

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:
 - 1. For a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract; or
 - 2. For a period as determined under KRS 65.687.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.

Effective: June 26, 2009

History: Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 60, effective June 26, 2009. -- Amended 2005 Ky. Acts ch. 85, sec. 89, effective June 20, 2005; and ch. 168, sec. 45, effective March 18, 2005. -- Amended 2002 Ky. Acts ch. 338, sec. 3, effective July 15, 2002; and ch. 346, sec. 34, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 133, sec. 5, effective June 21, 2001. -- Created 2000 Ky. Acts ch. 358, sec. 1, effective July 14, 2000.

Legislative Research Commission Note (3/18/2005). 2005 Ky. Acts ch. 168, sec. 165, provides that this section shall apply to tax years beginning on or after January 1, 2005.