

1 AN ACT relating to economic development.

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

3 ➔Section 1. KRS 148.853 is amended to read as follows:

4 (1) The General Assembly finds and declares that:

5 (a) The general welfare and material well-being of the citizens of the
6 Commonwealth depend in large measure upon the development of tourism in
7 the Commonwealth;

8 (b) It is in the best interest of the Commonwealth to provide incentives for the
9 creation of new tourism attractions and the expansion of existing tourism
10 attractions within the Commonwealth in order to advance the public purposes
11 of relieving unemployment by preserving and creating jobs that would not
12 exist if not for the incentives offered by the authority to approved companies,
13 and by preserving and creating sources of tax revenues for the support of
14 public services provided by the Commonwealth;

15 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental
16 and public purposes for which public moneys may be expended; and

17 (d) That the creation or expansion of tourism development projects is of
18 paramount importance mandating that the provisions of KRS 139.536 and
19 KRS 148.851 to 148.860 be liberally construed and applied in order to
20 advance public purposes.

21 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the
22 following requirements shall be met:

23 (a) For a tourism attraction project:

24 1. The total eligible costs shall exceed one million dollars (\$1,000,000),
25 except for a tourism attraction project located in a county designated as
26 an enhanced incentive county at the time the eligible company becomes
27 an approved company as provided in KRS 148.857(6), the total eligible

- 1 costs shall exceed five hundred thousand dollars (\$500,000);
- 2 2. In any year, including the first year of operation, the tourism attraction
- 3 project shall be open to the public at least one hundred (100) days; and
- 4 3. In any year following the third year of operation, the tourism attraction
- 5 project shall attract at least twenty-five percent (25%) of its visitors
- 6 from among persons who are not residents of the Commonwealth;
- 7 (b) For an entertainment destination center project:
- 8 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 9 2. The facility shall contain a minimum of two hundred thousand
- 10 (200,000) square feet of building space adjacent or complementary to an
- 11 existing tourism attraction project or a major convention facility;
- 12 3. The incentives shall be dedicated to a public infrastructure purpose that
- 13 shall relate to the entertainment destination center project;
- 14 4. In any year, including the first year of operation, the entertainment
- 15 destination center project shall:
- 16 a. Be open to the public at least one hundred (100) days per year;
- 17 b. Maintain at least one (1) major theme restaurant and at least three
- 18 (3) additional entertainment venues, including but not limited to
- 19 live entertainment, multiplex theaters, large-format theater, motion
- 20 simulators, family entertainment centers, concert halls, virtual
- 21 reality or other interactive games, museums, exhibitions, or other
- 22 cultural and leisure-time activities; and
- 23 c. Maintain a minimum occupancy of sixty percent (60%) of the total
- 24 gross area available for lease with entertainment and food and
- 25 drink options not including the retail sale of tangible personal
- 26 property; and
- 27 5. In any year following the third year of operation, the entertainment

1 destination center project shall attract at least twenty-five percent (25%)
2 of its visitors from among persons who are not residents of the
3 Commonwealth;

4 (c) For a theme restaurant destination attraction project:

- 5 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 6 2. In any year, including the first year of operation, the attraction shall:
 - 7 a. Be open to the public at least three hundred (300) days per year
8 and for at least eight (8) hours per day; and
 - 9 b. Generate no more than fifty percent (50%) of its revenue through
10 the sale of alcoholic beverages;
- 11 3. In any year following the third year of operation, the theme restaurant
12 destination attraction project shall attract a minimum of fifty percent
13 (50%) of its visitors from among persons who are not residents of the
14 Commonwealth; and
- 15 4. The theme restaurant destination attraction project shall:
 - 16 a. At the time of final approval, offer a unique dining experience that
17 is not available in the Commonwealth within a one hundred (100)
18 mile radius of the attraction;
 - 19 b. In any year, including the first year of operation, maintain seating
20 capacity of four hundred fifty (450) guests and offer live music or
21 live musical and theatrical entertainment during the peak business
22 hours that the facility is in operation and open to the public; or
 - 23 c. Within three (3) years of the completion date, the attraction shall
24 obtain a top two (2) tier rating by a nationally accredited service
25 and shall maintain a top two (2) tier rating through the term of the
26 agreement;

27 (d) For a lodging facility project defined in KRS 148.851(15)(a):

- 1 1. a. The eligible costs shall exceed five million dollars (\$5,000,000)
2 unless the provisions of subdivision b. of this subparagraph apply.
- 3 b. i. If the lodging facility is an integral part of a major
4 convention or sports facility, the eligible costs shall exceed
5 six million dollars (\$6,000,000); and
- 6 ii. If the lodging facility includes five hundred (500) or more
7 guest rooms, the eligible costs shall exceed ten million
8 dollars (\$10,000,000); and
- 9 2. In any year, including the first year of operation, the lodging facility
10 shall:
- 11 a. Be open to the public at least one hundred (100) days; and
- 12 b. Attract at least twenty-five percent (25%) of its visitors from
13 among persons who are not residents of the Commonwealth;
- 14 (e) For a lodging facility project defined in KRS 148.851(15)(b):
- 15 1. The eligible costs shall exceed one hundred million dollars
16 (\$100,000,000); and
- 17 2. The lodging facility shall:
- 18 a. Be open to the public at least one hundred (100) days each year,
19 including the first year of operation; and
- 20 b. In any year following the third year of operation, attract a
21 minimum of twenty-five percent (25%) of its overnight visitors
22 from among persons who are not residents of the Commonwealth;
- 23 (f) Any tourism development project shall not be eligible for incentives if it
24 includes material determined to be lewd, offensive, or deemed to have a
25 negative impact on the tourism industry in the Commonwealth; and
- 26 (g) An expansion of any tourism development project shall in all cases be treated
27 as a new stand-alone project.

- 1 (3) (a) The incentives offered to an approved company under the Kentucky Tourism
2 Development Act may include a sales tax incentive based on the Kentucky
3 sales tax imposed on sales generated by or arising at the tourism development
4 project.
- 5 (b) 1. For a tourism development project other than a lodging facility project
6 described in subparagraph 4. or 5. of this paragraph:
- 7 a. A sales tax incentive shall be allowed to an approved company
8 over a period of ten (10) years, except as provided in
9 subparagraphs 7. and 8. of this paragraph; and
- 10 b. The sales tax incentive shall not exceed the lesser of the total
11 amount of the sales tax liability of the approved company and its
12 lessees or a percentage of the approved costs as specified by the
13 agreement, not to exceed twenty-five percent (25%).
- 14 2. For projects approved according to the application period established
15 under KRS 148.8531, a tourism attraction project located in an enhanced
16 incentive county at the time the eligible company becomes an approved
17 company as provided in KRS 148.857(6):
- 18 a. A sales tax incentive shall be allowed to the approved company
19 over a period of ten (10) years; and
- 20 b. The sales tax incentive shall not exceed the lesser of the total
21 amount of the sales tax liability of the approved company and its
22 lessees or a percentage of the approved costs as specified by the
23 agreement, not to exceed thirty percent (30%).
- 24 3. For applications considered after June 27, 2025, including projects
25 related to property to which the title passed from a seller to a buyer on
26 or after March 1, 2025, a tourism attraction project located in an
27 enhanced incentive county with a population equal to or less than twenty

- 1 thousand (20,000) based on the most recent decennial census at the time
2 the eligible company becomes an approved company as provided in
3 KRS 148.857(6):
- 4 a. A sales tax incentive shall be allowed to the approved company
5 over a period of twenty (20) years; and
 - 6 b. The sales tax incentive shall not exceed the lesser of the total
7 amount of the sales tax liability of the approved company and its
8 lessees or a percentage of the approved costs as specified by the
9 agreement, not to exceed fifty percent (50%).
- 10 4. For a lodging facility project described in KRS 148.851(15)(a)5. or 6.:
- 11 a. A sales tax incentive shall be allowed to the approved company
12 over a period of twenty (20) years; and
 - 13 b. The sales tax incentive shall not exceed the lesser of total amount
14 of the sales tax liability of the approved company and its lessees or
15 a percentage of the approved costs as specified by the agreement,
16 not to exceed fifty percent (50%).
- 17 5. For a lodging facility project described in KRS 148.851(15)(b), a sales
18 tax incentive that shall:
- 19 a. Be allowed to the approved company over a period of twenty (20)
20 years; and
 - 21 b. Not exceed the lesser of the total amount of sales tax liability of
22 the approved company and its lessees or a percentage of the
23 approved costs as specified by the agreement, not to exceed fifty
24 percent (50%).
- 25 6. Any unused incentives from a previous year may be carried forward to
26 any succeeding year during the term of the agreement until the entire
27 specified percentage of the approved costs has been received through

1 sales tax incentives.

2 7. If the approved company is an entertainment destination center that has
3 dedicated at least thirty million dollars (\$30,000,000) of the incentives
4 provided under the agreement to a public infrastructure purpose, the
5 agreement may be amended to extend the term of the agreement up to
6 two (2) additional years if the approved company agrees to:

7 a. Reinvest in the original entertainment destination project one
8 hundred percent (100%) of any incentives received during the
9 extension that were outstanding at the end of the original term of
10 the agreement; and

11 b. Report to the authority at the end of each fiscal year the amount of
12 incentives received during the extension and how the incentives
13 were reinvested in the original entertainment destination project.

14 8. The term of a tourism development agreement entered into with a
15 tourism attraction project that was in effect on January 1, 2020, shall be
16 extended for one (1) year if the tourism attraction project:

17 a. Has historically been open to the public on a seasonal basis
18 consisting of less than nine (9)~~six (6)~~ months;

19 b. Has previously met the requirement of being open to the public at
20 least one hundred (100) days during the entire term of the tourism
21 development agreement as required under subsection (2)(a)2. of
22 this section;

23 c. Failed to be open to the public at least one hundred (100) days
24 during the calendar year 2020 solely as a result of complying with
25 one (1) or more executive orders issued by the Governor under the
26 authority of KRS 39A.090 that prevented the tourism attraction
27 project from being open to the public for at least one hundred

- 1 (100) days during its normal operating season; and
- 2 d. Applied for a sales tax incentive related to the calendar year 2020
- 3 operating season and was denied the sales tax incentive solely on
- 4 the basis that the tourism attraction project was not open to the
- 5 public for at least one hundred (100) days in calendar year 2020.