

CHAPTER 180**(HB 274)**

AN ACT relating to transportation improvement districts.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act:

- (1) *"Administrative agent" means a bank, trust company, or other person which has responsibility for authenticating, delivering, or redeeming commercial paper on behalf of the issuer;*
- (2) *"Agent" means, as applicable, one (1) or more of the persons who are administrative agents, indexing agents, remarketing agents, or other persons having responsibility for performing functions with respect to floating rate interest structures or put arrangements;*
- (3) *"Bond proceedings" means the resolutions, trust agreements, certifications, notices, sale proceedings, leases, lease-purchase agreements, assignments, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, or any one (1) or more of a combination thereof, authorizing, or authorizing and providing for the terms and conditions applicable to, or providing for the security or sale or award or liquidity of, bonds, and includes the provisions set forth or incorporated in those bonds and bond proceedings;*
- (4) *"Bond service charges" means principal, including any mandatory sinking fund or mandatory redemption requirements for retirement of bonds, interest, and any redemption premium payable on bonds, as those payments come due and are payable to the bondholder or to a person making payment under a credit enhancement facility of those bond service charges to a bondholder;*
- (5) *"Bond service fund" means the applicable fund created by the bond proceedings for and pledged to the payment of bond service charges on bonds provided for by those proceedings, including all moneys, investments, and earnings from investments, credited and to be credited to that fund as provided in the bond proceedings;*
- (6) *"Bonds" means bonds, notes, including notes anticipating bonds or other notes, commercial paper, certificates of participation, or other evidences of obligation, including any interest coupons pertaining thereto, issued pursuant to Sections 1 to 18 of this Act;*
- (7) *"Commercial paper" means bonds with one (1) or more maturities of three hundred sixty-five (365) days or less which, under the bond proceedings, are expected to be funded by the issuance of additional bonds with maturities of three hundred sixty-five days (365) or less, whether or not ultimately funded with long term bonds;*
- (8) *"Cost" as applied to the construction of a project, includes:*
 - (a) *The cost of construction, including bridges over or under existing highways and railroads;*
 - (b) *Acquisition of all property required by the district for such construction;*
 - (c) *Demolishing or removing any buildings or structures on acquired land, including the cost of acquiring any lands to which buildings or structures may be moved, site clearance, improvement, and preparation;*
 - (d) *Diverting highways, interchanges with highways, and access roads to private property, including the cost of necessary land or easements;*
 - (e) *All machinery, furnishings, and equipment, communications facilities, financing expenses, and interest prior to and during construction and for one (1) year after completion of construction;*
 - (f) *Traffic estimates; indemnity, surety bonds, and premiums on insurance; guarantees; engineering; feasibility studies; legal expenses; plans; specifications; surveys; estimates of cost and revenues; and other expenses necessary or incidental to determining the feasibility or practicability of constructing a project;*

- (g) *Other expenses as may be necessary or incidental to the construction of the project and the financing of such construction; and*
 - (h) *Any obligation or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described in this subsection, in connection with the construction of a project, which may be regarded as part of the cost of the project and reimbursed from revenues, taxes, or the proceeds of bonds as authorized by Sections 1 to 18 of this Act;*
- (9) *"Credit enhancement facilities" means letters of credit; lines of credit; standby, contingent, or firm securities purchase agreements; insurance, or surety arrangements; guarantees, and other arrangements that provide for direct or contingent payment of bond service charges, for security or additional security in the event of nonpayment or default in respect of bonds, or for making payment of bond service charges and at the option and on demand of bondholders or at the option of the district or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the bonds, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement;*
- (10) *"Financing expenses" means all costs and expenses relating to the authorization, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of bonds, including without limitation costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities;*
- (11) *"Floating rate interest structure" means provisions in the bond proceedings whereby the interest rate or rates payable on the bonds, or upon successive series of commercial paper, vary from time-to-time pursuant to or in relation to an index provided by an indexing agent or otherwise established, a formula, base, publicly announced rate, yields on other obligations, determinations of an agent, or any one (1) or combination of the foregoing, with or without approval or consent of the absolute obligor or issuer as provided in the bond proceedings;*
- (12) *"Governmental agency" means a department, division, or other unit of state government; a county, city, municipal corporation or other political subdivision; a regional transit authority or regional transit commission created under KRS Chapter 96A; a port authority created under KRS 65.510 to 65.650; and the United States or any agency thereof;*
- (13) *"Highway" has the same meaning as in KRS 189.010;*
- (14) *"Indexing agent" means a person with responsibility for establishing, adjusting, and maintaining an index of interest rates or yields for purposes of a floating rate interest structure;*
- (15) *"Interest rate hedge" means any arrangement:*
- (a) *By which either:*
 - 1. *The different interest costs or receipts at, between, or among fixed or floating interest rates, including at different floating interest rates, are exchanged on stated amounts of bonds or investments, or on notional amounts; or*
 - 2. *A party will pay interest costs in excess of an agreed limitation; and*
 - (b) *Which also may include a requirement for the issuer to issue bonds at a future date. This requirement shall be deemed to be part of the bond proceedings at the time the interest rate hedge is entered into. Issuance of bonds at a future date shall not require further legislative action, but shall be a ministerial act;*
- (16) *"Interest rate period" means that period of time during which an interest rate or rates established under a floating rate interest structure will pertain, which periods may be altered or become fixed pursuant to the bond proceedings upon stated occurrences or upon determination of the absolute obligor or issuer;*

- (17) *"Interstate system" means that portion of the interstate highway system, or the national highway system, located within the Commonwealth;*
- (18) *"Net revenues" means revenues lawfully available to pay both current operating expenses of a district and bond service charges in any fiscal year or other specified period, less current operating expenses of the district and any amount necessary to maintain a working capital reserve for that period;*
- (19) *"Outstanding," as applied to bonds, means outstanding in accordance with the terms of the bonds and the applicable bond proceedings;*
- (20) *"Owner" includes any person having any title or interest in any property authorized to be acquired by a district under Sections 1 to 18 of this Act;*
- (21) *"Pledged revenues" means net revenues, moneys and investments, and earnings on those investments, in the applicable bond service fund and any other special funds, and the proceeds of any bonds issued for the purpose of refunding prior bonds, all as lawfully available and by resolution of the district committed for application as pledged revenues to the payment of bond service charges on particular issues of bonds;*
- (22) *"Project" means:*
- (a) *A highway or parking facility;*
 - (b) *Freight rail tracks and necessarily related freight rail facilities;*
 - (c) *Other transportation projects constructed or improved under Sections 1 to 18 of this Act and includes all bridges, tunnels, overpasses, underpasses, interchanges, or approaches that are determined by the district to be necessary for the safe merging of traffic between the project and those highways;*
 - (d) *Service facilities, and administration, storage, and other buildings, property, and facilities, that the district considers necessary for the operation of the project; and*
 - (e) *All property and rights that must be acquired by the district for the construction, maintenance, or operation of the project;*
- (23) *"Property" includes interests in property;*
- (24) *"Put arrangement" means provisions in the bond proceedings under which holders of the applicable bonds may exercise an option, or are required, to surrender the bonds or their ownership for an amount of payment previously established in or pursuant to the bond proceedings, at times, which may, but need not be, consistent with the ends of interest rate periods and which may be altered with or without the approval or consent, or upon the direction of, the absolute obligor or the issuer, as provided for in the bond proceedings;*
- (25) *"Refund" means to fund and retire outstanding bonds, including advance refunding with or without payment or redemption prior to stated maturity;*
- (26) *"Remarketing agent" means the person having responsibility for marketing or remarketing commercial paper or bonds with put arrangements, which may include responsibility for making recommendations or determinations as to prices or interest rates;*
- (27) *"Revenues" means:*
- (a) *All moneys received by a district with respect to the lease, sublease, or sale, including installment sale, conditional sale, or sale under a lease-purchase agreement, of a project;*
 - (b) *All moneys received by a district under an agreement pursuant to Section 18 of this Act;*
 - (c) *Any gift or grant received with respect to a project;*
 - (d) *All moneys received from increment bonds issued in accordance with the establishment of a local development area under KRS 65.7041 to 65.7083; and*
 - (e) *Proceeds of bonds issued under Sections 1 to 18 of this Act to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the district, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of a project, and income and profit from the investment of the proceeds of bonds or of any revenues;*

- (28) *"Special funds" means the applicable bond service fund and any accounts and subaccounts in that fund, any other funds or accounts permitted by, established under, and identified as a special fund or special account in the bond proceedings, including any special fund or account established for purposes of rebate or other requirements under federal income tax laws; and*
- (29) *"Transportation improvement district" or "district" means a transportation improvement district established pursuant to Section 2 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) *A transportation improvement district may be created by the legislative body of a city with a population of at least twenty thousand (20,000), a county, or by a group of up to three (3) contiguous counties. A transportation improvement district shall be governed by a board of trustees appointed as outlined in either subsection (3), (4), (5), or (6) of this section.*
- (2) *A transportation improvement district shall be considered:*
- (a) *A body both corporate and politic, and the exercise by it of the powers conferred by Sections 1 to 18 of this Act in the financing, construction, maintenance, repair, and operation of a project are and shall be held to be essential governmental functions; and*
- (b) *A special purpose governmental entity as defined in KRS 65A.010 and subject to the requirements and limitations in KRS Chapter 65A.*
- (3) *A transportation improvement district established by a city shall be governed by a board of trustees consisting of:*
- (a) *Five (5) voting members appointed by the legislative body of the city; and*
- (b) *One (1) nonvoting member appointed by the regional planning commission for the county.*
- All members appointed under this subsection shall be residents of the city establishing the district. Two (2) of the voting members shall be members of a chamber of commerce in the city.*
- (4) *A transportation improvement district established by a single county shall be governed by a board of trustees consisting of:*
- (a) *Five (5) voting members appointed by the legislative body of the county;*
- (b) *One (1) nonvoting member appointed by the legislative body of the largest city in the county; and*
- (c) *One (1) nonvoting member appointed by the regional planning commission for the county.*
- All members appointed under this subsection shall be residents of the county establishing the district. Two (2) of the voting members shall be members of a chamber of commerce in the county.*
- (5) *A transportation improvement district established by two (2) counties shall be governed by a board of trustees consisting of:*
- (a) *Six (6) voting members, three (3) of whom shall be appointed by the legislative body of each county;*
- (b) *One (1) voting member appointed by the board of trustees of the district;*
- (c) *Two (2) nonvoting members, one (1) of whom shall be appointed by the legislative body of the largest city in each county; and*
- (d) *One (1) nonvoting member appointed by the regional planning commission for the counties making up the district.*
- All members appointed under this subsection shall be residents of one (1) of the counties establishing the district. One (1) of the voting members appointed by each county shall be members of a chamber of commerce located within that county.*
- (6) *A transportation improvement district established by three (3) counties shall be governed by a board of trustees consisting of:*
- (a) *Nine (9) voting members, three (3) of whom shall be appointed by the legislative body of each county;*
- (b) *Three (3) nonvoting members, one (1) of whom shall be appointed by the legislative body of the largest city in each county; and*

- (c) *One (1) nonvoting member appointed by the regional planning commission for the counties making up the district.*

All members appointed under this subsection shall be residents of one (1) of the counties establishing the district. One (1) of the voting members appointed by each county shall be members of a chamber of commerce located within that county.

- (7) *Except for initial appointments by the legislative bodies of cities and counties, each appointed member of the board shall hold office for a term of four (4) years but be subject to removal at the pleasure of the authority that appointed the member. Initial appointments to the board by the legislative body of a city or county shall be staggered so that no more than two (2) terms expire in any one (1) year. Except as otherwise provided in this section, any vacancy on the board shall be filled in the same manner as the original appointment.*
- (8) *The voting members of the board shall elect from the entire board membership a chairperson, vice-chairperson, and secretary-treasurer. A majority of the statutory number of voting members of the board constitutes a quorum, the affirmative vote of which is necessary for any action of the district. A vacancy in the membership of the board shall not impair the right of a quorum to exercise all the rights and perform all duties of the district.*
- (9) *Members of the board shall serve without pay, but shall be reimbursed for reasonable expenses from the district's budget.*
- (10) *A city or county that establishes a district, or a city that is part of the district established by one (1) or more counties, may make appropriations from moneys available to them and not otherwise appropriated to pay costs incurred by the district in the exercise of its functions under Sections 1 to 18 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

A transportation improvement district may:

- (1) *Adopt bylaws for the regulation of its affairs and the conduct of its business;*
- (2) *Adopt an official seal;*
- (3) *Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the Circuit Court of the county in which the principal office of the district is located, or in the Circuit Court of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the secretary-treasurer;*
- (4) *Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;*
- (5) *Issue transportation improvement district revenue bonds for the purpose of providing funds to pay the costs of any project or part thereof;*
- (6) *Maintain such funds as it considers necessary;*
- (7) *Direct its agents or employees, when properly identified in writing and after at least five (5) days' written notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the district, without liability of the district or its agents or employees except for actual damage done;*
- (8) *Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under Sections 1 to 18 of this Act;*
- (9) *Employ, retain, or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such expenses shall be payable solely from the proceeds of bonds or from revenues;*
- (10) *Receive and accept from the federal or any state or local government, including but not limited to any agency, entity, or instrumentality of any of the foregoing, loans and grants for or in aid of the construction, maintenance, or repair of any project, and receive and accept aid or contributions from any source or person of money, property, labor, or other things of value, to be held, used, and applied only for the*

purposes for which such loans, grants, and contributions are made. Nothing in this subsection shall be construed as imposing any liability on this state for any loan received by a transportation improvement district from a third party unless this state has entered into an agreement to accept such liability;

- (11) *Subject to the requirements of Section 5 of this Act, acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under Sections 1 to 18 of this Act; and*
- (12) *Do all acts necessary and proper to carry out the powers expressly granted in Sections 1 to 18 of this Act.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) *The board of trustees of a transportation improvement district may provide for the construction, reconstruction, improvement, alteration, or repair of any road, highway, public place, building, or other infrastructure, if the board determines that the public improvement will benefit the area where it will be constructed, reconstructed, improved, altered, or repaired.*
- (2) *Contracts for the improvements made under this section may provide that the improvement may be owned by the district or by the person or corporation supplying it to the district under a lease.*
- (3) *If the board of trustees of a district proposes an improvement described in subsection (1) of this section, the board shall conduct a hearing on the proposed improvement. The board shall indicate the area by metes and bounds in which the public improvement will be made and the area that will benefit from the improvement.*
- (4)
 - (a) *The board of trustees shall fix a day for a hearing on the proposed improvement. The secretary-treasurer of the board shall deliver, to each owner of a parcel of land or a lot that the board identifies as benefiting from the proposed improvement, a notice that sets forth the substance of the proposed improvement and the time and place of the hearing on it.*
 - (b) *At least fifteen (15) days before the date set for the hearing, a copy of the notice shall be served upon the owner or left at the owner's usual place of residence, or, if the owner is a corporation, upon an officer or agent of the corporation.*
 - (c) *On or before the day of the hearing, the person serving notice of the hearing shall make return thereon, under oath, of the time and manner of service, and shall file the notice with the secretary-treasurer of the board.*
 - (d) *At least fifteen (15) days before the day set for the hearing on the proposed improvement, the secretary-treasurer shall give notice to each nonresident owner of a lot or parcel of land in the area to be benefited by the improvement by publication once in a newspaper of general circulation in any counties in which this area is located. The publication of the notice shall be verified by affidavit of the printer or other person having knowledge of the publication and shall be filed with the secretary-treasurer of the district on or before the date of the hearing.*
 - (e) *After the public hearing outlined in this subsection, the district shall present the improvement, including all relevant details, along with a summary of the public hearing, to the body or bodies that established the district. Each of those bodies must approve the project prior to the district being able to proceed.*
- (5)
 - (a) *At the time and place specified in the notice for a hearing on the proposed improvement, the board of trustees of the district shall meet and hear any and all testimony provided by any of the parties affected by the proposed improvement and by any other persons competent to testify.*
 - (b) *The board or its representatives shall inspect, by an actual viewing, the area to be benefited by the proposed improvement. The board shall determine the necessity of the proposed improvement and may find that the proposed improvement will result in general as well as special benefits.*
- (6)
 - (a) *The board may award contracts or enter into a lease agreement for the construction, reconstruction, improvement, alteration, or repair of any improvement described in subsection (1) of this section and may issue notes, bonds, revenue anticipatory instruments, or other obligations, as authorized by Sections 1 to 18 of this Act, to finance the improvements.*
 - (b) *If the board finds that the improvement will result in general or special benefits to the benefited area, it may request that the body or bodies that created the district to establish a local development area in accordance with KRS 65.7041 to 65.7083 to allow for tax increment financing to help defray the cost of the project.*

- (c) *Costs and expenses may also be paid from the treasury of the district or from other available sources in amounts the board finds appropriate.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A transportation improvement district may acquire by purchase, lease, lease-purchase, lease with option to purchase, appropriation, or otherwise in the manner and for the consideration it considers proper, any public or private property necessary, convenient, or proper for the construction, maintenance, repair, or operation of a project. The district may pledge net revenues, to the extent permitted by Sections 1 to 18 of this Act with respect to bonds, to secure payments to be paid by the district under such a lease, lease-purchase agreement, or lease with option to purchase. Title to real and personal property shall be held in the name of the district.*
- (b) *If a district cannot come to terms on any property purchase, the district may request the city or county that established the district to acquire the property in accordance with KRS 416.540 to 416.670. Except as otherwise agreed to by the owner, full compensation shall be paid for public property so taken.*
- (2) *This section does not authorize a district to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce when the property or facilities are required for the proper and convenient operation of the public utility or common carrier, unless provision is made for the restoration, relocation, replication, or duplication of the property or facilities elsewhere at the sole cost of the district.*
- (3) *Except as otherwise provided in Sections 1 to 18 of this Act, disposition of real property shall be by sale, lease-purchase agreement, lease with option to purchase, or otherwise in the manner and for the consideration as the district determines if to a governmental agency, and otherwise in the manner provided in this section. Disposition of personal property shall be in the manner and for the consideration as the district determines.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

The board of trustees of a district may:

- (1) *Acquire, by any method other than condemnation, real property in fee simple in the name of the district in connection with, but in excess of that needed for, a project;*
- (2) *Hold the property for a period of time as the board determines; and*
- (3) *Sell at public auction or otherwise, all right, title, and interest of the district in the property, as the board considers in the best interests of the district; but in no event shall the property be sold for less than two-thirds (2/3) of its appraised value. Sale at public auction shall be undertaken only after the board advertises the sale in a newspaper of general circulation in the district for two (2) weeks prior to the date set for the sale or as provided in KRS 424.130.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to bonds issued in accordance with KRS 65.7041 to 65.7083, the board of trustees of a transportation improvement district may provide by resolution for the issuance, at one (1) time or from time-to-time, of bonds of the district for the purpose of paying all or any part of the cost of any one (1) or more projects. The bond service charges shall be payable solely from pledged revenues pledged for such payment pursuant to the applicable bond proceedings. The bonds of each issue shall be dated, shall bear interest at a rate or rates or at variable rates, and shall mature or be payable at a time or times, with a final maturity not to exceed thirty (30) years from their date or dates, all as determined by the board in the bond proceedings. The board shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of bond service charges.*
- (2) *The bonds shall be signed by the chairperson or vice-chairperson of the board or by the facsimile signature of that officer and the official seal of the district or a facsimile thereof may be affixed thereto or printed thereon and attested by the secretary-treasurer of the district, which may be by facsimile signature. Any coupons attached thereto shall bear the facsimile signature of the chairperson or vice-chairperson of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds or*

coupons ceases to be the officer before delivery of the bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until delivery.

- (3) *Subject to the bond proceedings and provisions for registration, the bonds shall have all the qualities and incidents of negotiable instruments. The bonds may be issued in the form or forms as the board determines, including without limitation coupon, book entry, and fully registered form, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the exchange of bonds between forms. The board may sell the bonds by competitive bid on the best bid after advertisement or request for bids or by private sale in the manner and for the price it determines to be for the best interest of the district.*
- (4) *The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or projects for which the bonds were issued, and shall be disbursed in the manner and under the restrictions as the board provides in the bond proceedings.*
- (5) *Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The board may provide for the replacement of any mutilated, stolen, destroyed, or lost bonds.*
- (6) *The provisions of KRS 424.360 shall apply to the bonds issued under this section.*
- (7) *The bond proceedings shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge to the payment of bond service charges and of any costs of or relating to credit enhancement facilities of all, or a part as the board may determine, of the pledged revenues and the applicable special fund or funds, which pledges may be made to secure the bonds on a parity with bonds theretofore or thereafter issued if and to the extent provided in the bond proceedings. Every pledge, and every covenant and agreement with respect thereto, made in the bond proceedings may in the bond proceedings be extended to the benefit of the owners and holders of bonds and to any trustee and any person providing a credit enhancement facility for those bonds, for the further security for the payment of the bond service charges and credit enhancement facility costs.*
- (8) *The bond proceedings may contain additional provisions as to:*
 - (a) *The redemption of bonds prior to maturity at the option of the board or of the bondholders or upon the occurrence of certain stated conditions, and at such price or prices and under such terms and conditions as are provided in the bond proceedings;*
 - (b) *Other terms of the bonds;*
 - (c) *Limitations on the issuance of additional bonds;*
 - (d) *The terms of any trust agreement securing the bonds or under which the same may be issued;*
 - (e) *Any or every provision of the bond proceedings being binding upon the board, state agencies, or other persons as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by the provision;*
 - (f) *Any provision that may be made in a trust agreement; or*
 - (g) *Any other or additional agreements with the holders of the bonds, or the trustee therefor, relating to the bonds or the security for the bonds, including agreements for credit enhancement facilities.*
- (9) *Any holder of bonds or a trustee under the bond proceedings, except to the extent that the holder's or trustee's rights are restricted by the bond proceedings, may, by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all duties of the board required by Sections 1 to 18 of this Act or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any bonds or in the performance of any covenant or agreement on the part of the board contained in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the revenues and the pledged revenues which are pledged to the payment of the bond service charges on the bonds or that are the subject of the covenant or agreement, with full power to pay, and to provide for payment of, bond service charges on the bonds, and with the powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenue or receipts or other income, funds, or moneys of the board to the*

payment of the bond service charges and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project or other property of the board.

- (10) *Each duty of the board and the board's officers and employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the board, and of each officer, member, or employee having authority to perform the duty.*
- (11) *The board's officers or employees are not liable in their personal capacities on any bonds issued by the board or any agreements of or with the board relating to those bonds.*
- (12) *The bonds are lawful investments for banks, savings and loan associations, credit unions, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other funds of the state or its political subdivisions and taxing districts, the commissioners of the sinking fund of the state, the Kentucky Workers' Compensation Funding Commission, state-administered retirement systems as defined in KRS 7A.210, and also are acceptable as security for the repayment of the deposit of public moneys.*
- (13) *Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges pertinent to such accounts and bond service fund, and for other accounts therein within the general purposes of the fund.*
- (14) *The board may pledge all, or any portion as it determines, of the pledged revenues to the payment of bond service charges, and for the establishment and maintenance of any reserves and special funds, as provided in the bond proceedings, and make other provisions therein with respect to pledged revenues, revenues, and net revenues as authorized by Sections 1 to 18 of this Act, which provisions shall be controlling notwithstanding any other provisions of law pertaining thereto.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

The board of trustees of a transportation improvement district may provide by resolution for the issuance of bonds of the district, payable solely from pledged revenues, for the purpose of refunding any bonds then outstanding, including the payment of related financing expenses and, if considered advisable by the board, for the additional purpose of paying costs of improvements, extensions, renovations, or enlargements of any project. The issuance of refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the board in respect to the bonds shall be governed by the provisions of Sections 1 to 18 of this Act insofar as they are applicable and by the applicable bond proceedings.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) *Bonds issued by a district do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision of the state. Bond service charges on outstanding bonds are payable solely from the pledged revenues pledged for their payment as authorized by Sections 1 to 18 of this Act and as provided in the bond proceedings. All bonds shall contain on their face a statement to that effect.*
- (2) *All expenses incurred in carrying out Sections 1 to 18 of this Act shall be payable solely from revenues provided under Sections 1 to 18 of this Act. Sections 1 to 18 of this Act do not authorize the board of trustees of a district to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) *In the discretion of the board of trustees of a transportation improvement district, any bonds may be secured by a trust agreement between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state but authorized to exercise trust powers within this state.*
- (2) *Any trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or any part thereof. Any trust agreement or other bond proceedings may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in relation to the acquisition of property, the construction, maintenance, and repair of the project or projects in connection with which the bonds are authorized and the custody, safeguarding, application of all moneys, and provisions for the employment or retention of the services of consulting engineers in connection with the construction,*

maintenance, or repair of the project or projects. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the board. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, may restrict the individual right of action by bondholders as is customary in revenue bond trust agreements of public bodies, and may contain other provisions as the board considers reasonable and proper for the security of the bondholders. All expenses incurred in entering into or carrying out the provisions of any trust agreement may be treated as a part of the cost of the project or projects.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

Revenues derived from each project of a transportation improvement district in connection with which any bonds are outstanding shall be first applied to pay the cost of the construction, maintenance, and repair of the project and to provide such reserves therefor as are provided for in the bond proceedings authorizing the issuance of those outstanding bonds, and otherwise as provided by the board of trustees of the district, and the balance of the pledged revenues shall be set aside, at regular intervals as are provided in the bond proceedings, in a bond service fund which is hereby pledged to and charged with the payment of the bond service charges on any outstanding bonds as provided in the applicable bond proceedings. The pledge shall be valid and binding from the time the pledge is made. The revenues and the pledged revenues thereafter received by the board shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the board, whether or not the parties have notice thereof. The bond proceedings by which a pledge is created need not be filed or recorded except in the records of the board. The use and disposition of moneys to the credit of a bond service fund shall be subject to the applicable bond proceedings. Except as is otherwise provided in the bond proceedings, a bond service fund shall be a fund for all such bonds, without distinction or priority of one (1) over another.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

All moneys received by the board of trustees of a transportation improvement district under Sections 1 to 18 of this Act, whether as proceeds from the sale of bonds, as revenues, or otherwise, are to be held and applied solely as provided in Sections 1 to 18 of this Act and in any applicable bond proceedings. The bond proceedings shall provide that any officer to whom, or any bank or trust company to which, revenues or pledged revenues are paid shall act as trustee of the moneys and hold and apply them for the purposes thereof, subject to applicable provisions of Sections 1 to 18 of this Act and the bond proceedings.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

Any holder of bonds issued and outstanding under Sections 1 to 18 of this Act, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by Sections 1 to 18 of this Act may be restricted or modified by the bond proceedings, may by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of the state or granted under Sections 1 to 18 of this Act or the bond proceedings, and may enforce and compel the performance of all duties required by Sections 1 to 18 of this Act or the bond proceedings, to be performed by the board of trustees of a transportation improvement district or any officer of the board.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

The exercise of the powers granted by Sections 1 to 18 of this Act is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. As the construction, maintenance, and repair of projects by a transportation improvement district constitute the performance of essential governmental functions, the district shall not be required to pay any state or local taxes or assessments upon any project, or upon revenues or any property acquired or used by the district under Sections 1 to 18 of this Act, or upon the income therefrom. The bonds issued under Sections 1 to 18 of this Act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet may undertake a demonstration project to study, develop, and demonstrate ways to facilitate public-private cooperation and flexibility in financing, constructing, maintaining, or operating transportation projects. In so doing, it may take all steps necessary and appropriate to facilitate the efforts of a transportation improvement district established in accordance with Sections 1 to 18 of this Act. Such steps may include advising and providing technical assistance to the district and may also include designating

Transportation Cabinet engineers to serve as the cabinet's agent to review project designs and determine if they meet state and federal specifications.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

It is hereby found and determined that surface transportation projects undertaken pursuant to Sections 1 to 18 of this Act are essential and will contribute to the improvement of the prosperity, health, safety, and welfare of the people of a transportation improvement district and to all of the state, and that it is in the public interest and a proper public purpose for a transportation improvement district to acquire, construct, enlarge, improve, equip, sell, lease, lease-purchase, exchange, or otherwise dispose of property, structures, and other facilities for such transportation projects. It is further found and determined that the exercise of the authority granted by Sections 1 to 18 of this Act is consistent with and will promote industry, commerce, distribution, and research activity in the state. Sections 1 to 18 of this Act, being necessary for the prosperity, health, safety, and welfare of the state and its people, shall be liberally construed to effect their purposes.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other statute to the contrary, the approval, consent, or cooperation of a political subdivision is not required for a transportation improvement district project that involves constructing or improving a highway that runs through the territory of the political subdivision and connects to a highway that is part of the interstate system.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 184 IS CREATED TO READ AS FOLLOWS:

- (1) *The legislative body of a county may enter into an agreement with a transportation improvement district of a contiguous county for the district to undertake a project that is located wholly or partially within that county, provided that the legislative body of the county that created the transportation improvement district shall be required to enter into the agreement.*
- (2) *No transportation improvement district shall undertake a project that is located wholly or partially within a county that did not create the transportation improvement district except pursuant to an agreement entered into in accordance with this section, a project being undertaken by two (2) or more transportation improvement districts, or as otherwise provided by law.*

➔Section 19. KRS 65.7045 is amended to read as follows:

As used in KRS 65.7041 to 65.7083:

- (1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area or local development area;
- (2) "Agency" means:
 - (a) An urban renewal and community development agency established under KRS Chapter 99;
 - (b) A development authority established under KRS Chapter 99;
 - (c) A nonprofit corporation;
 - (d) A housing authority established under KRS Chapter 80;
 - (e) An air board established under KRS 183.132 to 183.160;
 - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
 - (g) A riverport authority established under KRS 65.510 to 65.650;~~{-or}~~
 - (h) *A transportation improvement district established under Sections 1 to 18 of this Act; or*
 - (i) A designated department, division, or office of a city or county;
- (3) "Arena" means a facility which serves primarily as a venue for athletic events, live entertainment, and other performances, and which has a permanent seating capacity of at least five thousand (5,000);
- (4) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;

- (5) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;
- (6) "Capital investment" means:
 - (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident thereto, including recording fees;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
 - (f) All other costs of a nature comparable to those described in this subsection;
- (7) "City" means any city, consolidated local government, or urban-county government;
- (8) "Commencement date" means:
 - (a) The date on which a local development area agreement is executed; or
 - (b) The date on which a local participation agreement is executed;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (11) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;
- (12) "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (13) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;
- (14) "Establishment date" means the date on which a development area or a local development area is created. If the development area, local development area, development area plan, or local development area plan is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under KRS 65.7041 to 65.7083 from the original establishment date;
- (15) "Governing body" means the body possessing legislative authority in a city or county;
- (16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in subsection (30)(c) of this section, in a development area or a local development area;
- (17) "Incremental revenues" means the amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, a project within a development area, or a local development area;
- (18) "Issuer" means a city, county, or agency issuing increment bonds;
- (19) "Local development area" means a development area established under KRS 65.7047;
- (20) "Local development area agreement" means an agreement entered into under KRS 65.7047;
- (21) "Local participation agreement" means the agreement entered into under KRS 65.7063;

- (22) "Local tax revenues" means:
- (a) Revenues derived by a city or county from one (1) or more of the following sources:
 1. Real property ad valorem taxes;
 2. Occupational license taxes, excluding occupational license taxes that have already been pledged to support an economic development project within the development area; and
 3. The occupational license fee permitted by KRS 65.7056; and
 - (b) Revenues derived by any taxing district other than school districts or fire districts from real property ad valorem taxes;
- (23) "Low-income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);
- (24) "Mixed-use" has the same meaning as in KRS 154.30-060;
- (25) "New revenues" means the amount of local tax revenues received by a taxing district with respect to a development area or a local development area in any calendar year beginning with the year in which the activation date occurred;
- (26) "Old revenues" means the amount of local tax revenues received by a taxing district with respect to a development area or a local development area during the last calendar year prior to the commencement date. If the governing body determines that the amount of local tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the governing body may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of local tax revenues;
- (27) "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:
- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
 - (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
 - (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;
- (28) "Planning unit" means a planning commission established pursuant to KRS Chapter 100;
- (29) "Project" means any property, asset, or improvement located in a development area or a local development area and certified by the governing body as:
- (a) Being for a public purpose; and
 - (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
 - (c) Contributing to economic development or tourism;
- (30) "Redevelopment assistance," as utilized within a development area, includes the following:
- (a) Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;
 - (b) Programs to market and promote the development area and attract new businesses and residents;

- (c) Grant and loan programs to encourage the construction or rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;
 - (d) Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for-profit, or nonprofit lenders to encourage the construction or rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;
 - (e) Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;
 - (f) Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;
 - (g) Provision of technical, financial, or other assistance in connection with:
 1. Applications to the Energy and Environment Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.1-450; or
 2. Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.1-510 to 224.1-532; and
 - (h) Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:
 1. Assembly and replatting of lots or parcels;
 2. Rehabilitation of existing structures and improvements;
 3. Demolition of structures and improvements and construction of new structures and improvements;
 4. Programs of temporary or permanent relocation assistance for businesses and residents;
 5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and
 6. The acquisition and construction of projects;
- (31) "Service payment agreement" means an agreement between a city, county, or issuer of increment bonds or other obligations and any person, whereby the person agrees to guarantee the receipt of incremental revenues, or the payment of debt charges, or any portion thereof, on increment bonds or other obligations issued by the city, county, or issuer;
- (32) "Special fund" means a special fund created under KRS 65.7061 in which all incremental revenues shall be deposited;
- (33) "Taxing district" means any city, county, or special taxing district other than school districts and fire districts;
- (34) "Tax incentive agreement" means an agreement entered into under KRS 154.30-070;
- (35) "Termination date" means:
- (a) For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date. If a tax incentive agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the tax incentive agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;
 - (b) For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;

- (c) For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the local participation agreement relates; and
 - (d) For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates; and
- (36) "University research park" means land owned by a public university that has been designated by the public university as being primarily for the development of projects and facilities to support high-tech, pharmaceutical, laboratory, and other research-based businesses, including projects and facilities to support and complement the development of high-tech, pharmaceutical, laboratory, and other research-based businesses.

➔Section 20. KRS 416.670 is amended to read as follows:

- (1) Development shall be started on any property which has been acquired through condemnation within a period of eight (8) years from the date of the deed to the condemnor or the date on which the condemnor took possession, whichever is earlier, for the purpose for which it was condemned. The failure of the condemnor to so begin development shall entitle the current landowner to repurchase the property at the price the condemnor paid to the landowner for the property. The current owner of the land from which the condemned land was taken may reacquire the land as aforementioned.
- (2) Any condemnor who fails to develop property acquired by condemnation or who fails to begin design on highway projects pursuant to KRS Chapter 177 within a period of eight (8) years after acquisition, shall notify the current landowner of the provisions of subsection (1) of this section. If the current landowner refuses to purchase property described in this section, public notice shall be given in a manner prescribed in KRS Chapter 424 within thirty (30) days of the refusal, and the property shall be sold at auction. Provided, however, that this section shall not apply to property acquired for purposes of industrial development pursuant to KRS Chapter 152 *or a project of a transportation improvement district under Sections 1 to 18 of this Act.*
- (3) If there are two (2) or more current owners of the land from which the condemned land was taken because the remaining land was subdivided, and if they have a common boundary with the condemned land, the condemned land shall be reacquired by allowing all owners of a parcel of the remaining land with a common boundary and from which the condemned land was taken to offer sealed bids for the condemned land within thirty (30) days of notification by the condemnor. The condemnor shall accept the highest and best sealed bid equal to or greater than the price paid at the time of condemnation. If there are no sealed bids or if all sealed bids are below the original price paid by the condemnor for the property, the property shall be sold at auction.

Signed by Governor April 8, 2022.