

1 AN ACT relating to tourism development and incentives.

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

3 ➔Section 1. KRS 148.851 is amended to read as follows:

4 As used in 148.851 to 148.860, unless the context clearly indicates otherwise:

- 5 (1) "Agreement" means the tourism development agreement entered into between the  
6 authority and an approved company;
- 7 (2) "Approved company" means any eligible company that has received final approval  
8 to receive incentives provided under KRS 148.853;
- 9 (3) "Approved costs" means the amount of eligible costs approved by the authority  
10 upon completion of the project;
- 11 (4) "Authority" means the Kentucky Tourism Development Finance Authority as set  
12 forth in KRS 148.850;
- 13 (5) "Cabinet" means the Tourism, Arts and Heritage Cabinet;
- 14 (6) "Crafts and products center" means a facility primarily devoted to the display,  
15 promotion, and sale of Kentucky products, and at which a minimum of eighty  
16 percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or  
17 agricultural products;
- 18 (7) "Eligible company" means any corporation, limited liability company, partnership,  
19 limited partnership, sole proprietorship, business trust, or any other entity operating  
20 or intending to operate a tourism development project;
- 21 (8) "Eligible costs" means:
- 22 (a) Obligations incurred for labor and amounts paid to vendors, contractors,  
23 subcontractors, builders, suppliers, deliverymen, and materialmen in  
24 connection with the acquisition, construction, equipping, and installation of a  
25 tourism development project;
- 26 (b) The costs of acquiring real property or rights include the acquisition of real  
27 property by a leasehold interest with a minimum term of ten (10) years, and

- 1           any costs incidental thereto;
- 2           (c) The cost of contract bonds and of insurance of all kinds that may be required  
3           or necessary during the course of the acquisition, construction, equipping, and  
4           installation of a tourism development project which is not paid by the vendor,  
5           supplier, deliveryman, contractor, or otherwise provided;
- 6           (d) All costs of architectural and engineering services, including but not limited to  
7           estimates, plans and specifications, preliminary investigations, and  
8           supervision of construction and installation, as well as for the performance of  
9           all the duties required by or consequent to the acquisition, construction,  
10          equipping, and installation of a tourism development project;
- 11          (e) All costs required to be paid under the terms of any contract for the  
12          acquisition, construction, equipping, and installation of a tourism  
13          development project;
- 14          (f) All costs required for the installation of utilities, including but not limited to  
15          water, sewer, sewer treatment, gas, electricity and communications, and  
16          including off-site construction of the facilities paid for by the approved  
17          company; and
- 18          (g) All other costs comparable with those described in this subsection, excluding  
19          costs subject to refund under KRS 154.20-202, 154.20-204, 154.20-206,  
20          154.20-208, and 154.20-210 or Subchapter 31 of KRS Chapter 154;
- 21       (9) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- 22       (10) "Entertainment destination center project" means a facility that meets the  
23       requirements of KRS 148.853(2)(b);
- 24       (11) "Final approval" means the action taken by the authority authorizing the eligible  
25       company to receive incentives under KRS 139.536 and 148.851 to 148.860;
- 26       (12) "Full-service lodging facility" means a facility that provides overnight sleeping  
27       accommodations, including private bathrooms and all of the following:

- 1 (a) On-site dining facilities;
- 2 (b) Room service;
- 3 (c) Catering: and
- 4 (d) Meeting space;
- 5 (13) "Incentives" means the Kentucky sales tax refund as prescribed in KRS 139.536;
- 6 (14) "Kentucky sales tax" means the sales tax imposed by KRS 139.200;
- 7 (15) "Lodging facility project" means a full-service lodging facility that:
- 8 (a) Is located on recreational property owned or leased by the Commonwealth or
- 9 the federal government excluding wildlife management areas under the
- 10 ownership or control of the Commonwealth;
- 11 (b) Involves the restoration or rehabilitation of a structure that:
- 12 1. Is listed individually on the National Register of Historic Places; or
- 13 2. Is located in the National Register Historic District; and
- 14 is certified by the Kentucky Heritage Council as contributing to the historic
- 15 significance of the district, and the rehabilitation or restoration of the structure
- 16 has been approved in advance by the Kentucky Heritage Council;
- 17 (c) Is an integral part of a major convention or sports facility;
- 18 (d) Is located:
- 19 1. Within a fifty (50) mile radius of a property listed on the National
- 20 Register of Historic Places with a current function of recreation and
- 21 culture; and
- 22 2. In any of the one hundred (100) least-populated counties in the
- 23 Commonwealth, in terms of population density, according to the most
- 24 recent census;
- 25 (e) Is located on property:
- 26 1. Owned by the Commonwealth, or leased by the Commonwealth from
- 27 the federal government excluding wildlife management areas under

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*the ownership or control of the Commonwealth;*

- 2. Acquired for use in the state park system pursuant to KRS 148.028; and
- 3. Operated by the Kentucky Department of Parks pursuant to KRS 148.021 or the Kentucky Horse Park Commission pursuant to KRS 148.258 to 148.320;

(f) Is located on property:

- 1. Owned or leased by the federal government and under the control of the Department of the Interior; or
- 2. Owned by the Commonwealth and in the custody of the State Fair Board as provided in KRS 247.140;

(g) Is part of a tourism attraction project, entertainment destination center project, or theme restaurant destination attraction project and the full-service lodging facility represents less than fifty percent (50%) of the total eligible costs; or

(h) Has not less than five hundred (500) guest rooms:

(16) "Net positive fiscal impact" means the amount by which increased state tax revenues will exceed the incentives given;

(17) "Preliminary approval" means the action taken by the authority conditionally approving an eligible company for the incentives under KRS 139.536 and 148.851 to 148.860;

(18) "Recreational facility" means a structure or outdoor area that:

(a) Provides visitors recreational opportunities, including but not limited to amusement parks, boating, hiking, horseback riding, hunting, fishing, camping, wildlife viewing, live theater, rock climbing, and all-terrain vehicle trails; and

(b) Serves as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the recreational facility;

1 (19) "Theme restaurant destination attraction project" means a restaurant facility that  
 2 meets the requirements for incentives under KRS 148.853(2)(c);

3 (20) (a) "Tourism attraction project" means:

- 4 1. A cultural or historical site;
- 5 2. A recreational facility;
- 6 3. An entertainment facility;
- 7 4. An area of natural phenomenon or scenic beauty; or
- 8 5. A Kentucky crafts and products center;

9 (b) **"Tourism attraction project" includes projects located on property:**

- 10 **1. Owned by the Commonwealth or leased by the Commonwealth from**
- 11 **the federal government;**
- 12 **2. Acquired for use in the state park system pursuant to KRS 148.028;**
- 13 **3. Operated by the Kentucky Department of Parks pursuant to KRS**
- 14 **148.258 to 148.320;**
- 15 **4. Owned or leased by the federal government and under the control of**
- 16 **the Department of the Interior;**
- 17 **5. Owned by the Commonwealth and in the custody of the State Fair**
- 18 **Board as provided by KRS 247.140; and**
- 19 **6. Containing a tourism attraction project with a Kentucky crafts and**
- 20 **products center or where the sale of goods is a secondary and**
- 21 **subordinate component of the attraction;**

22 (c) "Tourism attraction project" does not include facilities that are primarily  
 23 devoted to the retail sale of goods~~[,] or wildlife management areas under the~~  
 24 **ownership or control of the Commonwealth**~~[other than a Kentucky crafts and~~  
 25 ~~products center, or a tourism attraction where the sale of goods is a secondary~~  
 26 ~~and subordinate component of the attraction]; and~~

27 (21) "Tourism development project" means:

- 1 (a) A tourism attraction project;
- 2 (b) A theme restaurant destination attraction project;
- 3 (c) An entertainment destination center project; or
- 4 (d) A lodging facility project.