WEST VIRGINIA CODE: §5b-2L-16

§5B-2L-16. Project application; evaluation standards; approval of projects.

(a) Each eligible company or group of multiple party project participants that seeks certification of a proposed project as a certified BUILD WV project must file a written application for approval and certification of the project with the Department of Economic Development.

(b) With respect to each eligible company or group of multiple party project participants making an application to the Department of Economic Development seeking certification of a proposed project as a certified BUILD WV project the Department of Economic Development shall make inquiries and request documentation, including a completed application, from the applicant that shall include the following:

(1) A description and location of the proposed project;

(2) Capital and other anticipated expenditures for the project and the sources of funding therefor;

(3) The anticipated employment, revenues and expenses generated by the project; and

(4) Anything else determined necessary by the Department of Economic Development.

(c) The aggregate sum of approved costs for all projects for any fiscal year shall not exceed $150 million. Any project application submitted for certification in the fiscal year after the sum of $150 million has been reached shall not be approved or certified. Notwithstanding any other provision of this code, for any fiscal year, the Secretary of the Department of Economic Development may not approve any single proposed project as a certified BUILD WV project for the fiscal year unless the proposed project has an aggregate sum of approved costs that is at least $3 million or the proposed project includes at least six residential units or houses.

(d) The Secretary of the Department of Economic Development, within 60 days following receipt of an application or receipt of any additional information requested by the Department of Economic Development respecting the application, whichever is later, shall act to grant or not to grant certification of the project, based on the following criteria:

(1) The project will have approved costs of at least $3 million or includes at least six residential units or houses;

(2) The project will have a significant and positive economic impact on the state;

(3) The quality of the proposed project and how it addresses economic problems in the area in which the project will be located;

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(4) Whether there is substantial and credible evidence that the project is likely to be started and completed in a timely fashion;

(5) Whether the project will, directly or indirectly, improve the opportunities in the area where the project will be located for the successful establishment or expansion of other commercial businesses;

(6) Whether the project will, directly or indirectly, assist in the creation of additional employment opportunities in the area where the project will be located;

(7) Whether the project helps to diversify the local economy;

(8) Whether the project is consistent with the goals of this article;

(9) Whether the project is economically and fiscally sound using recognized business standards of finance and accounting;

(10) Whether the proposed project demonstrates that the project will meet the immediate future needs of the area; and

(11) The ability of the eligible company or group of multiple party project participants to carry out the project.

(e) Exclusions.

(1) In no case shall any property or space that is used, in whole or in part, as a residential timeshare, commercial timeshare, or as part of any similar arrangement, constitute certified project property, or any part thereof.

(2) In no case shall any property or space that is used in whole or in part as an industrial or manufacturing operation, constitute certified project property, or any part thereof.

(3) In no case shall any property or space that is used in whole or in part as a warehouse, distribution center, telephone call center, or telemarketing operation, constitute certified project property, or any part thereof.

(4) In no case shall any property or space that is used, in whole or in part, as an airport constitute certified project property, or any part thereof.

(5) In no case shall any property or space that is used primarily for business activity, business, or other operation or activity excluded from certification by the Department of Economic Development by rule or administrative notice, constitute certified project property, or any part thereof.

(f) The Department of Economic Development may establish additional criteria for consideration when evaluating and approving applications for certified BUILD WV housing

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projects.

(g) The decision by the Secretary of the Department of Economic Development as to certification of a proposed project, refusal to certify a proposed project, decertification, or revocation of certification of a project is final.

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