

ECONOMIC IMPROVEMENT MANAGEMENT DISTRICT BOARD

A GUIDE FROM KLC MUNICIPAL LAW

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In order to play any game, you must first learn the rules. The same holds true for the law surrounding economic improvement management district boards. It is impossible to carry out the duties of economic improvement management district boards unless you familiarize yourself with the applicable state statutes, as well as your local ordinances, that govern.

Statutes are not contained in some magical spell book. There is no forbidden wisdom in a statutory code book. You do not need a law school education to understand their meaning. We wanted to remove some of the mystique from the law by compiling this simple pdf document. It contains the entire portion of Kentucky Revised Statutes which pertain to economic improvement management district boards.

Feel free to use this guide in any way that you deem fit. The reason we wanted to present this as a pdf though is because a pdf does have just a little bit of magic, truth be told. A pdf is word searchable. If you have the pdf on a laptop during a meeting and an issue comes up - you can plug the words in and hopefully the relevant portion of the law pertaining to economic improvement management district boards will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

The KLC Municipal Law Team

91A.550 Definitions for KRS 91A.550 to 91A.580

As used in KRS 91A.550 to 91A.580, unless the context otherwise requires:

- (1) “Board” means any appointed board of directors, or any existing governmental agency designated pursuant to the ordinance establishing a management district;
- (2) “City” means a city of the home rule class;
- (3) “Economic improvement” means any activity or service for the improvement and promotion of a management district that is of special benefit to property within the district, but shall not include any service ordinarily provided throughout the city from general fund revenues unless an increased level of the service is provided in the management district;
- (4) “Fair basis” means assessed value basis, front foot basis, square foot basis, or benefits received basis;
- (5) “Legislative body” means the legislative body of any city of the home rule class;
- (6) “Management district” means an area designated by a legislative body pursuant to KRS 91A.555 to 91A.580, that is to be benefited by economic improvements and subjected to the payment of special assessments for the costs of the economic improvements;
- (7) “Property” means any real property benefited by economic improvements; and
- (8) “Special assessment” means a special charge fixed on property to finance economic improvements in whole or in part.

91A.555 Authority to establish management districts in city of home rule class

A city of the home rule class may establish one (1) or more management districts pursuant to KRS 91A.550 to 91A.580, for the purpose of providing and financing economic improvements that specially benefit property within the management district.

91A.560 Petition requesting formation of management district

- (1) A city may initiate proceedings to establish a management district upon receipt by the mayor of a written petition requesting the formation of a management district. A petition requesting the formation of a management district shall contain:
 - (a) The signatures and addresses of a number of real property owners, who together are the owners of fifty-one percent (51%) or more of the properties within the proposed district and who are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the proposed management district;
 - (b) An accurate description of the boundaries of the proposed management district;
 - (c) An economic improvement plan that shall provide:
 1. A description of the economic improvements to be provided within the district;
 2. A preliminary estimate of the annual costs of the proposed economic improvements; and

3. The proposed method of assessing the costs of the economic improvements against the properties;
 - (d) The proposed makeup of the board of the management district, its powers and duties; and
 - (e) The number of years in which the assessments are proposed to be levied, not to exceed five (5) years.
- (2) When a petition satisfying the requirements of subsection (1) of this section is received by the mayor, he shall forward it to the legislative body which may proceed to enact an ordinance establishing a management district as provided in KRS 91A.565.

91A.565 Ordinance establishing management district

- (1) An ordinance establishing a management district shall include, but not be limited to, the following provisions:
 - (a) An accurate description of the boundaries of the management district designated either by map or perimeter description;
 - (b) A description of the economic improvements that may be undertaken within the management district by its board, including but not limited to:
 1. The planning, administration, and management of development or improvement activities;
 2. Landscaping, maintenance, and cleaning of public ways and spaces;
 3. The promotion of commercial activity or public events;
 4. The conduct of activities in support of business recruitment and development;
 5. The provision of security for public areas;
 6. The construction and maintenance of capital improvements to public ways and spaces; and
 7. Any other economic improvement activity that specially benefits property;
 - (c) A requirement that the legislative body approve the annual budget and annual economic improvement plan for the district and establish a procedure and schedule for such approval;
 - (d) The method of assessment of the properties that may include any fair basis authorized by KRS 91A.200 to 91A.290;
 - (e) The method for collection of the assessment;
 - (f) The number of years, not exceeding five (5) years, that the assessments shall be levied;
 - (g) A method by which the annual increase in assessments caused by inflation, new growth, and other factors shall be limited;

- (h) The makeup of the board for the management district and its powers and duties; and
 - (i) Any other provisions deemed necessary by the legislative body to implement the provisions of KRS 91A.550 to 91A.580.
- (2) After the first reading of the ordinance to establish the management district, but prior to its second reading and passage, a public hearing on the question of the establishment of the management district shall be held by the legislative body.
 - (3) A summary of the proposed plan for the management district shall be published in a newspaper in accordance with KRS Chapter 424 no less than twice, at least seven (7) but not earlier than twenty-one (21) days before the date of the public hearing. Notice shall also specify the date, time, and place of the hearing. In addition, a copy of the proposed ordinance and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed management district.
 - (4) After the public hearing, the legislative body may give second reading to the ordinance that shall become effective if passed and approved pursuant to KRS 83A.060.
 - (5) After the establishment of a management district, the legislative body shall not decrease the level of publicly funded services in the management district existing prior to the creation of the district or transfer the burden of providing the services, unless the services at the same time are decreased throughout the city.

91A.570 Duties of the board for the management district; annual assessment; collection; appeal; lien

- (1) Upon the effective date of the ordinance establishing the management district, the board shall implement the economic improvement plan adopted by the legislative body.
- (2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the plan and budget to the legislative body for its approval.
- (3) Upon approval of the economic improvement plan and annual budget, the board shall:
 - (a) Submit the budget to the Department for Local Government as provided in KRS 65A.020;
 - (b) Publish pursuant to KRS Chapter 424 and mail by first-class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.
- (4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.
 - (a) The board may be directed to annually prepare and mail by first -class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or

- (b) The annual assessment may be collected in the same manner, at the same times, and by the office authorized by law for the collection and enforcement of general city taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.
 - (c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his property. The contest shall be filed with the board within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board and present evidence. A record shall be made of the proceedings and the board shall render a written decision. The decision of the board may be appealed to the Circuit Court of the county in which the city is located.
- (5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city legislative body or the board shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

91A.575 Powers and duties of the management district board

- (1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by the board.
- (2) The number of members of the board, their terms and qualifications, shall be established by the ordinance creating the district. No fewer than a majority of the board shall be property owners within the district. The board members shall be appointed by the mayor of the city, with the approval of the legislative body.
- (3) The powers of the board shall include all powers set forth in KRS 91A.550 to 91A.580 and the ordinance establishing the management district. The board may employ or contract with persons to assist it in its responsibilities.
- (4)
 - (a) The board shall manage the fiscal affairs of the management district and shall adopt regulations governing the investment and disbursement of funds.
 - (b) The board may borrow money on a short-term basis as required.
 - (c) The board may hold funds in the name of the management district or may designate the city as the fiscal agent for the management district.
 - (d) Money derived from the assessments imposed pursuant to KRS 91A.550 to 91A.580 shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes.
 - (e) As soon as practicable after the close of the fiscal year, the board shall cause an audit to be performed of all funds of the management district by a certified public accountant.

- (f) The board shall comply with the provisions of KRS 65A.010 to 65A.090.
- (5) In addition to receiving funds from assessments, the board shall be authorized to receive grants, donations, and gifts.

91A.580 Management district boundary change; district renewal or dissolution; disposal of excess funds

- (1) The boundaries of the management district may be changed at any time by the legislative body in the same manner as provided in KRS 91A.550 to 91A.580 for the establishment of the management district.
- (2) The management district may be renewed for subsequent periods, not to exceed five (5) years, by the legislative body. Prior to such renewal, the board shall prepare an economic improvement plan for the renewal period. The ordinance establishing the management district may provide for automatic renewals if the economic improvement plan is prepared for the renewal period. The management district shall not be renewed if a petition is received that objects to the renewal and is signed by a number of real property owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the management district.
- (3) The management district shall be dissolved by the legislative body upon the receipt of a petition requesting dissolution that is signed by a number of real property owners who together are the owners of fifty-one percent (51%) or more of the properties within the proposed district and who are the owners of real property within the management district equal to at least fifty-one percent (51%) of the assessed value of the property within the management district.
- (4) If a management district is terminated or not renewed for a subsequent period, and after the payment of all obligations and costs of administration incurred on behalf of the management district, there remain excess funds from assessments paid by property owners, the city shall by ordinance provide for:
 - (a) The return of any excess funds to the owners of properties in amounts proportionate to the amounts of the assessments they paid for the district; or
 - (b) Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
 - (c) Use of part of the excess funds for continued provision of economic improvements and return of the balance of the excess funds in proportionate amounts to affected property owners.