

1 AN ACT relating to the Kentucky Product Development Initiative and declaring an
2 emergency.

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

4 ➔Section 1. KRS 154.21-015 is amended to read as follows:

5 As used in KRS 154.21-010 to 154.21-040:

6 (1) "Cabinet" means the Cabinet for Economic Development;

7 (2) "County population ranking" means the score of each county determined by the
8 cabinet under Section 3 of this Act;

9 (3) "Eligible grant recipient" means a grant applicant that is a local government or an
10 economic development authority in an economic development district in this
11 Commonwealth that is engaged in an eligible project;

12 (4)(3) "Eligible project":

13 (a) Means an economic development project initiated on a property that meets
14 the availability requirements in subsection (3) of Section 4 of this Act; and

15 (b) Requires local matching funds based on the county population ranking

16 ~~[with available matching funds for the project on a dollar for dollar basis that~~
17 ~~is either:~~

18 ~~(a) initiated on publicly owned property; or~~

19 ~~(b) If the project's eligible use includes property acquisition or a due diligence~~
20 ~~study, then the property shall come with either a:~~

21 ~~1. Legally binding letter of intent or option for the sale to an eligible grant~~
22 ~~recipient; or~~

23 ~~2. Sale agreement for the sale to an eligible grant recipient];~~

24 (5)(4) "Eligible use":

25 (a) Means the authorized purpose for which an awarded grant may be used
26 depending on the source of funds from the Commonwealth; and ~~["Eligible~~
27 ~~use"]~~

1 **(b)** May include expenditures~~[but is not limited to expenditure]~~ in any of the
2 following categories or some combination thereof:

- 3 ~~1.[(a)]~~ Due diligence study;
- 4 ~~2.[(b)]~~ Property acquisition;
- 5 ~~3.[(c)]~~ Infrastructure extension or improvement;
- 6 ~~4.[(d)]~~ Site preparation work;
- 7 ~~5.[(e)]~~ Building construction or renovation; or
- 8 ~~6.[(f)]~~ Road improvement;~~[and]~~

9 **(6) "Population density":**

10 **(a) Means the number of persons per square mile of a county;**

11 **(b) Is calculated by dividing the total county population by the square miles in**
12 **the county;**

13 **(c) Is determined by using the population estimate from the most recent**
14 **available five (5) year American Community Survey as published by the**
15 **United States Census Bureau; and**

16 **(d) Is used to rank each county in descending order, with the county having the**
17 **largest population density receiving a rank of one (1) and the county with**
18 **the smallest population density receiving a rank of one hundred twenty**
19 **(120);**

20 ~~(7) [(5)]~~ "Regional project" means an eligible project that is proposed by eligible grant
21 recipients residing in different counties in this Commonwealth who submit a single
22 grant application as co-applicants; and

23 **(8) "Ten (10) year percentage change in population":**

24 **(a) Means the percentage change in population within a county;**

25 **(b) Is determined by comparing the population estimate from the most recent**
26 **available five (5) year American Community Survey as published by the**
27 **United States Census Bureau to the same survey ten (10) years prior to the**

1 most recent available survey; and
2 (c) Is used to rank each county in descending order, with the county having the
3 largest positive percentage change in population receiving a rank of one (1)
4 and the county with the largest negative percentage change receiving a rank
5 of one hundred twenty (120).

6 ➔Section 2. KRS 154.21-020 is amended to read as follows:

7 (1) The Kentucky Product Development Initiative of 2022 is hereby established under
8 the cabinet. The cabinet shall partner with the Kentucky Association for Economic
9 Development to administer the program. The cabinet's administration of the
10 program includes but is not limited to the following:

- 11 (a) Creating and making available a standardized grant application and regional
12 grant application;
- 13 (b) Adopting a standardized scoring system pursuant to KRS 154.21-040;
- 14 (c) Reviewing the applications and proposals submitted by the proposed grant
15 recipients;
- 16 (d) Verifying the eligibility of the proposed grant recipients;
- 17 (e) Verifying that the proposed grant recipient seeks grant money for an eligible
18 project prior to prioritizing and recommending the eligible grant recipient and
19 eligible project to the cabinet;~~and~~
- 20 (f) Awarding grants to selected eligible grant recipients in two (2) rounds of
21 funding; and

22 (g) No later than December 1, 2024, compiling and submitting the following
23 information, for each application received by fiscal year, related to the
24 Kentucky Product Development Initiative of 2022 to the Legislative
25 Research Commission and the Interim Joint Committee on Appropriations
26 and Revenue for fiscal year 2022-2023 and the fiscal year 2023-2024:

27 1. The name of the eligible grant recipient, a description of the eligible

- 1 project, and the location of each proposed project for which an
- 2 application was received;
- 3 2. The date the application was received by the cabinet or the Kentucky
- 4 Association for Economic Development;
- 5 3. The date the application was either approved or denied by the cabinet
- 6 or the Kentucky Association for Economic Development or whether
- 7 the application remains outstanding;
- 8 4. The prioritization of the application as determined by the Kentucky
- 9 Association for Economic Development and submitted to the cabinet
- 10 as required by KRS 154.21-030(1)(g);
- 11 5. All information for each applicant submitted to the cabinet by the
- 12 Kentucky Association for Economic Development within the annual
- 13 report required under KRS 154.21-030(1)(i);
- 14 6. The date the cabinet notified the eligible grant recipient that the
- 15 application was either approved or denied; and
- 16 7. The date the cabinet issued the warrant upon the Treasury for
- 17 distribution of the grant moneys.

18 (2) Upon receipt of eligible grant recipients and eligible project recommendations and
 19 prioritization from the Kentucky Association for Economic Development and the
 20 third-party independent site selection consultant, the cabinet shall verify and
 21 process the eligible grant recipients and eligible project recommendations with the
 22 intent to approve and award grants matching the selected grant recipient's
 23 contribution to its eligible project on a dollar-for-dollar basis, under the economic
 24 development fund program pursuant to KRS 154.12-100.

25 (3) (a) Prior to the first round of grant awards, the cabinet shall allocate a percentage
 26 of the total funds appropriated to this program by the General Assembly to
 27 each county in the Commonwealth. When awarding grants in the first round

1 of funding, the cabinet shall not award grants to an eligible grant recipient or a
2 group of eligible grant recipients in excess of the amount allocated to the
3 county in which it or they are located, except when pooled pursuant to
4 subsection (4) of this section. The allocation shall be made according to the
5 following calculations:

- 6 1. For all counties except Jefferson County, the percentage of the fund
7 each county is eligible to receive shall be determined by each county's
8 proportion of the state's population based on the most recent federal
9 decennial census;
- 10 2. For Jefferson County, the percentage of the fund it shall be eligible to
11 receive shall be determined by the county's proportion of the state's
12 population based on the most recent federal decennial census, which
13 shall be discounted by fifty percent (50%); and
- 14 3. The maximum funding available for an approved development project is
15 two million dollars (\$2,000,000) per county except as permitted by
16 subsection (4) of this section.

17 (b) If there are funds available after the first round of grant awards, the cabinet
18 shall initiate a second round of grant awards through the Kentucky Product
19 Development Initiative. Any remaining funds available for program use shall
20 be pooled and available to eligible grant recipients from all counties on a first-
21 come, first-served basis, but each county's eligible allocation shall not exceed
22 two million dollars (\$2,000,000) except as permitted by subsection (4) of this
23 section.

24 (4) For selected eligible grant recipients that are involved in a regional project, the
25 cabinet may pool the potential allocation of funds available for each county
26 represented by the eligible grant recipients for the grant amount awarded. For
27 example, if a county that is eligible for up to ten percent (10%) of the program

1 funds based on the calculations in subsection (3) of this section partners with a
 2 county that is eligible for five percent (5%) of the program funds based on the
 3 calculations in subsection (3) of this section, then the total allocation for the
 4 regional project that the cabinet may award is fifteen percent (15%).

5 (5) Grant applicants that have received discretionary mega-development project
 6 funding shall be disqualified from participation in the Kentucky Product
 7 Development Initiative.

8 **(6) The Kentucky Product Development Initiative of 2022 shall be active only for the**
 9 **fiscal year 2022-2023 and fiscal year 2023-2024.**

10 ➔SECTION 3. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER
 11 154 IS CREATED TO READ AS FOLLOWS:

12 **(1) The Kentucky Product Development Initiative of 2024 is hereby established under**
 13 **the cabinet. The cabinet shall partner with the Kentucky Association for**
 14 **Economic Development to administer the program. The cabinet's administration**
 15 **of the program includes:**

16 **(a) Creating and making available a standardized grant application and**
 17 **regional grant application;**

18 **(b) Adopting a standardized scoring system pursuant to KRS 154.21-040;**

19 **(c) Reviewing the applications and proposals submitted by the proposed grant**
 20 **recipients;**

21 **(d) Verifying the eligibility of the proposed grant recipients;**

22 **(e) Verifying that the proposed grant recipient seeks grant money for an**
 23 **eligible project prior to prioritizing all eligible projects;**

24 **(f) Determining the county's population ranking under subsection (3) of this**
 25 **section;**

26 **(g) Awarding grants to selected eligible grant recipients in multiple rounds of**
 27 **funding; and**

1 (h) Compiling and submitting the reports required by subsections (3) and (5) of
2 this section.

3 (2) Upon receipt of eligible grant recipients and eligible project recommendations
4 and prioritization from the Kentucky Association for Economic Development and
5 the third-party independent site selection consultant, the cabinet shall verify and
6 process the eligible grant recipients and eligible project recommendations with
7 the intent to approve and award grants, including consideration of matching
8 funds the selected grant recipient's contribution to its eligible project based on the
9 county population ranking determined under subsection (3) of this section.

10 (3) (a) On or before June 1, 2024, and no later than June 1 every two (2) years
11 thereafter, the cabinet shall determine a county population ranking for each
12 county by adding the following two (2) factors:

13 1. The population density ranking; and

14 2. The ten (10) year percentage change in population ranking.

15 (b) The required local match for each county shall be as follows:

16 1. Eligible projects in counties where the county population ranking is
17 greater than or equal to one hundred ninety-three (193) shall provide
18 a minimum amount of local matching funds equal to ten percent
19 (10%) of the project cost;

20 2. Eligible project in counties where the county population ranking is
21 less than one hundred ninety-three (193) but greater than or equal to
22 one hundred forty-five (145) shall provide a minimum amount of local
23 matching funds equal to twenty percent (20%) of the project cost;

24 3. Eligible project in counties where the county population ranking is
25 less than one hundred forty-five (145) but greater than or equal to
26 ninety-seven (97) shall provide a minimum amount of local matching
27 funds equal to thirty percent (30%) of the project cost;

- 1 4. Eligible project in counties where the county population ranking is
2 less than ninety-seven (97) but greater than or equal to forty-nine (49)
3 shall provide a minimum amount of local matching funds equal to
4 forty percent (40%) of the project cost; and
- 5 5. Eligible project in counties where the county population ranking is
6 less than forty-nine (49) shall provide a minimum amount of local
7 matching funds equal to fifty percent (50%) of the project cost.
- 8 (c) On or before July 1, 2024, and no later than July 1 every two (2) years
9 thereafter, the cabinet shall report to the Legislative Research Commission
10 and the Interim Joint Committee on Appropriation and Revenue the
11 following information for each county:
- 12 1. The county name;
13 2. The population density ranking for that county;
14 3. The ten (10) year percentage change in population ranking for that
15 county; and
16 4. The county population ranking for that county.
- 17 (d) When awarding grants in this initiative, the cabinet shall not award grants
18 to an eligible grant recipient or a group of eligible grant recipients in excess
19 of the amount allocated to the county in which it or they are located, except
20 when pooled pursuant to subsection (4) of this section.
- 21 (e) The maximum funding available for an approved development project is
22 two million dollars (\$2,000,000) per county, except as permitted by
23 subsection (4) of this section.
- 24 (f) The amount granted for conducting a due diligence study shall not exceed
25 two hundred thousand dollars (\$200,000), unless there are extenuating
26 circumstances related to the due diligence study. If the amount granted
27 exceeds two hundred thousand dollars (\$200,000), the cabinet shall report

1 to the Interim Joint Committee on Appropriations and Revenue or the
2 Senate Standing Committee on Appropriations and Revenue and the House
3 Standing Committee on Appropriations and Revenue within five (5) days of
4 awarding the grant. The report shall include the name and county location
5 of the eligible awarded the grant, the amount of the grant awarded, and the
6 extenuating circumstances related to the due diligence study.

7 (g) If there are funds available after the first round of grant awards of the
8 Kentucky Product Development Initiative of 2024, the cabinet shall initiate
9 additional rounds of grant awards.

10 (4) (a) For selected eligible grant recipients that are involved in a regional project,
11 the cabinet may pool the potential allocation of funds available for each
12 county represented by the eligible grant recipients for the grant amount
13 awarded.

14 (b) A county that is an eligible grant recipient involved in a regional project
15 shall provide that county's local matching funds based on the county
16 population ranking determined under subsection (3) of this section and
17 each county's local matching funds may be pooled as described in
18 paragraph (a) of this subsection.

19 (5) Beginning no later than December 1, 2024, and no later than each June 1 and
20 December 1 thereafter, the cabinet shall compile and submit a semiannual report
21 for each application received for the Kentucky Product Development Initiative of
22 2024. The report shall be electronically delivered to the Legislative Research
23 Commission and the Interim Joint Committee on Appropriations and Revenue
24 and contain the following information:

25 (a) The name of the eligible grant recipient, a description of the eligible project,
26 and the location of each proposed project for which an application was
27 received;

- 1 **(b) Population data for the county for which the application was submitted,**
 2 **including:**
 3 **1. The population density ranking;**
 4 **2. The ten (10) year percentage change in population ranking; and**
 5 **3. The county population ranking;**
 6 **(c) The date the application was received by the cabinet or the Kentucky**
 7 **Association for Economic Development;**
 8 **(d) The date the application was either approved or denied by the cabinet or the**
 9 **Kentucky Association for Economic Development or whether the**
 10 **application remains outstanding;**
 11 **(e) The prioritization of the application as determined by the Kentucky**
 12 **Association for Economic Development and submitted to the cabinet as**
 13 **required by KRS 154.21-030(1)(g);**
 14 **(f) All information for each applicant submitted to the cabinet by the Kentucky**
 15 **Association for Economic Development within the annual report required**
 16 **under KRS 154.21-030(1)(i);**
 17 **(g) The date the cabinet notified the eligible grant recipient that the application**
 18 **was either approved or denied; and**
 19 **(h) The date the cabinet issued the warrant upon the Treasury for distribution**
 20 **of the grant moneys.**

21 **(6) The Kentucky Product Development Initiative of 2024 shall begin July 1, 2024.**

22 ➔ Section 4. KRS 154.21-035 is amended to read as follows:

- 23 (1) The Kentucky Association for Economic Development shall evaluate each
 24 applicant's eligible project according to the criteria described in this section and
 25 KRS 154.21-040 for the purposes of compiling a recommendation and score for the
 26 eligible project and project site pursuant to KRS 154.21-040.
 27 (2) The Kentucky Association for Economic Development and the third-party

1 independent site selection consultant shall consider the requirements in the
2 following five (5) categories in the evaluation of proposed projects:

- 3 (a) Property availability as described in subsection (3) of this section;
- 4 (b) Property development ability as described in subsection (4) of this section;
- 5 (c) Zoning availability as described in subsection (5) of this section;
- 6 (d) Transportation accessibility as described in subsection (6) of this section; and
- 7 (e) Utility adequacy as described in subsection (7) of this section.

8 (3) The property that the eligible project occupies or is proposed to occupy shall be
9 available. Property shall be deemed available for the purposes of this program:

10 (a) If the property is ~~is~~

11 ~~(a)~~ publicly owned; or

12 (b) If the project's eligible use includes property acquisition or a due diligence
13 study. In this situation the application shall include one (1) of the
14 following, ~~then the property shall come with either a~~:

15 1. A legally binding letter of intent or option for the sale to an eligible
16 grant recipient; or

17 2. An~~Sale~~ agreement for the sale to an eligible recipient.

18 (4) The property that the eligible project occupies or is proposed to occupy shall be
19 developable. Property shall be deemed developable if:

20 (a) The acreage intended for development is clearly defined by either:

21 1. The grant applicant; or

22 2. An engineering partner during or after a site visit, if the applicant is
23 unable to define the developable acreage; and

24 (b) The property is free of impediments to development, or a known impediment
25 can be mitigated by a grant applicant. A property is free of impediments if it:

26 1. Is located outside of the one hundred (100) year and five hundred (500)
27 year flood zone;

- 1 2. Is free of recognized environmental conditions;
- 2 3. Is free of wetlands;
- 3 4. Is free of state and federally threatened and endangered species;
- 4 5. Is free of areas of archaeological or historical significance; and
- 5 6. Possesses soils compatible with the grant applicant's intended
- 6 development.
- 7 (5) The property that the eligible project occupies or is proposed to occupy shall be
- 8 appropriately zoned for the intended use or shall be able to be rezoned within ninety
- 9 (90) calendar days. The properties surrounding the grant applicant's project site
- 10 shall be zoned so they are compatible with the grant applicant's intended
- 11 development and use of the project site.
- 12 (6) The property that the eligible project occupies or is proposed to occupy shall be
- 13 directly served by a road or roads that are compatible with the intended use of the
- 14 property. Additionally, if the property is marketed as rail-served, the property shall
- 15 be deemed rail-served if:
- 16 (a) The grant applicant provides documentation from the rail provider that
- 17 evinces that rail infrastructure exists and the rail provider actually provides
- 18 rail service; or
- 19 (b) If the rail service does not exist at the time of the grant application, the grant
- 20 applicant provides documentation from the rail provider that evinces that the
- 21 project site will be able to be rail-served within twelve (12) months.
- 22 (7) The property that the eligible project occupies or is proposed to occupy shall have
- 23 access to adequate utilities and shall be served or able to be served by the
- 24 following:
- 25 (a) Electric infrastructure;
- 26 (b) Natural gas;
- 27 (c) Water infrastructure and a public water system;

1 (d) Wastewater infrastructure and a public wastewater treatment plant, excluding
2 a septic wastewater treatment system; and

3 (e) Fiber telecommunications infrastructure.

4 ➔Section 5. Whereas it is critical to ensure the continuing economic progress by
5 the Commonwealth through the immediate implementation of this Act related to the
6 Kentucky Product Development Initiative of 2024, an emergency is declared to exist, and
7 this Act takes effect on June 1, 2024.