

LOCAL INDUSTRIAL DEVELOPMENT AUTHORITY

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 local industrial development authority. It is impossible to carry out the duties of local industrial development authority 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 local industrial development authority.

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 local industrial development authority will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

The KLC Municipal Law Team

ACQUISITION OF LAND FOR INDUSTRIAL DEVELOPMENT

154.50-301 Citation

KRS 154.50-301 to 154.50-346 shall be known as the Local Industrial Development Authority Act.

154.50-310 Definitions for KRS 154.50-301 to 154.50-346

As used in KRS 154.50-301 to 154.50-346, unless the context otherwise requires:

- (1) “Authority” means a local industrial development authority as established by KRS 154.50-301 to 154.50-346.
- (2) “Industrial sites, parks and subdivisions” means land and improvements thereon, including buildings, fixtures, and equipment, suitable for one (1) or more manufacturers, industries, or commercial establishments.
- (3) “Development of land” means the improvement and provision of facilities essential to the use of land for manufacturing, industrial, and commercial purposes such as, but not limited to, core drilling, grading, sewerage systems, water systems, access roads, rail lines, electrical lines, layout planning, and the construction and equipping of buildings.
- (4) “Governmental units” means any city or the combination of any two (2) or more cities, any county or combination of two (2) or more counties, or any city or cities acting jointly with any county or counties.
- (5) “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

154.50-313 Purpose

The purpose of KRS 154.50-301 to 154.50-346 is to create local industrial development authorities to aid in the acquisition, retention and development of land for industrial and commercial purposes in Kentucky; to aid in the development and promotion of industrial sites, parks and subdivisions for accommodating industrial and commercial needs; to promote and stimulate the acquisition, retention and development of land for industrial and commercial purposes in Kentucky by other local development organizations both public and private.

154.50-316 Establishment of local industrial development authority

- (1) Any governmental unit by act of its legislative body may establish a nonprofit industrial development authority to be composed of not less than six (6) and not more than eight (8) members.
- (2) The authority shall be a body politic and corporate with the usual corporate attributes and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to effectively carry out the duties prescribed by KRS 154.50-301 to 154.50-346.

154.50-320 Functions of authority

- (1) The purpose, duties, and powers of the authority shall be to:
 - (a) Acquire, retain, and develop land for industrial and commercial purposes in Kentucky; aid in the development and promotion of industrial sites, parks, and subdivisions to meet industrial and commercial needs in Kentucky.
 - (b) Encourage the acquisition, retention, and development of land for industrial and commercial needs in Kentucky by other local development organizations, both public and private.
 - (c) Cooperate with the United States Army Corps of Engineers and other federal agencies in formulating development plans and in acquiring and developing land for industrial and commercial purposes in accordance with these plans.
 - (d) Acquire by contract, lease, purchase, gift, condemnation, or otherwise any real or personal property, or rights therein, necessary or suitable for establishing industrial sites, parks, or subdivisions. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority are no longer needed to carry out the purposes of KRS 154.50-301 to 154.50-346. The authority may lease, sell, or convey any or all industrial sites, parks, and subdivisions owned or optioned by it to any public or private organization, governmental unit, or industry for the purpose of constructing and/or operating any manufacturing, industrial, or commercial facility. Provided, however, that no sale or conveyance of any land shall be made to a private organization or industry without such organization or industry first having executed a written contract with the authority providing that if no actual construction of a manufacturing, industrial, or commercial facility, as set forth in the executed contract, is commenced within ten (10) years, the organization or industry shall offer to reconvey the land, free and clear of liens and encumbrances, to the authority, and should the authority accept the offer of reconveyance, it shall return to the organization or industry ninety-five percent (95%) of the purchase price paid therefor.
- (2) Upon the adoption by the authority of a resolution reciting that property is needed for industrial sites, parks, and subdivisions and cannot be acquired by negotiation and purchase at its fair market value, the governmental units in which such land is located may direct and institute condemnation proceedings in the name of such governmental units, for the use and benefit of the authority. The procedure for condemnation shall conform to the procedure set out in the Eminent Domain Act of Kentucky. Upon acquisition of the property, the governmental unit shall convey the property to the authority upon payment by the authority to the governmental unit of an amount of money equal to the judgment and costs paid by the governmental unit.

154.50-323 Limitations on condemnation powers

Notwithstanding any other provision or section of KRS 154.50-301 to 154.50-346, no governmental unit shall have the power to condemn property under KRS 154.50-301 to 154.50-346 unless the governmental unit has first given proper public notice as required by law stating the specific purpose for which the property to be condemned shall be used and said purposes shall be pleaded and proved in such condemnation action. The property shall be developed within a period of five (5) years pursuant to the purpose stated, and the failure of the authority to so develop shall entitle the person or persons whose property was condemned to repurchase the property at the price the authority paid to the governmental unit for the same. The person from whom the land is taken by condemnation shall have the right to reacquire the land as aforementioned by application to the court of competent jurisdiction, if such procedure be necessary, and shall be entitled to recovery of his costs and reasonable attorney's fees necessary to reacquire said land.

154.50-326 Membership of authority

- (1) The members of the authority shall be appointed as follows:
 - (a) If the authority is established by a city, the members shall be appointed by the mayor of the city;
 - (b) If the authority is established by a county, the members shall be appointed by the county judge/executive;
 - (c) If the authority is established as a joint city-county industrial development authority, one-half (1/2) of the members shall be appointed by the mayor and one-half (1/2) of the members by the county judge/executive. If the authority is composed of seven (7) members, the mayor and the county judge/executive shall jointly appoint the seventh member;
 - (d) If a combination of cities and/or counties establishes a joint industrial development authority, or if an established joint industrial development authority is altered by adding a new city or county as a participating member, the mayors and/or county judges/executive involved shall:
 1. Jointly choose the members, and shall jointly choose successors; or
 2. Choose the members and successors in a manner established by an agreement entered into between the legislative bodies of the affected cities and counties.
- (2) Members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified. If the authority is composed of six (6) members, initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. If the authority is composed of seven (7) members, initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and three (3) members for four (4) years. If the authority is composed of eight (8) members, initial appointments shall be made so that two (2) members are appointed for two (2) years, three (3) members for three (3) years, and three (3) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.
- (3) An industrial development authority member may be replaced by the appointing authority upon a showing to the appointing authority of misconduct as an authority member or upon conviction of a felony.

154.50-330 Withdrawal by governmental unit; dissolution of authority

- (1) In the event that a joint industrial development authority is created by cities and/or counties, and thereafter a city or cities or county or counties desire to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the authority. No such withdrawing city or cities or county or counties shall be entitled to the return of any money or property advanced such authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, any cities and/or counties which have established a joint industrial development authority as provided for herein, may provide by a mutual written agreement between such cities and/or counties, and the joint industrial development authority, that such joint industrial development authority may be dissolved and may further provide that upon such complete termination, all funds, property and other assets held by the joint industrial development authority shall be returned to such cities and/or counties in the same proportion as contributions

of funds, property and other assets were made by such cities and/or counties. This section shall not apply and no dissolution shall be made until such time as all legal obligations of the joint industrial development authority shall be satisfied and all existing commitments fulfilled.

154.50-333 Quorum; effect of tie vote

A quorum for the transacting of the business of the authority shall consist of a majority of the members. Meetings of the authority may be called by the chairman or by a majority of the members. In case of tie voting by the authority, the issue shall be deemed to have failed passage.

154.50-336 Authority officers, employees; expenses of members

- (1) Members of the authority shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred by them in the conduct of the affairs of the authority. The authority shall, upon the appointment of its members, organize and elect officers. The authority shall choose a chairman and vice chairman who shall serve for terms of one (1) year. The authority may fix a salary for the secretary-treasurer, and the secretary-treasurer shall execute an official bond to be set and approved by the authority, and the cost thereof shall be paid by the authority.
- (2) The authority may employ necessary counsel, agents and employees to carry out its work and functions and prescribe such rules and regulations as it deems necessary.
- (3) The secretary-treasurer shall keep the minutes of all meetings of the authority and shall also keep a set of books showing the receipts and expenditures of the authority. He shall preserve on file duplicate vouchers for all expenditures and shall present to the authority, upon request, complete reports of all financial transactions and the financial condition of the authority. Such books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the authority was created. He shall transmit at least once annually a detailed report of all acts and doings of the authority to the legislative body or bodies by whom the authority was created.

154.50-340 Authority's power to receive appropriations and to finance by borrowing or by issuance of revenue bonds

- (1) In order to provide money for the purchase of property necessary to develop industrial sites, parks, and subdivisions, the legislative body of any governmental unit creating the industrial development authority under KRS 154.50-301 to 154.50-346 may make an annual appropriation from its general fund for such industrial development. Any appropriation shall be made by the legislative body in such amounts, in such proportion, and upon such terms as the legislative body may determine. All funds derived from such appropriation shall be turned over to the industrial development authority for the purpose of carrying out the duties and powers of the authority.
- (2) The authority may borrow money and issue notes and other financial instruments on its own credit. The authority may pledge the appropriations or income anticipated, or the industrial sites, parks, and subdivisions, or both, as security for its debts.
- (3) The authority is authorized to defray the cost of acquiring and developing any industrial sites, parks, and subdivisions through the issuance of revenue bonds issued under the terms, conditions, and procedures set forth in KRS 103.200 to 103.285.
- (4) The authority may, as an alternative method and in addition to all other methods provided by law, acquire and develop land for industrial and commercial use, and issue revenue bonds in connection



therewith under the terms and provisions of KRS Chapter 58; and under said law the term “governmental agency” means the authority and the term “public project” means industrial sites, parks, and subdivisions.

154.50-343 Title to property; authority’s property, revenues are tax-exempt

The title to all property acquired by the authority shall vest in the authority. All property acquired for the development of industrial sites, parks and subdivisions shall be exempt from taxation to the same extent as other property used for public purposes. All revenues collected by the authority shall also be exempt from taxation.

154.50-346 Declaration of public purpose

The acquisition of any lands for the purpose of developing industrial sites, parks and subdivisions is hereby declared to be a public and governmental function, exercised for a public purpose, and a matter of public necessity, and such lands and other property, easements and privileges acquired in the manner and for the purposes enumerated in KRS 154.50-301 to 154.50-346 shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

154.50-350 Compliance with KRS 65A.010 to 65A.090

Any authority shall comply with the provisions of KRS 65A.010 to 65A.090.