

1 AN ACT relating to tax increment financing and declaring an emergency.

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

3 ➔Section 1. KRS 65.7045 is amended to read as follows:

4 As used in KRS 65.7041 to 65.7083:

5 (1) "Activation date" means the date established any time within a two (2) year period
6 after the commencement date. The activation date is the date on which the time
7 period for the pledge of incremental revenues shall commence. The governing body
8 may extend the two (2) year period to no more than four (4) years upon written
9 application by the agency requesting the extension. To implement the activation
10 date, the agency that is a party to the local participation agreement or the local
11 development area agreement shall notify the governing body that created the
12 development area or local development area;

13 (2) "Agency" means:

14 (a) An urban renewal and community development agency established under
15 KRS Chapter 99;

16 (b) A development authority established under KRS Chapter 99;

17 (c) A nonprofit corporation;

18 (d) A housing authority established under KRS Chapter 80;

19 (e) An air board established under KRS 183.132 to 183.160;

20 (f) A local industrial development authority established under KRS 154.50-301
21 to 154.50-346;

22 (g) A riverport authority established under KRS 65.510 to 65.650; or

23 (h) A designated department, division, or office of a city or county;

24 (3) "Arena" means a facility which serves primarily as a venue for athletic events, live
25 entertainment, and other performances, and which has a permanent seating capacity
26 of at least five thousand (5,000);

27 (4) "Authority" means the Kentucky Economic Development Finance Authority

- 1 established by KRS 154.20-010;
- 2 (5) "Brownfield site" means real property, the expansion, redevelopment, or reuse of
3 which may be complicated by the presence or potential presence of a hazardous
4 substance, pollutant, or contaminant;
- 5 (6) "Capital investment" means:
- 6 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
7 materialmen in connection with the acquisition, construction, installation,
8 equipping, and rehabilitation of a project;
- 9 (b) The cost of acquiring land or rights in land within the development area on the
10 footprint of the project, and any cost incident thereto, including recording
11 fees;
- 12 (c) The cost of contract bonds and of insurance of all kinds that may be required
13 or necessary during the course of acquisition, construction, installation,
14 equipping, and rehabilitation of a project which is not paid by the contractor
15 or contractors or otherwise provided;
- 16 (d) All costs of architectural and engineering services, including test borings,
17 surveys, estimates, plans, specifications, preliminary investigations,
18 supervision of construction, and the performance of all the duties required by
19 or consequent upon the acquisition, construction, installation, equipping, and
20 rehabilitation of a project;
- 21 (e) All costs that are required to be paid under the terms of any contract for the
22 acquisition, construction, installation, equipping, and rehabilitation of a
23 project; and
- 24 (f) All other costs of a nature comparable to those described in this subsection;
- 25 (7) "City" means any city, consolidated local government, or urban-county government;
- 26 (8) "Commencement date" means:
- 27 (a) The date on which a local development area agreement is executed; or

- 1 (b) The date on which a local participation agreement is executed;
- 2 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 3 (10) "County" means any county, consolidated local government, charter county, unified
4 local government, or urban-county government;
- 5 (11) "Debt charges" means the principal, including any mandatory sinking fund deposits,
6 interest, and any redemption premium, payable on increment bonds as the payments
7 come due and are payable and any charges related to the payment of the foregoing;
- 8 (12) "Development area" means an area established under KRS 65.7049, 65.7051, and
9 65.7053;
- 10 (13) "Economic development projects" means projects which are approved for tax
11 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter
12 154;
- 13 (14) "Establishment date" means the date on which a development area or a local
14 development area is created. If the development area, local development area,
15 development area plan, or local development area plan is modified or amended
16 subsequent to the original establishment date, the modifications or amendments
17 shall not extend the existence of the development area or local development area
18 beyond what would be permitted under KRS 65.7041 to 65.7083 from the original
19 establishment date;
- 20 (15) "Governing body" means the body possessing legislative authority in a city or
21 county;
- 22 (16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs
23 of one (1) or more projects, or grant or loan programs as described in subsection
24 (30)(c) of this section, in a development area or a local development area;
- 25 (17) "Incremental revenues" means the amount of revenues received by a taxing district,
26 as determined by subtracting old revenues from new revenues in a calendar year
27 with respect to a development area, a project within a development area, or a local

- 1 development area;
- 2 (18) "Issuer" means a city, county, or agency issuing increment bonds;
- 3 (19) "Local development area" means a development area established under KRS
4 65.7047;
- 5 (20) "Local development area agreement" means an agreement entered into under KRS
6 65.7047;
- 7 (21) "Local participation agreement" means the agreement entered into under KRS
8 65.7063;
- 9 (22) "Local tax revenues" means:
- 10 (a) Revenues derived by a city or county from one (1) or more of the following
11 sources:
- 12 1. Real property ad valorem taxes;
- 13 2. Occupational license taxes, excluding occupational license taxes that
14 have already been pledged to support an economic development project
15 within the development area; and
- 16 3. The occupational license fee permitted by KRS 65.7056; and
- 17 (b) Revenues derived by any taxing district other than school districts or fire
18 districts from real property ad valorem taxes;
- 19 (23) "Low-income household" means a household in which gross income is no more
20 than two hundred percent (200%) of the poverty guidelines updated periodically in
21 the Federal Register by the United States Department of Health and Human
22 Services under the authority of 42 U.S.C. sec. 9902(2);
- 23 (24) "Mixed-use" has the same meaning as in KRS 154.30-060;
- 24 (25) "New revenues" means the amount of local tax revenues received by a taxing
25 district with respect to a development area or a local development area in any
26 calendar year beginning with the year in which the activation date occurred;
- 27 (26) "Old revenues" means the amount of local tax revenues received by a taxing district

1 with respect to a development area or a local development area during the last
2 calendar year prior to the commencement date. If the governing body determines
3 that the amount of local tax revenues received during the last calendar year prior to
4 the commencement date does not represent a true and accurate depiction of
5 revenues, the governing body may consider revenues for a period of no longer than
6 three (3) calendar years prior to the commencement date, so as to determine a fair
7 representation of local tax revenues;

8 (27) "Outstanding" means increment bonds that have been issued, delivered, and paid for
9 by the purchaser, except any of the following:

10 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon
11 payment or redemption;

12 (b) Increment bonds in replacement of which or in exchange for which other
13 increment bonds have been issued; or

14 (c) Increment bonds for the payment, redemption, or purchase for cancellation
15 prior to maturity, of which sufficient moneys or investments, in accordance
16 with the ordinance or other proceedings or any applicable law, by mandatory
17 sinking fund redemption requirements, or otherwise, have been deposited, and
18 credited in a sinking fund or with a trustee or paying or escrow agent, whether
19 at or prior to their maturity or redemption, and, in the case of increment bonds
20 to be redeemed prior to their stated maturity, notice of redemption has been
21 given or satisfactory arrangements have been made for giving notice of that
22 redemption, or waiver of that notice by or on behalf of the affected bond
23 holders has been filed with the issuer or its agent;

24 (28) "Planning unit" means a planning commission established pursuant to KRS Chapter
25 100;

26 (29) "Project" means any property, asset, or improvement located in a development area
27 or a local development area and certified by the governing body as:

- 1 (a) Being for a public purpose; and
- 2 (b) Being for the development of facilities for residential, commercial, industrial,
- 3 public, recreational, or other uses, or for open space, including the
- 4 development, rehabilitation, renovation, installation, improvement,
- 5 enlargement, or extension of real estate and buildings; and
- 6 (c) Contributing to economic development or tourism;
- 7 (30) "Redevelopment assistance," as utilized within a development area, includes the
- 8 following:
- 9 (a) Technical assistance programs to provide information and guidance to
- 10 existing, new, and potential businesses and residences;
- 11 (b) Programs to market and promote the development area and attract new
- 12 businesses and residents;
- 13 (c) Grant and loan programs to encourage the construction or rehabilitation of
- 14 residential, commercial, and industrial buildings; improve the appearance of
- 15 building facades and signage; and stimulate business start-ups and expansions;
- 16 (d) Programs to obtain a reduced interest rate, down payment, or other improved
- 17 terms for loans made by private, for-profit, or nonprofit lenders to encourage
- 18 the construction or rehabilitation of residential, commercial, and industrial
- 19 buildings; improve the appearance of building facades and signage; and
- 20 stimulate business start-ups and expansions;
- 21 (e) Local capital improvements, including but not limited to the installation,
- 22 construction, or reconstruction of streets, lighting, pedestrian amenities, public
- 23 utilities, public transportation facilities, public parking, parks, playgrounds,
- 24 recreational facilities, and public buildings and facilities;
- 25 (f) Improved or increased provision of public services, including but not limited
- 26 to police or security patrols, solid waste management, and street cleaning;
- 27 (g) Provision of technical, financial, or other assistance in connection with:

- 1 1. Applications to the Energy and Environment Cabinet for a brownfields
2 assessment or a No Further Remediation Letter issued pursuant to KRS
3 224.1-450; or
- 4 2. Site remediation by means of the Voluntary Environmental Remediation
5 Program to remove environmental contamination in the development
6 area, or lots or parcels within it, pursuant to KRS 224.1-510 to 224.1-
7 532; and
- 8 (h) Direct development by a city, county, or agency of real property acquired by
9 the city, county, or agency. Direct development may include one (1) or more
10 of the following:
 - 11 1. Assembly and replatting of lots or parcels;
 - 12 2. Rehabilitation of existing structures and improvements;
 - 13 3. Demolition of structures and improvements and construction of new
14 structures and improvements;
 - 15 4. Programs of temporary or permanent relocation assistance for businesses
16 and residents;
 - 17 5. The sale, lease, donation, or other permanent or temporary transfer of
18 real property to public agencies, persons, and entities both for profit and
19 nonprofit; and
 - 20 6. The acquisition and construction of projects;
- 21 (31) "Service payment agreement" means an agreement between a city, county, or issuer
22 of increment bonds or other obligations and any person, whereby the person agrees
23 to guarantee the receipt of incremental revenues, or the payment of debt charges, or
24 any portion thereof, on increment bonds or other obligations issued by the city,
25 county, or issuer;
- 26 (32) "Special fund" means a special fund created under KRS 65.7061 in which all
27 incremental revenues shall be deposited;

1 (33) "Taxing district" means any city, county, or special taxing district other than school
2 districts and fire districts;

3 (34) "Tax incentive agreement" means an agreement entered into under KRS 154.30-
4 070;

5 **(35) "Technology park" means an area designated for the development of facilities**
6 **with high technology to attract businesses in the technology field with the intent**
7 **of promoting innovation, advancing education, and creating economic**
8 **development for the community;**

9 **(36)**~~(35)~~ "Termination date" means:

10 (a) For a development area, a date established by the ordinance creating the
11 development area that is no more than twenty (20) years from the
12 establishment date. If a tax incentive agreement for a project within a
13 development area or a local participation agreement relating to the
14 development area has a termination date that is later than the termination date
15 established in the ordinance, the termination date for the development area
16 shall be extended to the termination date of the tax incentive agreement, or
17 local participation agreement. However, the termination date for the
18 development area shall in no event be more than forty (40) years from the
19 establishment date;

20 (b) For a local development area, a date established by the ordinance creating the
21 local development area that is no more than twenty (20) years from the
22 establishment date, provided that if a local development area agreement
23 relating to the local development area has a termination date that is later than
24 the termination date established in the ordinance, the termination date for the
25 local development area shall be extended to the termination date of the local
26 development area agreement;

27 (c) For a local participation agreement, a date that is no more than twenty (20)

1 years from the activation date. However, the termination date for a local
2 participation agreement shall in no event be more than forty (40) years from
3 the establishment date of the development area to which the local participation
4 agreement relates; and

5 (d) For a local development area agreement, a date that is no more than twenty
6 (20) years from the activation date. However, the termination date for a local
7 development area agreement shall in no event be more than forty (40) years
8 from the establishment date of the local development area to which the
9 development area agreement relates; and

10 ~~(37)~~~~(36)~~ "University research park" means land owned by a public university that has
11 been designated by the public university as being primarily for the development of
12 projects and facilities to support high-tech, pharmaceutical, laboratory, and other
13 research-based businesses, including projects and facilities to support and
14 complement the development of high-tech, pharmaceutical, laboratory, and other
15 research-based businesses.

16 ➔Section 2. KRS 65.7043 is amended to read as follows:

17 The purposes of KRS 65.7041 to 65.7083 are as follows:

18 (1) KRS 65.7047 provides authority for cities and counties to establish local
19 development areas for the development of previously undeveloped land within their
20 jurisdictional boundaries and to devote local resources to support the development
21 of projects in those local development areas. Local development areas established
22 under KRS 65.7047 and projects within local development areas shall not be
23 eligible for participation by the Commonwealth; and

24 (2) (a) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and
25 counties:

26 1. To establish development areas for:

27 a. The redevelopment of previously developed land within their

- 1 jurisdictional boundaries; and
- 2 b. The development of previously undeveloped land, if:
- 3 i. The project proposed for the development area includes an
- 4 arena as part of the proposed development;
- 5 ii. The project is a mixed-use development located in a
- 6 university research park;
- 7 iii. The project is a mixed-use development located within three
- 8 (3) miles of a military base that houses, deploys, or employs
- 9 any combination of at least twenty-five thousand (25,000)
- 10 military personnel, their families, military retirees, or civilian
- 11 employees; ~~or~~
- 12 iv. The project is a mixed-use development which includes
- 13 either or both significant public storm water and sanitary
- 14 sewer facilities designed to comply with a community-wide
- 15 court decree mandating corrective action by the local
- 16 government or an agency thereof; ~~or~~ ~~and~~
- 17 v. *The project is a mixed-use development which includes a*
- 18 *technology park; and*
- 19 2. To devote local resources to providing redevelopment assistance and
- 20 supporting projects in those development areas.
- 21 (b) Projects within development areas established pursuant to KRS 65.7049,
- 22 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth
- 23 if ~~the~~ ~~such~~ projects meet the requirements for Commonwealth participation
- 24 established by Subchapter 30 of KRS Chapter 154.

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

26 Any city or county may establish a development area pursuant to this section, KRS

27 65.7051, and 65.7053 to encourage investment and reinvestment in and development, use,

1 and reuse of areas of the city or county under the following conditions:

2 (1) The area shall be contiguous and shall be no more than three (3) square miles;

3 (2) The establishment or expansion of the development area shall not cause the
4 assessed value of taxable real property within all development areas and local
5 development areas of the city or county establishing the development area to exceed
6 twenty percent (20%) of the assessed value of all taxable real property within its
7 jurisdiction. For the purpose of determining whether the twenty percent (20%)
8 threshold has been met, the assessed value of taxable real property within all of the
9 development areas and local development areas shall be valued as of the
10 establishment date;

11 (3) The governing body of the city or county shall determine that the development area
12 either:

13 (a) Has two (2) or more of the following conditions:

14 1. Substantial loss of residential, commercial, or industrial activity or use;

15 2. Forty percent (40%) or more of the households are low-income
16 households;

17 3. More than fifty percent (50%) of residential, commercial, or industrial
18 structures are deteriorating or deteriorated;

19 4. Substantial abandonment of residential, commercial, or industrial
20 structures;

21 5. Substantial presence of environmentally contaminated land;

22 6. Inadequate public improvements or substantial deterioration in public
23 infrastructure; or

24 7. Any combination of factors that substantially impairs or arrests the
25 growth and economic development of the city or county; impedes the
26 provision of adequate housing; impedes the development of commercial
27 or industrial property; or adversely affects public health, safety, or

1 general welfare due to the development area's present condition and use;
2 or

3 (b) The project is a mixed-use development:

4 1. Located in a university research park;
5 2. Located within three (3) miles of a military base that houses, deploys, or
6 employs any combination of at least twenty-five thousand (25,000)
7 military personnel, their families, military retirees, or civilian
8 employees; ~~or~~

9 3. ~~The project is a mixed-use development~~ Which includes either or both
10 significant public storm water and sanitary sewer facilities designed to
11 comply with a community-wide court decree mandating corrective
12 action by the local government or an agency thereof; ~~or~~and

13 **4. Which includes a technology park; and**

14 (4) The governing body of the city or county shall find that all of the following are true
15 for projects meeting the requirements of paragraph (a) of subsection (3) of this
16 section:

17 (a) That the development area is not reasonably expected to be developed without
18 public assistance. This finding shall be supported by specific reasons and
19 supporting facts, including a clear demonstration of the financial need for
20 public assistance; and

21 (b) That the public benefits of the development area justify the public costs
22 proposed. This finding shall be supported by specific data and figures
23 demonstrating that the projected benefits outweigh the anticipated costs and
24 shall take into account the positive and negative effects of investment in the
25 development on existing businesses and residents within the community as a
26 whole; and

27 (c) 1. That the area immediately surrounding the development area has not

1 been subject to growth and development through investment by private
2 enterprise; or

3 2. If the area immediately surrounding the development area has been
4 subject to growth and development through investment by private
5 enterprise, the identification of special circumstances within the
6 development area that would prevent its development without public
7 assistance.

8 ➔Section 4. KRS 154.30-060 is amended to read as follows:

9 (1) The Commonwealth Participation Program for Mixed-Use Redevelopment in
10 Blighted Urban Areas is hereby established.

11 (2) State participation under this program shall be limited to the support of approved
12 public infrastructure costs and costs associated with land preparation, demolition,
13 and clearance determined to be necessary to support private investment or private
14 development projects that benefit the public, where project economics are unable to
15 support or secure necessary financing to undertake the public improvements, land
16 preparation, demolition, and clearance.

17 (3) As used in this section:

18 (a) "Mixed-use" means a project:

19 1. That includes at least two (2) qualified uses, *each of which comprises at*
20 *least twenty percent (20%) of the total finished square footage of the*
21 *proposed project or represents at least twenty percent (20%) of the*
22 *total capital investment*; or

23 2. *That includes at least three (3) qualified uses:*

24 *a. One (1) of which comprises at least twenty percent (20%) of the*
25 *total finished square footage of the proposed project or*
26 *represents at least twenty percent (20%) of the total capital*
27 *investment; and*

- 1 ~~the proposed project or represent twenty percent (20%) of the~~
2 ~~total capital investment~~; and
- 3 (c) "Retail" means an establishment predominantly engaged in the sale of tangible
4 personal property subject to the tax imposed by KRS Chapter 139, but shall
5 not include restaurants.
- 6 (4) To be considered for state participation under this program, a project shall:
- 7 (a) Be located in an area that has three (3) or more of the conditions listed in KRS
8 65.7049(3)(a), or be a project described in KRS 65.7049(3)(b);
- 9 (b) Be a mixed-use project;
- 10 (c) Represent new economic activity in the Commonwealth;
- 11 (d) Result in a capital investment of at least~~between~~ twenty million dollars
12 (\$20,000,000)~~and two hundred million dollars (\$200,000,000)~~;
- 13 (e) Not include any retail establishment that exceeds twenty thousand (20,000)
14 square feet of finished square footage;
- 15 (f) Include pedestrian amenities and public space; and
- 16 (g) Result in a net positive economic impact to the Commonwealth, taking into
17 consideration any substantial adverse impact on existing Commonwealth
18 businesses. The net positive impact shall be certified to the authority as
19 required by KRS 154.30-030(6)(b).
- 20 (5) The following costs may be recovered pursuant to this section:
- 21 (a) Up to one hundred percent (100%) of approved public infrastructure costs;
22 and
- 23 (b) Up to one hundred percent (100%) of expenses for land preparation,
24 demolition, and clearance necessary for the development to occur.
- 25 (6) The commission shall review the application, the certification required by KRS
26 154.30-030, and supporting information as provided in KRS 154.30-030.
- 27 (7) The authority shall specifically identify the state taxes from which incremental

1 revenues will be pledged. The authority may pledge up to eighty percent (80%) of
2 the incremental revenues from the identified state tax revenues from the footprint of
3 the project, provided that the maximum amount of incremental revenues that may
4 be pledged for a project during the term of the tax incentive agreement from all
5 approved state taxes shall not exceed the costs and expenses determined under
6 subsection (5) of this section.

- 7 (8) As part of the approval process, the authority shall determine the following:
- 8 (a) The footprint of the project;
 - 9 (b) That the proposed project meets the requirements established by subsection
10 (4) of this section;
 - 11 (c) The maximum amount of approved public infrastructure costs and expenses
12 for land preparation, demolition, and clearance;
 - 13 (d) That the local revenues pledged to support the public infrastructure of the
14 project and local revenues pledged to support the overall project are of a
15 sufficient amount to warrant participation of the Commonwealth in the
16 project;
 - 17 (e) The termination date of the tax incentive agreement; and
 - 18 (f) Any adjustments to be made to old revenues, in determining incremental
19 revenues during each year of the term of the tax incentive agreement.
- 20 (9) If state income taxes or local occupational licenses taxes are included for a project
21 that includes office space, the authority shall consider the impact of pledging these
22 taxes on the ability to utilize other economic development projects at a later date.
- 23 (10) The pledge of state incremental tax revenues of the Commonwealth by the authority
24 shall be implemented through the execution of a tax incentive agreement between
25 the Commonwealth and the agency, city, or county in accordance with KRS 154.30-
26 070.

27 ➔Section 5. KRS 65.7053 is amended to read as follows:

- 1 (1) An ordinance establishing a development area shall include the following
2 provisions:
- 3 (a) A legal description of the boundaries of the development area, and geographic
4 reference points;
 - 5 (b) The establishment date;
 - 6 (c) The termination date, including a provision that allows the termination date to
7 be extended as provided in KRS 65.7045(36)~~[(35)]~~;
 - 8 (d) A name for the development area for identification purposes;
 - 9 (e) A finding that the conditions in the development area meet the criteria
10 described in KRS 65.7049;
 - 11 (f) A finding supporting the need to employ redevelopment assistance in the
12 development area;
 - 13 (g) A provision adopting the development plan required by KRS 65.7051(1);
 - 14 (h) Approval of any agreements relating to the development area, including any
15 local participation agreements;
 - 16 (i) A provision establishing a special fund for the development area or any
17 project within the development area;
 - 18 (j) A requirement that any entity other than the governing body that receives
19 financial assistance under the development area ordinance, whether in the
20 form of a grant, loan, or loan guarantee, shall make periodic accounting to the
21 governing body;
 - 22 (k) A provision for periodic analysis and review by the governing body of the
23 development activity in the development area, a review of the progress in
24 meeting the stated goals of the development area, and a requirement that the
25 review and analysis be forwarded to the authority if the development activity
26 includes projects subject to a tax incentive agreement;
 - 27 (l) Designation of the agency or agencies responsible for oversight,

1 administration, and implementation of the development ordinance; and

2 (m) Any other provisions, findings, limitations, rules, or procedures regarding the
3 proposed development area or a project within the development area and its
4 establishment or maintenance deemed necessary by the city or county.

5 (2) An ordinance establishing a development area may designate an existing agency to
6 oversee and administer implementation of a development area ordinance or a
7 portion thereof.

8 (3) Unless the ordinance establishing a development area requires an earlier date, a
9 development area shall cease to exist on the termination date.

10 ➔Section 6. KRS 154.30-030 is amended to read as follows:

11 (1) The Commonwealth shall offer three (3) tax increment financing participation
12 programs. The first program, the criteria and details of which are set forth in KRS
13 154.30-040, relates to a pledge of state real property ad valorem taxes only. The
14 second program, the criteria and details of which are set forth in KRS 154.30-050,
15 is the Signature Projects Program. The third program, the criteria and details of
16 which are set forth in KRS 154.30-060, relates to the pledge of state tax revenues to
17 support mixed-use development in blighted urban areas.

18 (2) (a) A city or county that has established a development area pursuant to KRS
19 65.7049, 65.7051, and 65.7053, or an agency designated as the entity
20 managing a development area established pursuant to KRS 65.7049, 65.7051,
21 and 65.7053, may submit an application to the authority requesting that the
22 Commonwealth participate in a project.

23 1. The application shall identify the specific program under which state
24 participation is being requested and shall include the following
25 attachments, in addition to any requirements developed by the authority
26 pursuant to paragraph (b) of this subsection:

27 a. A copy of the ordinance adopted by the city or county establishing

- 1 the development area;
- 2 b. A copy of the local participation agreement; and
- 3 c. Data and information supporting the determinations and findings
- 4 required by KRS 65.7049.
- 5 2. The staff of the authority shall review the application to determine if the
- 6 applicant has met all of the statutory and regulatory requirements
- 7 established by this subchapter and shall notify the applicant in writing of
- 8 its determination. This review shall be preliminary in nature and shall
- 9 not constitute approval of the request. All applications for participation
- 10 by the Commonwealth shall be reviewed by the authority for approval.
- 11 3. a. Applications meeting all statutory and regulatory requirements
- 12 requesting participation by the Commonwealth pursuant to KRS
- 13 154.30-040, along with any supporting materials, shall be referred
- 14 by the staff of the authority to the authority for consideration.
- 15 b. i. Applicants meeting all statutory and regulatory requirements
- 16 requesting participation by the Commonwealth pursuant to
- 17 KRS 154.30-050(2)(b) or 154.30-060 shall be required to
- 18 submit a report prepared by an independent consultant or
- 19 financial adviser as described in subsection (6) of this
- 20 section for the application to be complete. The staff of the
- 21 authority shall notify ~~the~~^{such} applicants of the report
- 22 requirements and shall provide information regarding the
- 23 contents and requirements for the report at the same time it
- 24 notifies the applicant of the results of its preliminary review.
- 25 ii. Upon receipt and review of the report, the staff of the
- 26 authority shall refer the application and supporting
- 27 information to the authority for consideration.

1 *iii. Convention facility projects located within an urban-county*
2 *government shall not be required to submit a report*
3 *prepared by an independent consultant or financial adviser*
4 *as described in subsection (6) of this section for the*
5 *application to be complete.*

6 (b) Additional standards and requirements for the application process shall be
7 established by the authority through the promulgation of administrative
8 regulations in accordance with KRS Chapter 13A.

9 (3) (a) The authority may request any materials and make any inquiries concerning an
10 application that the authority deems necessary.

11 (b) The authority shall, through the promulgation of administrative regulations in
12 accordance with KRS Chapter 13A, establish commercially reasonable
13 limitations on the financing costs that may be recovered under the provisions
14 of KRS 154.30-050.

15 (4) Upon review of an application and other information available, the authority may
16 pledge all or a portion of the state real property ad valorem tax incremental revenue
17 of the Commonwealth or state tax revenues attributable to the footprint of the
18 project, as limited by KRS 154.30-040, 154.30-050, or 154.30-060, whichever is
19 applicable.

20 (a) If incremental revenues are pledged from less than one hundred percent
21 (100%) of the footprint of the project, a description of the included portion of
22 the development area shall be provided.

23 (b) State tax revenues from the development area that have not been pledged to
24 projects within the development area may be used to support other economic
25 development projects or tourism projects approved under KRS 139.536 and
26 148.851 to 148.860, provided that state tax revenues shall not be pledged
27 more than once during the existence of the development area. Thus, state tax

1 revenues pledged to support increment bonds issued for the development area,
2 or a project in the development area shall not be pledged to support any other
3 development area, project, program, development, or undertaking during the
4 life of the development area. If less than one hundred percent (100%) of
5 incremental revenues are pledged pursuant to the provisions of this
6 subchapter, the remaining incremental revenues shall not be used to support
7 other economic development projects or tourism projects approved under
8 KRS 139.536 and 148.851 to 148.860.

9 (5) The pledge of incremental state real property ad valorem tax revenues or state tax
10 revenues of the Commonwealth by the authority shall be implemented through the
11 execution of a tax incentive agreement between the Commonwealth and the agency,
12 city, or county, as the case may be, in accordance with KRS 154.30-070.

13 (6) (a) The authority shall engage the services of a qualified independent outside
14 consultant or financial adviser to analyze the data related to the project and the
15 development area and prepare the report required by subsection (2) of this
16 section. The report shall include the following:

- 17 1. The estimated approved public infrastructure costs for the project and, if
18 relevant, approved signature project costs, financing costs, and costs
19 associated with land preparation, demolition, and clearance;
- 20 2. The feasibility of the project, taking into account the scope and location
21 of the project;
- 22 3. The estimated amount of local tax revenues and state tax revenues, as
23 applicable, that would be generated by the project over the period, which
24 may be up to twenty (20) years or thirty (30) years, as applicable, from
25 the activation date;
- 26 4. The estimated amount of local tax revenues and state tax revenues, as
27 applicable, that would be displaced within the Commonwealth, for the

- 1 purpose of quantifying economic activity which is being shifted over the
2 same period as that set forth in subparagraph 3. of this paragraph. The
3 projections for displaced activity shall include economic activity that is
4 lost to the Commonwealth as a result of the project, as well as economic
5 activity that is diverted to the project that formerly took place at existing
6 establishments within the Commonwealth prior to the commencement
7 date of the project;
- 8 5. The estimated amount of local and state old revenues that would have
9 been generated in the footprint of the project in the absence of the
10 project, computed over the same time period as set forth in subparagraph
11 3. of this paragraph;
- 12 6. In the process of estimating the revenues and impacts prescribed in
13 subparagraphs 3. and 4. of this paragraph, the independent outside
14 consultant shall not consider any of the following:
- 15 a. Revenues or economic impacts associated with any projects within
16 the development area where the new project will be located; and
- 17 b. Revenues or economic impacts associated with economic
18 development projects and approved Kentucky Tourism
19 Development Act projects under KRS Chapter 148;
- 20 7. The relationship of the estimated incremental revenues to the financing
21 needs, including any increment bonds, of the project;
- 22 8. When estimating the fiscal impact of the project, the consultant shall
23 evaluate the amount of revenue estimated in subparagraph 3. of this
24 paragraph and shall deduct the amounts estimated in subparagraphs 4.
25 and 5. of this paragraph. The resulting difference shall be compared to
26 the estimated incremental revenues to determine the presence or absence
27 of a positive fiscal impact; and

1 9. A determination that the project will not occur if not for the designation
2 of the development area, the granting of incremental revenues by the
3 taxing district or districts, other than the Commonwealth, and the
4 granting of the state tax incremental revenues.

5 (b) 1. The independent consultant or financial advisor shall consult with the
6 Office of State Budget Director, and the Finance and Administration
7 Cabinet in the development of the report.

8 2. The Office of State Budget Director and the staff of the authority, in
9 collaboration with the independent consultant or financial advisor, shall
10 agree on a methodology to be used and assumptions to be made by the
11 independent consultant or financial consultant in preparing its report.

12 3. On the basis of the independent consultant's report and the other
13 materials provided, prior to any approval of a project by the authority,
14 the Office of State Budget Director and the Finance and Administration
15 Cabinet shall certify to the authority whether there is a projected net
16 positive economic impact to the Commonwealth and the expected
17 amount of state tax incremental revenues from the project.

18 4. The city, county, or agency making the application shall pay all costs
19 associated with the independent consultant's or financial advisor's report.

20 ➔Section 7. The provisions of this Act shall apply to applications for which a Tax
21 Incentive Agreement has not been approved prior to the effective date of this Act.

22 ➔Section 8. Whereas tax incentive financing for technology parks is essential for
23 economic growth, an emergency is declared to exist, and this Act takes effect upon its
24 passage and approval by the Governor or upon its otherwise becoming a law.