

**148.859 Agreement between authority and approved company.**

- (1) The authority, upon adoption of its final approval, may enter into a tourism development agreement with any approved company. The terms of the agreement shall be negotiated between the authority and the approved company and shall include but not be limited to:
  - (a) The amount of approved costs;
  - (b) That any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused incentives;
  - (c) A date certain by which the approved company shall have completed the tourism development project;
  - (d) That the authority may grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company;
  - (e) That within three (3) months of the completion date, the approved company shall document the actual cost of the tourism development project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;
  - (f) The term of the tourism development agreement and the maximum amount of recovery;
  - (g) That within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860;
  - (h) That the approved company shall notify the authority if any change in ownership of the tourism attraction is contemplated. The authority shall reserve the option to renegotiate the terms of the agreement or, if the change in ownership is detrimental to the Commonwealth, the authority may terminate the agreement;
  - (i) That the approved company shall not receive a sales tax incentive as prescribed by KRS 139.536 with respect to any fiscal year if the requirements of KRS 148.853(2) have not been met;
  - (j) That the authority may grant an extension of up to three (3) years to the completion date in addition to the extension provided for in paragraph (d) of this subsection, to an approved company that has completed at least fifty percent (50%) of an entertainment destination center project;
  - (k) That in no event shall the completion date be more than six (6) years from the date of final approval; and
  - (l) That the extension provided for in paragraph (j) of this subsection shall be subject to the following conditions:

1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;
  2. The term of the agreement shall not be extended, except as provided in KRS 148.853(3)(b)4.; and
  3. The scope of the entertainment destination center project, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.
- (2) The agreement, including the incentives provided under KRS 148.853, shall not be transferable or assignable by the approved company without the written consent of the authority and a passage of a resolution approving the proposed assignee of the incentives as an approved company.

**Effective:** June 26, 2009

**History:** Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 40, effective June 26, 2009. -- Amended 2005 Ky. Acts ch. 85, sec. 565, effective June 20, 2005; ch. 184, sec. 16, effective June 20, 2005; and ch. 173, Pt. XXIV, sec. 2, effective March 20, 2005. -- Amended 2003 Ky. Acts ch. 73, sec. 5, effective March 18, 2003. -- Repealed, reenacted, and amended 2001 Ky. Acts ch. 1, sec. 6, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 300, sec. 24, effective July 14, 2000; and ch. 315, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 238, sec. 4, effective April 1, 1998. -- Created 1996 Ky. Acts ch. 335, sec. 5, effective July 15, 1996.

**Formerly codified as** KRS 154.29-050.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

**Legislative Research Commission Note** (6/21/2001). This is former KRS 154.29-050 as amended by 2001 Ky. Acts ch. 1, sec. 6, and renumbered by the Reviser of Statutes under KRS 7.136(1).