

**154.30-052 Signature project loan support program -- Program requirements.**

- (1) An agency with a signature project approved under KRS 154.30-050(2)(a) with a tax incentive agreement executed prior to January 1, 2008, may apply to the authority to participate in a loan support program.
- (2) The authority shall establish a loan support program for agencies meeting the requirements of subsection (1) of this section. The program shall, at a minimum, include the following requirements:
  - (a) An agency seeking to participate in the loan support program shall file an application with the authority, in the form and format determined by the authority. The authority shall review the application and may request any additional information necessary to evaluate the application;
  - (b) If the authority approves an agency for participation in the loan support program, the authority shall enter into an agreement with the agency detailing the terms and conditions of the agency's participation in the program. The terms of the agreement shall include but not be limited to:
    1. Identification of the collateral or other forms of repayment assurance that will be available from the agency if the Cabinet for Economic Development makes a loan to the agency;
    2. A requirement that the agency obtain from the developer or developers an agreement to indemnify the Commonwealth or the agency, as the case may be, if the Cabinet for Economic Development makes a loan to the agency that the agency is not able to repay;
    3. Identification of any other alternative methods for repayment of any loans if incremental revenues are insufficient;
    4. A statement that the authority has verified that the agency requesting participation in the program has the resources available to maintain an acceptable balance in the account as required by paragraph (g) of this subsection;
    5. A requirement that any balance remaining in the account of an agency at the expiration of the agreement, and after all required amounts have been repaid shall be repaid to the agency; and
    6. The agreement term, which shall not be longer than the term of the tax incentive agreement between the agency and the authority;
  - (c) The agency requesting participation in the loan support program shall provide to the authority a lump-sum payment in an amount equal to at least seventy-five percent (75%) of the annual average projected incremental revenues to be generated within the agency's development area over the term of the tax incentive agreement;
  - (d) The authority shall hold the funds transferred by an agency on behalf of the agency making the deposit in a separate account;
  - (e) To the extent funds are available in the agency's account, the authority shall, upon request of the agency, make a distribution from the agency's account to

the agency in any year that the incremental revenues generated from the agency's development area are insufficient to make any debt payments the agency is obligated to make;

- (f)
  - 1. If the balance in an agency's account at the close of any fiscal year is less than the amount initially provided by the agency to the authority, the agency shall provide to the authority from incremental revenues, an amount necessary to bring the level of the account back to the amount of the lump-sum payment required by paragraph (c) of this subsection.
  - 2.
    - a. If the agency does not have sufficient incremental revenues to bring its account back to the initial level, the Cabinet for Economic Development shall, subject to the availability of funds, deposit in the account of the agency the amount necessary to bring the balance in the fund back to the initial level.
    - b. If the Cabinet for Economic Development does not have sufficient funds to restore the account to the initial level, the Cabinet for Economic Development shall seek funding from the General Assembly in an amount sufficient to restore the account balance to the initial amount.
    - c. Any amount deposited in the account of an agency by the Cabinet for Economic Development shall be a loan from the Cabinet for Economic Development to the agency, and shall be repaid by the agency according to the terms and conditions agreed to by the agency and the authority;
- (g) Prior to entering into an agreement with an agency pursuant to this section, the authority shall verify that the agency requesting the loan has the resources available to maintain an acceptable balance in its account; and
- (h) Any balance remaining in the account of an agency at the expiration of the agreement and after all required amounts have been repaid shall be returned to the agency.

**Effective:** June 26, 2009

**History:** Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 64, effective June 26, 2009.