

#### **148.851 Definitions for KRS 148.851 to 148.860.**

As used in 148.851 to 148.860, unless the context clearly indicates otherwise:

- (1) "Agreement" means the tourism development agreement entered into between the authority and an approved company;
- (2) "Approved company" means any eligible company that has received final approval to receive incentives provided under KRS 148.853;
- (3) "Approved costs" means the amount of eligible costs approved by the authority upon completion of the project;
- (4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;
- (5) "Cabinet" means the Tourism, Arts and Heritage Cabinet;
- (6) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;
- (7) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism development project;
- (8) "Eligible costs" means:
  - (a) Obligations incurred for labor and amounts paid to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism development project;
  - (b) The costs of acquiring real property or rights include the acquisition of real property by a leasehold interest with a minimum term of ten (10) years, and any costs incidental thereto;
  - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism development project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  - (d) All costs of architectural and engineering services, including but not limited to estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism development project;
  - (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism development project;
  - (f) All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and
  - (g) All other costs comparable with those described in this subsection, excluding costs subject to refund under KRS 154.20-202, 154.20-204,

154.20-206, 154.20-208, and 154.20-210 or Subchapter 31 of KRS Chapter 154;

- (9) "Entertainment destination center project" means a facility that meets the requirements of KRS 148.853(2)(b);
- (10) "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under KRS 139.536 and 148.851 to 148.860;
- (11) "Full-service lodging facility" means a facility that provides overnight sleeping accommodations, including private bathrooms and all of the following:
  - (a) On-site dining facilities;
  - (b) Room service;
  - (c) Catering; and
  - (d) Meeting space;
- (12) "Incentives" means the Kentucky sales tax refund as prescribed in KRS 139.536;
- (13) "Kentucky sales tax" means the sales tax imposed by KRS 139.200;
- (14) "Lodging facility project" means a full-service lodging facility that:
  - (a) Is located on recreational property owned or leased by the Commonwealth or the federal government;
  - (b) Involves the restoration or rehabilitation of a structure that:
    - 1. Is listed individually on the National Register of Historic Places; or
    - 2. Is located in the National Register Historic District; andis certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration of the structure has been approved in advance by the Kentucky Heritage Council;
  - (c) Is an integral part of a major convention or sports facility;
  - (d) Is located:
    - 1. Within a fifty (50) mile radius of a property listed on the National Register of Historic Places with a current function of recreation and culture; and
    - 2. In any of the one hundred (100) least-populated counties in the Commonwealth, in terms of population density, according to the most recent census;
  - (e) Is located on property:
    - 1. Owned by the Commonwealth, or leased by the Commonwealth from the federal government;
    - 2. Acquired for use in the state park system pursuant to KRS 148.028; and
    - 3. Operated by the Kentucky Department of Parks pursuant to KRS 148.021 or the Kentucky Horse Park Commission pursuant to KRS 148.258 to 148.320;
  - (f) Is located on property:
    - 1. Owned or leased by the federal government and under the control

- of the Department of the Interior; or
- 2. Owned by the Commonwealth and in the custody of the State Fair Board as provided in KRS 247.140;
- (g) Is part of a tourism attraction project, entertainment destination center project, or theme restaurant destination attraction project and the full-service lodging facility represents less than fifty percent (50%) of the total eligible costs; or
- (h) Has not less than five hundred (500) guest rooms:
- (15) "Net positive fiscal impact" means the amount by which increased state tax revenues will exceed the incentives given;
- (16) "Preliminary approval" means the action taken by the authority conditionally approving an eligible company for the incentives under KRS 139.536 and 148.851 to 148.860;
- (17) "Recreational facility" means a structure or outdoor area that:
  - (a) Provides visitors recreational opportunities, including but not limited to amusement parks, boating, hiking, horseback riding, hunting, fishing, camping, wildlife viewing, live theater, rock climbing, and all-terrain vehicle trails; and
  - (b) Serves as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the recreational facility;
- (18) "Theme restaurant destination attraction project" means a restaurant facility that meets the requirements for incentives under KRS 148.853(2)(c);
- (19) (a) "Tourism attraction project" means:
  - 1. A cultural or historical site;
  - 2. A recreational facility;
  - 3. An entertainment facility;
  - 4. An area of natural phenomenon or scenic beauty; or
  - 5. A Kentucky crafts and products center;
  - (b) "Tourism attraction project" does not include facilities that are primarily devoted to the retail sale of goods, other than a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and
- (20) "Tourism development project" means:
  - (a) A tourism attraction project;
  - (b) A theme restaurant destination attraction project;
  - (c) An entertainment destination center project; or
  - (d) A lodging facility project.

**Effective:** June 26, 2009

**History:** Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 36, effective June 26, 2009. -- Amended 2009 Ky. Acts ch. 16, sec. 27, effective June 25, 2009. -- Amended 2006 Ky. Acts ch. 149, sec. 206, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 95, sec. 24, effective June 20, 2005; ch. 184, sec. 15, effective June 20, 2005; and ch. 168, sec. 46, effective March 18, 2005. -- Amended 2004 Ky. Acts ch. 105, sec. 23, effective July 13, 2004. -- Amended

2003 Ky. Acts ch. 73, sec. 3, effective March 18, 2003. -- Amended 2002 Ky. Acts ch. 338, sec. 43, effective April 11, 2002. -- Repealed, reenacted, and amended 2001 Ky. Acts ch. 1, sec. 2, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 1, sec. 1, effective February 7, 2000. -- Amended 1998 Ky. Acts ch. 48, sec. 11, effective July 15, 1998; and ch. 238, sec. 1, effective April 1, 1998. -- Created 1996 Ky. Acts ch. 335, sec. 1, effective July 15, 1996.

**Legislative Research Commission Note** (6/26/2009). In 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 36, because of a manifest clerical or typographical error, the definition of "authority," referring to the Kentucky Tourism Development Finance Authority, was inadvertently deleted from this statute. It has been restored in codification by the Reviser of Statutes under the authority of KRS 7.136 and subsequent subsections have been renumbered accordingly.

**Legislative Research Commission Note** (6/26/2009). For the purpose of clarification and after consultation with the drafter, the internal numbering of renumbered subsection (14) of this statute has been changed by the Reviser of Statutes from the way it appeared in 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 36, subsec. (13), under the authority of KRS 7.136.

**Legislative Research Commission Note** (3/18/2005). 2005 Ky. Acts ch. 168, sec. 165, provides that the amendments to KRS 148.851 in 2005 Ky. Acts ch. 168, sec. 46, "relating to income tax changes and incentives, shall apply to tax years beginning on or after January 1, 2005."

**Legislative Research Commission Note** (6/21/2001). This is former KRS 154.29-010 as amended by 2001 Ky. Acts ch. 1, sec. 2, and renumbered by the Reviser of Statutes under KRS 7.136(1).