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## **Kentucky Increment Financing Act**

TITLE IX Counties, Cities, and Other Local Units  
CHAPTER 65 General Provisions Applicable to Counties, Cities, and Other Local Units  
Incremental Financing for Economic Development

### **65.490 Definitions for KRS 65.490 to 65.499.**

As used in KRS 65.490 to 65.499, unless the context otherwise requires:

(1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing a consolidated local government or a city of the first class, established under KRS Chapter 99; a development authority located within a county containing a consolidated local government or a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing a consolidated local government or a city of the first class; or a designated department, division, or office of a county containing a consolidated local government or of a city of the first class;

(2) "Development area" means an area no less than one (1) square mile, nor more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing a consolidated local government or a city of the first class, a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing a consolidated local government or a city of the first class. "Development area" includes an existing economic development asset;

(3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;

(4) "Local government" means a county containing a consolidated local government or a city of the first class;

(5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;

(6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;

(7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in accordance with KRS 99.610 to 99.680, any project undertaken in accordance with the

provisions of KRS Chapter 58, or any "public project" as that term is defined in KRS 58.010 undertaken by a nonprofit corporation located within a county containing a consolidated local government or a city of the first class;

(8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area;

(9) "Taxing district" means a consolidated local government, a county containing a city of the first class, a city of the first class that encompasses all or part of a development area, or the state, but does not mean a school district; and

(10) "Pilot program" means a tax increment financing program or a grant program created by an agency within a consolidated local government or a county containing a city of the first class which shall exist for a period of twenty (20) years after which time it shall continue only after reauthorization by the General Assembly.

**65.491 Legislative findings regarding tax increment financing.**

(1) It is found and declared that public improvements, and publicly promoted private improvements, in any development area that result in the increase in the value of property located in the development area or result in increased employment within the development area serve a public purpose for each taxing district possessing the authority, directly or indirectly, to impose ad valorem taxes, sales taxes, income taxes, or occupational license fees in the development area, and for the state with regards to its revenues from ad valorem taxes, sales taxes, and income taxes. The increment in revenues derived by each taxing district and the state from the development area is found and declared to be one of the benefits derived by each taxing district and the state from any local development project or public project undertaken by the agency; and

(2) It is found that the use of tax increment financing or a grant program based upon the use of increment financing as tax revenues has proved to be successful and of great benefit to areas in need of revitalization and development in other parts of the country; therefore, the development of a pilot program within the Commonwealth to test the usefulness of increment financing to assist local governments in restoring and revitalizing their communities is declared to be a most worthy public purpose.

**65.493 Development areas for tax increment financing -- Qualifications.**

(1) A county containing a city of the first class or a city of the first class may establish a development area for the purpose of creating a pilot program to utilize tax increment financing or a grant program based upon the increment in state tax revenues for the redevelopment and revitalization of these development areas within their communities.

(2) A development area in a county containing a city of the first class shall be located within ten (10) miles of the central business district of the largest city within the county and shall be within one (1) mile of one (1) or more economic development assets having employers, with at least one thousand (1,000) employees, who will leverage and promote investment in the zone.

(3) A development area in a county containing a city of the first class shall have adequate roads, sewers, water, rail service, and an interstate highway interchange directly available.

(4) At least fifty percent (50%) of a development area in a county containing a city of the first class, excluding roads, utility easements, and other infrastructure-related improvements, shall be composed of land that is a brownfield site or other land compatible for industrial or commercial uses to permit and facilitate redevelopment and reuse of land in the development area compatible with the adjacent economic development assets.

**65.494 KRS 65.490 to 65.499 limited to development areas established by county containing city of the first class or a city of the first class before March 23, 2007.**

Effective on March 23, 2007, the provisions of KRS 65.490 to 65.499 shall apply only to development areas which were established by a county containing a city of the first class or a city of the first class prior to March 23, 2007, and that are subject to the provisions of a grant contract, Interlocal Cooperation Agreement or Master Agreement executed prior to March 23, 2007.

**65.495 State and local development contracts for release of tax increments or grant awards -- Limitations.**

(1) In connection with the establishment of any development area, an agency may enter into contracts with one (1) or more taxing districts for the release to the agency of increments expected to be derived by a taxing district within a development area with an existing development asset as leveraged in part by the undertaking of a project.

(2) No contract shall require the release of less than fifty percent (50%) of the increments, or more than ninety-five percent (95%) of the increments where the revenue is derived solely from ad valorem taxation or solely from occupational license fees, or more than eighty percent (80%) of the increments where the revenue is derived from ad valorem taxes and occupational license fees.

(3) An agency may enter into a contract with the state, acting by and through the Governor, for an annual grant to the agency in an amount equal to not less than fifty percent (50%) nor more than eighty percent (80%) of the increment in ad valorem taxes, sales taxes, income taxes, and limited liability entity taxes derived by the state within the development area with an existing economic development asset as leveraged in part by the undertaking of a project.

(4) Any amount derived by the agency under the terms of a release shall be used solely for the purposes of the project and in the development area.

**65.497 State and local development contracts for benefits derived by taxing authority -- Annual renewal.**

(1) Each taxing district is authorized to execute a contract of release with any agency in acknowledgment of benefits to be derived by it within the development area with an existing economic development asset as leveraged in part by the undertaking of a project, and in order to promote the public purposes of the taxing district.

(2) Any contract signed for the release of increments shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the contract.

(3) The state, acting by and through the Governor, is authorized to execute a grant contract with any agency in acknowledgment of benefits to be derived by it with the development area with an existing economic development asset as leveraged in part by the undertaking of a project, and in order to promote the public purpose of the state.

(4) Any grant contract signed for an amount equal to the increment derived from the development area shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the contract.

**65.499 Notice of contract of release to tax collector -- Distribution of tax revenues.**

Any agency, other than a county, consolidated local government, city, urban-county, or charter county government, that enters into a contract with any taxing district for the release of any increments that may arise during the period of a contract of release shall forthwith notify the official charged with the collecting of taxes for the property in the development area of the execution of a contract of release, and the official charged with the collection of taxes shall in each year a contract of release is in effect determine the amount of the increment that is the subject of the contract of release for division between the taxing district and the agency; and, upon the basis of the agreement made between the taxing district and the agency, the official shall divide and distribute the funds derived from the area between the taxing district and the agency. Any local government that has designated an agency as having oversight of a designated development area shall annually issue a release to the agency of those increments created from the taxes collected on properties within the development area. All increments released to an agency of a local government shall be used solely for the purposes of projects in the development area.

**65.680 Definitions for KRS 65.680 to 65.699.**

As used in KRS 65.680 to 65.699:

(1) "Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the Department of Revenue, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS

154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "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;

(5) "City" means any city, consolidated local government, or urban-county;

(6) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "County" means any county, consolidated local government, or charter county;

(9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;

(10) "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;

(11) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more projects are proposed to be located, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of KRS 65.6971 or 65.6972;

(12) "Economic development authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(13) "Enterprise Zone" means an area that had been designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of Subchapter 45 of KRS Chapter 154 before January 1, 2005;

(14) "Governing body" means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under KRS 65.686, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

or

(b) That agreement, including with respect to a development area satisfying the requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of

increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17) "Increments" means the amount of revenues received by any taxing district, determined by subtracting the amount of old revenues from the amount of new revenues in the calendar year with respect to a development area and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of KRS 65.6971 and the construction or improvement, within a development area meeting the requirements of KRS 65.6971, of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of KRS 65.6971;

(19) "Issuer" means a city, county, or an agency issuing increment bonds;

(20) "New revenues" means the amount of revenues received with respect to a development area in any calendar year after the activation date for a development area:

(a) Established under KRS 65.686, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes as may be determined by the Department of Revenue to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue;

(21) "Old revenues" means the amount of revenues received with respect to a development area:

(a) Established under KRS 65.686, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or

(b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to the

commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of KRS 65.6972, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the Department of Revenue to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Department of Revenue as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the Department of Revenue for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Department of Revenue as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22) "Outstanding" means increment bonds that have been issued, delivered, and paid for, 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 bonds have been issued; or

(c) Increment bonds for the payment, or 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;

(23) "Primary project entity" means the entity responsible for control, ownership, and operation of the project within a development area satisfying the requirements of KRS 65.6972 which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of KRS 65.6972, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under KRS 65.686, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;
  2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;
  3. Being in or related to a development area; and
  4. Having an estimated life or period of usefulness of one (1) year or more, including but not limited to real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;
- (b) Satisfying the requirements of KRS 65.6971; an economic development project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a tourism attraction project defined under KRS 148.851; or
- (c) Satisfying the requirements of KRS 65.6972, the development of facilities for:
1. The transportation of goods or persons by air, ground, water, or rail;
  2. The transmission or utilization of information through fiber-optic cable or other advanced means;
  3. Commercial, industrial, recreational, tourism attraction, or educational uses; or
  4. Any combination thereof;
- (25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of KRS 65.6972;
- (26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;
- (27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;
- (28) "Termination date" means the date on which a development area shall cease to exist, which for purposes of a development area:
- (a) Established under KRS 65.686, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or
- (b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or (c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection;

(29) "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and

(30) "Project costs" mean the total private and public capital costs of a project.

**65.682 Legislative finding.**

The General Assembly finds and declares that economic development created by the development of projects to support economic revitalization and improvement in a development area which results in the increase in the value of property located in a development area or results in increased employment opportunities within or around a development area serves a public purpose; and that the authority prescribed by KRS 65.680 to 65.699 and the purposes to be accomplished thereunder, are proper governmental and public purposes for which public moneys may be expended; and that the creation or expansion of development areas is of paramount importance mandating that the provisions of KRS 65.680 to 65.699 be liberally construed and applied in order to advance public purposes.

**65.683 KRS 65.680 to 65.699 limited to development areas established under KRS 65.686 by a city or county before March 23, 2007.**

Effective on March 23, 2007, the provisions of KRS 65.680 to 65.699 shall apply only to development areas which are:

- (1) Established under KRS 65.686 by a city or county prior to March 23, 2007; and
- (2) Subject to the provisions of a grant contract executed prior to March 23, 2007.

**65.684 Powers of city or county for economic development.**

For any development area for which increments do not include revenues from the Commonwealth, in addition to any other powers conferred by law, any city or county may

exercise any powers necessary or convenient to carry out the purposes of KRS 65.680 to 65.699, including the power to:

- (1) Create development areas and to define their boundaries;
- (2) Undertake projects;
- (3) Issue increment bonds and pledge increments to the payment of debt charges on those increment bonds;
- (4) Create a special fund established for the deposit of increments and other funds that may be used or pledged for the payment of increment bonds and to pay the costs of projects;
- (5) Utilize increments to pay the costs of economic development projects and for the payment of amounts due on increment bonds; and
- (6) Impose assessments.

**65.6851 Option to impose assessment fee on certain newly created jobs -- Limitation on amount -- Tax credit for assessed employees -- Restriction on multiple assessments -- Termination -- Requirements to exercise option -- Transition provisions.**

For any development area for which increments do not include revenues from the Commonwealth:

(1) Any governing body establishing a development area may impose an assessment on each person employed in the development area, as a condition of employment, whose job was newly created as a result of a project, and as determined by the policies and procedures established by the governing body, subject to the conditions in subsection (6) of this section, and who is subject to the state tax imposed by KRS 141.020. A job shall not be deemed to be newly created under this section if it occurs due to the relocation of jobs from another location within the Commonwealth.

(2) Subject to KRS 65.6853, the total assessment levied by any governing body within the development area shall not exceed an amount equal to two percent (2%) of the gross wages of the employee.

(3) Each person so assessed shall be entitled to credits against any local occupational license fee or payroll tax of the governing body that established the development area and the job development assessment fee, if an occupational license fee is then levied by that governing body and is not otherwise totally used as a credit against assessments imposed under Subchapter 23, 24, or 26 of KRS Chapter 154, and provided that the amount does not exceed the amount of the occupational licensing fee or payroll tax paid to that local government by the employee. If the governing body that created the job development assessment fee has no occupational license fee, the employee shall not be entitled to receive a credit against any other governmental agency's occupational license fee.

(4) Subsequent to the establishment of a development area by one (1) governing body, no other governing body may levy an assessment in any portion of the development area that would cause the total assessment in any portion of the development area to exceed two percent (2%) of the gross wages of the employee, subject to KRS 65.6853. If more than one (1) governing body jointly establishes a development area, the governing bodies that establish the development area shall agree upon the amount of the assessment and the manner by which the assessment is to be prorated among the governing bodies establishing the development area.

(5) Any assessment of employees in connection with their employment at a project levied under this section shall permanently lapse on the date:

(a) Any bonds issued in connection with acquiring or developing the infrastructure of a development area, in accordance with KRS 65.680 to 65.699, are retired; or

(b) Any loans or other financing incurred in connection with the establishment of a development area mature or are prepaid in full.

(6) For the purposes of this section:

(a) The development area shall be a previously undeveloped tract of land;

(b) No more than five hundred (500) acres may be approved in any twelve (12) month period in any county; and

(c) Acceptable developments shall be limited to projects as defined in KRS 65.680.

(7) Any agency that has established a development area under KRS 65.680 to 65.699 prior to July 15, 2002, unless otherwise approved by the agency, shall continue to operate under the provisions of KRS 65.680 to 65.699 as determined by the policies and procedures established by the agency prior to July 15, 2002.

**65.6853 Relationship to other job development assessment fees -- Maximum on total tax credits.**

For any development area for which increments do not include revenues from the

Commonwealth:

(1) If a company, against whose employees an assessment is levied under KRS 65.6851, enters into an agreement with the economic development authority under Subchapter 23, 24, or 26 of KRS Chapter 154 allowing the company to impose a job development assessment fee as part of that agreement, the total assessment levied against the employee for state inducements and the development area shall not exceed six percent (6%), subject to subsection (2) of this section.

(2) If an eligible company under Subchapter 23, 24, or 26 of KRS Chapter 154 locates or expands within a development area, the assessment imposed under KRS 65.6851(1) shall not exceed the lesser of two percent (2%) or the difference between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, or 26 of KRS Chapter 154.

**65.6855 Application of assessments -- Employer's duties.**

For any development area for which increments do not include revenues from the Commonwealth:

(1) The employees of any company choosing to locate in a development area shall be subject to any assessments levied against them, and the company shall not have the authority to reject an assessment.

(2) Each employer in the development area shall:

(a) Collect the assessment from its employees by deducting the assessment from each paycheck of its employees;

(b) Promptly remit the assessment to the official charged with collecting revenues in the development area;

(c) Make its payroll books and records available to the official charged with collecting revenues in the development area at a reasonable time as specified by the governing body; and

(d) File with the official charged with collecting revenues in the development area any documentation with regard to the assessment as required by the governing body.

**65.686 Establishment or modification of development area -- Procedure -- Termination.**

(1) Any city or county may establish or modify a development area by:

(a) Holding a public hearing by its governing body or its designee at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation or modification of a development area and its boundaries. Notice of the hearing shall:

1. Include a declaration that the purpose of the hearing is to afford interested parties an opportunity to express their views regarding the proposed development area;

2. Include a general description of the boundaries of the proposed development area;

3. State the time and place of the hearing; and

4. Be published in a local newspaper of general circulation at least seven

(7) days but no more than twenty-one (21) days prior to the scheduled hearing date; and

(b) Adopting an ordinance which shall:

1. Describe the boundaries of the proposed development area with sufficiency to allow ordinary and reasonable certainty of the territory included. However, no proposed development area shall include property located in any other development area;
2. Create the development area on a date certain, which shall be referred to as the commencement date;
3. Assign a name to the proposed development area for identification purposes;
4. Contain findings that the designation of the proposed development area will result in the increase in the value of property located in the development area or result in increased employment within or around the development area, or both;
5. Approve the grant contract, if any, relating to a development area;
6. Establish, if applicable, a special fund for that development area;
7. Contain any other findings, limitations, rules, or procedures regarding the proposed development area and its establishment or maintenance as deemed necessary by the governing body; and
8. Permit, if applicable, the levying of an assessment; and

(c) Providing the official charged with collecting revenues in the development area, if the official is not an employee of the city or county designating the development area, with a description of the development area and any other information available which is needed to determine increments or new revenues.

(2) (a) For any development area for which increments do not include revenues from the Commonwealth, increments generated in a development area shall be submitted by the official charged with collecting revenues in the development area, to the city or county establishing the special fund for that development area, deposited to that special fund and used to pay the costs of projects or to pay debt charges on increment bonds, except that increments payable to any city or county other than the city or county establishing the development area shall be submitted to that city or county as if no development area existed unless that city or county is a party to a grant contract that provides that some or all of the increments are to be submitted to a special fund.

(b) For any development area for which increments include revenues from the Commonwealth, increments paid by the city, county, or Commonwealth to the agency for which the development area is created shall be used to pay the costs of projects or to pay debt charges on increment bonds.

(3) The existence of a development area shall terminate on the termination date.

#### **65.688 Special fund for outstanding increment bonds.**

For any development area for which increments do not include revenues from the Commonwealth, while increment bonds are outstanding, the issuer shall maintain a special fund which shall be pledged for the retirement of those increment bonds. Officials

charged with collecting revenues in the development area shall, for each year a grant contract is in effect or any increment bonds are outstanding with respect to a development area, determine the amount of increments from the development area which they are charged with collecting and submit those increments for deposit in the special fund established by the governing body for that development area. Funds deposited in a special fund for the payment of increment bonds shall be disbursed at the times and in the amounts required to pay debt charges on those increment bonds. Accrued interest from the sale of increment bonds shall be deposited in the special fund pledged to the payment of those bonds. Amounts in a special fund which exceed the amount required to pay debt charges on related increment bonds in any fiscal year may accumulate in the special fund for the payment of future debt charges or to pay the costs of additional projects in the development area, or may be transferred by the governing body from the special fund under the terms of a grant contract or used for any lawful purpose.

**65.690 Ordinances governing increment bonds -- Required provisions.**

Increment bonds shall be issued, administered, and regulated only by ordinance adopted by the governing body which, in addition to any other provisions deemed appropriate by the governing body, shall:

- (1) Declare the necessity of the increment bond issue;
- (2) State the principal amount or maximum principal amount of the increment bonds to be issued;
- (3) State the purpose of the increment bond issue;
- (4) State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;
- (5) State any provisions for a mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;
- (6) Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing or determining the rate or rates of interest to be paid on the increment bonds; and
- (7) State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this section, subject to any limitations stated in the proceedings.

**65.692 Permitted purposes for bond issuance.**

(1) Increment bonds may be issued to pay the costs of projects in the development area. The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds insofar as they do not conflict with KRS 65.680 to 65.699; if they do conflict, KRS 65.680 to 65.699 shall apply.

(2) Debt payments on increment bonds may be paid from increments, from any other funds of the issuer, or from funds identified in a grant contract, or any combination thereof. If increment bonds are payable solely from increments, the issuer shall, prior to the issuance of the increment bonds, make a determination that the increments are adequate to make the debt payments so long as the increment bonds are outstanding.

(3) Increment bonds may also be issued to fund or refund all or any portion of

outstanding increment bonds. Any increment bonds issued under this subsection shall mature as determined by the governing body consistent with the definition of termination date as contained in KRS 65.680 and 66.091.

**65.694 Pledge of increments for bond payment -- Precedence of pledges.**

Any city or county may pledge increments to the payment of increment bonds by an ordinance adopted by the governing body or by a grant contract adopted by ordinance. Any pledge of increments adopted under this section shall, as to the increments, but not as

to any other revenues, be superior to any other pledge of revenues for any other purpose and shall, from the effective date of the ordinance to the termination date, supersede any statute or ordinance regarding the application or use of increments. No ordinance in conflict with an ordinance pledging increments shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

**65.696 Development area grant contract -- Required provisions.**

For any development area for which increments do not include revenues from the Commonwealth:

(1) Upon establishment of a development area, any city or county may release, by a grant contract with any other city or county, increments expected to be collected by that city or county in the related development area for a period that does not extend beyond the termination date.

(2) The grant contract shall include the following provisions:

(a) The identity of each city and county participating in the financing agreement;

(b) A detailed description of each project that is the subject of the grant contract, including an estimate of its costs of construction or acquisition and development;

(c) A detailed description of the development area;

(d) A detailed summary estimating old revenues collected and projected new revenues in the development area for each city and county that is a party to the grant contract, on an annual basis, for the term of the proposed grant contract;

(e) The maximum amount of increments to be released by the parties to the grant contract, if any, and the maximum number of years the release will be effective, including an agreement to deposit the increments in a special fund created for that purpose, which, if any increment bonds are to be issued, shall be held by the issuer of the increment bonds;

(f) The times and procedures for depositing increments and other funds, if any, in the special fund to be established for the development area and any provisions relating to the collection of the increments;

(g) Any covenants regarding additional funds or to pay the costs of the projects;

(h) Any covenants regarding completion of the project;

(i) Terms of default and remedies, except that no remedy shall permit the withholding by any party to the grant contract of any increments to be deposited in the special fund identified in the grant contract so long as any increment bonds are outstanding that are secured by a pledge of those

increments;

(j) The commencement date;

(k) The termination date; and

(l) Any other provisions not inconsistent with KRS 65.680 to 65.699 that are deemed necessary or appropriate by the parties to the grant contract.

**65.6971 Development area for infrastructure development -- Application -- Approval -- Ordinance creating area -- Increment amounts -- Grant contracts -- Portion of increment due from each taxing district -- Financing account -- Reports -- Operating procedures -- Obligation of Department of Revenue and agency.**

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the Commerce Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Department of Revenue for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Department of Revenue on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the Department of Revenue, the department is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Department of Revenue shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The Department of Revenue shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The Department of Revenue or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

**65.6972 Development area and related project -- Application -- Approval -- Requirements for project -- Independent consultant -- Approval by authority -- Ordinance -- Grant contracts -- Portion of increment due from each taxing district -- Financing account -- Reports -- Operating procedures -- Obligation of Department of Revenue and agency.**

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Commerce Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS

65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

- (a) Represent new economic activity in the Commonwealth;
  - (b) Result in a minimum capital investment of ten million dollars (\$10,000,000);
  - (c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;
  - (d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;
  - (e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;
  - (f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and
  - (g) Not be primarily devoted to the retail sale of goods.
- (3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:
- (a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:
    - 1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;
    - 2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;
    - 3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;
    - 4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and
    - 5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.
  - (b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director and the Finance and Administration Cabinet in the

development of the report. The Office of State Budget Director and the Finance and Administration Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director and the Finance and Administration Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as

appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the Department of Revenue for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Department of Revenue, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the Department of Revenue and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Department of Revenue on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the Department of Revenue, the department is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in

compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Department of Revenue shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The Department of Revenue shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The Department of Revenue or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

**65.698 Authority of KRS 65.680 to 65.699 supplemental to other legal authority.**

The authority granted by KRS 65.680 to 65.699 is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

**65.699 Short title for KRS 65.680 to 65.699.**

KRS 65.680 to 65.699 may be cited as the Kentucky Increment Financing Act.

**65.700** Repealed, 2002.

**65.703** Repealed, 2002.

**65.7041 Findings of General Assembly relative to KRS 65.7041 to 65.7083.**

(1) The General Assembly finds and declares that the establishment of development areas, local development areas, and projects which result in increased property values, increased employment opportunities, and increased economic activity in communities within the Commonwealth serves a public purpose.

(2) The General Assembly further finds and declares that the authority prescribed in KRS 65.7041 to 65.7083, and the purposes to be accomplished thereunder, are proper.

(3) A city or county creating or expanding a development area or local development area, shall, to the greatest extent it determines to be reasonably feasible in carrying out the provisions of KRS 65.7041 to 65.7083, afford maximum opportunity for the rehabilitation, development, renovation, or improvement of a development area or local development area by private enterprise.

**65.7043 Purposes of KRS 65.7041 to 65.7083.**

The purposes of KRS 65.7041 to 65.7083 are as follows:

(1) KRS 65.7047 provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and to devote local resources to support the development of projects in those

local development areas. Local development areas established under KRS 65.7047 and projects within local development areas shall not be eligible for participation by the Commonwealth; and

(2) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and counties to establish development areas for the redevelopment of previously developed land within their jurisdictional boundaries, and to devote local resources to providing redevelopment assistance and supporting projects in those development areas. Projects within development areas established pursuant to KRS 65.7049, 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Subchapter 30 of KRS Chapter 154.

**65.7044 Oversight and responsibility for Commonwealth's participation in tax increment financing.**

(1) Oversight and responsibility for the Commonwealth's participation in tax increment financing shall be transferred from the Tax Increment Financing Commission to the Kentucky Economic Development Finance Authority, established by KRS 154.20-010, on July 15, 2008.

(2) On and after July 15, 2008, the Tax Increment Financing Commission and the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue shall cease to exist.

(3) All documentation and records relating to state participation in all tax increment financing programs and all agreements authorized by all prior and existing statutes shall be transferred by the Tax Increment Financing Commission and the Division of Tax Increment Financing to the Kentucky Economic Development Finance Authority.

(4) The Division of Tax Increment Financing shall obtain authorization from all affected entities prior to the transfer of any confidential tax information to the Kentucky Economic Development Finance Authority.

(5) Members of the Tax Increment Financing Commission and staff of the Division of Tax Increment Financing shall cooperate fully with the Kentucky Economic Development Finance Authority in the transfer of all necessary records and information.

(6) Tax increment financing projects established under prior tax increment financing laws and agreements entered into under prior tax increment financing laws shall be administered and interpreted in accordance with the law in effect at the time the project was approved and the agreement entered into.

**65.7045 Definitions for KRS 65.7041 to 65.7083.**

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 designated department, division, or office of a city or county;
- (3) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (4) "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;
- (5) "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;
- (6) "City" means any city, consolidated local government, or urban-county government;
- (7) "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;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (10) "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;
- (11) "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (12) "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;

- (13) "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;
- (14) "Governing body" means the body possessing legislative authority in a city or county;
- (15) "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 (28)(c) of this section, in a development area or a local development area;
- (16) "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;
- (17) "Issuer" means a city, county, or agency issuing increment bonds;
- (18) "Local development area" means a development area established under KRS 65.7047;
- (19) "Local development area agreement" means an agreement entered into under KRS 65.7047;
- (20) "Local participation agreement" means the agreement entered into under KRS 65.7063;
- (21) "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;
- (22) "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);
- (23) "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;
- (24) "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.

(25) "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;

(26) "Planning unit" means a planning commission established pursuant to KRS Chapter 100;

(27) "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;

(28) "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 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 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 Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01-450; 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 224.01-510 to 224.01-532; 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;

(29) "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;

(30) "Special fund" means a special fund created under KRS 65.7061 in which all incremental revenues shall be deposited;

(31) "Taxing district" means any city, county, or special taxing district other than school districts and fire districts;

(32) "Tax incentive agreement" means an agreement entered into under KRS 154.30-070; and

(33) "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.

**65.7047 Establishment of local development areas -- Conditions for establishment -- Steps for establishment or modification -- Funding -- Execution of agreement -- Pledge of revenues.**

(1) Any city or county may establish a local development area pursuant to this section, subject to the following conditions:

- (a) A local development area shall be on previously undeveloped land;
- (b) No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month period in any county;
- (c) The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the local development areas and development areas shall be valued as of the establishment date; and

(d) Unless the ordinance establishing a local development area requires an earlier termination date, a local development area shall cease to exist on the termination date.

(2) A city or county shall take the following steps to establish or modify a local development area:

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

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

1. A description of the boundaries of the local development area;
2. The establishment date and the termination date;
3. A name for the local development area for identification purposes;
4. Approval of any agreements relating to the local development area;
5. A provision establishing a special fund for the local development area or any project within the local development area;
6. A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
7. A provision for periodic analysis and review by the governing body of the development activity in the local development area;
8. Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and

9. Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and

(c) If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.

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

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

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

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

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

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

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

(d) A detailed description of the local development area;

(e) A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;

(f) A requirement that pledged incremental revenues will be deposited in a special fund pursuant to KRS 65.7061, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;

(g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(h) The commencement date, activation date, and termination date; and

(i) Any other provisions not inconsistent with KRS 65.7041 to 65.7083 deemed necessary or appropriate by the parties to the agreement.

(5) Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local development area agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

**65.7049 Establishment of development area for reinvestment and redevelopment pursuant to this section and KRS 65.7051 and 65.7053 -- Conditions for establishment -- Findings required.**

Any city or county may establish a development area pursuant to KRS 65.7049, 65.7051, and 65.7053 to encourage reinvestment in and development and reuse of areas of the city or county under the following conditions:

- (1) The area shall be contiguous and shall be no more than three (3) square miles;
- (2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;
- (3) The governing body of the city or county shall determine that the development area has two (2) or more of the following conditions:
  - (a) Substantial loss of residential, commercial, or industrial activity or use;
  - (b) Forty percent (40%) or more of the households are low-income households;
  - (c) More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
  - (d) Substantial abandonment of residential, commercial, or industrial structures;
  - (e) Substantial presence of environmentally contaminated land;
  - (f) Inadequate public improvements or substantial deterioration in public infrastructure;or
  - (g) Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; and
- (4) The governing body of the city or county shall find that all of the following are true:
  - (a) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and
  - (b) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and (c) 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.

**65.7051 Establishment of development plan for a development area -- Public hearing.**

(1) Any city or county seeking to establish a development area shall adopt a development plan. The development plan may be developed by a city, a county, or a city and county jointly, or may be proposed by an agency or by a private entity. The plan shall include the following:

(a) Assurances that the proposed development area meets the requirements of KRS 65.7049(1) and (2), identification of the conditions in the proposed development area that meet the criteria set forth in KRS 65.7049(3), and confirmation that the requirements of KRS 65.7049(4) have been met;

(b) A detailed description of the existing uses and conditions of real property in the development area;

(c) A map showing the boundaries of the proposed development area, a legal description of the development area, and geographic reference points;

(d) A map showing proposed improvements and uses therein, including the identification of any proposed projects, along with a narrative description of the proposed improvements, projects, and uses within the development area;

(e) A description of the redevelopment assistance proposed to be employed in the development area, including the manner and location of such assistance;

(f) A detailed financial plan containing projections of the cost of the proposed redevelopment assistance to be provided, proposed projects to be funded, proposed sources of funding for these costs, projected incremental revenues, and the projected time frame during which financial obligations will be incurred;

(g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance anticipated to be required to implement the development plan; and

(h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.

(2) Prior to adoption of a development plan, the city or county shall hold a public hearing to solicit input from the public regarding the plan. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed development area. The notice shall include a summary of the redevelopment assistance proposed to be employed, identification of projects proposed for the development area, and a statement that a copy of the development plan is available for inspection at the business office of the city or county.

(3) Prior to publication of a hearing notice pursuant to subsection (2) of this section, a copy of the development plan shall be filed with the city clerk of each city having jurisdiction within the proposed development area, and with the county fiscal court.

(4) A city or county having jurisdiction within the proposed development area not initially participating in a proposed development plan shall have the opportunity to determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.

(5) At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with KRS 65.7053.

**65.7053 Contents of ordinance establishing a development area -- Agency to oversee and administer implementation of ordinance -- Termination date.**

(1) An ordinance establishing a development area shall include the following provisions:

- (a) A legal description of the boundaries of the development area, and geographic reference points;
  - (b) The establishment date;
  - (c) The termination date, including a provision that allows the termination date to be extended as provided in KRS 65.7045(33);
  - (d) A name for the development area for identification purposes;
  - (e) A finding that the conditions in the development area meet the criteria described in KRS 65.7049;
  - (f) A finding supporting the need to employ redevelopment assistance in the development area;
  - (g) A provision adopting the development plan required by KRS 65.7051(1);
  - (h) Approval of any agreements relating to the development area, including any local participation agreements;
  - (i) A provision establishing a special fund for the development area or any project within the development area;
  - (j) A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
  - (k) A provision for periodic analysis and review by the governing body of the development activity in the development area, a review of the progress in meeting the stated goals of the development area, and a requirement that the review and analysis be forwarded to the authority if the development activity includes projects subject to a tax incentive agreement;
  - (l) Designation of the agency or agencies responsible for oversight, administration, and implementation of the development ordinance; and
  - (m) Any other provisions, findings, limitations, rules, or procedures regarding the proposed development area or a project within the development area and its establishment or maintenance deemed necessary by the city or county.
- (2) An ordinance establishing a development area may designate an existing agency to oversee and administer implementation of a development area ordinance or a portion thereof.
- (3) Unless the ordinance establishing a development area requires an earlier date, a development area shall cease to exist on the termination date.

**65.7055 Amendment, change, or revision to development plan or development area - - Adoption -- Hearing and notice -- Ordinance.**

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to KRS 65.7049, 65.7051, and 65.7053, including the addition of a project, use of new or different redevelopment assistance within the

development area, or amendment of the development area boundaries shall be made as follows, provided that any amendment adopted shall not extend the existence of development area beyond the termination date:

- (1) An amendment to the development plan shall be adopted by the city or county. The proposed development plan amendment shall include the following:
  - (a) Identification of the development area to which the amendment applies;
  - (b) A copy of the development plan as revised by the amendment;
  - (c) A narrative description of the proposed changes to the original development area plan and how those changes will impact the original development plan;
  - (d) If the amendment changes the boundaries, or in any way amends maps filed with the original development plan, a revised map, a revised legal description of the development area, and revised geographic reference points, and identification of new improvements, or projects proposed in the amendment;
  - (e) A description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance relating to the proposed amendment;
  - (f) A financial plan relating to the proposed amendment, including the proposed cost of providing any redevelopment assistance and proposed projects to be funded, the sources of funding to meet those costs, projected incremental revenues, and the projected time period during which financial obligations will be incurred;
  - (g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance required to implement the proposed amendment; and
  - (h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.
- (2) Prior to the adoption of an amendment to a development plan, the city or county shall comply with the hearing and notice provisions set forth in KRS 65.7051(2) and (3). The notice provided in relation to an amendment to the development plan shall include a summary of how the amendment changes the development plan and shall identify new redevelopment assistance and projects proposed by the amendment.
- (3) The city or county shall adopt any amendment to the development plan and any amendment to the development area by ordinance. The ordinance shall include the following provisions:
  - (a) A provision adopting the amendment to the development plan required by subsection (1) of this section;
  - (b) Approval of any local participation agreements or other agreements relating to the amendment;
  - (c) The identification of any new or different state or local tax revenues pledged by any taxing district to support the provision of redevelopment assistance or projects identified in the amendment;
  - (d) A finding that the amendment does not increase the aggregate value of taxable real property included in all the redevelopment areas and the local development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real

property within all of the local development areas and development areas shall be valued as of the establishment date; and

(e) Any other provisions, findings, limitations, rules, or procedures regarding the amendment deemed necessary by the city or county.

**65.7056 Occupational license fee -- Assessment -- Credit against other license fee -- Collection and remittance -- Job development assessment fee -- Fee maximums.**

(1) Any city, county, or combination of cities and counties establishing a development area or local development area may, as a condition of employment, impose an occupational license fee against each person employed in the development area or local development area through the adoption of an ordinance imposing such fee. The imposition of the fee shall be subject to the following:

(a) The occupational license fee shall be imposed only against persons whose jobs are newly created as a result of a project within the development area or local development area. A job is not newly created if it occurs due to the relocation of a job from another location within the Commonwealth;

(b) The person against whom the assessment is imposed shall be subject to the state tax imposed by KRS 141.020;

(c) The assessment or any combination of assessments imposed by a city, a county, or a combination of cities and counties within the development area or local development area shall not exceed two percent (2%) of gross wages of the person; and

(d) The imposition of a fee shall be reported to the Kentucky Economic Development Finance Authority established by KRS 154.20-010.

(2) (a) Each person against whom an assessment is imposed shall be entitled to a credit against any jurisdictionwide local occupational license fee levied by the city, county, or combination of cities and counties that established the development area or local development area if the jurisdictionwide levy has not previously been made available as a credit against assessments imposed under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154.

(b) The amount of the credit shall not exceed the amount of the jurisdictionwide occupational license fee paid to that city, county, or combination of cities and counties by the person subject to the assessment.

(c) If the city, county, or combination of cities and counties imposing the occupational license fee within the development area or local development area does not levy a jurisdictionwide occupational license fee, the employee shall not be entitled to a credit against any other city's or county's occupational license fee or any income tax levied by the Commonwealth.

(3) Each employer in the development area or local development area shall, for each employee subject to an occupational license fee levied pursuant to this section:

(a) Collect the occupational license fee by deducting the occupational license fee from each paycheck of its employees;

(b) Promptly remit the occupational license fee to the official charged with collecting revenues in the development area or local development area;

(c) Make its payroll books and records available to the official charged with collecting revenues in the development area or local development area at a reasonable time as

specified by the city, county, or cities and counties establishing the development area or local development area; and

(d) File with the official charged with collecting revenues in the development area or local development area any documentation with regard to the occupational license fee as required by the city, county, or cities and counties establishing the development area or local development area.

(4) Any assessment of a person under this section shall permanently lapse on the earlier of:

(a) The termination date;

(b) The date on which any bonds issued in connection with the project are retired; or

(c) The date on which any loans or other financing incurred in connection with the establishment of the development area or local development area mature or are paid in full.

(5) If a company, against whose employees an assessment is levied under this section, enters into an agreement with the economic development authority under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154 allowing the company to impose a job development assessment fee as part of that agreement, the total assessment levied against the employee for state inducements and the development area or local development area shall not exceed six percent (6%), subject to subsection (6) of this section.

(6) If an eligible company under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154 locates or expands within a development area or local development area, the assessment imposed under this section shall not exceed the lesser of two percent (2%) or the difference between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154.

**65.7057 Permitted sources for local funding for redevelopment assistance or projects -- Special assessments -- Local participation agreement required.**

(1) To provide funding for redevelopment assistance or projects in a development area or projects in a local development area:

(a) Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to one hundred percent (100%) of the incremental local tax revenues generated in the development area or local development area or from a project within the development area or local development area for up to thirty (30) years from the activation date;

(b) The amount of incremental revenues shall be determined for each type of tax separately; and

(c) Local tax revenues from a development area that have not been pledged to support redevelopment assistance or projects within the development area, or from a local development area that have not been pledged to support projects within the local development area, may be used to support other economic development projects, provided that local tax revenues shall not be pledged more than once. Thus, local tax revenues pledged to support increment bonds issued for the development area or local development area shall not also be pledged to support a specific project within the development area or local development area, and those revenues shall not be pledged to support any other program, development, or undertaking.

(2) Any city may pledge revenues collected under a special assessment imposed under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

(3) Any county may levy a special assessment under the terms and conditions established for cities under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

(4) Any city, county, or combination of cities and counties establishing a development area or a local development area may pledge revenues collected pursuant to the occupational license fee permitted by KRS 65.7056.

(5) Any pledge of incremental revenues or other revenues related to a development area by a taxing district shall be accomplished through the execution of a local participation agreement in accordance with KRS 65.7063.

(6) Any pledge of incremental revenues or other revenues related to a local development area by a taxing district shall be accomplished through the execution of a local development area agreement in accordance with KRS 65.7047.

#### **65.7059 Issuance of increment bonds by local governments.**

Any city, county, or agency with bonding authority may issue increment bonds and may pledge incremental revenues to the payment of the increment bonds.

(1) Increment bonds shall be issued, administered, and regulated by ordinance adopted by the governing body which shall:

(a) Declare the necessity of the incremental bond issue;

(b) State the principal amount or maximum principal amount of the increment bonds to be issued;

(c) State the purpose of the increment bond issue;

(d) State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;

(e) State any provisions for a special fund, mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;

(f) Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing the rate or rates of interest to be paid on the increment bonds;

(g) State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this subsection, subject to any limitations stated in the proceedings;

(h) If the increment bonds are payable solely from incremental revenues, include a determination that the incremental revenues are adequate to make the debt charges so long as the increment bonds are outstanding; and

(i) Include any other provisions deemed appropriate by the governing body.

(2) Increment bonds issued pursuant to this section shall not mature on a date beyond the termination date of the development area or local development area.

(3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this section shall mature as determined by the governing body consistent with the termination date.

(4) The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds insofar as they do not conflict with the provisions of KRS 65.7041 to 65.7083. If they do conflict, the provisions of KRS 65.7041 to 65.7083 shall apply.

**65.7061 Special fund to be pledged for retirement of increment bonds -- Requirements governing disbursement of funds.**

During any time when incremental revenues have been pledged pursuant to a local participation agreement or local development area agreement, or that increment bonds are outstanding, the city, county, or issuer, as the case may be, shall maintain a special fund, which shall be pledged for the retirement of increment bonds, if such bonds are outstanding, and the payment of costs related to a project in a development area or local development area, or providing redevelopment assistance in a development area.

(1) Officials charged with collecting revenues for any taxing district that has pledged incremental revenues under a local participation agreement or a local development area agreement shall, for each year a local participation agreement or local development area agreement is in effect or any increment bonds are outstanding with respect to a development area or local development area, submit those incremental revenues for deposit in the special fund. The amount of incremental revenues shall be determined under KRS 65.7083.

(2) Funds deposited in a special fund shall be disbursed at the times and in the amounts required to pay the costs of any debt charges on incremental bonds, approved costs, and redevelopment assistance. However, there shall be no disbursements for other redevelopment assistance or approved costs in a development area or local development area, if the funds are required to pay debt charges on increment bonds.

(3) Amounts in a special fund which exceed the amount required to pay debt charges and, in a development area, and costs of redevelopment assistance in any fiscal year shall be used to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues. Amounts beyond this may be used to pay the costs of additional projects or redevelopment assistance.

**65.7063 Requirements for local participation agreements -- Pledge of incremental revenues superior to other pledges of revenues.**

(1) A local participation agreement shall be executed among the agencies and taxing districts involved in administering or providing financing or pledging incremental revenues to support the implementation of a development plan in a development area. The local participation agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:

(a) Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;

(b) Specific identification of the incremental revenues released or pledged, or wage assessments pledged by type of tax by each taxing district;

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

1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local participation agreement; and
  2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;
- (d) A detailed description of the development area, including a legal description of the parcels included in the development area;
  - (e) A description of each proposed project that is the subject of a local participation agreement, including an estimate of the costs of construction, acquisition, and development;
  - (f) A requirement that pledged incremental revenues will be deposited in a special fund established pursuant to KRS 65.7061, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;
  - (g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
  - (h) The commencement date, activation date, and termination date; and
  - (i) Any other provisions not inconsistent with KRS 65.7041 to 65.7083 deemed necessary or appropriate by the parties to the agreement.
- (2) Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

**65.7065 Service payment agreement -- Power of city, county, or issuer to enter into agreement -- Liens, priority, validity, enforceability, and termination.**

- (1) A city, county, or issuer may enter into a service payment agreement.
- (2) The service payment agreement may provide that the city, county, or issuer shall have a lien on property described in the service payment agreement equal to the amount of periodic payments due under the service payment agreement. The service payment agreement may further provide that any lien created pursuant to this section shall be governed by the provisions set forth in KRS 91A.280, provided that a lien created pursuant to this section shall not have the priority established in KRS 91A.280 in relation to an existing lien on the property covered by the agreement unless, prior to recording the service payment agreement, the lien holder under the service payment agreement provides notice of the lien created by the service payment agreement to the holder of the existing lien, and the holder of the existing lien consents to the priority in writing. If written consent is not obtained, the priority of the lien created under this subsection in relation to the prior lien shall be determined in the same manner as a mortgage lien under KRS 382.280.
- (3) A lien authorized by this section shall not be valid and enforceable until evidence of the lien has been recorded in the office of the county clerk. The lien shall commence

upon the issuance of increment bonds or other obligations and shall continue until other funding sources pledged to and derived from the project that is the subject of the service payment agreement are sufficient to make, when due, all payments on the increment bonds or other obligations identified in the service payment agreement. Upon termination of a lien authorized by this section, a release shall be filed by the city, county, or issuer with the county clerk.

**65.7067 Real property in development areas not eligible for assessment moratoriums under KRS 99.600.**

Real property located within a development area shall not be eligible for participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600.

**65.7069 State Tax Increment Financing Commission -- Members -- Powers and duties -- Annual report.**

(1) The State Tax Increment Financing Commission is hereby created as an independent agency of the state within the meaning of KRS Chapter 12. The commission shall be composed of the following members:

- (a) The secretary of the Finance and Administration Cabinet, who shall be the chair thereof;
- (b) The state budget director;
- (c) The secretary of the Cabinet for Economic Development;
- (d) The secretary of the Commerce Cabinet;
- (e) The chair of the Kentucky Economic Development Finance Authority;
- (f) The dean of the University of Kentucky Gatton College of Business and Economics;
- and
- (g) The dean of the University of Louisville College of Business and Public Administration.

(2) The commission shall review all applications for state participation in tax increment financing projects and shall approve those proposals it determines meet the requirements established by KRS 65.7071, 65.7073, 65.7075, 65.7077, 65.7079, and 65.7081.

(3) Members of the commission shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.

(4) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(5) The commission shall meet at least two (2) times each year, but may meet more frequently upon the call of the chair or a request made by any four (4) members of the commission.

(6) The commission shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the commission with necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

(7) The commission shall prepare bylaws and shall establish procedures applicable to the operations of the commission.

(8) The commission shall have the authority to promulgate any regulations necessary for the administration of KRS 65.7069, 65.7071, 65.7073, 65.7075, 65.7077, 65.7079, and 65.7081 in accordance with KRS Chapter 13A.

(9) On or before February 15, 2008, and each year thereafter, the commission shall provide the Governor and the Legislative Research Commission with an annual report, which shall include but shall not be limited to the following for the prior calendar year:

(a) A list of applications considered by the commission during the prior calendar year, including the name of the applicant, a description of the project, the local tax revenues or other revenues pledged, the level of participation requested from the Commonwealth, and whether the application was approved; and

(b) For each approved application, the report shall include:

1. The total commitment made by the Commonwealth, detailed by type of tax and estimated incremental revenues pledged for each tax;
2. The length of the commitment; and
3. The portion of the development area included in the project.

**65.7083 Payment and release of incremental revenues -- Duties of local taxing districts and Department of Revenue.**

(1) Any agency that enters into a local participation agreement or local development area agreement for the release of incremental revenues during the period of a local participation agreement or local development area agreement shall, after each calendar year, in which a local participation agreement or local development area agreement is in effect, notify each taxing district obligated under the local participation agreement or local development area agreement that incremental revenues are due and, in consultation with each taxing district, the agency shall determine the amount of incremental revenues due from each taxing district

(2) Upon notice from the agency, each taxing district obligated under a local participation agreement or local development area agreement shall release to the agency the incremental revenues due under the local participation agreement or local development area agreement. The agency shall certify to the authority on a calendar year basis the amount of incremental revenues and occupational license fees collected where applicable.

(3) The local taxing district shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred after the initial release to the agency of the taxing district's increment for that period.