

**65.206 Establishment of program to advance conservation and efficient use of energy and water resources.**

- (1) Pursuant to KRS 65.205 to 65.209, the governing body of a local government may establish a program to advance the conservation and efficient use of energy and water resources within its jurisdiction, which program is hereby declared to be a valid exercise of the powers of local government and is in the best interest of the people of the Commonwealth, by allowing for energy projects to be financed by assessments imposed upon the real property being improved through the energy project. Nothing in KRS 65.205 to 65.209 shall be interpreted to:
  - (a) Expand the powers of eminent domain for a local government, state agency, or private entity or to allow a local government, state agency, or private entity to use the powers of eminent domain under this program; or
  - (b) Disregard or allow contravention of any net metering ordinance or policy, any generator interconnection ordinance or policy, or any rate ordinance duly adopted by the governing body.
- (2)
  - (a) To establish a program, the governing body of a local government shall adopt a resolution or ordinance providing the terms and conditions of the program, including but not limited to:
    1. A statement that the local government intends to utilize assessments on relevant real property to support private sector energy projects;
    2. The designation of an EPAD, and a description of the boundaries thereof; and
    3. A procedure for the owners of record of real property located within an EPAD to petition the local government for participation in the program.
  - (b) Once a program is established, the governing body of a local government may amend the terms and conditions of the program by resolution or ordinance; except that no amendment shall be adopted to retroactively change the conditions under which an existing assessment was imposed, unless the owner of record of the affected real property consents to the amendment in writing.
  - (c) A local government may:
    1. Hire program staff, or contract with a third-party entity to administer a program;
    2. Impose fees on participating property owners to offset the costs of administering the program, including assessment and collection functions of various county offices; except that these fees shall not exceed the cost of services performed; and
    3. Engage financing for the purpose of administering the program from financial institutions with a physical presence in Kentucky whose deposits are insured by the Federal Deposit Insurance Corporation.
  - (d) Any combination of local governments may agree to jointly implement or administer a program.
- (3)
  - (a) The geographic area designated by the governing body of a local government

as the EPAD:

1. May include the entire local government or any portion thereof; and
  2. Shall be wholly within the boundaries of the local government.
- (b) A local government may designate more than one (1) separate EPAD within its boundaries.
- (4) An authorized official of a local government that has established a program may approve a request from the owner of record of real property located within an EPAD to impose an assessment upon the property, which shall be used to repay the owner's financing of an energy project on that property and the costs of any upgrades to the electrical or gas distribution system connected to that property necessary to accommodate the energy improvement. The upgrade costs shall be paid to the owner of the electrical distribution system. The financing may be provided by a third party or, if authorized by the local government, by any local government.
- (5) Each energy project approved for participation in the program shall include a review of the property's baseline energy or water usage conditions and the energy or water savings projected to be achieved as a result of the energy project.
- (6) A program may authorize a participating property owner to:
- (a) Directly purchase; or
  - (b) Acquire by contract, through a lease, power purchase agreement, or other service contract;
- the equipment and materials necessary for the installation or modification of an energy improvement.
- (7) In addition to the authority provided in the Kentucky Revised Statutes for local governments to levy special assessments with the same lien status as a property tax, the governing body of a local government that establishes a program pursuant to this section may exercise powers granted under KRS 65.205 to 65.209.

**Effective:** June 24, 2015

**History:** Created 2015 Ky. Acts ch. 54, sec. 2, effective June 24, 2015.