

**154.32-060 Rehabilitation, replacement, or expansion of existing facilities --
Criteria for approval as economic development project.**

- (1) The authority shall not approve an economic development project that otherwise meets the requirements of this subchapter if the economic development project will result in the replacement of facilities existing in the state, except as provided in this section.
- (2) The authority may approve an economic development project that:
 - (a) Rehabilitates an existing facility used for activities of an eligible company, if:
 1. The facility has not been in operation for a period of ninety (90) or more consecutive days; or
 2. a. The current occupant of the facility has advertised a notice of closure; and
b. The eligible company proposing the economic development project is not an affiliate of the current occupant of the facility; or
 3. a. The facility is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction; and
b. The title to the facility prior to the sale is not vested in the eligible company or an affiliate of the eligible company; or
 4. The existing facility is rehabilitated to enable a business to produce vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment;
 - (b) Replaces an existing facility of an eligible company if:
 1. a. Title to the facility:
 - i. Is held by exercise of the power of eminent domain; or
 - ii. May be taken pursuant to a nonappealable judgment granting authority to exercise the power of eminent domain; and
 - b. Normal operations at the facility cannot be resumed within twelve (12) months; or
 2. The facility has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 3. The existing facility is replaced to enable a business to produce vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment; or
- (c) Replaces an existing facility located in the same county if the existing facility cannot be expanded due to the unavailability of real estate at or adjacent to the facility to be replaced. Any economic development project satisfying the requirements of this paragraph shall be eligible for incentives under this subchapter only to the extent of the expansion. No incentives shall be

available for the equivalent of the facility to be replaced or rehabilitated.

- (3) The authority shall not approve an economic development project under this section which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 185, sec. 121, effective June 29, 2021. -- Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 14, effective June 26, 2009.