has not been approved prior to the effective date of this Act.

➔Section 6. Whereas tax incentive financing is essential for economic growth in the Commonwealth, an emergency is declared to exist, Sections 1 to 3 and 5 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2017.