

1 AN ACT relating to tax increment financing and declaring an emergency.

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

3 ➔Section 1. KRS 65.7047 is amended to read as follows:

- 4 (1) Any city or county may establish a local development area pursuant to this section,  
5 subject to the following conditions:
- 6 (a) A local development area shall be on previously undeveloped land;
  - 7 (b) No more than one thousand (1,000) acres shall be approved for a local  
8 development area in any twelve (12) month period in any county;
  - 9 (c) The establishment or expansion of the local development area shall not cause  
10 the assessed value of taxable real property within all local development areas  
11 and development areas of the city or county establishing the local  
12 development area to exceed twenty percent (20%) of the assessed value of all  
13 taxable real property within its jurisdiction. For the purpose of determining  
14 whether the twenty percent (20%) threshold has been met, the assessed value  
15 of taxable real property within all of the local development areas and  
16 development areas shall be valued as of the establishment date; and
  - 17 (d) Unless the ordinance establishing a local development area requires an earlier  
18 termination date, a local development area shall cease to exist on the  
19 termination date.
- 20 (2) A city or county shall take the following steps to establish or modify a local  
21 development area:
- 22 (a) ***If the city or county pledges occupational license taxes or the occupational***  
23 ***license fee authorized by KRS 65.7056 as a part of the local tax revenues to***  
24 ***support the local development area,*** the city or county ~~may~~<sup>shall</sup> engage the  
25 services of a qualified independent outside consultant or financial adviser to  
26 analyze the data related to the project and the development area and prepare a  
27 report. ***If the city or county elects to have the report prepared pursuant to***

1            this paragraph the report may~~[shall]~~ include the following:

- 2            1. The estimated approved public infrastructure costs for the project~~[and,~~  
3            if relevant, project costs, financing costs, and costs associated with land  
4            preparation, demolition, and clearance];
- 5            2. The feasibility of the project, taking into account the scope and location  
6            of the project;
- 7            3. The estimated amount of local tax revenues, as applicable, that would be  
8            generated by the project over the period, which may be up to forty (40)  
9            years, as applicable, from the development area's established date;
- 10          4. The estimated amount of local tax revenues, as applicable, that would be  
11          displaced within the city or county, for the purpose of quantifying  
12          economic activity which is being shifted over the same period as that set  
13          forth in subparagraph 3. of this paragraph. The projections for displaced  
14          activity shall include economic activity that is lost to the local  
15          jurisdiction as a result of the project, as well as economic activity that is  
16          diverted to the project that formerly took place at existing establishments  
17          within the local jurisdiction prior to the commencement date of the  
18          project;
- 19          5. The estimated amount of old revenues that would have been generated  
20          in the development area of the project in the absence of the project,  
21          computed over the same time period as set forth in subparagraph 3. of  
22          this paragraph;
- 23          6. In the process of estimating the revenues and impacts prescribed in  
24          subparagraphs 3. and 4. of this paragraph, the independent outside  
25          consultant shall not consider any of the following:
- 26              a. Local tax revenues or economic impacts associated with any  
27              projects within the development area where the new project will be

1 located; or

2 b. **Local tax** revenues or economic impacts associated with economic  
3 development projects and approved Kentucky Tourism  
4 Development Act projects under KRS Chapter 148;

5 7. The relationship of the estimated incremental revenues to the financing  
6 needs, including any increment bonds, of the project;

7 8. When estimating the fiscal impact of the project, the consultant shall  
8 evaluate the amount of revenue estimated in subparagraph 3. of this  
9 paragraph and shall deduct the amounts estimated in subparagraphs 4.  
10 and 5. of this paragraph. The resulting difference shall be compared to  
11 the estimated incremental revenues to determine the presence or absence  
12 of a positive fiscal impact; and

13 9. A determination that the project will not occur if not for the designation  
14 of the development area, the granting of incremental revenues by the  
15 taxing district or districts, and the granting of the local tax incremental  
16 revenues; ~~[-]~~

17 (b) The city or county shall hold a public hearing to solicit input from the public  
18 regarding the local development area. The city or county shall advertise the  
19 hearing by causing to be published, in accordance with KRS 424.130, notice  
20 of the time, place, and purpose of the hearing and a general description of the  
21 boundaries of the proposed local development area. The notice shall include a  
22 summary of the projects proposed for the local development area;

23 (c) After the public hearing, the city or county shall adopt an ordinance which  
24 shall include the following provisions:

25 1. A description of the boundaries of the local development area;

26 2. The establishment date and the termination date;

27 3. A name for the local development area for identification purposes;

- 1           4.    Approval of any agreements relating to the local development area;
- 2           5.    A provision establishing a special fund for the local development area or
- 3           any project within the local development area;
- 4           6.    A requirement that any entity other than the governing body that
- 5           receives financial assistance under the local development area ordinance,
- 6           whether in the form of a grant, loan, or loan guarantee, shall make
- 7           periodic accounting to the governing body;
- 8           7.    A provision for periodic analysis and review by the governing body of
- 9           the development activity in the local development area;
- 10          8.    Designation of the agency or agencies responsible for oversight,
- 11          administration, and implementation of the local development ordinance;
- 12          9.    The estimated net positive fiscal impact as calculated in paragraph (a)8.
- 13          of this subsection ***if the city or county elects to have an***~~[in the required]~~
- 14          independent consultant report ***prepared***; and
- 15          10. Any other provisions, findings, limitations, rules, or procedures
- 16          regarding the proposed local development area or a project within the
- 17          local development area and its establishment or maintenance deemed
- 18          necessary by the city or county;~~[and]~~
- 19       (d) If incremental revenues or other resources are to be pledged from taxing
- 20          districts other than the city or county establishing the local development area,
- 21          a local development area agreement shall be executed in accordance with the
- 22          provisions of subsection (4) of this section; ***and***
- 23       **(e) If the city or county elects to use an independent consultant or financial**
- 24       **adviser as provided in paragraph (a) of this subsection, the independent**
- 25       **consultant or financial adviser shall:**
- 26       **1. Consult with the city's or county's budget office in the development of**
- 27       **the report; and**

1            2. With the approval of the city's or county's budget office, create a  
2            methodology to be used and assumptions to be made by the  
3            independent consultant or financial adviser in preparing the report.

4            The developer requesting the city or county to establish the local  
5            development area shall pay all costs associated with the independent  
6            consultant or financial adviser preparation of the independent consultant or  
7            financial adviser report, unless the city or county agrees to pay the costs of  
8            preparation.

9            (3) Funding for projects in a local development area shall be provided in accordance  
10           with KRS 65.7057.

11           (4) A local development area agreement shall be executed among the agencies and  
12           taxing districts involved in administering, providing financing, or pledging  
13           incremental revenues within the local development area. The local development  
14           area agreement shall be adopted by a city or county by ordinance and by any other  
15           taxing district or agency by resolution, and shall include but not be limited to the  
16           following provisions:

17           (a) Identification of the parties to the local development area agreement and the  
18           duties and responsibilities of each entity under the agreement;

19           (b) Specific identification of the tax increments released or pledged by type of tax  
20           by each taxing district;

21           (c) The anticipated benefit to be received by each taxing district for the release or  
22           pledge, including:

23           1. A detailed summary of old revenues collected and projected new  
24           revenues for each taxing district on an annual basis for the term of the  
25           local development area agreement; and

26           2. The maximum amount of incremental revenue to be paid by each taxing  
27           district and the maximum number of years the payment will be effective;

- 1 (d) A detailed description of the local development area;
- 2 (e) A description of each proposed project, including an estimate of the costs of  
3 construction, acquisition, and development;
- 4 (f) A requirement that pledged incremental revenues will be deposited in a  
5 special fund pursuant to KRS 65.7061, including the timing and procedure for  
6 depositing incremental revenues and other pledged amounts into the special  
7 fund;
- 8 (g) Terms of default and remedies, provided that no remedy shall permit the  
9 withholding by any party to the local development area agreement of any  
10 incremental revenues pledged to the special fund if increment bonds are  
11 outstanding that are secured by a pledge of those incremental revenues;
- 12 (h) The commencement date, activation date, and termination date; and
- 13 (i) Any other provisions not inconsistent with KRS 65.7041 to 65.7083 deemed  
14 necessary or appropriate by the parties to the agreement.
- 15 (5) Any pledge of incremental revenues in a local development area agreement shall be  
16 superior to any other pledge of revenues for any other purpose and shall, from the  
17 activation date to the termination date set forth in the local area development  
18 agreement, supersede any statute, ordinance, or resolution regarding the application  
19 or use of incremental revenues. No ordinance in conflict with a local development  
20 area agreement shall be adopted while any increment bonds secured by that pledge  
21 remain outstanding. Ordinances or resolutions pledging incremental revenues on a  
22 subordinate basis to any existing pledges may be adopted.

23 ➔Section 2. Whereas it is of the utmost importance for local governments to have  
24 the ability to establish or modify local development areas using the provisions of this Act  
25 at the earliest timeframe possible, an emergency is declared to exist and this Act takes  
26 effect upon its passage and approval by the Governor or upon its otherwise becoming a  
27 law.