1	AN ACT relating to tax increment financing.

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

3	➔Section 1. KRS 154.30-010 is amended to read as follows:

4	As used in this subchapter:

5	(1)	"Activation date" means:

6	(a)	For all projects except those described in paragraph (b) of this subsection, the

7		date established any time within a two (2) year period after the

8		commencement date. The Commonwealth may extend the two (2) year period

9		to no more than four (4) years upon written application by the agency

10		requesting the extension; and

11	(b)	For signature projects approved under KRS 154.30-050(3)(a), the date

12		established any time within a ten (10) year period after the commencement

13		date.

14	For all projects established after July 14, 2018, the activation date is the date on

15	which the time period for the pledge of incremental revenues shall commence. To

16	implement the activation date, the minimum capital investment must be met and the

17	agency that is a party to the tax incentive agreement shall notify the office;

18	(2)	"Agency" means:

19	(a)	An urban renewal and community development agency established under

20		KRS Chapter 99;

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

22	(c)	A nonprofit corporation;

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

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

25	(f)	A local industrial development authority established under KRS 154.50-301

26		to 154.50-346;

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

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

2 (3) (a)   "Approved public infrastructure costs" means costs associated with the

3   acquisition, installation, construction, or reconstruction of public works,

4   public improvements, and public buildings, including planning and design

5   costs associated with the development of the public amenities.

6   (b)   "Approved public infrastructure costs" includes but is not limited to costs

7   incurred for the following:

8   1.   Land preparation, including demolition and clearance work;

9   2.   Buildings;

10   3.   Sewers and storm drainage;

11   4.   Curbs, sidewalks, promenades, and pedways;

12   5.   Roads;

13   6.   Street lighting;

14   7.   The provision of utilities;

15   8.   Environmental remediation;

16   9.   Floodwalls and floodgates;

17   10.   Public spaces or parks;

18   11.   Parking;

19   12.   Easements and rights-of-way;

20   13.   Transportation facilities;

21   14.   Public landings;

22   15.   Amenities, including fountains, benches, and sculptures; and

23   16.   Riverbank modifications and improvements;

24 (4)   "Approved signature project costs" means:

25   (a)   The acquisition of land for portions of the project that are for infrastructure;

26   and

27   (b)   Costs associated with the acquisition, installation, development, construction,

1   improvement, or reconstruction of infrastructure, including planning and

2   design costs associated with the development of infrastructure, including but

3   not limited to parking structures, including portions of parking structures that

4   serve as platforms to support development above;

5   that have been determined by the commission to represent a unique challenge in the

6   financing of a project such that the project could not be developed without

7   incentives intended by this chapter to foster economic development;

8   (5)   "Authority" means the Kentucky Economic Development Finance Authority

9   established by KRS 154.20-010;

10   (6)   "Capital investment" means:

11   (a)   Obligations incurred for labor and to contractors, subcontractors, builders, and

12   materialmen in connection with the acquisition, construction, installation,

13   equipping, and rehabilitation of a project;

14   (b)   The cost of acquiring land or rights in land within the development area on the

15   footprint of the project, and any cost incident thereto, including recording

16   fees;

17   (c)   The cost of contract bonds and of insurance of all kinds that may be required

18   or necessary during the course of acquisition, construction, installation,

19   equipping, and rehabilitation of a project which is not paid by the contractor

20   or contractors or otherwise provided;

21   (d)   All costs of architectural and engineering services, including test borings,

22   surveys, estimates, plans, specifications, preliminary investigations,

23   supervision of construction, and the performance of all the duties required by

24   or consequent upon the acquisition, construction, installation, equipping, and

25   rehabilitation of a project;

26   (e)   All costs that are required to be paid under the terms of any contract for the

27   acquisition, construction, installation, equipping, and rehabilitation of a

1   project; and

2   (f)   All other costs of a nature comparable to those described in this subsection

3   that occur after preliminary approval;

4   (7) "City" means any city, consolidated local government, or urban-county

5   government;

6   (8) "Commencement date" means the final approval date or the date on which a tax

7   incentive agreement is executed;

8   (9) "Commonwealth" means the Commonwealth of Kentucky;

9 (10) "County" means any county, consolidated local government, charter county, unified

10   local government, or urban-county government;

11 (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban

12   consumers, all items, base year computed for 1982 to 1984 equals one hundred

13   (100), published by the United States Department of Labor, Bureau of Labor

14   Statistics;

15 (12) "Department" means the Department of Revenue;

16 (13) "Development area" means an area established under KRS 65.7049, 65.7051, and

17   65.7053;

18 (14) "Economic development projects" means projects which are approved for tax

19   credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter

20   154;

21 (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve

22   requirements, underwriting discount, costs of credit enhancement or liquidity

23   instruments, and other costs directly related to the issuance of bonds or debt for

24   approved public infrastructure costs or approved signature project costs for projects

25   approved pursuant to KRS 154.30-050;

26 (16) "Footprint" means the actual perimeter of a discrete, identified project within a

27   development area. The footprint shall not include any portion of a development area

1   outside the area for which actual capital investments are made and must be

2   contiguous;

3   (17) "Governing body" means the body possessing legislative authority in a city or

4   county;

5   (18) "Increment bonds" means bonds and notes issued for the purpose of paying the

6   costs of one (1) or more projects;

7   (19) "Incremental revenues" means:

8   (a)   The amount of revenues received by a taxing district, as determined by

9   subtracting old revenues from new revenues in a calendar year with respect to

10   a development area, or a project within a development area; or

11   (b)   The amount of revenues received by the Commonwealth as determined by

12   subtracting old revenues from new revenues in a calendar year with respect to

13   the footprint;

14 (20) "Local participation agreement" means the agreement entered into under KRS

15   65.7063;

16 (21) "Local tax revenues" has the same meaning as in KRS 65.7045;

17 (22) "Modified new revenues for income tax" means the amount of individual income

18   tax included in state tax revenues that is:

19   (a)   The result of multiplying the portion of state tax revenues from individual

20   income taxes by the modifier;

21   (b)   Used for calculating state tax revenues in *__a calendar year beginning on or__*

22   *__after January 1, 2023__*[calendar years 2023 to 2026]; and

23   (c)   For projects approved prior to January 1, 2023;

24 (23) "Modifier" means the result of dividing the individual income tax rate of five

25   percent (5%), in effect as of December 31, 2022, by the individual income tax rate

26   under KRS 141.020 for the calendar year in which the new revenues for income tax

27   are being computed;

1   (24) "New revenues" means:

2   (a)   The amount of local tax revenues received by a taxing district with respect to

3   a development area in any calendar year beginning with the year in which the

4   activation date occurred; and

5   (b)   The amount of state tax revenues received by the Commonwealth with respect

6   to the footprint in any calendar year beginning with the year in which the

7   activation date occurred.

8   For projects approved prior to January 1, 2023, any state tax revenues received by

9   the Commonwealth from individual income tax shall be computed using modified

10   new revenues for income tax;

11   (25) "Old revenues" means:

12   (a)   The amount of local tax revenues received by a taxing district with respect to

13   a development area as of December 31 of the year of preliminary approval; or

14   (b)   1.   The amount of state tax revenues received by the Commonwealth within

15   the footprint as of December 31 of the year of preliminary approval. If

16   the authority determines that the amount of state tax revenues received

17   as of December 31 of the last calendar year prior to the commencement

18   of preliminary approval does not represent a true and accurate depiction

19   of revenues, the authority may consider revenues for a period of no

20   longer than three (3) calendar years prior to the year of preliminary

21   approval, so as to determine a fair representation of state tax revenues.

22   The amount determined by the authority shall be specified in the tax

23   incentive agreement. If state tax revenues were derived from the

24   footprint prior to the year of preliminary approval, old revenues shall

25   increase each calendar year by:

26   a.   The percentage increase, if any, of the CPI or a comparable index;

27   or

1   b.   An alternative percentage increase that is determined to be

2   appropriate by the authority.

3   The method for increasing old revenues shall be set forth in the tax

4   incentive agreement.

5   2.   If state revenues were derived from the footprint prior to the year of

6   preliminary approval, the calculation of incremental revenues shall be

7   based on the value of old revenues as increased using the method

8   prescribed in subparagraph 1. of this paragraph to reflect the same

9   calendar year as is used in the determination of new revenues;

10 (26) "Outstanding" means increment bonds that have been issued, delivered, and paid

11   for by the purchaser, except any of the following:

12   (a)   Increment bonds canceled upon surrender, exchange, or transfer, or upon

13   payment or redemption;

14   (b)   Increment bonds in replacement of which or in exchange for which other

15   increment bonds have been issued; or

16   (c)   Increment bonds for the payment, redemption, or purchase for cancellation

17   prior to maturity, of which sufficient moneys or investments, in accordance

18   with the ordinance or other proceedings or any applicable law, by mandatory

19   sinking fund redemption requirements, or otherwise, have been deposited, and

20   credited in a sinking fund or with a trustee or paying or escrow agent, whether

21   at or prior to their maturity or redemption, and, in the case of increment bonds

22   to be redeemed prior to their stated maturity, notice of redemption has been

23   given or satisfactory arrangements have been made for giving notice of that

24   redemption, or waiver of that notice by or on behalf of the affected bond

25   holders has been filed with the issuer or its agent;

26 (27) "Preliminary approval" means the action taken by the authority preliminarily

27   approving an eligible project for incentives under this subchapter;

1   (28) "Project" means any property, asset, or improvement located in a development area

2   and certified by the governing body as:

3   (a)   Being for a public purpose; and

4   (b)   Being for the development of facilities for residential, commercial, industrial,

5   public, recreational, or other uses, or for open space, including the

6   development, rehabilitation, renovation, installation, improvement,

7   enlargement, or extension of real estate and buildings; and

8   (c)   Contributing to economic development or tourism; and

9   (d)   Meeting the additional requirements established by KRS 154.30-040, 154.30-

10   050, or 154.30-060;

11   (29) "Signature project" means a project approved under KRS 154.30-050;

12   (30) "State real property ad valorem tax" means real property ad valorem taxes levied

13   under KRS 132.020(1)(a);

14   (31) "State tax revenues" means revenues received by the Commonwealth from one (1)

15   or more of the following sources:

16   (a)   State real property ad valorem taxes;

17   (b)   Individual income taxes levied under KRS 141.020, other than individual

18   income taxes that have already been pledged to support an economic

19   development project within the development area;

20   (c)   Corporation income taxes levied under KRS 141.040, other than corporation

21   income taxes that have already been pledged to support an economic

22   development project within the development area;

23   (d)   Limited liability entity taxes levied under KRS 141.0401, other than limited

24   liability entity taxes that have already been pledged to support an economic

25   development project within the development area; and

26   (e)   Sales taxes levied under KRS 139.200, excluding sales taxes already pledged

27   for:

1   1.   Approved tourism attraction projects, as defined in KRS 148.851, within

2   the development area; and

3   2.   Projects which are approved for sales tax refunds under Subchapter 20

4   of KRS Chapter 154 within the development area;

5   (32) "Tax incentive agreement" means an agreement entered into in accordance with

6   KRS 154.30-070; and

7   (33) "Termination date" means:

8   (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040

9   or 154.30-060, a date established by the tax incentive agreement that is no

10   more than twenty (20) years from the activation date. However, the

11   termination date for a tax incentive agreement shall in no event be more than

12   forty (40) years from the establishment date of the development area to which

13   the tax incentive agreement relates; and

14   (b) For a project grant agreement satisfying the requirements of KRS 154.30-050,

15   a date established by the tax incentive agreement that is no more than thirty

16   (30) years from the activation date. However, the termination date for a tax

17   incentive agreement shall in no event be more than forty (40) years from the

18   establishment date of the development area to which the tax incentive

19   agreement relates.