

# HANDBOOK FOR INDIANA REDEVELOPMENT COMMISSION MEMBERS AND THEIR ATTORNEYS



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Note: These materials are intended for information only and are not to be considered legal advice.

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# Table of Contents

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	Page
<b>INTRODUCTION</b> .....	<b>1</b>
Practical Pointers .....	1
Frequently Used Terms.....	1
<b>CHAPTER 1.</b>	
<b>REDEVELOPMENT COMMISSION – CREATION AND MEMBERSHIP</b> .....	<b>9</b>
Selection of Members .....	9
Non-Voting School Board Advisor .....	9
Residency and Age Requirement.....	10
Oath of Office and Bond.....	10
Prohibition against Holding Two Lucrative Offices.....	10
Conflicts of Interest.....	10
Term of Service.....	10
Removal of Members.....	11
County Redevelopment Commissions May Have Seven Voting Members .....	11
<b>CHAPTER 2.</b>	
<b>MEETINGS OF REDEVELOPMENT COMMISSIONS; OFFICERS</b> .....	<b>13</b>
Initial Organizational Meeting .....	13
Annual Meeting .....	13
Other Meetings.....	13
Election of Officers.....	13
Role of Unit’s Fiscal Officer.....	13
Public Notices of Meetings.....	13
Rules and By-laws .....	14
Quorum Requirement.....	14
Voting Requirements .....	14
Meetings That Include Participation by Electronic Means.....	14
Guidance Relating to the Position of Executive Director of the Redevelopment Commission .....	15

**Table of Contents (continued)**

	Page
<b>CHAPTER 3.</b>	
<b>JURISDICTION OF REDEVELOPMENT COMMISSION .....</b>	<b>17</b>
In General.....	17
Effect of Annexation by City or Town on County Redevelopment Commission Jurisdiction .....	17
Effect of Creation of Redevelopment Commission by City or Town on County Redevelopment Commission Jurisdiction.....	17
Legislative Body Oversight of Redevelopment Commission and Its Annual Budget.....	18
Legislative or Fiscal Body Approval Required for Various Redevelopment Commission Actions.....	18
Authorization of Short-Term Borrowing of Redevelopment Funds by Related Governmental Unit with Approval of Redevelopment Commission.....	18
 <b>CHAPTER 4.</b>	
<b>DUTIES OF REDEVELOPMENT COMMISSIONS.....</b>	<b>19</b>
General Duties .....	19
Contracts Greater than \$50,000 .....	19
 <b>CHAPTER 5.</b>	
<b>ANNUAL NOTICE AND REPORTING REQUIREMENTS OF REDEVELOPMENT COMMISSIONS .....</b>	<b>21</b>
April 1 Report .....	21
April 15 Report .....	21
2017 Legislative Changes.....	22
June 15 Report .....	22
August 1 Report .....	23
Reassessment .....	23
“Trending” .....	23
 <b>CHAPTER 6.</b>	
<b>GENERAL POWERS OF REDEVELOPMENT COMMISSIONS.....</b>	<b>25</b>
Acquisition of Property.....	25
Disposition of Property .....	25
Holding and Using Property .....	25
Clearance of Property .....	25
Remediation of Property .....	25

**Table of Contents (continued)**

	Page
Repair and Improvement of Property .....	25
Eminent Domain .....	25
Provision of Financial Assistance for Purchase or Lease of Residential Housing .....	25
Provision of Financial Assistance to Neighborhood Development Corporations .....	26
Tax Levy for General Expenses.....	26
Issuance of Tax Warrants.....	26
Urban Renewal Projects.....	26
Neighborhood Development Programs.....	26
Best Practices for Redevelopment Commissions .....	26
 <b>CHAPTER 7.</b>	
<b>CREATION OF AN “ECONOMIC DEVELOPMENT AREA” .....</b>	<b>29</b>
“Economic Development Area” or “Area Needing Redevelopment” .....	29
Procedural Steps.....	29
 <b>CHAPTER 8.</b>	
<b>TIF ALLOCATION AREAS.....</b>	<b>33</b>
Background.....	33
Difference between TIF Allocation Area and Economic Development Area .....	35
Procedures for Designation of Part or All of an Economic Development Area as a TIF Allocation Area.....	35
Concept of “Tax Increment” .....	35
Concept of Base Assessment Date.....	36
Concept of “Restoring the Base” .....	36
Administration of TIF by Auditor.....	36
Depreciable Personal Property TIF.....	36
Maximum Term of TIF District (or Portion Thereof) .....	37
Limitation on Capturing TIF on Residential Property .....	37
Rules Governing Ability to Capture TIF from Condominiums and Apartment Buildings ....	37
 <b>CHAPTER 9.</b>	
<b>FINANCINGS INVOLVING TIF OR REDEVELOPMENT DISTRICT SPECIAL BENEFITS TAX.....</b>	<b>39</b>
Financings Where TIF Is the Sole Source of Debt Repayment .....	39

**Table of Contents (continued)**

	Page
Financings Where TIF Is a Source of Repayment Combined with Another Source (Such as COIT Revenues or Property Taxes) .....	39
Financings Involving the Issuance by the Unit of Economic Development Revenue Bonds on Behalf of a Private Company .....	39
Redevelopment Authority Lease Financings to Avoid Debt Limit Considerations .....	39
Five-Year BANs .....	39
“Bonds” vs. “Notes” vs. “BANs” .....	40
Issuance of Bonds vs. Obtaining Loan from Bank .....	40
Installment Purchase Contracts .....	40
Refundings .....	40
Bonds Payable from the Levy of Special Taxing District Taxes .....	41
Concept of “Tax-Exempt” Bonds .....	41
Concept of “Arbitrage” .....	41
Referendum and Petition/Remonstrance Requirements .....	41
Basis Points .....	42
Limit on Term of Debt .....	42
Parity Debt .....	42
Interest Rate Considerations .....	42
Expenditure of TIF Revenues .....	42
Concept of “Bank-Qualification” .....	43
Limit on Size and Number of TIF Districts .....	43
Large and Diversified TIF Districts vs. Single Taxpayer TIF District .....	43
Joint Action by Redevelopment Commissions .....	43
Roles of Consultants .....	43
Sources of Funds for Redevelopment Commissions .....	44
<b>CHAPTER 10.</b>	
<b>PERMISSIBLE USES OF TIF REVENUES .....</b>	<b>45</b>

**Table of Contents (continued)**

	Page
<b>CHAPTER 11.</b>	
<b>EFFECT OF TAX ABATEMENT ON TIF DISTRICTS .....</b>	<b>47</b>
Contract with Beneficiary of Tax Abatement Requiring Sharing of Portion of Tax Savings with Redevelopment Commission or Other Entity Established to Promote Economic Development .....	47
<b>CHAPTER 12.</b>	
<b>ACQUISITION OF REAL PROPERTY BY REDEVELOPMENT COMMISSIONS.....</b>	<b>49</b>
Appraisal Process.....	49
Purchase Price.....	49
No Appraisals Required Where Purchase Price of Property Is Less than \$25,000, or the Property Is for Sale at Auction.....	49
Special Rules for Acquisition of Property That Is Blighted, Unsafe, Etc.....	49
Inclusion of Acquisition in Economic Development Plan.....	50
Redevelopment Commission May Not Own Single-Family Dwellings or Condominium Units.....	50
<b>CHAPTER 13.</b>	
<b>DISPOSITION OF PROPERTY BY REDEVELOPMENT COMMISSIONS.....</b>	<b>51</b>
General Rules for Property Disposition.....	51
Disposition by Redevelopment Commission of Real Property to Other Governmental Agencies.....	51
Special Rules for Disposition of Real Property to Urban Enterprise Associations and Community Development Corporations .....	51
Special Rules for Disposition by Redevelopment Commission of Certain Specific Categories of Real Property; Extinguishment of Tax Liens .....	51
Special Rules for Disposition by Redevelopment Commission of Real Property to an Abutting Land Owner .....	52
Three-Year Pilot Program for Certain Property Disposition by Redevelopment Commissions in Lake County.....	52
<b>CHAPTER 14.</b>	
<b>AMENDMENTS OF REDEVELOPMENT OR ECONOMIC DEVELOPMENT PLANS .....</b>	<b>53</b>
Creation of a New TIF District Versus Expansion of an Existing District.....	53
Consolidation of TIF Districts .....	53

**Table of Contents** (continued)

	Page
Removal of Parcel Where Demolition Is to Occur and Adding the Parcel Back into the TIF District in the Following Year, Prior to New Improvements on the Parcel.....	53
Additions to Acquisition List.....	54
Notice to Owners of Parcels in Expansion Area.....	54
<b>CHAPTER 15.</b>	
<b>TRANSACTIONS WITH A DEVELOPER.....</b>	<b>55</b>
Tax Abatement.....	55
Brief Summary of Indiana’s Tax Abatement Law .....	55
Provision of Cash to Developer .....	58
Economic Development Tax Increment Revenue Bond, Purchased by the Developer .....	58
Economic Development Agreement with a Developer .....	59
Taxpayer Agreement Not to Appeal Assessed Valuation of Property in TIF District .....	59
Ability of Redevelopment Commission to Cause Agreements by Developer Not to Challenge Property Tax Assessment or Property Taxes or to Guarantee Bond or Lease Payments to Constitute a Lien on Taxpayer’s Property.....	59
Checklist of Issues to Be Considered in Discussions with Developer.....	59
<b>CHAPTER 16.</b>	
<b>HOUSING TIF .....</b>	<b>63</b>
HOTIFs .....	63
Age-Restricted Housing TIF Districts .....	63
<b>CHAPTER 17.</b>	
<b>RESPONDING TO ARGUMENTS THAT TIF DISTRICTS CAUSE OTHER TAXING UNITS TO LOSE FUNDS .....</b>	<b>65</b>
<b>CHAPTER 18.</b>	
<b>STATUTORY AUTHORITY FOR REDEVELOPMENT COMMISSIONS AND TIF .....</b>	<b>67</b>



## LIST OF APPENDICES

	Page
APPENDIX A. TIF Neutralization Worksheet and DLGF Instructional Memorandum.....	69
APPENDIX B. Article: Indiana Tax Increment Financing Law: Challenging the Common Misconception That All Funds Allocated to TIF Districts Would Otherwise Provide Additional Funding for School Corporations and Other Underlying Taxing Units.....	75
APPENDIX C. Article: Do Tax Increment Financing Districts Cause Circuit Breaker Fund Losses in Indiana? A Statistical Review of Actual Data .....	79
APPENDIX D. IC 36-7-14, as Amended (Redevelopment Commission and Tax Increment Finance), with Summary of 2017 Legislative Changes .....	91
APPENDIX E. IC 36-7-25, as Amended (Additional Powers of Redevelopment Commissions).....	137
APPENDIX F. 50 IAC 8 (Tax Increment Financing Regulations) .....	139

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## INTRODUCTION

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The purpose of this Handbook is to help Indiana's local officials and members of Indiana's economic development and redevelopment community better understand the countless laws and terminology that come into play in their work. I have attempted to avoid "legalese" in hopes of making this Handbook as useful and readable as possible, especially for non-lawyers. During my thirty-two years as bond counsel for numerous Indiana cities, towns and counties and their Redevelopment Commissions, I have come to have the utmost respect for the sincerity and hard work of local leaders and others who work in the field of redevelopment and economic development, as they strive to improve the lives of their constituents and neighbors, often with little recognition and at great personal sacrifice. I regard it as a real privilege to be able to assist and get to know them, and to have a small part in in the vital work they do in their efforts to create a better quality of life for their communities.

### **Practical Pointers**

I have provided *practical pointers* throughout the Handbook, based on practical experience.

### **Frequently Used Terms**

The following terms occur regularly in redevelopment and economic development law.

"Acquisition list" means the list of real property included in an economic development plan or redevelopment plan that the redevelopment commission intends to acquire.

"Allocation area" means an area designated by the redevelopment commission from which the redevelopment commission will receive tax increment revenues from assessed value that arises after the creation of the allocation area.

"Appeal" or "property tax appeal" means a taxpayer challenge to the assessor's determination of the taxable value of the taxpayer's property.

"Arbitrage" means the profit that results from borrowing at one interest rate and simultaneously lending the borrowed money at a higher interest rate. Federal tax laws applicable to tax-exempt bonds strictly limit the ability of a local governmental issuer of bonds to earn or retain arbitrage profits by investing bond proceeds in investments that earn a higher rate of interest than the interest rate being paid on the bonds.

"Area needing redevelopment" means an area that meets certain statutory criteria, including a finding that the area is an area in which normal development and occupancy are undesirable or impossible because of factors such as lack of development; cessation of growth; deteriorated or deteriorating improvements; environmental contamination; character of occupancy; age; obsolescence; substandard buildings; or other factors that impair property values or prevent a normal use or development of property. Such areas were previously called "redevelopment areas" or "redevelopment project areas." Prior law permitted the use of eminent

domain by a redevelopment commission in an “area needing development,” but redevelopment commissions no longer have that power. As a result, since there is no longer any advantage to creating an “area needing redevelopment,” most redevelopment commissions now create an “economic development area” (which requires less strict findings) rather than an “area needing redevelopment.” In order to create a TIF District, a redevelopment commission must first create an underlying area consisting of either an economic development area or an area needing redevelopment.

“Assessed value” means the value assigned to property by the assessing officials, on which the amount of property taxes payable by the property owner (after any exemptions or deductions) will be based.

“Assessment” means the process of determining the value of taxable property for taxing purposes.

“BAN” or “bond anticipation note” means a loan undertaken by a local governmental entity which is stated to be repayable from the issuance of bonds in the future.

“Bank-qualified bond” means that a financial institution that purchases the bond may obtain more favorable tax treatment of the interest income it receives on the bond than if the bond were not “bank-qualified.” A local governmental issuer (including related entities) generally may not designate more than \$10 million of debt in a calendar year as “bank qualified,” and may not designate any debt as bank-qualified in a calendar year if the issuer (including related entities) expects to issue more than \$10 million in debt (including tax warrants and lease financings) in the calendar year. The designation permits financial institutions to partially avoid certain tax rules designed to lessen the tax benefits for a financial institution where the funds used to buy the bonds (the interest on which is not included in gross income of the financial institution for federal tax purposes) are traceable to funds the financial institution has received from its depositors (for which the financial institution is already receiving tax benefit by virtue of being able to deduct the interest that it pays to its depositors as a business expense).

“Base assessed value” means the assessed value in a TIF District that will continue to flow to underlying taxing units by virtue of having arisen before the creation of the TIF District.

“Base date” means the date as of which taxes on pre-existing assessed value will be allocated to the underlying taxing units.

“Bond” means a loan taken out by a local governmental unit, consisting of an instrument in which the local governmental unit agrees to repay principal and interest from specified repayment sources, in return for the sale proceeds received from the purchaser.

“Capital project” means a project that has a relatively long useful life, such as a building or equipment.

“Claw-back provision” means a provision sometimes included in an economic development agreement whereby the local governmental entity may require the developer to pay back part or all of an incentive if the developer fails to satisfy specified commitments (such as a

commitment to create a minimum number of jobs) made in the economic development agreement.

“Confirmatory resolution” means a resolution adopted by a redevelopment commission, following a public hearing, that confirms the redevelopment commission’s declaratory resolution.

“Debt limit” means a limit on the total amount of direct debt (excluding certain categories of debt such as utility revenue bonds) that a local governmental entity may have outstanding at any particular time. Redevelopment commissions have their own separate debt limit equal to 2% of the net assessed value of the territory in the jurisdiction of the redevelopment commission. Financings in the form of a lease usually do not count against a local governmental entity’s debt limit.

“Debt service” means the principal and interest due on a bond or other obligation issued by the local governmental entity.

“Declaratory resolution” means an initial resolution passed by a redevelopment commission that preliminarily creates, expands, or reduces an economic development area or area needing redevelopment (or amends the economic development plan or redevelopment plan for the area to add additional projects), and may also designate all or a portion of such area as a TIF allocation area.

“Decrement” means a loss of incremental income taxes on property in a TIF allocation area that results from a reduction in the assessed value of the property.

“Department of redevelopment” means the department of a unit that is governed by the redevelopment commission.

“Designated taxpayer” means a taxpayer whose depreciable personal property in a TIF allocation area qualifies to be designated, and is designated, as property that will generate TIF revenues for the redevelopment commission from increases in assessed value of the property.

“Developer” means a party or company that intends to make an investment in a local governmental entity that is likely to result in an increased in assessed value in the local governmental unit and that may also result in job creation.

“DLGF” means the Indiana Department of Local Government Finance, which regulates the finances of local government units in Indiana.

“Economic development” means the process of improving a community’s economic well-being through the expansion of available jobs, the increase of assessed value that will generate tax revenues for the provision of high-quality public services, and similar undertakings.

Economic development area” means an area that meets certain statutory criteria, including a finding that the plan for the area will promote significant opportunities for the gainful employment of the unit’s citizens; will attract a major new business enterprise to the unit; will retain or expand an existing business enterprise in the unit; or meets certain similar criteria. In

order to create a TIF District, a redevelopment commission must first create an underlying area consisting of either an economic development area or an area needing redevelopment.

“Economic development plan” means a plan of action, including a list of potential projects, that a redevelopment commission is required to create for an economic development area.

“Eminent domain” means the taking of private property by the government.

“Executive” means, for a city, the Mayor; for a town, the Town Council President; and for a county, the Board of Commissioners.

“Fiscal body” means, for a city, the Common Council; for a town, the Town Council; and for a county, the County Council.

“Fiscal officer” means, for a second class city, the Controller, for a third class city, the Clerk-Treasurer; for a town, the Clerk-Treasurer; and for a county, the County Council.

“General obligation bond” means a bond secured by a commitment of the issuing local governmental entity to levy property taxes to pay principal and interest.

“Gross assessed value” means the assessed value of property before the application of available deductions or exemptions.

“HOTIF” means a TIF District created to improve the quality and availability of housing in a designated area.

“Incremental assessed value” means assessed value in a TIF District that arises after the creation of the TIF District, the taxes on which are given to the redevelopment commission.

“Infrastructure” means roads, sewers, waterlines, and similar basic physical assets of a local governmental entity.

“Issuer” means a local governmental body that is undertaking a borrowing by selling bonds or other obligations.

“Lease financing” means a financing where, instead of issuing direct debt, a local governmental entity leases the property being financed from a lessor (such as a Redevelopment Authority), and makes lease payments to the lessor. The lessor issues the debt, builds the project, and then leases the project to the local governmental entity. The lessor repays its debt from the stream of lease payments it receives. A long line of Indiana Supreme Court cases have held that the payment of lease payments generally does not constitute “debt” for purposes of debt limits.

“Legislative body” means, for a city, the Common Council, for a town, the Town Council, and for counties, the Board of Commissioners, except in Lake and St. Joseph Counties, where the County Council is the legislative body.

“Levy” means the raising of property taxes.

“Levy-limited fund” means a local government fund or school fund that has a statutorily fixed limit on the amount of property taxes that can be raised for the fund in a given year.

“Local income tax” means a tax on the income of specified taxpayers that counties are able to impose and distribute to the county unit and other local governmental units in the county.

“Lucrative office” means a governmental position that produces financial benefit to the holder of the office. Indiana’s constitution prohibits an individual from holding two lucrative offices at the same time. Membership on a redevelopment commission does not generally constitute a lucrative office.

“Maturity date” means the final due date of a bond.

“Net assessed value” means the assessed value of taxable property after the application of available deductions and exemptions.

“Neutralization” means the annual process of neutralizing the impact of reassessment or trending on the allocation of assessed value between the base assessed value and the incremental assessed value of property in a TIF district.

“Note” means a relatively short-term borrowing by a local governmental entity.

“Personal property” means property other than real estate or fixtures, such as equipment.

“Petition-remonstrance process” means the process which a minimum number of petitioners, usually 500, may require the local governmental entity to undertake prior to issuing bonds (or other obligations) for a project that costs more than a specified amount (usually more than \$2 million and up to \$12 million), where the bonds and that are expected to be paid at least in from property taxes. If so required, the financing may not go forward at that time unless more people sign petitions in favor of the financing than the number who sign petitions objecting to the project, during a set thirty-day period.

“Pledge” means to commit particular funds to the repayment of the local governmental entity’s debt.

“Political subdivision” means a municipal corporation or a special taxing district. It is a very broad category that includes the vast majority of local governmental entities, including redevelopment commissions.

“Property tax back-up” means a commitment by a local governmental entity to levy property taxes as a back-up source for the repayment of debt if the primary repayment source proves to be inadequate. Using a property tax back-up will usually result in a lower interest rate.

“Property tax base” means all of the taxable assessed value available to a local governmental entity for purposes of calculating property taxes.

“Public procurement laws” means laws requiring specific procedures, which may include public bidding, for the selection by a local governmental unit of a company to construct a public project, or from whom the local governmental will purchase property.

“Rate-limited fund” means a fund that has a statutory limit on the rate of the tax but not on the amount of taxes that can be raised. For cities, towns and counties, the most common rate-limited funds are cumulative funds. For school corporations, the capital projects fund is a rate-limited fund.

“Real property” means land and property on the land that is permanent or immovable, such as a building.

“Reassessment” means the statutory process for periodically re-determining the value of taxable property for property tax purposes.

“Redevelopment” means the rebuilding of declining areas of a local governmental entity.

“Redevelopment area” is the term formerly used for an area needing redevelopment.

“Redevelopment authority” means a three-member body created by a local government unit for the purpose of acting as a lessor to enable redevelopment commissions to undertake financings in the form of a lease and thereby avoid debt limit restrictions.

“Redevelopment commission” means a local governmental body, usually with five voting members, who are charged with investigating opportunities for economic development and redevelopment in the unit, and that has the power to create economic development areas, areas needing redevelopment, and TIF districts (among other powers).

“Redevelopment plan” means a plan of action, including a list of potential projects, that a redevelopment commission is required to create for an area needing redevelopment.

“Referendum process” means the process which a minimum number of petitioners, usually 500, may require the local governmental entity to place on the ballot the question of whether the local governmental entity may issue bonds (or other obligations) for a project that costs more than a specified dollar amount (usually, \$12 million), where the bonds are expected to be paid at least in part from property taxes. If so required, the financing may not go forward at that time unless more people vote in favor of the financing than the number who vote against it.

“Refunding bond” means a bond issued to pay off a prior bond issue, usually undertaken in order to generate interest savings because of a drop in interest rates since the issuance of the prior bonds.

“Tax abatement” means the reduction of the amount of property taxes required to be paid on taxable property for a set period of time (usually up to 10 years), in order to incentivize investment in the local governmental unit.

“Tax-exempt bonds” are bonds issued by a governmental entity whereby the holder of the bond is not required to pay federal income tax on the interest payments it receives on the bonds. For private loans (or in the case of taxable bonds), the lender (or bondholder) is required to pay federal income taxes on the interest it receives on the loan (or bond).



“Tax impact statement” is a financial report produced in connection with creating or expanding a TIF District, which is required to be provided to underlying taxing units in order to inform them of the impact of the creation or expansion of a TIF district on the amount of taxes to be received by the underlying taxing units.

“Tax increment” means the revenue generated by the incremental assessed value in a TIF District that arises after the creation of the TIF district.

“Tax increment financing district” is another term for an allocation area. Tax increment revenues are given to the redevelopment commission instead of the underlying taxing units.

“TIF” means tax increment financing, and is sometimes used to refer to the revenues generated by a TIF District.

“TIF allocation area” is another name for an allocation area.

“TIF district” is another name for an allocation area.

“Trending” means the annual process for re-setting the assessed value of taxable property, generally based on recent sales of comparable properties in a particular area.

“Unit” includes cities, towns and counties.

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## CHAPTER 1.

### REDEVELOPMENT COMMISSION – CREATION AND MEMBERSHIP


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Indiana law authorizes each city, town and county in Indiana to create a Redevelopment Commission. A unit creates a Redevelopment Commission by ordinance of the legislative body of the unit (the Town Council of a town, the Common Council of a city, and the Board of Commissioners of a county, except in Lake County and St. Joseph County, where the legislative body is the County Council).

 **PRACTICAL POINTER:** From the perspective of potential developers, a city, town or county that has not already created a Redevelopment Commission may appear to be less proactive and therefore less able to “hit the ground running” than those that already have a Redevelopment Commission. Redevelopment Commissions that have already established a TIF District are viewed as even more proactive. In addition, the mere act of creating a Redevelopment Commission locks in the unit’s jurisdiction for purposes of creating or expanding TIF allocation areas within the territory of such unit. In addition, a Redevelopment Commission will have its own separate 2% debt limit for purposes of the issuance of debt.

#### Selection of Members

Redevelopment Commissions generally consist of five voting members. In cities, the mayor appoints three members, and the Common Council appoints the other two. In towns, the Town Council President appoints three members, and the Town Council appoints the other two. In counties, the Board of Commissioners appoints three of the five members, and the County Council appoints the other two.

 **PRACTICAL POINTER:** The right of the officer or body that appoints a member to remove the member without cause evidences a statutory intention that such appointing authority have the last word in matters of policy. Accordingly, the appointing officer or body is well served to select as members individuals who understand that they should defer to the officer or body that appointed them. Otherwise, the executive and the legislative body of the political subdivision can find themselves at odds with their own appointees. Also, it is helpful to avoid selecting anyone who might want to have any business dealings with the Redevelopment Commission.

#### Non-Voting School Board Advisor


In addition to the five voting members, each Redevelopment Commission must include one non-voting member from the membership of a school board of a school corporation located wholly or partly within the unit (or, as of July 1, 2016, an individual recommended by the school board to the entity that appoints the non-voting advisor). Such non-voting advisor is appointed by the Mayor in cities, by the President of the Town Council in towns, and by the Board of Commissioners in most counties.

## Residency and Age Requirement

Each Redevelopment Commission member must be at least 18 years old and a resident of the applicable local governmental unit. Moving out of the applicable unit results in forfeiture of the office.

## Oath of Office and Bond

Prior to beginning his or her service, the member must take an oath of office, to be included on the certificate of appointment, which is then to be filed with the clerk of the applicable unit. Redevelopment Commission members must be bonded in the amount of \$15,000.


 **PRACTICAL POINTER:** The insurance company you usually use for other municipal insurance needs should be able to provide the required bond (which should be for an aggregate of \$15,000, not \$15,000 per member). If your insurer is unfamiliar with this type of bond, you may want to check with another municipality that has an existing Redevelopment Commission for information about the insurance company that provided that municipality's \$15,000 bond.

## Prohibition against Holding Two Lucrative Offices

Redevelopment Commission members generally will not run afoul of the Constitutional prohibition on holding two lucrative offices so long as the Redevelopment Commission has passed a resolution prohibiting any type of compensation (*i.e.*, salary or per diem). By statute, the non-voting school board member is not entitled to any compensation.

## Conflicts of Interest

Redevelopment Commission members must be careful to avoid conflicts of interest. Redevelopment Commission members are not permitted to have a pecuniary interest in any contract, employment, purchase or sale made pursuant to the redevelopment statutes. The general provisions of Indiana criminal law relating to conflicts of interest also apply to members of Redevelopment Commissions.

 **PRACTICAL POINTER:** This rule against conflicts of interest is broader than most statutes that govern conflicts of interest. For a Redevelopment Commission, a member must in effect never do any business at all with the Redevelopment Commission, which disclosure and abstaining from voting will not cure. Accordingly, when deciding whom to appoint to serve as a member of the Redevelopment Commission, persons who might want to sell property to (or buy property from) the Redevelopment Commission or to do other business with the Redevelopment Commission should be avoided.


## Term of Service

Members serve for a one-year term beginning on the January 1 following their appointment or until replaced, except that the originally appointed members serve for the remainder of the calendar year in which they are appointed, plus one year, or until replaced. Members appointed to replace an existing member serve out the term of the member being

replaced, and until they are themselves replaced. The non-voting school board member serves for a term of two years or until replaced.

### **Removal of Members**

The appointing person or body may remove its appointee at will, and without cause.

 **PRACTICAL POINTER:** Although the appointing officer or body has the right to remove its appointed members without cause, doing so can bring about negative publicity and cause unneeded controversy. This factor makes it important to appoint Redevelopment Commission members who will defer to the elected officials of their unit on matters of policy.

### **County Redevelopment Commissions May Have Seven Voting Members**

A county's executive body (usually the Board of Commissioners) may pass an ordinance changing the number of voting members of the county's Redevelopment Commission from five to seven. In that case, the Board of Commissioners appoints four members and the County Council appoints the remaining three.

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## CHAPTER 2.

### MEETINGS OF REDEVELOPMENT COMMISSIONS; OFFICERS

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#### Initial Organizational Meeting

The Redevelopment Commission members must hold an organization meeting within thirty (30) days after their appointment. The law does not prescribe any consequences for the failure of Redevelopment Commission members to hold such a meeting.

#### Annual Meeting

The Redevelopment Commission is no longer required to meet on the first day of January of each year (as was required under prior law, but probably in fact rarely complied with), but its first meeting of each year must be a time that is not a weekend or holiday.

#### Other Meetings


In addition to the required initial organization meeting and annual meetings, the Redevelopment Commission may adopt a schedule of regular meetings or may hold meetings as needed.

#### Election of Officers

The members must elect a President, a Vice President and a Secretary, who serve until they are replaced by the members.

#### Role of Unit's Fiscal Officer

The unit's fiscal officer (Clerk-Treasurer, Controller or Auditor) is by statute deemed to be the treasurer of the Redevelopment Commission and is required to perform the same duties with respect to the funds and accounts of the Redevelopment Commission as he or she performs with respect to the funds and accounts of the unit generally.

 **PRACTICAL POINTER:** Decisions as to expenditures by the Redevelopment Commission are to be made by a majority of the voting Redevelopment Commission members themselves. Once the Redevelopment Commission has made an expenditure decision, it is then the duty of the unit's fiscal officer to make a disbursement of Redevelopment Commission funds pursuant to the direction of a majority of the voting Redevelopment Commission members. It is not within the scope of the fiscal officer's powers to make the decisions on the expenditures (or to veto or overrule expenditure decisions made by the majority of the Redevelopment Commission), just as the fiscal officer does not have control or veto power over the expenditure decisions of the unit's fiscal body.

#### Public Notices of Meetings

Unless a specific statute requires more, only an Indiana Open Door Law notice is required in advance of meetings (except when the requirements for establishing regular meetings

have been satisfied at the beginning of the year). Open Door Law requirements (see IC 5-14-1.5) generally include providing notice (at least 48 hours prior to the meeting, not including weekends or holidays) of the date, time and place to the press, posting such notice (at least 48 hours prior to the meeting, not including weekends or holidays) at the principal office of the Redevelopment Commission, or if there is no such office, at the building where the meeting is to be held, and, if an agenda is used, posting a copy of the agenda at the entrance to the location of the meeting prior to the meeting.

**Executive sessions** (where the public and the press are not permitted to attend) may be held for any of the purposes specified in IC 5-14-1.5-6.1. Decisions may not be made at an executive session. Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under IC 5-14-1.5-6.1(b). The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice. A common purpose for an executive session is interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects (under IC 5-14-1.5-6.1(b)(4)).

### **Rules and By-laws**

The Redevelopment Commission may, but is not required to, adopt rules and by-laws. Most Redevelopment Commissions do not adopt rules or by-laws.

### **Quorum Requirement**

A majority of the voting members (three members, or, for a county redevelopment commission that has seven voting members, four members) constitutes a quorum.

### **Voting Requirements**

Action by the Redevelopment Commission requires the affirmative vote of a majority of the voting members of the Redevelopment Commission (not just a majority of those present at a meeting).

### **Meetings That Include Participation by Electronic Means**

Members of a Redevelopment Commission or a Board of Directors of a Redevelopment Authority are permitted to participate in a meeting by electronic means under specified conditions, including the following:

1. All participating members and all members of the public who are physically present at the meeting must be able to simultaneously communicate with each other. Non-present members are considered present for quorum purposes.
2. At least one-third of the members must be physically present at the meeting. All votes during the meeting must be taken by roll call vote.



3. Each Redevelopment Commission member or Board of Directors member must attend at least one meeting of the Redevelopment Commission (or Board of Directors) in person each year.
4. The Redevelopment Commission may establish policies for electronic participation by members. Such policies may include, among others, limits on the frequency of a member's participation in meetings electronically.

### **Guidance Relating to the Position of Executive Director of the Redevelopment Commission**

1. Under IC 36-7-14-12.2(a)(12), the Redevelopment Commission may appoint an executive director.
2. Under IC 36-7-14-10, a Redevelopment Commission member may not have a pecuniary interest in any contract, employment, purchase or sale made under IC 36-7-14. Therefore, a sitting Redevelopment Commission member may not serve as the Executive Director of the Redevelopment Commission.
3. Under IC 35-44.1, for a person to serve as a member of a City Council (or Town Council or County Council) that proposes to vote in favor of an appropriation for payment for the services of such person as the Executive Director of the Redevelopment Commission, such person must make a disclosure that:
  - (a) is in writing;
  - (b) describes the proposed contract;
  - (c) describes the person's pecuniary interest in the contract;
  - (d) is affirmed under penalty of perjury;
  - (e) is submitted to the City Council (or Town Council or County Council) and the Redevelopment Commission and is accepted by the City Council (or Town Council or County Council) and the Redevelopment Commission in public meetings prior to final action on the appointment and appropriation;
  - (f) is filed within fifteen (15) days after final action on the contract with the State Board of Accounts and the Clerk of the Circuit Court of the County; and
  - (g) contains the written approval of the City Council (or Town Council or County Council) and the Redevelopment Commission.

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## CHAPTER 3.

### JURISDICTION OF REDEVELOPMENT COMMISSION

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#### In General

A city's Redevelopment Commission has jurisdiction throughout the city. A town's Redevelopment Commission has jurisdiction throughout the town. A county's Redevelopment Commission has jurisdiction everywhere in the County except in the territory of cities or towns that have established their own Redevelopment Commission.

#### **Effect of Annexation by City or Town on County Redevelopment Commission Jurisdiction**


In general, the County Redevelopment Commission loses jurisdiction in the annexed territory, except that the city or town that annexed the territory may pass an ordinance permitting the County Redevelopment Commission to issue additional bonds payable from tax increment revenues generated in the annexed area or from special taxes on property in the territory annexed.

If bonds (or lease obligations) are already outstanding, then for purposes of the collection of tax increment revenues or special taxes from the territory annexed, the jurisdiction of the county Redevelopment Commission in such territory continues until the bonds are retired, as if the annexation had not occurred.

#### **Effect of Creation of Redevelopment Commission by City or Town on County Redevelopment Commission Jurisdiction**

In general, the County Redevelopment Commission loses jurisdiction in a city or town that creates its own Redevelopment Commission, except that the city or town that created its own Redevelopment Commission may pass an ordinance permitting the County Redevelopment Commission to issue additional bonds payable from tax increment revenues from a county allocation area within the boundaries of the city or town or from special taxes on property in the city or town.


If bonds (or lease obligations) are already outstanding, then for purposes of the collection of tax increment revenues or special taxes from the territory of the city or town that created a Redevelopment Commission, the jurisdiction of the county Redevelopment Commission in such territory continues until the bonds are retired, as if the city or town had not created its own Redevelopment Commission.

 **PRACTICAL POINTER:** By the simple action of establishing a Redevelopment Commission, a City or Town can assert jurisdiction over its own territory, with or without the creation of an Economic Development Area, Area Needing Redevelopment, or Tax Increment Finance Allocation Area. Where there is already a County TIF District located wholly or in part in the city or town at the time the city or town creates its Redevelopment Commission, the County Redevelopment Commission will then no longer be able to issue bonds payable from TIF generated by that part of the County's TIF District located in the city or town, without the permission of such city or town.

However, the County will continue to collect all TIF revenues from the portion of the TIF District located in the City or Town until the final retirement of any debt secured by the County's TIF District.

### **Legislative Body Oversight of Redevelopment Commission and Its Annual Budget**

Under IC 36-7-14-3(b), Redevelopment Commissions are subject to oversight by the legislative body of the applicable unit, including a review of the Redevelopment Commission's annual budget.

 **PRACTICAL POINTER:** The effect of being subject to legislative body oversight is not clear. In practice, this does not appear to have any practical impact on the Redevelopment Commission.

### **Legislative or Fiscal Body Approval Required for Various Redevelopment Commission Actions**

Various Redevelopment Commission actions require legislative or fiscal body approval (such as the issuance of bonds (regardless of amount), any amendments to a declaratory resolution or plan, and entering into a lease). Legislative body approval is also required for a Redevelopment Commission's purchase contract for the acquisition of real property if the purchase price is greater than \$5 million or the contract has a term of more than 3 years.

### **Authorization of Short-Term Borrowing of Redevelopment Funds by Related Governmental Unit with Approval of Redevelopment Commission**

If a unit's fiscal body (i.e., Common Council, Town Council, or County Council) determines that it is necessary to engage in a short-term borrowing until the next tax collection period, the fiscal body may request approval from the Redevelopment Commission to waive the rule that all Redevelopment Commission funds must be accessible to the Redevelopment Commission at any time. The waiver process requires the fiscal body and the Redevelopment Commission to adopt similar resolutions that set forth the amount of the funds and an expiration date for the waiver. The unit must repay the funds to the Redevelopment Commission by the end of the applicable calendar year.

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## **CHAPTER 4.**

### **DUTIES OF REDEVELOPMENT COMMISSIONS**

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#### **General Duties**

Duties of Redevelopment Commissions include the following:

1. Investigate, survey and study areas in the unit that need redevelopment.
2. Study and combat the factors causing an area to need redevelopment.
3. Select and acquire areas needing redevelopment or economic development areas.

A focused, hardworking and proactive Redevelopment Commission can alter, and in many cases has altered, the course of a community's economic future. The City of Carmel was once the tiny town of Bethlehem, Indiana. Indianapolis has not always had the prominence it does now. The size and fortune of Indiana's communities will in some cases wax and in other cases wane in the future. The role of Redevelopment Commissions in maintaining and fortifying the economic health of their communities should not be underestimated.

#### **Contracts Greater than \$50,000**

A law passed in 2017 requires political subdivisions, including Redevelopment Commissions, to upload a copy of a contract that the political subdivision enters into after June 30, 2016, to the Indiana Transparency Internet Website if the total cost of the contract exceeds \$50,000. The requirement applies to most contracts, including professional services contracts, with few exceptions.

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## **CHAPTER 5.**

### **ANNUAL NOTICE AND REPORTING REQUIREMENTS OF REDEVELOPMENT COMMISSIONS**

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#### **April 1 Report**

By April 1 of each year, the Treasurer of the Redevelopment Commission (i.e., the fiscal officer of the unit) must prepare a fiscal report for the Redevelopment Commission.

#### **April 15 Report**

By April 15 of each year, a Redevelopment Commission is required to file a report of its activities for the prior calendar year with the executive of the unit and fiscal body (i.e., Mayor, Town Council President, or County Commissioners, and Common Council, Town Council and County Council, as appropriate), containing the information set forth in IC 36-7-14-13. A copy of the report must also be submitted to the Department of Local Government Finance in electronic format. The report must include the names of the members and officers of the commission (including, for County redevelopment commissions, any new or removed members in the prior calendar year), the number of employees and salaries, the amount of expenditures made during the preceding year and their general purpose, an accounting of TIF revenues as a grant or loan from the Redevelopment Commission, the amount of funds on hand at the end of the prior calendar year, and any other information necessary to disclose the activities of the Redevelopment Commission. Further, the report is required to include specified information for each tax increment financing (TIF) district for the previous year, including:

1. revenues received;
2. expenses paid;
3. fund balances;
4. amount and maturity date for all outstanding obligations;
5. amount paid on outstanding obligations; and
6. a list of parcels included in each TIF District and the base assessed value and incremental assessed value for each parcel in the list.

The following additional information must also be included in a Redevelopment Commission's April 15 report to the extent that the this information has not previously been provided to the Department of Local Government Finance:

1. the year in which the tax increment financing district was established;
2. the section of the Indiana Code under which the tax increment financing district was established;

3. whether the tax increment financing district is part of an area needing redevelopment, an economic development area, a redevelopment project area, or an urban renewal project area;
4. if applicable, the year in which the boundaries of the tax increment financing district were changed and a description of those changes;
5. the date on which the tax increment financing district will expire; and
6. a copy of each resolution adopted by the redevelopment commission that establishes or alters the tax increment financing district.

### 2017 Legislative Changes

**Additional Information to Be Included in Redevelopment Commission Report Due by April 15 of Each Year.** The report that each Redevelopment Commission must file each year with the unit's executive and fiscal body will be required to include (with respect to the previous year), among other required information, a list of the depreciable personal property of any "designated taxpayer" for each TIF allocation area that is capturing assessed value from depreciable personal property, as well as the base assessed value and incremental assessed value of such depreciable personal property. (HEA 1450, amending IC 36-7-14-13. Effective July 1, 2017.)

**Note: Redevelopment Authorities** are also required to file a report by **April 15** (IC 36-7-14.5-9).

### **June 15 Report**

The Redevelopment Commission has an affirmative obligation to notify by June 15 of each year the county auditor and also the fiscal body of the city, town or county that created the Redevelopment Commission, and each taxing unit that is wholly or partly located in the TIF allocation area, and the DLGF in electronic format, of the Redevelopment Commission's determination regarding use of TIF in the following budget year and potential release of excess assessed value to the taxing units. However, for purposes of this annual reporting process which Redevelopment Commissions must undertake each year prior to June 15 to determine what amount, if any, of captured assessed value should be passed through to underlying taxing units, the following additional requirement will apply:

If the amount of excess assessed value captured by the Redevelopment Commission in a tax allocation area (i.e., TIF District) is expected to generate more than 200% of the amount of TIF necessary to pay principal and interest on bonds and other amounts projected to be spent for authorized purposes from the TIF revenues in the following year, then the Redevelopment Commission will be required to report the existence of such excess to the legislative body of the unit and the amount of captured assessed value that the Redevelopment Commission proposes to pass through to underlying taxing units for the following year. The legislative body of the unit will have the power to approve the Redevelopment Commission's determination or modify the amount of the excess assessed value to be passed through to underlying taxing units.



## August 1 Report

The Auditor must complete the “neutralization” of the effects of reassessment or trending of real property on TIF each year by August 1. This neutralization is intended to eliminate (or “neutralize”) the effects of “trending” or reassessment on the allocation of assessed value between the underlying taxing units and the TIF District. (See Appendix A for form of TIF Neutralization Worksheet.)

### Reassessment

Counties must have a reassessment plan that divides all parcels of real property in the county into four different groups of parcels. Each group of parcels must contain approximately 25% of the parcels within each class of real property in the county. All real property in each group of parcels must be reassessed under the county’s reassessment plan once during each four-year cycle. The reassessment of a group of parcels in a particular class of real property must begin on July 1 of a year, and must be completed on or before the following March 1. A plan may provide that all parcels are to be reassessed in one year. However, a plan must cover a four-year period. The four year cycles were required to begin on July 1, 2014.

### “Trending”

Indiana law subjects real property to an annual revaluation process (except in years when a general reassessment is scheduled). This process, known as “trending,” involves using comparable sales data with the goal of causing the valuation to approximate more closely to market value. This system requires assessors to determine the sales prices of properties in an area sold during the prior two years. Employing data from sales in the “neighborhood” (defined in the Real Property Assessment Guidelines as “a geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends, and housing characteristics”), the assessor must adjust the assessed value of real property on an annual basis. Trending is intended to mitigate potentially drastic changes in assessed value that can occur between general reassessments.

**👉 PRACTICAL POINTER:** It is critically important that the calculations in the TIF Neutralization Worksheet be done correctly, and that all of captured assessed value be taken into account, which may not occur if any of the parcels in the TIF District are overlooked in making the calculations. An inadvertent error can cause the Redevelopment Commission to lose a significant amount of TIF revenues with no possibility of ever recovering the loss. For example, if there is a splitting of a parcel into two parcels with two difference parcel numbers, the Auditor’s office may forget to add the new parcel to the list of parcels in the TIF District. Engaging a financial advisor to assist the County Auditor in the preparation of the TIF Neutralization Worksheet is recommended (and such services can be paid for from TIF revenues of the particular TIF District). Additionally, the TIF Valuation Worksheets, on file with the County Auditor, should detail each parcel and identify any parcels that have lost assessed value (so-called TIF “decrement”). Where significant decrement is identified, a Redevelopment Commission should consider amending the TIF District to remove the offending parcels. Finally, a review of the list of parcels in the TIF District should be compared to a map, to determine whether any parcels have accidentally been excluded following the splitting of a parcel or for any other reason.

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## **CHAPTER 6.**

### **GENERAL POWERS OF REDEVELOPMENT COMMISSIONS**

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#### **Acquisition of Property**

A Redevelopment Commission may acquire property needed for redevelopment or economic development purposes.

#### **Disposition of Property**

A Redevelopment Commission may dispose of property acquired for redevelopment or economic development purposes.

#### **Holding and Using Property**

A Redevelopment Commission may hold and use property for redevelopment or economic development purposes.

#### **Clearance of Property**

A Redevelopment Commission may clear property acquired for redevelopment or economic development purposes.

#### **Remediation of Property**

A Redevelopment Commission may remediate environmental contamination of property acquired for redevelopment or economic development purposes.

#### **Repair and Improvement of Property**

A Redevelopment Commission may repair, remodel, maintain or improve property acquired for redevelopment or economic development purposes.

#### **Eminent Domain**

Redevelopment Commissions no longer have the power of eminent domain. Note that the local governmental units themselves still have the power of eminent domain, which can be exercised either in areas needing redevelopment or in economic development areas.

#### **Provision of Financial Assistance for Purchase or Lease of Residential Housing**

A Redevelopment Commission may provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units in a multiple-unit residential structure within the district. However, financial assistance may be provided only to individuals and families whose income is at or below the unit's median income for individuals and families, respectively.

## **Provision of Financial Assistance to Neighborhood Development Corporations**

A Redevelopment Commission may provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

1. Provide financial assistance for the purposes described in the preceding section entitled “Provision of Financial Assistance for Purchase or Lease of Residential Housing”; or
2. Construct, rehabilitate, or repair commercial property within the district.

## **Tax Levy for General Expenses**

Subject to the general rules applicable to budget requests by executive departments in general, a Redevelopment Commission may annually levy a tax at a rate not to exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed valuation in a municipality and a tax at a rate not to exceed one and thirty-three hundredths cents (\$0.0133) per one hundred dollars (\$100) of assessed valuation in a county, for the purposes of IC 36-7-14, including: (1) the payment, in whole or in part, of planning and survey costs; (2) the costs of property acquisition and redevelopment; and (3) the payment of all general expenses of the Redevelopment Commission.

## **Issuance of Tax Warrants**

Subject to compliance with procedural requirements, a Redevelopment Commission may issue tax warrants in anticipation of taxes that have been levied and are in the course of collection, for up to 80% of the taxes to be collected.

## **Urban Renewal Projects**

IC 36-7-14 permits Redevelopment Commissions to undertake urban renewal projects, subject to various rules and procedures set forth in the statute.

## **Neighborhood Development Programs**

IC 36-7-14 permits Redevelopment Commissions to undertake neighborhood development projects, subject to various rules and procedures set forth in the statute.

## **Best Practices for Redevelopment Commissions**

1. **Monitoring of TIF calculations.** Annual reviews can reveal inadvertently excluded parcels and may lead to other corrections.
2. **“Pruning” of TIF districts.** TIF districts can be amended to remove material “decrements,” which are losses in TIF revenues caused by parcels in the TIF district that have lost assessed value.
3. **Personal property TIF.** Capturing TIF on depreciable personal property is not permitted for retail, commercial, or residential assessed value. Depreciable

personal property TIF may be more significant than real property TIF in some TIF districts.

4. **Monitoring effect of reassessment and trending.** Make sure it is correctly done, or your Redevelopment Commission could be caused significant loss by errors.
5. **Refinancing of existing debt.** Redevelopment Commissions that want to reduce annual debt service payments may be able to refinance the existing debt to lengthen the term of the debt in order to reduce the amount of annual debt payments. In addition, by putting a property tax back-up behind the debt as part of a refinancing, it may be possible in some cases to reduce the interest rate on the refinanced debt.
6. **Clawbacks in economic development agreements.** Consider including “clawback” provisions in economic development agreements so that all or part of an incentive to a private developer must be repaid if the developer fails to meet job creation or capital investment commitments.
7. **Request receipt of share of savings from tax abatement beneficiaries.** Consider requesting that the body granting tax abatements require beneficiaries of tax abatements to allocate a portion of their annual tax savings to the Redevelopment Commission. (See page 41.)

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## CHAPTER 7.

### CREATION OF AN “ECONOMIC DEVELOPMENT AREA”

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#### “Economic Development Area” or “Area Needing Redevelopment”

In connection with establishing a TIF District, it is first necessary to create an underlying area designated as either an “economic development area” or an “area needing redevelopment.” Under prior law, a Redevelopment Commission had the power of eminent domain in an “area needing redevelopment” (or “redevelopment area,” as it was formerly called) and stricter findings were (and continue to be) required to designate an area as an “area needing redevelopment.”

 **PRACTICAL POINTER:** Because there is no advantage in creating an “area needing redevelopment” rather than an “economic development area,” and since the required findings are much stricter for an “area needing redevelopment,” most Redevelopment Commissions choose to designate the required underlying area as an “economic development area.” The remainder of this Handbook assumes that the Redevelopment Commission will select the “economic development area” designation.


#### Procedural Steps

1. Determination of Boundaries of Proposed Economic Development Area.

 **PRACTICAL POINTER:** In determining the boundaries of the economic development area, the Redevelopment Commission should focus on territory where the Redevelopment Commission anticipates that it may want to spend TIF revenues, since it will be possible to spend TIF revenues anywhere in the economic development area. Although an economic development area is typically identical to the overlaid TIF allocation area, it is sometimes the case that the TIF allocation area does not cover the entire economic development area. However, any parcels selected to be part of the TIF allocation area are required to be located in the economic development area.

2. **Creation of Economic Development Plan for Proposed Economic Development Area.** In connection with creating an economic development area, the Redevelopment Commission is required to prepare an “Economic Development Plan.” The following is a list of items that need to be included or covered in the Economic Development Plan.
  - (a) **Legal Description of the Economic Development Area.** The Economic Development Plan must include a general description of the Economic Development Area. It is customary practice to also include, at the very least, a general description of the boundaries of the Economic Development Area in the Economic Development Plan. Preferably, the Plan will contain a legal description of the Area.
  - (b) **No Split Parcels.** A parcel should either be entirely included in or entirely excluded from the Economic Development Area or TIF allocation area.

- (c) **Maps and Plats of the Area.** IC 36-7-14-15 requires the Redevelopment Commission to cause “maps and plats” to be prepared showing the boundaries of the Economic Development Area, along with various other items. It is customary practice to include a fairly descriptive map of the Economic Development Area in the Economic Development Plan, outlining the boundaries of the Economic Development Area on the map.
- (d) **Acquisition List or a Statement of No Acquisition.** IC 36-7-14-15 also requires the preparation by the Redevelopment Commission of a list of the owners of the parcels of property within the Economic Development Area that are proposed to be acquired under the Economic Development Plan. Therefore, the Economic Development Plan should contain either (i) an acquisition list of such owners, or (ii) a statement that the Redevelopment Commission does not, or does not currently, anticipate acquiring property as part of the Plan.
- (e) **Estimate of the Cost of Acquisition and Economic Development.** IC 36-7-14-15 also requires the Redevelopment Commission to prepare an estimate of the cost of acquisition and economic development before passing the Declaratory Resolution. It is customary practice for the Economic Development Plan to set forth this estimate, typically with an allocation of the total estimate among the various projects and/or costs.
- (f) **List of Projects in the Plan.** The Plan should include a list of potential projects to be undertaken in the Economic Development Area.

 **PRACTICAL POINTER:** To avoid the need for future amendments to the Economic Development Plan, the list of projects should be as broad as possible. For example, the Redevelopment Commission should consider including as permissible projects in the Economic Development Plan broad categories similar to the following:

“Tax increment revenues from the Allocation Area or other sources of funds available to the Redevelopment Commission may be used to finance the cost of infrastructure improvements in or serving the Allocation Area, including without limitation, curbs, gutters, water lines, waste water lines, street paving and construction, storm sewer lines, and storm water basin improvement in, serving or benefiting the Allocation Area. Although the precise nature of infrastructure that may be necessary from time to time to attract and retain prospective redevelopment and economic development opportunities in the Allocation Area cannot be predicted with certainty, the availability of adequate infrastructure is of fundamental importance in attracting and retaining such opportunities in the Allocation Area.

“Tax increment revenues from the Allocation Area or other sources of funds available to the Redevelopment Commission may also be used to offset payments by developers on promissory notes in connection with economic development revenue bond financings undertaken by the unit, or to pay principal or interest on economic development revenue bonds issued by the unit to provide incentives to developers, in furtherance of the economic development or redevelopment purposes of the Allocation Area. The provision of incentives by the application of tax increment revenues to offset developer promissory notes that secure economic development revenue bonds, or to pay principal or interest on economic development revenue bonds issued by the unit to provide incentives to developers, in furtherance of the economic development or redevelopment purposes of the Allocation Area, has become an established financing




tool and an increasingly common form of incentive for attracting economic development and redevelopment.

“The acquisition or construction of projects to enhance the cultural attractiveness of the entire unit, including Economic Development Area.


“Acquisition or construction of projects to enhance the public safety of the entire unit, including the Economic Development Area.”

- (g) **Statutory Findings.** The Plan should have a section devoted to statutory findings. Specifically, to create an Economic Development Area, the Redevelopment Commission must make certain findings set forth in IC 36-7-14. The best Economic Development Plans set forth the language of the statutory findings and analytically describe how each of the required findings is met by the Economic Development Area.
- (i) Findings Required to Establish An “Economic Development Area:”
- a. The Economic Development Plan for the Economic Development Area:
    - i. promotes significant opportunities for the gainful employment of its citizens;
    - ii. attracts a major new business enterprise to the unit;
    - iii. retains or expands a significant business enterprise existing in the boundaries of the unit; or
    - iv. meets other purposes of section 41 and sections 2.5 and 43 of IC 36-7-14;
  - b. the Economic Development Plan for the Economic Development Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under IC 36-7-14 because of:
    - i. lack of local public improvement;
    - ii. existence of improvements or conditions that lower the value of the land below that of nearby land;
    - iii. multiple ownership of land; or
    - iv. other similar conditions;
  - c. the public health and welfare will be benefited by accomplishment of the Economic Development Plan for the Economic Development Area;
  - d. the accomplishment of the Economic Development Plan for the Economic Development Area will be a public utility and benefit as measured by:
    - i. the attraction or retention of permanent jobs;
    - ii. an increase in the property tax base;

- iii. improved diversity of the economic base; or
    - iv. other similar public benefits; and
  - e. the Economic Development Plan for the Economic Development Area conforms to other development and redevelopment plans for the governmental unit.
- 3. The Redevelopment Commission adopts a “Declaratory Resolution” approving the Economic Development Plan and declaring the area to be an Economic Development Area.
- 4. Next, the Plan Commission adopts a resolution approving the Economic Development Plan and the Declaratory Resolution and finding that the Economic Development Plan conforms to the governmental unit’s plan of development for the Economic Development Area.
- 5. Next, the Common Council, Town Council or (for most counties) the Board of County Commissioners, as applicable, passes an approving resolution. Such body must also specifically approve the designation of an area as an Economic Development Area.
- 6. **Tax Impact Statement.** If the Declaratory Resolution includes provisions making all or part of the Area a TIF allocation area, then the Redevelopment Commission must cause to be prepared a report of the projected impact on and benefits to the underlying taxing units.

 **PRACTICAL POINTER:** It will be necessary to engage the services of a municipal financial advisor to prepare the Tax Impact Study on behalf of the Redevelopment Commission.

- 7. **Notice of Public Hearing by Redevelopment Commission.** Next, the Redevelopment Commission, at least ten days in advance, must cause to be published in the applicable local newspaper(s) a notice of public hearing by the Redevelopment Commission relating to the creation of the Economic Development Area. The notice must also be provided to various planning bodies in the unit, the underlying taxing units, and in some cases, neighborhood associations and owners of property to be acquired under the Plan. The Redevelopment Commission must also file the Tax Impact Statement with the underlying taxing units.
- 8. **Redevelopment Commission Public Hearing and Confirmatory Resolution.** The Redevelopment Commission then holds a public hearing and adopts a resolution confirming the establishment of the Area.
- 9. **Required Filings.** The Redevelopment Commission then makes required filings with the Department of Local Government Finance and the County Auditor and also records the resolutions with the County Recorder.

 **PRACTICAL POINTER:** It is essential that the Redevelopment Commission make the Auditor’s office fully aware that a TIF district has been created (or expanded) and the parcels that will generate TIF. An in-person meeting of Redevelopment Commission representatives with the County Auditor to discuss the TIF district creation (or expansion) is highly recommended.

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## CHAPTER 8.

### TIF ALLOCATION AREAS

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#### Background

To better understand how TIF works, it is helpful to keep in mind the mechanics of property taxation in Indiana.


- **Payment of Property Taxes.** Individuals and businesses pay their property taxes twice each year, usually in May and November.
- **Amount of Taxes Payable: Net Assessed Value of Property, multiplied by Sum of Tax Rates of Separate Taxing Units Where Property Located, minus Amount of Tax in Excess of Circuit Breaker Cap.** The amount of taxes that a taxpayer pays is generally determined by multiplying the net assessed value of the taxpayer's property (that is, the assessed value of the property as determined annually by assessing officials, reduced by applicable exemptions and deductions) times the applicable tax rate (consisting of the sum of the separate tax rates of the taxing units where the property is located). After such amount of taxes is calculated, the total taxes owed by the taxpayer are reduced to the extent such amount exceeds the circuit breaker tax cap applicable to the particular property (based on which of three tax cap categories the property falls into).
- **Applicable Tax Rate: Sum of Tax Rates of All Taxing Units Where Property Is Located.** The applicable tax rate is the sum of the tax rates of all of the separate taxing units in which the property is located. All property in Indiana is located in a county, a school corporation, and a township. Most, but not all, property is located in a library district as well. The property may also be located in a town or city, which will also have a separate tax rate that forms part of the total tax rate. The property may also be located in one or more special taxing districts that will also have their own rate. All these rates are added together in calculating the aggregate tax rate applicable to the property.
- **“Levy-Limited” Funds and “Rate-Limited” Funds.** Local units of government (including cities, towns and counties) have various property-tax-funded funds, most of which are “levy-limited” funds. For a levy-limited fund, the State annually determines the maximum dollar amount that such fund may receive (with annual increases determined by the State based on the average growth of non-farm income in Indiana in the prior six years, but not more than 6%). Since the total maximum levy amount (a fixed amount) equals the total net assessed value of all of the taxable property in the territory of the taxing unit (also a fixed amount, calculated annually by County officials based on assessments of the property undertaken by the applicable assessing officials) multiplied by the aggregate tax rate (a variable amount), the taxing unit calculates the tax rate as the rate that, when multiplied by the total net assessed value of all taxable property located in the unit, produces the maximum levy amount. (The taxing unit in effect “backs into” the tax rate.) The other category of

funds is “rate-limited” funds. For a rate-limited fund, the tax rate applicable to the fund (which is a fixed rate with a statutory maximum) is multiplied by the taxing unit’s net assessed value, with no limit on the maximum amount that the fund can receive. That is, as net assessed value increases, the amount of the taxes raised for the fund increases. The principal type of fund that is in the “rate-limited” category is cumulative funds.

- **School Corporation Fund Structure.** School corporation funds also fit into either one or the other of the two categories (levy-limited funds or rate-limited funds). The principal school fund, the “general fund,” is not funded by property taxes at all but is instead funded by the State (from State revenues, including State sales tax revenues), with the amount of State funding based primarily on the student head count in the particular school corporation. Most of the other school funds are levy-limited funds (with a maximum levy amount that can be raised for such fund). The principal exception is the Capital Projects Fund, which is a rate-limited fund (whereby the tax rate is multiplied by the net assessed value of all taxable property in the territory of the school corporation, with no limit on the amount of funds that can be raised).
- **Tax Cap Laws.** Indiana’s tax cap laws place a limit on the maximum tax rate that can be imposed on a particular property based on which of three classes of property the particular taxable property falls into. For “homestead” property (that is, the home that you own where you actually live), if the amount of the taxes due would be greater than 1% the gross assessed value of the homestead property, then taxes in excess of the capped amount do not have to be paid by the taxpayer. For residential rental property, agricultural property and long-term care property, the tax cap is 2%. For commercial property, the tax cap is 3%. The reduction in tax bills resulting from the application of the tax caps results in a loss of funding for the funds of the taxing units, which loss is generally spread proportionately among the funds of the taxing units (with some exceptions relating to debt service funds, which in general are reduced last). For levy-limited funds, if application of the tax caps produces shortfalls, the shortfalls could be reduced (if not completely eliminated) if the net assessed value available to the taxing unit were increased.
- **Taxes from Pre-TIF District Assessed Value (the “Base”) Continue to Be Allocated to Underlying Taxing Units; Taxes from Post-TIF District Assessed Value (the “Increment”) Are Allocated to Redevelopment Commission.** When a TIF District is created, property taxes paid on the net assessed value that was in the geographic area before the creation of the TIF District (more specifically, as of the “base date”) continue to be divided up among the underlying taxing units (the county, township, school corporation, etc.). That is, these taxing units continue to have the benefit of the pre-existing assessed value. However, in general, property tax revenues from additional assessed value that arises in the geographic area after the creation of the TIF District (more specifically, after the “base date”) are not divided among the underlying taxing units. Instead, those tax revenues are deposited into the TIF allocation fund related to the TIF District and are under the control of the Redevelopment Commission. The increased assessed value is said to be “captured” by the TIF District.


## **Difference between TIF Allocation Area and Economic Development Area**

Before an “allocation area” (often referred to as a “TIF District”) can be created, the Redevelopment Commission must first create an Economic Development Area, and then select some or all of the parcels in the Economic Development Area to constitute one or more TIF Districts. All of the parcels in a given TIF District must be connected (except in specified circumstances in St. Joseph County), but there can be holes in the TIF District (where particular parcels are excluded from the TIF District), as long as the TIF District is still all connected.

 **PRACTICAL POINTER:** In selecting the parcels to be included in the TIF District, the focus should be on those parcels that are likely to see an increase in assessed value in the future, based on the likelihood of new development on those parcels. Only parcels included as part of the TIF District will generate TIF revenues. Since parcels classified as “residential” for State tax purposes generally do not generate TIF (except in the case of certain very old TIF Districts), the Redevelopment Commission should avoid including residential parcels in the TIF District. The Redevelopment Commission should keep in mind that the greater the number of parcels in the TIF District, the more difficult it will be for the Auditor to perform the required annual calculations required to be made with respect to each of the parcels. Since parcels that are the subject of a tax abatement at the time the TIF District is created will generate TIF on the assessed value that is freed up as a result of the completion of the abatement or the decrease over time of the abated percentage, the Redevelopment Commission should consider including such parcels in the TIF District.

## **Procedures for Designation of Part or All of an Economic Development Area as a TIF Allocation Area**

To create an allocation area in part or all of the Economic Development Area, the Redevelopment Commission must include specific statutory provisions as part of the Declaratory Resolution. A Redevelopment Commission may also add TIF allocation provisions to an existing Economic Development Area by following the procedures required to amend the Declaratory Resolution. Among other requirements, the creation or expansion of a TIF Allocation Area requires a specific finding of fact, supported by evidence, that the adoption of the allocation provision will result in new property taxes in the area that would not have been generated but for the adoption of the allocation provision.


 **PRACTICAL POINTER:** TIF revenues are permitted to be spent anywhere in the underlying Economic Development Area that includes the TIF allocation area. Accordingly, the territory included in the Economic Development Area should include all parcels where the Redevelopment Commission may in the future wish to spend TIF revenues from the TIF District(s) in the Economic Development Area.

## **Concept of “Tax Increment”**

The phrase “tax increment” refers to taxes payable on assessed value in excess of taxes attributable to the assessed value constituting the base (the “base” being the assessed value of the property in the Area that existed prior to the designation of the area as an allocation area). (“Increment” is just a fancy word for “increase.”) The terms “allocation area,” “TIF allocation area,” “TIF District,” “allocation area” and “tax increment financing allocation area” are used interchangeably throughout this Handbook.

## Concept of Base Assessment Date

The “base assessment date” is the date as of which a determination is made as to the amount of the assessed value that is in the TIF District as of the creation of the TIF District, which assessed value will continue to be available to the underlying taxing units, with increased assessed value arising after the base date being “captured” by the TIF District, with tax revenues generated by such increased assessed value being allocated to the TIF District rather than being distributed to the underlying taxing units. If a Declaratory Resolution with tax allocation provisions is adopted on or before December 31, then the base assessment date will be the prior January 1. For purposes of calculating tax increment, the Auditor will determine what the assessed value of the allocation area was as of the base assessment date. The Auditor will then determine, as of January 1 of each year following the base date, the amount by which the assessed value of property in the allocation area exceeds the assessed value as of the base assessment date. Property taxes that are generated by the increase in assessed value constitute TIF and are allocated by the Auditor to the Redevelopment Commission.

 **PRACTICAL POINTER:** Since the base assessment date for new TIF Districts or expansions to existing TIF Districts is now January 1 instead of March 1, the Redevelopment Commission should make sure to complete at least the Declaratory Resolution creating or amending the TIF District before the next January 1 in order to have the base date be the prior January 1. (Note that the base date is based on the date of the adoption of the Declaratory Resolution, rather than completion of all the steps for creation or expansion of a TIF District.)

## Concept of “Restoring the Base”

Any loss of assessed value of the property in the TIF District that constitutes the “base” must be made up from a corresponding amount of incremental assessed value. This concept is known as “restoring the base.” For this reason, Redevelopment Commissions should consider “pruning” out of the TIF District those parcels that are putting a “drag” on the TIF revenues from the TIF District because of the requirement of restoring the base.


## Administration of TIF by Auditor

The County Auditor makes an annual re-calculation of the amount of the assessed value in the base versus the amount of assessed value that is captured by the TIF District. This calculation is done by filling out a TIF Neutralization Worksheet issued by the Department of Local Government Finance. (See [Appendix A](#) for the form of the TIF Neutralization Worksheet.) The Auditor will reset the base each year to neutralize the effect of reassessment and trending.

## Depreciable Personal Property TIF

Most TIF districts collect TIF only on real property assessed value. However, a Redevelopment Commission may designate taxpayers owning property within the TIF allocation as “designated taxpayers” for purposes of capturing TIF revenues on depreciable personal property. To do so, the Redevelopment Commission must make the following findings in the Declaratory Resolution:


1. taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service or to provide security for bonds issued under IC 36-7-14-25.1 or to make payments or to provide security on leases payable under IC 36-7-14-25.2 in order to provide local public improvements for the allocation area;
2. the taxpayer's property in the allocation area will **consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects**; and
3. the taxpayer's property in the allocation area **will not consist primarily of retail, commercial, or residential projects**.

 **PRACTICAL POINTER:** Designations of taxpayers for purposes of capturing TIF on depreciable personal property can be made either as part of the initial creation of the TIF District or as an amendment made later (with the base date based on the date the amendment is made). Personal property TIF may be far more significant than real property TIF in some TIF districts.

### **Maximum Term of TIF District (or Portion Thereof)**

The termination date of a TIF District (or a portion thereof added after the initial creation of the TIF District) is tied to when the portion of the TIF district was created, as follows:

1. **Creation before July 1, 1995 (a “legacy TIF district”):** termination date is the later of (a) June 30, 2025, or (b) the final maturity date of obligations payable from the TIF District that were issued by July 1, 2015
2. **Creation between July 1, 1995 and June 30, 2008:** 30 years
3. **Creation on or after July 1, 2008:** 25 years after debt is issued and the first principal payment or lease payment is scheduled to be paid from TIF.

 **PRACTICAL POINTER:** Many TIF allocation areas have been expanded one or more times. Therefore, it is necessary for the Redevelopment Commission to keep careful records of the termination date of each portion of the TIF District. In planning a debt financing, the Redevelopment Commission needs to be sure it takes into account when the TIF revenues for a particular portion of the TIF District will no longer be available.

### **Limitation on Capturing TIF on Residential Property**

For TIF districts created after 1995 (in the case of Economic Development Areas) or 1997 (in the case of Areas Needing Redevelopment), assessed value relating to residential property may not be captured for purposes of calculating TIF revenues.

### **Rules Governing Ability to Capture TIF from Condominiums and Apartment Buildings**

Complicated rules exist relating to whether apartments and condominiums are treated as residential property (with the result that TIF may not be captured), or are instead treated as commercial property and therefore capturable for purposes of TIF. The following rules generally apply:

1. Property is generally classified as **residential** (and therefore **not capturable**) if it is **used primarily as a place of residence and consists of a single structure in which fewer than three families reside.**
2. Property is generally classified as **commercial** (and therefore **capturable**) if it **consists of a single structure with single ownership, having four or more units in the structure.**
3. Property is also generally classified as **commercial** (and therefore **capturable**) if it consists of **condominiums with four or more stories.**



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## **CHAPTER 9.**

### **FINANCINGS INVOLVING TIF OR REDEVELOPMENT DISTRICT SPECIAL BENEFITS TAX**

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#### **Financings Where TIF Is the Sole Source of Debt Repayment**

Such financings generally are possible only for TIF districts with an established history of TIF collections and a significant number of parcels generating TIF. Start-up projects by a single taxpayer will not usually support a financing backed solely by TIF revenues. In such cases, where a developer is benefiting from the financing, the Redevelopment Commission could explore whether the developer would be willing to purchase the bonds.

#### **Financings Where TIF Is a Source of Repayment Combined with Another Source (Such as COIT Revenues or Property Taxes)**

Where the TIF district does not have an established history of TIF collections and a diversified group of parcels generating TIF, a Redevelopment Commission will sometimes add a back-up source (such as a property tax back-up or a pledge of Local Income Tax revenues) in order to make the debt marketable.

#### **Financings Involving the Issuance by the Unit of Economic Development Revenue Bonds on Behalf of a Private Company**

With this structure, the Redevelopment Commission pledges TIF revenues (either from the entire TIF District or from specified parcels of the TIF District) to the repayment of the bonds. The provision of the bond proceeds to the developer can be structured either as a grant or a loan. The Redevelopment Commission may in some situations require the Developer to provide a guarantee for the repayment of the bonds.

#### **Redevelopment Authority Lease Financings to Avoid Debt Limit Considerations**

This structure requires the establishment by the unit of a Redevelopment Authority (created by ordinance of the legislative body of the unit, with three members, each selected by the executive of the unit) to serve as the issuer of bonds payable from lease payments on a project leased by the Redevelopment Authority to the Redevelopment Commission, with the Redevelopment Commission making its lease payments to the Redevelopment Authority from TIF revenues and/or other repayment sources. This leasing structure allows the Redevelopment Commission to avoid debt limit considerations, since lease payments generally do not count against any debt limits.

#### **Five-Year BANs**

Under this structure, the Redevelopment Commission authorizes the issuance of tax increment revenue bonds, but then issues a bond anticipation note (a "BAN") instead of issuing bonds. The Redevelopment Commission should be able to obtain a lower interest rate because of

the shorter term of the BAN, and then pays off the BAN from TIF revenues. NOTE: A “BAN” is an obligation where the issuer promises to repay the debt from the later issuance of a long-term bond.

### **“Bonds” vs. “Notes” vs. “BANs”**

Bonds are promises to repay borrowed money from specified sources. The term “Note” usually refers to a bond that has a relatively short term. BANs (which stands for “bond anticipation notes”) are temporary, interim financings that are repayable from the proceeds of bonds once such bonds are issued in the future.

### **Issuance of Bonds vs. Obtaining Loan from Bank**

Indiana political subdivisions, including Redevelopment Commissions, being governmental bodies, do not have the legal authority to simply apply for and obtain a loan from a bank. The Redevelopment Commission must comply with all statutes that govern the borrowing of money by an Indiana political subdivision.


### **Installment Purchase Contracts**

Rather than build a project directly, a Redevelopment Commission may decide to employ an installment purchase contract structure. For example, a Redevelopment Commission wishing to have a project constructed on land owned by the Redevelopment Commission could follow the following steps:

1. Redevelopment Commission hires architect or engineer for design, prepares bid specs and bids out construction under IC 36-1-12.
2. Redevelopment Commission follows property disposition laws to transfer site of project to nonprofit or for-profit entity (“Seller Entity”).
3. Seller Entity secures financing to pay for construction. Seller Entity and Redevelopment Commission enter into installment purchase contract on terms matching Seller Entity’s financing terms. Payments under installment purchase contract are subject to annual appropriation.
4. Redevelopment Commission assigns construction contracts to Seller Entity and Seller Entity constructs project.
5. Redevelopment Commission also follows property acquisition procedures (including securing required appraisals) in order to enter into the purchase contract.


### **Refundings**

Savings resulting from a refunding bond issue may not be used for additional projects, but rather must be used for funding debt service reserves, reducing levies or reducing debt. Also, the maturity date of refunding bonds must not exceed the original maturity date of the bonds being refunded.

 **PRACTICAL POINTER:** A Redevelopment Commission may be able to generate additional savings from a refunding of a bond issue or lease financing secured only by TIF by adding an additional, back-up source of repayment of the refunding bonds.

### **Bonds Payable from the Levy of Special Taxing District Taxes**

Such bonds are subject to a statutory debt limit of 2% of the net assessed value of the Redevelopment District (which is coterminous with the unit, except for County Redevelopment Districts, which do not include territory in a city or town with its own Redevelopment Commission). Note that lease payments do not count against the debt limit; accordingly, a Redevelopment Commission may decide to structure a financing using a leasing structure involving a Redevelopment Authority to avoid this potential limitation.

 **PRACTICAL POINTER:** To achieve the lowest possible interest rate, a Redevelopment Commission should consider adding a property tax back-up to secure debt, where the Redevelopment Commission projects that it will have sufficient other repayment sources to be able to pay the debt without having to resort to a levy of property taxes.

### **Concept of “Tax-Exempt” Bonds**

If an individual goes to the bank to borrow money, then when the individual pays back the principal and interest on the loan, the lending bank must pay federal income tax on the interest it receives from the individual borrower. However, assuming that a local governmental issuer, including a Redevelopment Commission, satisfies certain federal tax rules (relating primarily to limitations on the use of the financed property other than by the general public and limitations on the receipt of funds from private users of the project financed), the law allows local governmental issuers to issue debt on a “tax-exempt” basis. This means that the recipient of the interest on the bonds will not be required to pay federal income tax on the interest it receives. As an economic matter, the bond purchaser will be willing to share some of its tax savings by offering a lower interest rate to the local governmental issuer.

### **Concept of “Arbitrage”**

Another rule applicable to tax-exempt financings relates to limitations on the earning or retention of “arbitrage.” “Arbitrage” arises whenever a party (such as a Redevelopment Commission) borrows money (as by issuing bonds) at a specified interest rate (for example, 4% per annum) and then invests the borrowed funds in investments earning a higher rate (for example, 5% per annum) than such party is paying on its own borrowed funds. The differential (that is, the 1% per annum profit) is called “arbitrage.” The earning of arbitrage profits by local government bond issuers is strictly regulated by federal tax laws. In the world of investments outside of tax-exempt bonds, many investors, known as “arbitrageurs,” earn a very good living by borrowing in one market and investing the borrowed funds in a different market where interest rates are higher.

### **Referendum and Petition/Remonstrance Requirements**

Referendum and petition/remonstrance requirements apply to TIF bonds or lease financings to be issued in a principal amount that exceeds certain statutory thresholds if: (a) a general obligation property tax is pledged as a back-up source of payment on the bonds or the

lease payments, and (b) the TIF revenues (or other pledged repayment sources) are not projected to be sufficient to pay debt service on the bonds or to make lease payments.

### **Basis Points**

A “basis point” is 1/100<sup>th</sup> of 1%.

### **Limit on Term of Debt**

Financings by Redevelopment Commissions (or lease financings by Redevelopment Authorities) are generally limited to 25 years.

### **Parity Debt**

A typical TIF bond resolution will authorize the issuance of additional debt in the future payable from the TIF revenues, either on a junior basis to the original bonds, or on a parity basis if the Redevelopment Commission can demonstrate that the projected revenues from the TIF District are greater than a specified percentage (usually 125% to 150%) of the debt service on the combined old and proposed new bonds.

### **Interest Rate Considerations**

Financings based on TIF revenues will generally bear a higher interest rate than property tax-backed debt because of the risks associated with TIF revenues, which include, among other risks, the following:

1. The risk that TIF revenues could be lower than projected as a result of changes in law resulting in the removal of certain categories from the tax base (as occurred when the Indiana General Assembly moved the school general fund off the property tax rolls).
2. The risk that property generating TIF could be demolished or destroyed.
3. The risk that tax rates could decrease, thereby correspondingly reducing the amount of TIF revenues generated.
4. Conversion of taxable properties to non-taxable properties, such as where a non-profit organization acquires a property that is currently taxable.

### **Expenditure of TIF Revenues**

The Redevelopment Commission may make a permitted expenditure of TIF revenues by a simple majority vote of the Redevelopment Commission or by passage of a resolution. No additional appropriation procedures are required.

In addition, Redevelopment Commissions may, by rule or resolution, authorize the treasurer to make certain types of disbursements before the Redevelopment Commission’s allowance and approval at its next regular meeting. All payments from any of the funds of the Redevelopment Commission must be made by warrants drawn by the proper officers of the unit

upon vouchers of the Redevelopment Commission signed by the president or vice president and the secretary or executive secretary.

### **Concept of “Bank-Qualification”**

If the amount of debt expected to be issued by a political subdivision and its related entities is not expected to exceed \$10 million in a calendar year, the issuer is permitted to designate the debt as “qualified tax-exempt obligations” pursuant to Section 265(b)(3) of the Internal Revenue Code. Where such a designation is made (resulting in making the debt “bank-qualified”), a financial institution that purchases the debt may benefit from certain federal tax advantages not available where the debt is not “bank qualified,” and therefore the Redevelopment Commission may be able to obtain a lower interest rate from the financial institution.

### **Limit on Size and Number of TIF Districts**

Indiana law does not limit the number or size of TIF allocation areas; however, the portion of the unit that is “TIF’ed” should generally be less than the entire unit.

### **Large and Diversified TIF Districts vs. Single Taxpayer TIF District**

TIF districts tend to be either large TIF districts with numerous properties and businesses, or single-taxpayer TIF districts created to capture TIF to provide an incentive for a specific developer. A large and diversified TIF district may make it possible for the Redevelopment Commission to issue debt payable solely from TIF revenues of the TIF district. In the case of a single-taxpayer TIF district, the Redevelopment Commission’s debt will typically not be marketable to lenders other than the Developer itself, without some additional collateral, such as a Developer guaranty.

### **Joint Action by Redevelopment Commissions**

If two or more units propose to jointly undertake redevelopment or economic development projects in an area that overlaps the boundaries of the units, the legislative body of a unit is permitted to assign an area within the unit’s jurisdiction to the Redevelopment Commission of another unit for purposes of creation of a TIF allocation area or pledge TIF proceeds from its own TIF allocation area to the other unit’s Redevelopment Commission.

### **Roles of Consultants**

The Redevelopment Commission generally will require the assistance of a financial advisory firm to assist in calculations and projections of TIF revenues and the structuring and placement of debt. Bond counsel typically assists the Redevelopment Commission’s general counsel in creating TIF allocation areas and in satisfying procedural requirements for the issuance of debt and, where possible, qualifying a financing for tax-exempt treatment under federal tax laws, thereby generating savings in interest costs for the Redevelopment Commission.

## **Sources of Funds for Redevelopment Commissions**

In addition to TIF Revenues, other sources of revenues that may be available to a Redevelopment Commission include, among others, the following:

1. Pledge of Local Income Tax by the unit to the Redevelopment Commission
2. Tax abatement contributions from tax abatement beneficiaries to the Redevelopment Commission (see Chapter 11 of this Handbook)
3. Special benefits tax levies for bonds or lease payments
4. Limited property tax rate for operations
5. In some cases, temporary loans from the unit


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## CHAPTER 10.

### PERMISSIBLE USES OF TIF REVENUES

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1. **Importance of the Economic Development Plan.** An expenditure of TIF revenues must in general be for a project or a property acquisition that is enumerated in the Economic Development Plan. If it is not already in the Economic Development Plan, then the Economic Development Plan will need to be amended to add the project or acquisition.
2. **Publicly owned infrastructure improvements** (including demolition work) in or directly benefiting the Economic Development Area, or the payment of debt service on bonds issued, or lease payments under a lease entered into, to finance such project.
3. The acquisition or construction of **publicly owned capital projects** that the Redevelopment Commission determines will serve and benefit the economic development or redevelopment purposes of the Economic Development Area and that are in or directly benefiting the Economic Development Area (or the payment of debt service on bonds issued, or lease payments under a lease entered into, to finance such projects).
4. **Public Bidding and Public Procurement Laws.** Such laws generally apply to the construction or acquisition of property by a Redevelopment Commission.
5. **Reimbursement of the Unit for Expenditures or Payments of Bonds or Leases with Respect to a Project That Is Eligible for Financing Using TIF Revenues.** Where the TIF is to be used to reimburse the unit's expenditures or to pay debt service on bonds or leases of the unit for projects that are financeable using TIF, then the project being financed with the TIF revenues must be located in or physically connected to the TIF allocation area.
6. **Grants to School Corporations.** Redevelopment Commissions may spend up to 15% of their annual TIF revenues from a TIF District for educational or worker retraining programs. (IC 36-7-25-7.)

 **PRACTICAL POINTER:** The grant to a school corporation should be undertaken pursuant to a written agreement between the Redevelopment Commission and the school corporation, approved by resolutions of the Redevelopment Commission and the school corporation, committing the school corporation to use the TIF funds for specified purposes (which do not need to be capital expenditures but can also be for operating expenses of the school corporation).

7. Paying the costs of “**eligible efficiency projects**” within the unit. “Eligible efficiency project” is defined in IC 36-9-41-1.5 as “a project necessary or useful to carrying out an interlocal cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or (2) a project necessary or useful to the consolidation of local government services.” The statute does not limit the type of expenditures to be made in connection with carrying out the interlocal agreement, so this category is potentially very broad.

8. **Supervisory Expenses.** Supervisory expenses related to redevelopment projects in the allocation area that are paid to individuals retained by the Redevelopment Commission to supervise such projects (including employees of the Redevelopment Commission or other local government employees) qualify as expenditures for which reimbursement from TIF revenues can be made. Records of time actually spent relating to the project need to be carefully kept.
9. **Prohibition on Use for Operating Expenses of Redevelopment Commission.** TIF revenues may not be used for the operation expenses of the Redevelopment Commission.
10. **Restriction on Use of TIF for Maintenance Costs.** Maintenance costs relating to already completed redevelopment projects cannot be paid from TIF (whether the Redevelopment Commission continues to own the project or not). (The Indiana Court of Appeals so ruled in a March 16, 2015 opinion involving the Town of Munster.)
11. **Professional Services.** TIF revenues may be used to pay for professional services relating to the allocation area, such as legal or accounting costs. Professional expenses are not required to be specifically mentioned in the Economic Development Plan.
12. **Capital Projects of Private Entities in Furtherance of Economic Development or Redevelopment Purposes of the TIF District.** Indirectly, TIF revenues may be used to provide funds for capital projects of private entities, if the incentive is properly structured. Indiana law permits financings involving the issuance by the unit of economic development revenue bonds on behalf of a private entity. In such a financing, the issuer provides (or, alternatively, loans) the proceeds of the bonds to the private company and the Redevelopment Commission pledges TIF revenues as the sole source of the repayment of the bonds (or as credits against the borrower's loan repayments). Under this structure, the bond proceeds in the hands of the private company are not subject to public bidding and public procurement laws.



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## CHAPTER 11.

### EFFECT OF TAX ABATEMENT ON TIF DISTRICTS

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Tax abatements have the effect of lowering the amount of TIF revenues by virtue of decreasing property taxes otherwise payable. A tax abatement may not be granted in a TIF allocation area without the consent of the legislative body of the unit that created the Redevelopment Commission.

#### **Contract with Beneficiary of Tax Abatement Requiring Sharing of Portion of Tax Savings with Redevelopment Commission or Other Entity Established to Promote Economic Development**

As part of the process of granting a tax abatement, a local government unit may enter into a contract with the taxpayer receiving the tax abatement requiring the beneficiary to pay to the County Auditor an annual amount during the term of the tax abatement up to the lesser of \$100,000 or 15% of the taxes that the taxpayer would have paid if the tax abatement were not in place. The County Auditor is then required to distribute such funds to one or more public or nonprofit entities (including the unit's Redevelopment Commission) established to promote economic development within the corporate limits of the city, town or county served by the designating body.

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## CHAPTER 12.

### ACQUISITION OF REAL PROPERTY BY REDEVELOPMENT COMMISSIONS

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The process that a Redevelopment Commission must follow to acquire property generally consists of the following:

#### **Appraisal Process**

The Redevelopment Commission obtains two independent professional appraisals of the value of the real property. These appraisals are not open for public inspection.

#### **Purchase Price**

The Redevelopment Commission may not pay more for the property than the average of the two appraisals, unless it passes a resolution affirmatively determining to do so.

#### **No Appraisals Required Where Purchase Price of Property Is Less than \$25,000, or the Property Is for Sale at Auction**

Under a new law effective July 1, 2017, appraisals will no longer be required for the acquisition of property or an interest therein if either the value of the property (or property interest) to be acquired by the Redevelopment Commission is less than \$25,000, or the property (or property interest) is for sale at auction.

#### **Special Rules for Acquisition of Property That Is Blighted, Unsafe, Etc.**


Effective July 1, 2017, special procedures apply to the acquisition by a Redevelopment Commission from a willing seller of property that the Redevelopment Commission determines to be blighted, unsafe, abandoned, foreclosed, or structurally damaged, as follows:

1. **Where the sale price does not exceed \$25,000 or the property is for sale by another government agency:** the Redevelopment Commission may purchase the property if the Redevelopment Commission has sufficient funds to do so (or issues an obligation to raise the necessary funds).
2. **Where the sale price exceeds \$25,000:**
  - (a) The Redevelopment Commission must obtain two (2) independent appraisals of the property's fair market value.
  - (b) The Redevelopment Commission must obtain the prior approval of the unit's legislative body (i.e., Town Council, Common Council, or the Board of Commissioners, except for Lake and St. Joseph Counties, where the legislative body is the County Council) if any of the following is true:

- (i) The Redevelopment Commission desires to pay more than the greater of the two appraisals.
- (ii) The payments for the property are to be made over a term that exceeds three (3) years.
- (iii) The purchase price exceeds \$5 million.

### **Inclusion of Acquisition in Economic Development Plan**

The Redevelopment Commission should verify that the acquisition of the property is part of the Economic Development Plan for the Economic Development Area; otherwise, it will need to amend the Economic Development Plan to add the project.

 **PRACTICAL POINTER:** A Redevelopment Commission should always undertake appropriate due diligence to verify that the property is free of material environmental contamination prior to completing the acquisition.

### **Redevelopment Commission May Not Own Single-Family Dwellings or Condominium Units**

Redevelopment Commissions are prohibited from owning single-family dwellings or condominium units, for purposes of leasing them for use by individuals as a dwelling.

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## **CHAPTER 13.**

### **DISPOSITION OF PROPERTY BY REDEVELOPMENT COMMISSIONS**

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#### **General Rules for Property Disposition**

Indiana law relating to the disposition of property is more flexible for Redevelopment Commissions than for the civil unit. The process for disposing of personal property does not require any particular procedures beyond a Redevelopment Commission resolution. The process of disposing of real property generally involves obtaining **two appraisals** and publication of a legal notice requesting the submission of proposals agreeing to pay a minimum amount (not less than the average of the appraisals) and, in some cases, agreeing to satisfy specified conditions to the purchase (such as an agreement to use the property in a way that furthers the Redevelopment Commission's redevelopment or economic development purposes). If the property is less than 5 acres and one independent appraiser has appraised the property at less than \$10,000, the second appraisal may be made by a qualified employee of the Department of Redevelopment. If no complying bid is received, the Commission must wait thirty (30) days and then may dispose of the property on terms that it considers in the Redevelopment Commission's best interests (which may involve the payment of nominal or no consideration by the purchaser).

#### **Disposition by Redevelopment Commission of Real Property to Other Governmental Agencies**

Redevelopment Commissions are permitted to sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed upon.

#### **Special Rules for Disposition of Real Property to Urban Enterprise Associations and Community Development Corporations**

For specified purposes, IC 36-7-14 permits Redevelopment Commissions to dispose of real property to Urban Enterprise Associations and (for purposes relating to providing housing to low- or moderate-income families) to Community Development Corporations at no cost.

#### **Special Rules for Disposition by Redevelopment Commission of Certain Specific Categories of Real Property; Extinguishment of Tax Liens**

Indiana Code 36-7-14 provides special rules for the disposition of certain classes of real property, including without limitation property determined to no longer be needed by the Redevelopment Commission, real property acquired by the Redevelopment Commission that is not located in an area needing redevelopment or an economic development area, and property donated to the Redevelopment Commission. Prior to the disposition, the Redevelopment Commission may cause liens (including tax liens) on the property to be extinguished.

## **Special Rules for Disposition by Redevelopment Commission of Real Property to an Abutting Land Owner**

Indiana Code 36-7-14 provides special rules for the disposition of real property to abutting landowners.

### **Three-Year Pilot Program for Certain Property Disposition by Redevelopment Commissions in Lake County**

Redevelopment Commissions in Lake County are permitted, during a three-year pilot period, to create “new opportunity areas” that meet specified criteria (relating to high density of vacant or abandoned properties, high property tax delinquency rates, and other specified factors). Properties in the “new opportunity area” are permitted to be sold by the Redevelopment Commission pursuant to a streamlined process whereby the properties may be sold to the highest responsible and responsive bidder.


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## CHAPTER 14.

### AMENDMENTS OF REDEVELOPMENT OR ECONOMIC DEVELOPMENT PLANS

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Amendments to Redevelopment Plans or Economic Development Plans general require that the Redevelopment Commission follow the same procedures as apply to the creation of a new economic development area, including Plan Commission approval and approval by the City Common Council, Town Council or County Commissioners. Also, all expansions, regardless of size, must go through the same process required for the original establishment of an economic development area.

 **PRACTICAL POINTER:** “PRUNING” OF TIF DISTRICTS. The TIF district can be amended to remove material “decrements,” which are losses in TIF revenues caused by parcels in the TIF district that have lost assessed value.

#### **Creation of a New TIF District Versus Expansion of an Existing District**

It is usually more advantageous to a Redevelopment Commission to expand an existing TIF District (which will likely also involve expanding the underlying Economic Development Area) rather than create a new TIF District. By expanding an existing TIF District, the Redevelopment Commission will be able to spend TIF revenues generated in one part of the expanded TIF District throughout the entire expanded TIF District. However, one advantage to establishing a separate TIF District is to avoid any claim by the holder of debt from the existing TIF District that the holder’s security has been thereby expanded to include a first lien on the TIF revenues generated by the expansion portion of the TIF District.

#### **Consolidation of TIF Districts**

By consolidating one or more existing TIF Districts, the Redevelopment Commission gains the ability to use TIF generated in any part of the combined TIF District throughout the consolidated TIF District. The portions of the combined TIF Districts will retain their original base date, so that the consolidated TIF District will have portions with different base dates. Where one of the TIF Districts has an underlying area designated as an economic development area and the other designated as a redevelopment area or area needing redevelopment, it is possible to amend the other area to re-characterize it as an economic development area. Debt issued from one of the combined TIF Districts will continue to have a first lien on TIF generated by that portion of the Consolidated TIF District.

#### **Removal of Parcel Where Demolition Is to Occur and Adding the Parcel Back into the TIF District in the Following Year, Prior to New Improvements on the Parcel**

If demolition on a parcel in the TIF District is to occur in one year and a new improvement is to be constructed in a future year, the Redevelopment Commission will benefit from removing the parcel from the TIF District in the year of the demolition, and then adding the


parcel back into the TIF District in a later year. Note that this method will not work where demolition and construction of new improvements occur in the same calendar year.

### **Additions to Acquisition List**

Whenever a new property is to be added to the Economic Development Plan's property-acquisition list, the Redevelopment Commission is required to go through the entire amendment process. The TIF statute does not permit the Redevelopment Commission to include in the Economic Development Plan a generic authorization to acquire unspecified property in the future.

### **Notice to Owners of Parcels in Expansion Area**

In addition to other required notices of a Redevelopment Commission's expansion of an existing TIF District, the Redevelopment Commission is also required to provide the notice to owners of the parcels in the proposed expansion area.

 **PRACTICAL POINTER:** A Redevelopment Commission can avoid public confusion and possible alarm, when providing notice of the public hearing to owners of parcels in the proposed expansion area, by including a cover letter to the property owners along the lines of the following:

"Dear Property Owner:

In connection with the proposed expansion of the \_\_\_\_\_ Economic Development Area in the City of \_\_\_\_\_, the \_\_\_\_\_ Redevelopment Commission is required to provide you with the attached notice. Please note that State law requires the \_\_\_\_\_ Redevelopment Commission to provide a copy of this notice to owners of all parcels of property in the proposed expansion area. The \_\_\_\_\_ Redevelopment Commission has no plans to acquire your property but is simply complying with State law notice requirements."



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## CHAPTER 15.

### TRANSACTIONS WITH A DEVELOPER

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#### Tax Abatement

In cases where the granting of a tax abatement by the unit can be used to provide a necessary incentive for a developer, this vehicle for providing the incentive will usually be by far the simplest approach for the Redevelopment Commission. Under current law, for most projects eligible for tax abatement, the abatement can be granted for up to ten (10) years with up to 100% abatement each year.

#### Brief Summary of Indiana's Tax Abatement Law

1. Eligibility of property for tax abatement under Indiana law (IC 6-1.1-12.1)
  - (a) **Eligible:**
    - (i) New (Non-Retail, Non-Residential) Buildings
    - (ii) Improvements to Existing (Non-Retail, Non-Residential) Buildings
    - (iii) New Manufacturing Equipment, New Logistical Distribution Equipment, New Information Technology Equipment, and New Research and Development Equipment
    - (iv) Certain Eligible Vacant Buildings
  - (b) **Not Eligible:**
    - (i) Land
    - (ii) Existing Buildings
    - (iii) Package Liquor Stores
    - (iv) Facilities whose primary purpose is (a) retail food and beverage service; (b) automobile sales or service; or (c) other retail; **unless** located in an "economic development target area."
    - (v) Residential facilities, **unless** (a) located in an "economic development target area;" (b) located in a "residentially distressed area;" or (c) facility is a multifamily facility with certain low-income set asides.
    - (vi) Private or commercial golf courses
    - (vii) Country Clubs
    - (viii) Massage Parlors
    - (ix) Tennis Clubs
    - (x) Skating facilities

- (xi) Racquet sports facilities
  - (xii) Hot tub facilities
  - (xiii) Suntan facilities
  - (xiv) Race Tracks
2. Length and schedule of tax abatement
- (a) Generally, the designating body may designate between one (1) and ten (10) years, with the percentage each year permitted to be up to 100%.

**Note:** The **Eligible Vacant Property** abatement was originally limited to two (2) years (or up to 100% for three years if the property met certain tests). However, effective July 1, 2013, the abatement may now be up to 100% for up to ten (10) years.

- (b) **Super Abatement for New Business Personal Property.** A designating body may grant up to a twenty (20) year tax abatement for new business personal property.
3. Process for granting tax abatements
- (a) **Designation of ERA (IC 6-1.1-12.1-2.5)**
    - (i) **Fiscal Body of the Unit** is the designating body
    - (ii) **Declaratory Resolution:** The fiscal body passes a resolution declaring the area to be an economic revitalization area. Note: an “ERA” is an area that has become “undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property.”
    - (iii) **Notice of Public Hearing must be provided, including notice to taxing units**
    - (iv) **Public Hearing must be held**
    - (v) **Confirmatory Resolution must be adopted by designating body following the public hearing**
  - (b) **Statement of Benefits**
    - (i) Designating unit may require it to be filed before designating an area as an ERA.
    - (ii) Otherwise, it must be filed with the designating body *before beginning the redevelopment or rehabilitation, or before installing the equipment* for which the applicant wants to claim a deduction.
    - (iii) Designating body must approve the statement of benefits and make required statutory findings relating to benefits of the project.

- (c) **Deduction Application**
  - (i) **Annual Filing with Designating Body and Auditor:** Must show compliance with Statement of Benefits.
  - (ii) **Possible Determination of Non-Compliance with Statement of Benefits, Possible Termination of Abatement.**
  - (iii) **Possible Clawback for Intentionally False Information.**
- (d) **Miscellaneous Provisions**
  - (i) **Partial Rebate of Abated Taxes.** Company and designating body may agree to have a part of abatement benefit directed to a public or non-profit entity established to promote economic development (including the unit's Redevelopment Commission).
  - (ii) **Redevelopment Commission Approval:** Effective July 1, 2008, the legislative body of the applicable unit, rather than the Redevelopment Commission, must approve the tax abatement.
  - (iii) **Provisions for Waiver of Non-Compliance.** Indiana law provides wide discretion for the designating body to waive non-compliance with procedural requirements for tax abatement.

4. Policy considerations

- (a) **Policy Considerations Favoring Tax Abatement**
  - (i) Stimulation of economic growth and job creation.
  - (ii) Allowed in at least 35 states.
  - (iii) Without tax abatements, many projects would not happen.
  - (iv) Tax abatements may provide some revenue during the term of the abatement.
  - (v) Decreased incentives from the state and federal government.
  - (vi) Desirability of a pro-business reputation.
  - (vii) Limiting abatements to ERAs: focus on areas with true need.
  - (viii) Incidental tax benefits: income taxes, spin-off.
  - (ix) If you don't offer abatements, other cities will.
- (b) **Policy Considerations Disfavoring Tax Abatements**
  - (i) Uncertainty of cost-effectiveness in some cases.
  - (ii) Effect on other taxpayers: fairness issues.
  - (iii) Financial incentives are not usually the key deciding factor for a business. Other major factors:
    - a. Workforce
    - b. Real estate costs

- c. Nearness to customers
- d. Access to interstates
- e. Characteristics of a site
- f. Cultural and historic factors
- g. Quality of schools
- h. State taxation
- i. Crime

### **Provision of Cash to Developer**

The following are some of the ways that a Redevelopment Commission can effectively use TIF revenues to provide a cash incentive to a private Developer. (Note that simply providing a grant to Developers using TIF revenues is not permitted under Indiana law.)

- 5. Provision of proceeds of an economic development tax increment revenue bond to the Developer.
- 6. Purchase by the Redevelopment Commission from the Developer of land at a price higher than the land's fair market value, with the premium providing the necessary incentive.
- 7. Purchase by the Redevelopment Commission of equipment needed by the Developer and having value equal to the necessary incentive, and then disposing of the equipment to the Developer. (Public procurement laws will apply to the Redevelopment Commission's purchase of the equipment.)
- 8. Local Income Tax Revolving Loan. The unit has the authority under IC 5-1-14-14(b) to fund a revolving loan fund from Local Income Tax revenues, rather than TIF revenues, and to use such loan funds to provide a loan to the Developer that is forgivable upon fulfillment of the Developer's commitment to use the funds in an agreed manner.
- 9. The Redevelopment Commission can in some cases follow the required procedures to acquire property from the Developer and concurrently follow the required procedures to dispose of the property back to the Developer at a reduced or no cost.
- 10. The Redevelopment Commission can follow the required procedures to lease land from the Developer, make requested improvements, and then follow the required procedures for disposing of the improved property back to the Developer at a reduced or no cost.

### **Economic Development Tax Increment Revenue Bond, Purchased by the Developer**

This incentive structure involves the sale to the developer of an economic development tax increment revenue bond. The bond (in a principal amount that will generate net proceeds in the amount of the agreed incentive) is made payable solely from a pledge of TIF revenues generated by the Developer's project. The terms of the bond would include a provision

specifying that non-payment of any portion of the bond debt service due to inadequacy of the TIF stream would not constitute a default on the bond. With this structure, the Redevelopment Commission's liability would be limited to the TIF generated by the project (with respect to which the Developer would usually have a senior lien), and the Developer would bear the risk if the TIF stream were inadequate for any reason.

### **Economic Development Agreement with a Developer**

The Redevelopment Commission will benefit from having a written Economic Development Agreement with the Developer, in which the Redevelopment Commission agrees to provide a clearly described incentive and the Developer agrees to undertake a particular project, which might include a minimum private investment commitment or a commitment regarding minimum job creation with specified minimum annual payroll for a specified number of years. The Economic Development Agreement could also require a corporate or personal guaranty to ensure the sufficiency of the TIF revenues for the repayment of any debt issued by the Redevelopment Commission. The Economic Development Agreement could also include "clawback" provisions requiring repayment of all or a portion of the incentive if the Developer fails to fulfill its commitments in the Economic Development Agreement. The Economic Development Agreement can be structured in a way that gives the Developer the benefit of some percentage, but not necessarily all, of the TIF stream projected to be produced by the Developer's project.

### **Taxpayer Agreement Not to Appeal Assessed Valuation of Property in TIF District**

A Redevelopment Commission and an owner of property in a TIF District may enter into an agreement in which the property owner agrees not to appeal the assessed value of its property. Doing so is a way to provide more certainty regarding projected TIF collections, which may assist in the planning of financings based on the TIF.

### **Ability of Redevelopment Commission to Cause Agreements by Developer Not to Challenge Property Tax Assessment or Property Taxes or to Guarantee Bond or Lease Payments to Constitute a Lien on Taxpayer's Property**

An agreement between a Redevelopment Commission and a Developer may contain a provision that a commitment by the Developer not to challenge property tax assessments or property taxes or to guarantee bond or lease payments of the Redevelopment Commission constitutes a lien on the property of the Developer in a TIF allocation area.

### **Checklist of Issues to Be Considered in Discussions with Developer**

1. **What does the Developer Want from the Redevelopment Commission?** How much assistance is the Developer requesting? Is the Developer requesting a financial contribution, or the donation of land, or infrastructure improvements?
2. **Tax Abatement.** Assuming the unit is willing to grant tax abatement for the proposed project, does the Developer's project qualify for tax abatement, and if so, is tax abatement a sufficient incentive for the Developer? If so, what term of tax abatement is sufficient (generally between one (1) and ten (10) years is

permissible), and what percentage (which may be up to 100%) each year? How much in tax savings to the Developer will the tax abatement produce? Will the Developer agree to remit a portion of the tax savings to the Redevelopment Commission?

3. **Developer Purchase of Bonds.** Will the Developer's project generate real and/or depreciable personal property TIF revenues? If so, will the Developer agree to a form of incentive whereby the unit issues economic development revenue bonds secured by a pledge of a portion of TIF revenues projected to be generated by the Developer's project, the net proceeds of which will be provided or loaned to the Developer, and with the Developer agreeing to purchase the bond? What will be the maximum term that the Redevelopment Commission will agree to apply TIF revenues to the repayment of the bonds, and what percentage of annual TIF will be made available for such repayment? What interest rate will the bonds bear? Will TIF revenues from both real property and depreciable personal property be made available for the incentive? Requiring the Developer to purchase the bonds is a way to shift the risk of repayment of the bonds to the Developer itself, if a provision is included in the bonds that nonpayment of the bonds because of the inadequacy of TIF revenues will be deemed not to constitute a payment default. In some cases, bonds are structured in a way that the Developer does not actually pay cash for the bonds but is instead deemed to have purchased the bonds by expending money on the project.
4. **Security for Bonds if Not Purchased by the Developer.** If the bonds are not to be purchased by the Developer, is the Developer willing to agree not to challenge the assessed value of its property, or to provide a corporate or personal guarantee to secure repayment of the bonds? In most cases, the Developer will form an LLC for the project, with the result that a guarantee by a poorly capitalized LLC may not provide much real value. A guaranty needs to come from an entity or individuals with "deep pockets." Will the guarantee be released once certain conditions are met, such as completion of construction of the project? Is the Redevelopment Commission willing to pledge its own back-up sources to the repayment of the bonds, such as TIF revenues from an entire large TIF allocation area? Under what conditions will the Developer be permitted to transfer the project to an affiliate or otherwise?
5. **Developer "Skin in the Game."** How much of its own money is the Developer putting into the project? A Redevelopment Commission is well advised to require the Developer to provide proof that it has firm bank commitments to provide the Developer's share of the project funding before releasing the unit's bond funds to the Developer.
6. **Escrow of Bond Funds.** Is the Developer willing to permit the unit to hold back the bond proceeds until the Developer has first spent all of its private funds on the project? Alternatively, is the Developer willing to agree that non-bond funds and private Developer funds will be spent pro rata during construction (rather than spending bond proceeds first)?

7. **Developer Commitments Regarding Capital Investment and Jobs.** Is the Developer willing to commit to making a minimum real property and/or personal property (including equipment) investment in the TIF allocation area by an agreed date or dates? Is the Developer willing to commit to create (or preserve), by an agreed date, a minimum number of full-time and/or part-time jobs having specified minimum wages and benefits, and to maintain such jobs for an agreed minimum period of time? Will the Developer agree that it will return part or all of the value of the incentive if investment and job commitments are not fully met within the agreed timeframe?
8. **Agreement Regarding Use of Incentive Funds.** What exactly are the bond funds provided to the Developer permitted to be used for?
9. **Project Standards.** Is the Developer willing to agree that the unit has a right to approve the plans for the proposed project in order to ensure the quality and design of the project?
10. **Community Involvement.** Is the Developer willing to commit to a minimum annual financial participation in community enhancement projects?
11. **Preference for Residents of the Unit.** Is the Developer willing to hire local contractors for the construction of the project, and to give preference to local residents in hiring decisions?
12. **Financial Strength, Experience, and Reputation of Developer.** The Redevelopment Commission should do some due diligence relating to the reputation of the Developer. Have other communities had negative experiences with the Developer? Is the Developer willing to share its financial statements with the Redevelopment Commission as part of the negotiation process? Has the Developer successfully completed similar projects in other communities?
13. **Payment of Costs of Issuance of Bonds.** The Developer should be required to pay the costs of issuance of an economic development bond issue at the bond closing, either out-of-pocket or from bond proceeds.
14. **Need for Written Agreement Early in Negotiation Process.** Mistaken assumptions and erroneous expectations can be “smoked out” early in the negotiation process by developing a clearly written agreement with the Developer as early as possible.

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## CHAPTER 16.


### HOUSING TIF

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#### HOTIFs

Indiana law permits the creation of Housing TIF Allocation Areas in a limited area within the unit's jurisdiction meeting specified criteria relating to the rates of lack of occupancy, property tax delinquencies and code violations. For areas that meet the criteria, the Redevelopment Commission may establish a so-called HOTIF area, capturing the increment from ALL real property improvements in the area, to be applied to projects for neighborhood renovation.

 **PRACTICAL POINTER:** Because the parcels in a HOTIF are not required to be connected, a Redevelopment Commission may have greater success in satisfying the strict criteria for creating a HOTIF by selecting disconnected parcels to be in the HOTIF.

#### Age-Restricted Housing TIF Districts

Redevelopment Commissions have the authority to establish TIF Districts designed to encourage older residents to locate or relocate to the unit, without increasing the school-age population. An "age-restricted housing" TIF District is required to satisfy the Federal Housing for Older Persons Act.

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## **CHAPTER 17.**

### **RESPONDING TO ARGUMENTS THAT TIF DISTRICTS CAUSE OTHER TAXING UNITS TO LOSE FUNDS**

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The following articles may be helpful to Redevelopment Commissions in responding to arguments that TIF Districts cause other taxing units to lose funds:

1. Indiana Tax Increment Financing Law: Challenging the Common Misconception That All Funds Allocated to TIF Districts Would Otherwise Provide Additional Funding for School Corporations and Other Underlying Taxing Units (Including a Discussion of the Impact of Tax Caps) (See [Appendix B](#))
2. Do Tax Increment Financing Districts Cause Circuit Breaker Fund Losses in Indiana? A Statistical Review of Actual Data (See [Appendix C](#))

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**CHAPTER 18.**  
**STATUTORY AUTHORITY FOR REDEVELOPMENT COMMISSIONS**  
**AND TIF**

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The principal statutes governing Redevelopment Commissions and TIF are IC 36-7-14 (see [Appendix D](#)) for units outside of Marion County (for units in Marion County, IC 36-7-15.1) and IC 36-7-25 (see [Appendix E](#)). The Department of Local Government Finance regulations applicable to TIF Districts are contained in 50 IAC 8 (see [Appendix F](#)).

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## APPENDIX A. TIF NEUTRALIZATION WORKSHEET AND DLGF INSTRUCTIONAL MEMORANDUM

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### STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH  
100 NORTH SENATE AVENUE N1058  
INDIANAPOLIS, IN 46204  
PHONE (317) 232-3777  
FAX (317) 974-1629

**TO:** County Auditors and Redevelopment Commissions  
**FROM:** Dan Jones, Assistant Budget Division Director  
**RE:** Pay 2017 TIF Neutralization Worksheet  
**DATE:** May 24, 2016

Each year, the county auditor is responsible for preparing Tax Increment Finance ("TIF") Neutralization Worksheets ("Worksheet") for each allocation area in the county. This memorandum provides instructions on how to complete the Worksheet. **The Worksheets must be completed and approved prior to the certification of net assessed values. Neutralization factors calculated on the Worksheets must be applied within a county's tax and billing system prior to the certification of net assessed values.**

The TIF Neutralization worksheet is now an official state form. ([56069 – TIF Neutralization Form](#)) It is recommended for use when submitting the 2017 neutralizations and will be required after September 2016.

#### **Procedures for TIF Neutralization**

The county auditor should prepare or have prepared a Worksheet for each allocation area with real property assessed value in the county. Personal property assessed value should not be included in the calculation of TIF Neutralization. Likewise, allocation areas that only contain personal property assessed value do not require a Worksheet to be completed.

The preparation of the Worksheets should occur after the county auditor has received the gross assessed values from the county assessor and applied appropriate deductions and exemptions, but prior to the certification of net assessed values to the Department of Local Government Finance ("Department"). Certification of net assessed values prior to the submission and approval of a county's Worksheets will result in the submitted net assessed values being rejected.

When the Worksheets are prepared, the county auditor should email the completed Worksheets to Dan Jones, Assistant Budget Director, at [djones@dlgf.in.gov](mailto:djones@dlgf.in.gov). The Worksheets submitted must contain the county auditor's signature certifying the information contained on the Worksheet to the Department. Worksheets submitted without the county auditor's signature will not be accepted or reviewed.

After receipt of the Worksheets from a county, the Department will review the submitted Worksheets and will work with the county auditor and/or the Worksheet preparer to address any

questions. Once all questions have been addressed, the Department's Commissioner will sign the Worksheets to approve the calculation. The Department-approved Worksheets will then be emailed back to the county auditor.

Upon receipt of the Department-approved Worksheets, the county auditor should apply the base neutralization factor identified on each Worksheet to the allocation area within the county's tax and billing system. Questions about this process should be addressed to the county's tax and billing software vendor. After application of the base neutralization factors, the county auditor can complete the process of calculating net assessed values for Pay 2017 and certify these values to the Department through Gateway.

#### **Detailed Information on the TIF Neutralization Worksheet**

The following provides a line-by-line guide on how to complete the Worksheet. Please follow this guidance when completing the Worksheet.

*County* – County number and name (Example: 01 – Adams).

*Jurisdiction* – Name of county, city, or town which established the redevelopment commission or authority with oversight over the identified allocation area.

*Allocation Area Code* – Each TIF district in the county should have a unique code assigned by the county auditor. This code should begin with the letter T, followed by the two-digit county number, followed by a three-digit number created by the county auditor to uniquely identify the allocation area within the county. Each TIF district should have only one code. This means that TIF districts should not be broken out by taxing district, nor should expansions of a TIF district be provided a separate code. The TIF district should be neutralized and reported in its entirety. This is being done to facilitate long-term reporting of TIF district financial data in Gateway TIF Management, allowing for the flow of funds to be reported and understood more easily.

*Allocation Area Name* – Please provide the official name of the TIF District.

*Form Prepared By* – The lines in this section should be completed with the information of a contact person the Department can contact if it has any questions about the Worksheet. If a financial advisor has completed the Worksheet, it is appropriate to place the financial advisor's contact information on these lines.

*Line 1: 2015 Pay 2016 Base Assessed Value of Allocation Area* – This should be the most recent base assessed value for the allocation area from the current tax year. The base assessed value is the amount of assessed value from the parcels included in the allocation area that was included in the tax base for the overlapping taxing units (county, township, city/town, school, library, and special districts). TIF pass-through, if any existed, should not be included in the calculation of base assessed value. This should be the value after the Pay 2016 neutralization factor was applied and should also include any adjustments that occurred from assessed value certification to tax billing for Pay 2016. This could include, but is not limited to, any adjustments due to appeals or filing of deduction forms since certification.



*Line 2: 2015 Pay 2016 Incremental Assessed Value of Allocation Area* – This should be the most recent incremental assessed value for the allocation area from the current tax year. The incremental assessed value is the amount of assessed value from the parcels included in the allocation area that was eligible to be captured by the redevelopment commission. TIF pass-through, if any existed, should be included in the calculation of incremental assessed value. This should be the value after the Pay 2016 neutralization factor was applied and should also include any adjustments that occurred from assessed value certification to tax billing for Pay 2016. This could include, but is not limited to, any adjustments due to appeals or filing of deduction forms since certification.

*Line 3: 2015 Pay 2016 Net Assessed Value of Allocation* – This is a calculated field. It is the sum of Lines 1 and 2.

*Line 4: 2016 Pay 2017 Net Assessed Value of Allocation Area* – This should be the most current net assessed value available for the allocation area. This value should include any adjustments to net assessed value due to annual adjustment or reassessment. It should also include the application of any deductions and exemptions.

*Line 5: 2016 Pay 2017 Net Assessed Value Growth in Allocation Area Due to New Construction or a Change in Tax Status* – In order to isolate the effect of annual adjustment or reassessment on the net assessed values, changes in assessed value associated with actual construction must be removed from consideration. In order to complete this line, the Worksheet preparer should identify new construction that has occurred in the allocation area since March 1, 2015. Possible sources for this information would include, but are not limited to, local officials, building permits, and property record cards. In addition, the Worksheet preparer should identify parcels that have experienced a change in property tax status, such as tax-exempt to taxable or a change in land use that would impact assessed values.

*Line 6: 2016 Pay 2017 Net Assessed Value Decrease in Allocation Area Due to Demolition or a Change in Tax Status* – In order to isolate the effect of annual adjustment or reassessment on the net assessed values, changes in assessed value associated with demolition must be added back into the allocation area net assessed value to determine what the allocation area net assessed value would have been had the demolition not occurred. In order to complete this line, the Worksheet preparer should identify demolition that has occurred in the allocation area since March 1, 2015. Possible sources for this information would include, but are not limited to, local officials, building permits, and property record cards. In addition, the Worksheet preparer should identify parcels that have experienced a change in property tax status, such as taxable to tax-exempt or a change in land use that would impact assessed values.

*Line 7: 2016 Pay 2017 Net Assessed Value Growth as a Result of Abatement Roll-Off in Allocation Area* – Similar to Line 5 above, it is necessary to remove increases in assessed value associated with abatement roll-off from consideration in order to isolate the impact of annual adjustment or reassessment on net assessed values in the allocation area. The Worksheet preparer should utilize available abatement information to identify abatements existing within the

allocation area and compute the amount of assessed value that was added to the allocation area from Pay 2016 to Pay 2017 due to abatement roll-off.

*Line 8: Estimated Assessed Value Decrease Due to 2016 Pay 2017 Appeals Settlements in Allocation Area* – Due to the timing of when the Worksheet is completed and approved as compared to the actual billing for Pay 2017, it is possible that the assessed value of the allocation area changes due to the settlement of appeals. This line represents an allowance for appeals that will be settled between Pay 2017 net assessed value certification and tax billing. In estimating this number, the Worksheet preparer can consult with the county assessor to determine the amount of appeals anticipated to be settled during the tax year and the approximate value of these appeals.

*Line 9: 2016 Pay 2017 Adjusted Net Assessed Value of Allocation* – Line 9 is a calculated field. It is designed to provide a comparable tax base in the allocation area to the tax base that existed in Pay 2016. To arrive at this value, the Worksheet takes Line 4, then subtracts off Lines 5, 7, and 8 and adds back in Line 6.

*Line 10: 2016 Pay 2017 Neutralization Factor* – Line 10 is a calculated field. It is the calculation of the actual base neutralization factor that will be applied to the allocation area within the county's tax and billing system. It represents an approximation of the change in net assessed value that is due to annual adjustment or reassessment. It is calculated by dividing Line 9 by Line 3. It should be rounded to five decimal places.

*Line 11: 2016 Pay 2017 Adjusted Base Assessed Value of Allocation Area* – Line 11 is a calculated field. It is an estimate of the base assessed value in the allocation area for Pay 2017. It is calculated by taking Line 1 (2015 Pay 2016 base assessed value) and multiplying it by Line 10 (Pay 2017 neutralization factor).

*Line 12: 2016 Pay 2017 Incremental Assessed Value of Allocation Area* – Line 12 is a calculated field. It is an estimate of the incremental assessed value in the allocation area for Pay 2017. It is calculated by taking Line 4 (2016 Pay 2017 net assessed value) and subtracting Line 11 (Pay 2017 base assessed value).

*Line 13: Estimated 2016 Pay 2017 Tax Rate for the Allocation Area* – Lines 13 and 14 are informational only and do not factor into the actual calculation of the base neutralization factor. In order to estimate the amount of incremental revenue that may be derived in the allocation area, the Worksheet preparer should estimate the tax rate that may apply to the allocation area in Pay 2017. To do this, the Worksheet preparer should utilize current tax rates in the allocation area and estimate the impact that changes in assessed values, additional debt, or other levy changes may have on the tax rate. The tax rate should be rounded to four decimal places. For TIF districts that are in more than one taxing district, an estimated average tax rate should be used.

*Line 14: Estimated 2016 Pay 2017 Incremental Tax Revenue* – Lines 13 and 14 are informational only and do not factor into the actual calculation of the base neutralization factor. Line 14 represents the estimated amount of incremental revenue that may be derived in the allocation area in Pay 2017. It is a calculated field. It is calculated by taking Line 12 (Pay 2017 incremental

assessed value), dividing it by 100, and then multiplying by Line 13 (Pay 2017 estimated tax rate).

After completion of each of these line items, the county auditor must complete the Worksheet by certifying to the calculation and signing the form. At that point, the Department will complete its review of the Worksheet.

If you have any questions on the information above or on the Worksheet, please contact the Department. You may contact Dan Jones, Assistant Budget Director, at [djones@dlgf.in.gov](mailto:djones@dlgf.in.gov) or (317) 232-0651.



TIF ALLOCATION AREA REAL PROPERTY BASE NEUTRALIZATION WORKSHEET 2016 PAY 2017

State Form 56059 (5-16)

PRESCRIBED BY THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: DO NOT INCLUDE PERSONAL PROPERTY VALUES.

County \_\_\_\_\_
Jurisdiction \_\_\_\_\_
Allocation Code \_\_\_\_\_
Allocation Area Name \_\_\_\_\_
Form Prepared By:
Name \_\_\_\_\_
Unit/Company \_\_\_\_\_
Telephone Number \_\_\_\_\_
E-mail Address \_\_\_\_\_

1) 2015 Pay 2016 Base Assessed Value of Allocation Area
2) 2015 Pay 2016 Incremental Assessed Value of Allocation Area
3) 2015 Pay 2016 Total (Real) Assessed Value of Allocation Area (Line 1 + Line 2) \$0
4) 2016 Pay 2017 Net Assessed Value of Allocation Area
5) 2016 Pay 2017 Net Assessed Value Growth in Allocation Area Due to New Construction or a Change in Tax Status
6) 2016 Pay 2017 Net Assessed Value Decrease in Allocation Area Due to Demolition or a Change in Tax Status
7) 2016 Pay 2017 Net Assessed Value Growth as a Result of Abatement Roll-Off in Allocation Area
8) Estimated Assessed Value Decrease Due to 2016 Pay 2017 Appeals Settlements in Allocation Area
9) 2016 Pay 2017 Adjusted Net Assessed Value of Allocation Area \$0
10) 2016 Pay 2017 Neutralization Factor (Line 9 / Line 3) (Round to Five Decimal Places)
11) 2016 Pay 2017 Adjusted Base Assessed Value of Allocation Area (Line 1 \* Line 10)
12) 2016 Pay 2017 Incremental Assessed Value of Allocation Area (Line 4 - Line 11)
13) Estimated 2016 Pay 2017 Tax Rate for the Allocation Area (Round to Four Decimal Places)
14) Estimated 2016 Pay 2017 Incremental Tax Revenue ((Line 12/100) \* Line 13)
15) Actual 2015 Pay 2016 Tax Rate for the Allocation Area
2016 PAY 2017 BASE NEUTRALIZATION FACTOR FOR ALLOCATION AREA (LINE 10)

I, \_\_\_\_\_ Auditor, of \_\_\_\_\_ County, certify to the best of my knowledge that the above base assessed value calculation is full, true and complete for the tax increment finance allocation area identified above
Dated (month, day, year) \_\_\_\_\_

County Auditor (Signature) \_\_\_\_\_ County Auditor (Printed) \_\_\_\_\_

DEPARTMENT OF LOCAL GOVERNMENT FINANCE
CERTIFICATION OF TIF BASE NEUTRALIZATION

Allocation Area Name \_\_\_\_\_ 0 \_\_\_\_\_

The base assessed value adjustment, as certified above, is approved by the Department of Local Government Finance.

Commissioner, Department of Local Government Finance \_\_\_\_\_ Date (month, day, year) \_\_\_\_\_



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**APPENDIX B.**  
**ARTICLE: INDIANA TAX INCREMENT FINANCING LAW:  
CHALLENGING THE COMMON MISCONCEPTION THAT ALL FUNDS  
ALLOCATED TO TIF DISTRICTS WOULD OTHERWISE PROVIDE  
ADDITIONAL FUNDING FOR SCHOOL CORPORATIONS AND OTHER  
UNDERLYING TAXING UNITS**

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**INDIANA TAX INCREMENT FINANCING LAW: CHALLENGING THE COMMON  
MISCONCEPTION THAT ALL FUNDS ALLOCATED TO TIF DISTRICTS WOULD  
OTHERWISE PROVIDE ADDITIONAL FUNDING FOR SCHOOL CORPORATIONS AND  
OTHER UNDERLYING TAXING UNITS  
(INCLUDING A DISCUSSION OF THE IMPACT OF TAX CAPS)\***

**JANUARY 31, 2017**

**PREPARED BY:**

**Thomas Pitman  
Barnes & Thornburg LLP  
Thomas.Pitman@btlaw.com ☎ 317/231-6420**

*\*Author's note:* This article expands a prior article published on January 26, 2017, by including a discussion of the interplay of Indiana's tax cap laws and Indiana law regarding tax increment financing.

Note: These materials are intended for information only and are not to be considered legal advice.

## CHALLENGING A COMMON MISCONCEPTION IN INDIANA'S TAX INCREMENT FINANCING LAW

A widespread misconception exists concerning tax increment financing districts in Indiana (commonly referred to as "TIF Districts"). This misconception is an assumption that if funds were not deposited into the TIF District allocation fund, those funds would instead flow to the underlying taxing units (i.e., those taxing units with territory in the TIF District among which property taxes are normally divided, including the school corporation, the city or town, the county unit, the library district, the township, etc.), in proportion to the percentage of the particular taxing unit's share of the total tax rate. For example, if a TIF District is generating \$500,000 in tax increment revenues in a particular year, it is commonly assumed that, if the TIF District were not in place, a school corporation whose tax rate is 40% of the total tax rate captured by the TIF District would have received \$200,000 of additional revenues (i.e., 40% times \$500,000). This is a significant misconception, for the reasons described below.

### Funds of Cities, Towns and Counties

**General Fund.** Cities, towns and counties usually have as their most important fund the "General Fund," which is usually funded primarily from a tax levy on taxable property in the particular taxing unit. The General Fund of a city, town or county is in the category of a "**levy limited fund.**" meaning that a statutory cap is placed on the total dollars that can be raised for this fund. Adding to the assessed valuation of the governmental unit might permit a reduction in the tax rate, but would not result in the generation of additional funding for this fund. (This is true, since increasing assessed value ("AV") will decrease the tax rate ("R"), where the product of the two (AV time R) is capped.) For levy limited funds, Indiana law places a limit on how much in additional dollars can be raised for the fund over the prior year's maximum. In recent years, the maximum increase has been limited to 2-3%. (The maximum percentage increase is determined based on the average growth of non-farm personal income in Indiana over the prior six-year period, up to a maximum of 6%.)

**Cumulative Capital Fund.** Cumulative capital funds are "**rate limited funds.**" In the case of a "rate limited fund," the maximum dollar amount that can be raised for the fund is not limited; instead, the rate has a maximum limit, and the rate imposed is applied to all of the assessed value available to the local governmental unit. Accordingly, for this fund, freeing up assessed value from a TIF District would be expected to generate additional money for the fund.

**Funds of School Corporations.** School corporations in Indiana are generally permitted to establish the following funds:

**General Fund.** This is generally a school corporation's most important fund. Prior to 2009, all or a portion of a school corporation's General Fund was funded by local property taxes. However, beginning in 2009, the responsibility for funding the General Fund was transferred from the local property tax base and moved to the State. Based on a statutory formula, the State provides the funding for each school corporation's General Fund from State revenues (including State sales tax revenues). Therefore, the creation of a TIF District has NO IMPACT on revenues available to a school corporation for its General Fund.

**Debt Service Fund.** This fund is created when the school corporation incurs long-term debt. Amounts raised for this fund are based on the amount of the annual debt payment due. More money would not flow into this fund if assessed value were freed up from a TIF District.

**Capital Projects Fund.** This is a "rate limited fund," and is permitted to be used only for specified statutory purposes, generally relating to the acquisition or construction of capital assets such as

land, buildings and equipment. Since the Capital Projects Fund is a “rate limited fund,” the maximum dollar amount that can be raised for the fund is not limited; instead, the rate has a maximum limit, and the rate imposed is applied to all of the assessed value available to the school corporation. Accordingly, for this fund, freeing up assessed value from a TIF District would be expected to generate additional money for the fund.

**Transportation Funds (consisting of a Transportation Operating Fund and a Bus Replacement Fund).** These funds are “levy limited funds,” and therefore a statutory cap is placed on the total dollars that can be raised for these funds. Accordingly, adding to the assessed valuation of the school corporation might permit a reduction in the tax rate, but would not result in the generation of additional funding for these funds.

### **Effect of Tax Caps on the Amount of Money that Can be Raised for Various Local Funds.**

Beginning in 2007, Indiana law imposed caps on the maximum tax burden that could be placed on particular classes of taxable property, with certain property having a cap equal to 1% of the gross assessed value of the property (as in the case of a home where the taxpayer lives), 2% of gross assessed value in the case of certain other classes of property (including, for example, residential rental property), or 3% of the gross assessed value in the case of certain other classes of property (including for example, commercial property). Prior to the enactment of tax caps in Indiana, levy limited funds were entitled to receive the full amount of the maximum permitted levy amount, equal to the net assessed value available to the taxing unit times the tax rate. Similarly, rate limited funds were entitled to receive the full amount of money that the available net assessed value, multiplied by the tax rate, would produce. The tax caps added an additional limitation on the amount of money that a fund could receive, by placing a limit on the maximum percentage of gross assessed value that could be imposed on the various classes of taxable property.

When tax caps are exceeded, various funds experience a reduction in the amount of money they receive. That reduction can be eliminated if enough additional assessed value is made available to the taxing unit to bring the tax rates low enough to eliminate the loss due to the impact of the tax caps (since, all other things being equal, the more assessed value available, the lower the tax rate can be). Transferring assessed value away from a TIF District and making it available to the taxing unit would be one way, among many other, of reducing or eliminating the loss caused by the tax cap.

As a general matter, anything that either increases available net assessed value or reduces the tax rate below the tax caps will have the effect of restoring all or part of the loss created by the tax caps.

- J In addition to the existence of a TIF District, many other factors can affect the level of the assessed value available to a taxing unit. Such factors include, among others, the success of the taxing unit in attracting new investment that adds to the tax base (which is one of the principal reasons behind the enactment of TIF laws); loss of businesses (which the TIF laws are designed to help avoid); State law policies relating to exemptions of various classes of property from taxation; the right of a taxpayer in certain cases to receive a deduction in the assessed value of taxable property; local tax assessment practices; and transfers of taxable property to non-taxable owners.
- J Many factors can impact whether tax caps will be exceeded, including, among others, the existence or increase in the amount of debt payable from property taxes that is incurred by any of the overlapping taxing units; the existence or creation of a cumulative capital fund; the tax rates of other overlapping taxing units; and access to other, non-property tax sources of funds, such as local income taxes or various revenues from the State.

## Summary

In summary, the freeing up of assessed value from a TIF District does not generally result in an increase in revenues for cities, towns and counties, with the principal exception being cumulative capital funds. Similarly, the freeing up of assessed value from a TIF District does not generally result in an increase in revenues for a school corporation, with the principal exception being the Capital Projects Fund. In addition, although transferring assessed value away from a TIF District and making it available to a taxing unit could reduce or eliminate the impact of tax caps, it seems appropriate to view the tax caps themselves as the cause, in the first instance, of the loss of revenues available for particular local funds, rather than the existence of the TIF District. Moreover, as discussed above, the capture of assessed value by a TIF District is only one of many factors that can impact the availability of additional assessed value for a taxing unit. At the same time, many factors bear on whether the tax caps are exceeded for a particular taxing unit. Finally, in many cases, the increase in assessed value would not have arisen in the first place (and therefore would not be available to transfer to the underlying taxing units) if a TIF District had not been created to induce the development that generated the additional assessed value. Indiana law allows Redevelopment Commissions to mitigate the impact of the tax caps by annually passing through to the underlying taxing units all or a portion of the captured assessed value in a TIF District. Similarly, IC 36-7-25-7 effectively permits Redevelopment Commissions to provide a specified portion of available TIF revenues to school corporations for specified purposes.



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**APPENDIX C.**  
**ARTICLE: DO TAX INCREMENT FINANCING DISTRICTS CAUSE  
CIRCUIT BREAKER FUND LOSSES IN INDIANA? A STATISTICAL  
REVIEW OF ACTUAL DATA**

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**DO TAX INCREMENT FINANCING DISTRICTS  
CAUSE CIRCUIT BREAKER FUND LOSSES  
IN INDIANA?  
A STATISTICAL REVIEW OF ACTUAL DATA**

**MARCH 21, 2017**

**PREPARED BY:**

**Thomas Pitman  
Barnes & Thornburg LLP  
Thomas.Pitman@btlaw.com 317/231-6420**

**DO TAX INCREMENT FINANCING DISTRICTS CAUSE  
CIRCUIT BREAKER FUND LOSSES IN INDIANA?  
A STATISTICAL REVIEW OF ACTUAL DATA**

In Indiana, it has become a truism in recent years that tax increment financing allocation areas (often referred to as “TIF Districts”) cause circuit breaker losses in local government and school funds. The purpose of this analysis is to determine whether the data support that conclusion.

- I. HYPOTHESIS:** If TIF Districts cause circuit breaker fund losses, then it could be expected that there would be a strong correlation between high levels of assessed value captured by TIF Districts and high levels of circuit breaker losses (based on the assumption that withholding from taxing units the assessed value captured by a TIF District would lead to increased tax rates and make it more likely that circuit breaker caps would be exceeded).

**CONCLUSION:** A standard statistical method for reviewing data to determine whether a correlation exists between two variables consists of calculating the “coefficient of determination” between the two variables. The coefficient of determination (designated as “R-squared”) is a statistical measure of the strength of a correlation. As shown in Exhibit 1 (using 2014 as the test year), the coefficient of determination between captured TIF assessed value (as a percentage of total assessed value) and total circuit breaker losses (as a percentage of total certified levy) for Indiana’s 92 counties is 0.0745. Coefficient of determination values can range from 0 to 1, with a value of 1 indicating a perfect 100% correlation. A coefficient of determination of 0.0745 indicates virtually no correlation at all.

- II. QUESTION:** If the capture of assessed value by TIF Districts does not the cause circuit breaker losses, then what does?

**ANSWER:** The precise mix of causes of circuit breaker losses likely varies from county to county. It seems plausible that the following factors contribute to circuit breaker losses. However, as a general matter, the above analysis strongly suggests that the use of TIF Districts does not result in an increase in circuit breaker losses.

- (1) Decline in industrial tax base, resulting in a general decline in assessed value. The data in Exhibit 1 show high circuit breaker losses in several Indiana counties that have been hit the hardest by losses of industrial tax base (including such counties as Delaware, Madison, Henry, Fayette, Randolph and Cass).
- (2) Ever-increasing costs of operating local governments, resulting from such factors as increased health insurance premiums, increased costs of capital needs, increases in employee pay scales, and similar factors.
- (3) Slow increases in assessed value of taxable property, especially real property.
- (4) Range of services provided from county to county. For example, does the county contain a large municipality that provides public transportation services, significant amounts or poor relief (at the township level), park systems, sanitary districts, fire and police pensions, and that has a higher average cost of living, as compared to counties that are smaller, more rural, and/or less service-intensive? Examples include Muncie (in Delaware County), Anderson (in Madison County), South Bend (in St. Joseph County), Terre Haute (in Vigo County), Elkhart (in Elkhart

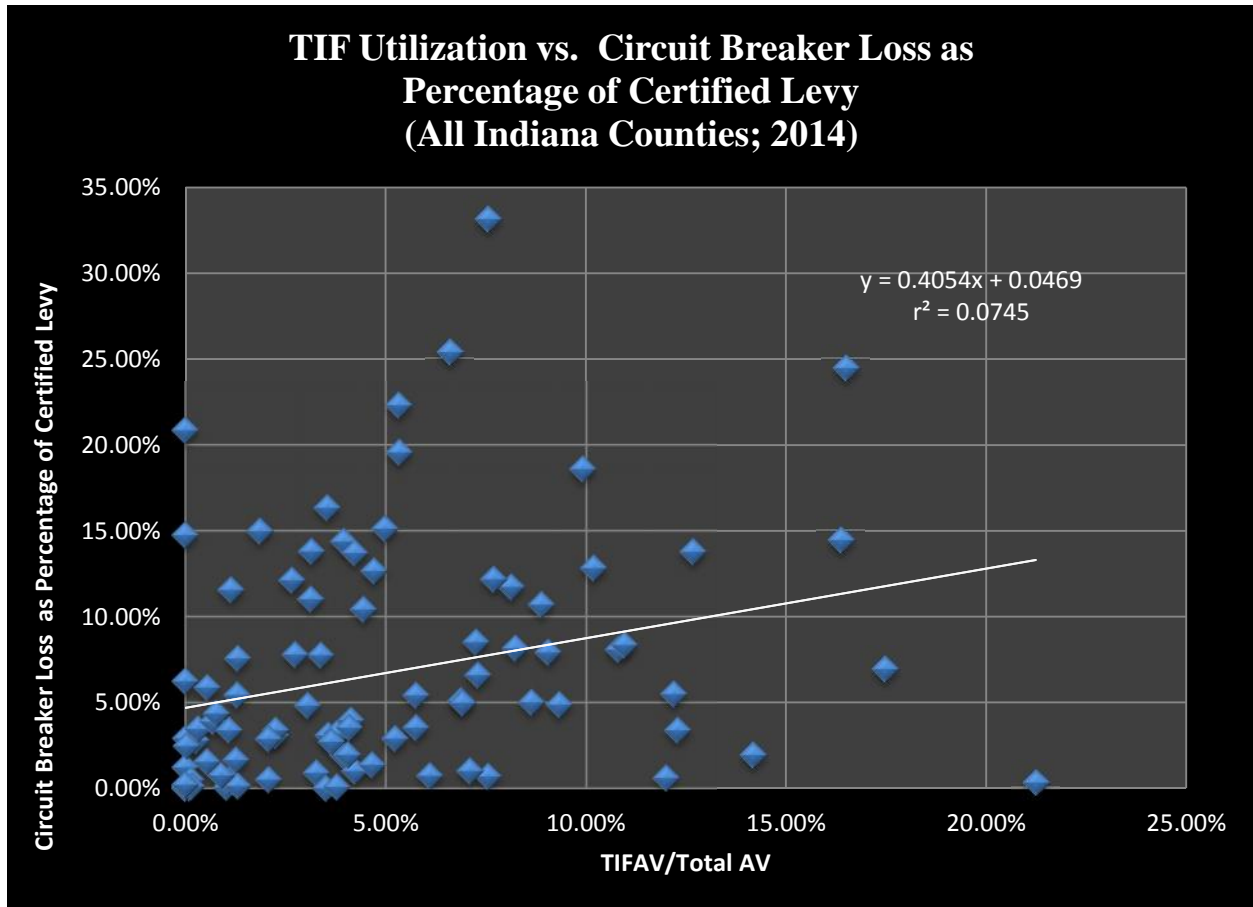
County), Indianapolis (in Marion County), Kokomo (in Howard County, which, in 2014, had a nearly 15% circuit breaker loss at the same time as it had no captured TIF assessed value), and Jeffersonville (in Clark County).

- (5) Varying assessment practices from county to county.
- (6) Mix of tax-exempt property and taxable property. For example, the following counties, among others, include large public or tax-exempt universities: Delaware County; Vigo County; Knox County; Marion County; and St. Joseph County. Similarly, the following counties, among others, are the location of large tax-exempt hospitals that serve multi-county areas: Marion County; Elkhart County; Clark County; Vigo County; Delaware County; and St. Joseph County.
- (7) Impact of deductions, exemptions and credits on taxable assessed value. For example, homestead properties receive a range of deductions and exemptions that generally result in taxation at a rate much lower than 1% of gross assessed value.
- (8) Availability of an additional circuit breaker credit for persons 65 and older, which will tend to increase circuit breaker losses during an era (such as the current era) when the percentage of persons over 65 is increasing.
- (9) Quality of stewardship over TIF revenues. In counties with good stewardship, TIF Districts can be expected to relieve the pressure of circuit breakers by increasing assessed value as a result of new investment in the county.
- (10) Quality of local government stewardship in general. Efficient government includes figuring out how to do more with less money. However, even where local government stewardship is excellent, the factors listed above may nevertheless result in high circuit breaker losses no matter how financially prudent the local leadership.

## Summary

The data analyzed above strongly suggest that TIF Districts do not cause increases in circuit breaker losses. It is obviously true that if assessed value captured by existing TIF Districts were to be taken away from TIF Districts and made available to taxing units with fund shortfalls, such a transfer would help to remedy some or all of the shortfalls in local and school funds. However, doing so would reduce the funding available to the governmental units that created the TIF Districts to invest in job creation and to attract new assessed value. In addition, given the rapid rate of increase in shortfalls in local and school funds, such a transfer would likely turn out to be a very short-term (and costly) fix to the problem of local government and school fund shortfalls. Just as a family struggling to pay bills should not resort to cutting from its weekly budget the cost of periodic maintenance of the cars used to get to work, communities should proceed with great caution when considering whether to attempt to solve the problem of fund shortfalls by sacrificing their TIF programs.

Exhibit 1



NOTE: Where a strong correlation is present, the dots will cluster closely to the line.

**Exhibit 1 (continued)**

**Comparison of Percentage of TIF AV to  
Percentage of Circuit Breaker Losses (2014) (In Decreasing Order of Certified Levy)**

County	TIFAV/ Total AV*	Circuit Breaker Loss**/ Total Certified Levy
Marion	<b>9.91%</b>	<b>18.59%</b> (186,706,689/1,004,413,498)
Lake	<b>7.69%</b>	<b>12.17%</b> (87,265,079/717,066,982)
Hamilton	<b>10.95%</b>	<b>8.36%</b> (34,397,933/411,285,089)
Allen	<b>3.13%</b>	<b>11.01%</b> (41,832,625/379,885,179)
St. Joseph	<b>16.49%</b>	<b>24.44%</b> (72,088,709/294,977,355)
Elkhart	<b>5.34%</b>	<b>19.55%</b> (42,631,061/218,049,302)
Vanderburgh	<b>8.88%</b>	<b>10.70%</b> (20,276,320/189,505,914)
Porter	<b>7.30%</b>	<b>6.59%</b> (12,387,578/187,987,429)
Hendricks	<b>10.18%</b>	<b>12.82%</b> (23,977,928/187,055,145)
Tippecanoe	<b>12.18%</b>	<b>5.49%</b> (7,931,537/144,383,233)
Johnson	<b>7.10%</b>	<b>1.02%</b> (13,498,733/132,772,802)
Madison	<b>6.59%</b>	<b>25.35%</b> (31,344,790/123,641,309)
Delaware	<b>7.54%</b>	<b>33.11%</b> (38,692,470/116,856,934)
Monroe	<b>7.55%</b>	<b>0.71%</b> (819,507/114,768,556)
LaPorte	<b>7.25%</b>	<b>8.51%</b> (9,352,810/109,839,984)
Vigo	<b>5.32%</b>	<b>22.30%</b> (24,132,421/108,239,538)
Howard	<b>0.00%</b>	<b>14.74%</b> (15,738,686/106,767,526)
Clark	<b>16.36%</b>	<b>14.41%</b> (14,649,111/101,635,053)

**Exhibit 1 (continued)**

County	TIFAV/ Total AV*	Circuit Breaker Loss**/ Total Certified Levy
Bartholomew	<b>6.91%</b>	<b>4.97%</b> 4,316,169/86,786,431
Boone	<b>8.23%</b>	<b>8.16%</b> (6,940,803/85,100,616)
Hancock	<b>4.44%</b>	<b>10.42%</b> (7,560,564/72,532,689)
Kosciusko	<b>4.05%</b>	<b>1.96%</b> (1,402,124/71,427,538)
Wayne	<b>4.23%</b>	<b>13.71%</b> (8,921,491/65,051,881)
Floyd	<b>6.87%</b>	<b>5.11%</b> (3,136,453/61,381,154)
Grant	<b>10.80%</b>	<b>8.09%</b> (4,446,594/54,939,572)
Warrick	<b>4.66%</b>	<b>1.38%</b> (663,090/47,897,188)
Dearborn	<b>2.08%</b>	<b>2.89%</b> (1,352,580/46,865,237)
Montgomery	<b>5.75%</b>	<b>5.42%</b> (2,376,956/43,888,835)
DeKalb	<b>5.75%</b>	<b>3.55%</b> (1,509,653/42,481,948)
Dubois	<b>2.25%</b>	<b>3.40%</b> (1,439,246/42,321,837)
Marshall	<b>4.09%</b>	<b>3.54%</b> (1,464,948/41,329,105)
Morgan	<b>3.78%</b>	<b>0.10%</b> (38,705/39,815,951)
Gibson	<b>17.46%</b>	<b>6.90%</b> (2,732,445/39,622,770)
Noble	<b>5.23%</b>	<b>2.90%</b> (1,145,910/39,566,622)
Shelby	<b>8.63%</b>	<b>5.01%</b> (1,965,594/39,216,784)
Henry	<b>3.54%</b>	<b>16.33%</b> (6,231,667/38,156,867)
Jackson	<b>2.25%</b>	<b>3.09%</b> (1,125,336/36,377,035)

**Exhibit 1 (continued)**

County	TIFAV/ Total AV*	Circuit Breaker Loss**/ Total Certified Levy
Steuben	<b>0.89%</b>	<b>0.76%</b> (272,726/36,058,013)
Knox	<b>4.98%</b>	<b>15.11%</b> (5,414,035/35,839,459)
Lawrence	<b>2.74%</b>	<b>7.79%</b> (2,754,204/35,361,910)
Cass	<b>3.15%</b>	<b>13.79%</b> (4,834,561/35,060,572)
Posey	<b>3.64%</b>	<b>2.73%</b> (888,970/32,582,901)
Huntington	<b>4.71%</b>	<b>12.65%</b> (4,081,931/32,280,547)
Clinton	<b>1.29%</b>	<b>5.44%</b> (1,722,315/31,656,445)
Adams	<b>0.77%</b>	<b>4.36%</b> (1,325,779/30,407,702)
Jefferson	<b>3.05%</b>	<b>4.82%</b> (1,290,981/26,759,227)
Daviess	<b>8.13%</b>	<b>11.72%</b> (3,129,441/26,706,768)
Jasper	<b>3.51%</b>	<b>0.02%</b> (5,231/26,695,792)
Putnam	<b>3.27%</b>	<b>0.92%</b> (230,993/25,233,320)
LaGrange	<b>4.23%</b>	<b>1.02%</b> (256,193/25,151,193)
Miami	<b>1.31%</b>	<b>7.56%</b> (1,831,297/24,234,386)
White	<b>1.26%</b>	<b>1.66%</b> (400,544/24,134,065)
Whitley	<b>14.16%</b>	<b>1.92%</b> (459,789/23,914,939)
Wabash	<b>6.10%</b>	<b>0.75%</b> (176,141/23,596,425)
Randolph	<b>3.95%</b>	<b>14.38%</b> (3,359,707/23,360,385)
Fayette	<b>0.00%</b>	<b>20.85%</b> (4,642,186/23,150,325)

**Exhibit 1 (continued)**

County	TIFAV/ Total AV*	Circuit Breaker Loss**/ Total Certified Levy
Decatur	<b>12.28%</b>	<b>3.40%</b> (748,888/21,995,783)
Spencer	<b>21.24%</b>	<b>0.30%</b> (66,323/21,884,831)
Jay	<b>3.79%</b>	<b>3.21%</b> (665,183/20,690,783)
Greene	<b>3.38%</b>	<b>7.76%</b> (1,570,395/20,226,162)
Washington	<b>1.09%</b>	<b>3.40%</b> (686,041/20,175,884)
Harrison	<b>0.00%</b>	<b>0.23%</b> (46,086/20,080,976)
Wells	<b>1.31%</b>	<b>0.14%</b> (28,138/19,885,982)
Sullivan	<b>0.69%</b>	<b>3.89%</b> (772,974/19,845,515)
Ripley	<b>0.16%</b>	<b>0.13%</b> (24,301/18,856,903)
Jennings	<b>9.33%</b>	<b>4.88%</b> (890,363/18,238,284)
Starke	<b>0.32%</b>	<b>3.46%</b> (617,573/17,830,017)
Rush	<b>1.14%</b>	<b>11.56%</b> (2,003,785/17,332,850)
Fulton	<b>1.08%</b>	<b>0.47%</b> (77,569/16,546,680)
Newton	<b>0.03%</b>	<b>2.47%</b> (406,660/16,466,832)
Carroll	<b>4.13%</b>	<b>3.97%</b> (646,942/16,293,118)
Scott	<b>9.05%</b>	<b>7.93%</b> (1,272,741/16,043,541)
Vermillion	<b>0.55%</b>	<b>5.87%</b> (934,495/15,921,374)
Clay	<b>1.03%</b>	<b>0.07%</b> (10,309/15,129,864)
Pike	<b>0.27%</b>	<b>2.80%</b> (416,415/14,861,669)



**Exhibit 1 (continued)**

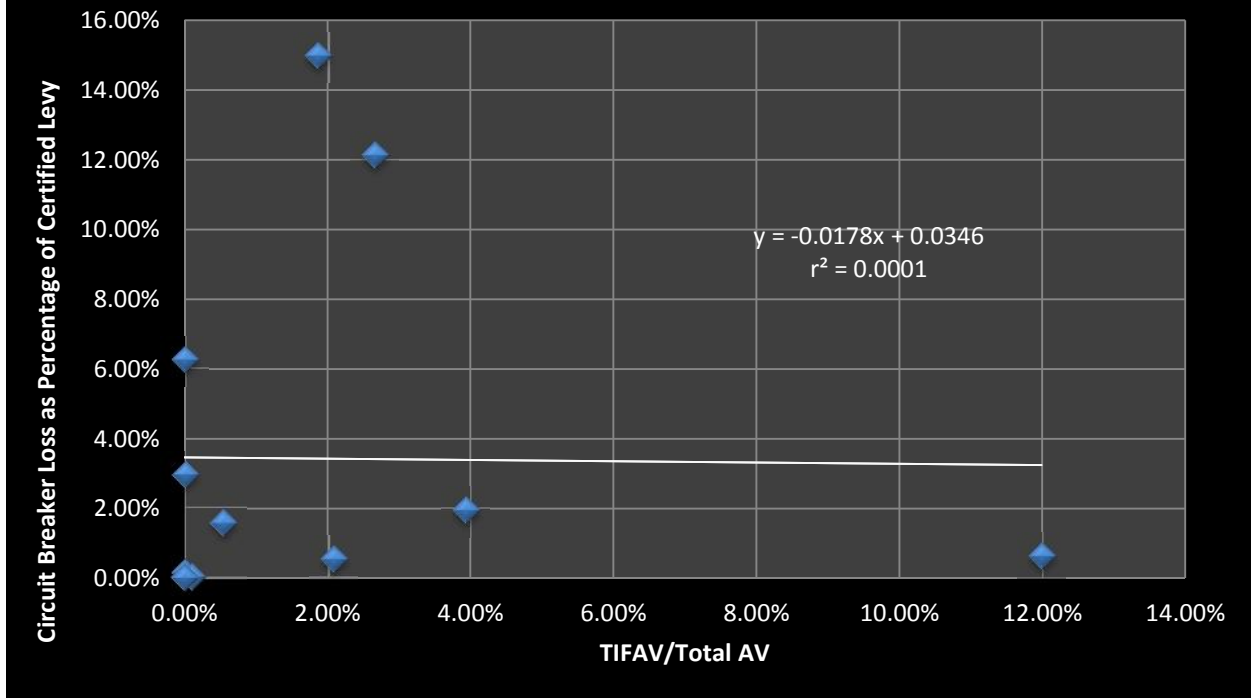
County	TIFAV/ Total AV*	Circuit Breaker Loss**/ Total Certified Levy
Franklin	<b>0.14%</b>	<b>0.50%</b> (70,859/14,163,195)
Perry	<b>12.66%</b>	<b>13.78%</b> (1,946,042/14,119,666)
Owen	<b>0.00%</b>	<b>1.23%</b> (170,191/13,786,840)
Brown	<b>0.00%</b>	<b>0.05%</b> (6,734/13,322,267)
Tipton	<b>3.56%</b>	<b>3.09%</b> (405,963/13,119,812)
Fountain	<b>3.94%</b>	<b>1.94%</b> (240,270/12,375,847)
Orange	<b>11.99%</b>	<b>0.62%</b> (73,313/11,870,143)
Blackford	<b>1.86%</b>	<b>14.97%</b> (1,729,236/11,550,953)
Parke	<b>2.08%</b>	<b>0.52%</b> (58,054/11,257,136)
Benton	<b>0.01%</b>	<b>2.93%</b> (328,682/11,207,632)
Pulaski	<b>0.00%</b>	<b>0.01%</b> (789/9,984,642)
Crawford	<b>2.66%</b>	<b>12.12%</b> (1,002,107/8,270,304)
Warren	<b>0.10%</b>	<b>0.03%</b> (2,283/8,148,942)
Union	<b>0.00%</b>	<b>6.25%</b> (439,901/7,043,920)
Martin	<b>0.54%</b>	<b>1.56%</b> (93,961/6,031,417)
Switzerland	<b>0.00%</b>	<b>0.15%</b> (8,301/5,711,971)
Ohio	<b>0.00%</b>	<b>0.02%</b> (425/2,776,685)

\*Source: DLGF Report on Redevelopment, September 30, 2014, page 28.

\*\*Source: <http://www.in.gov/dlgr/9354.htm>

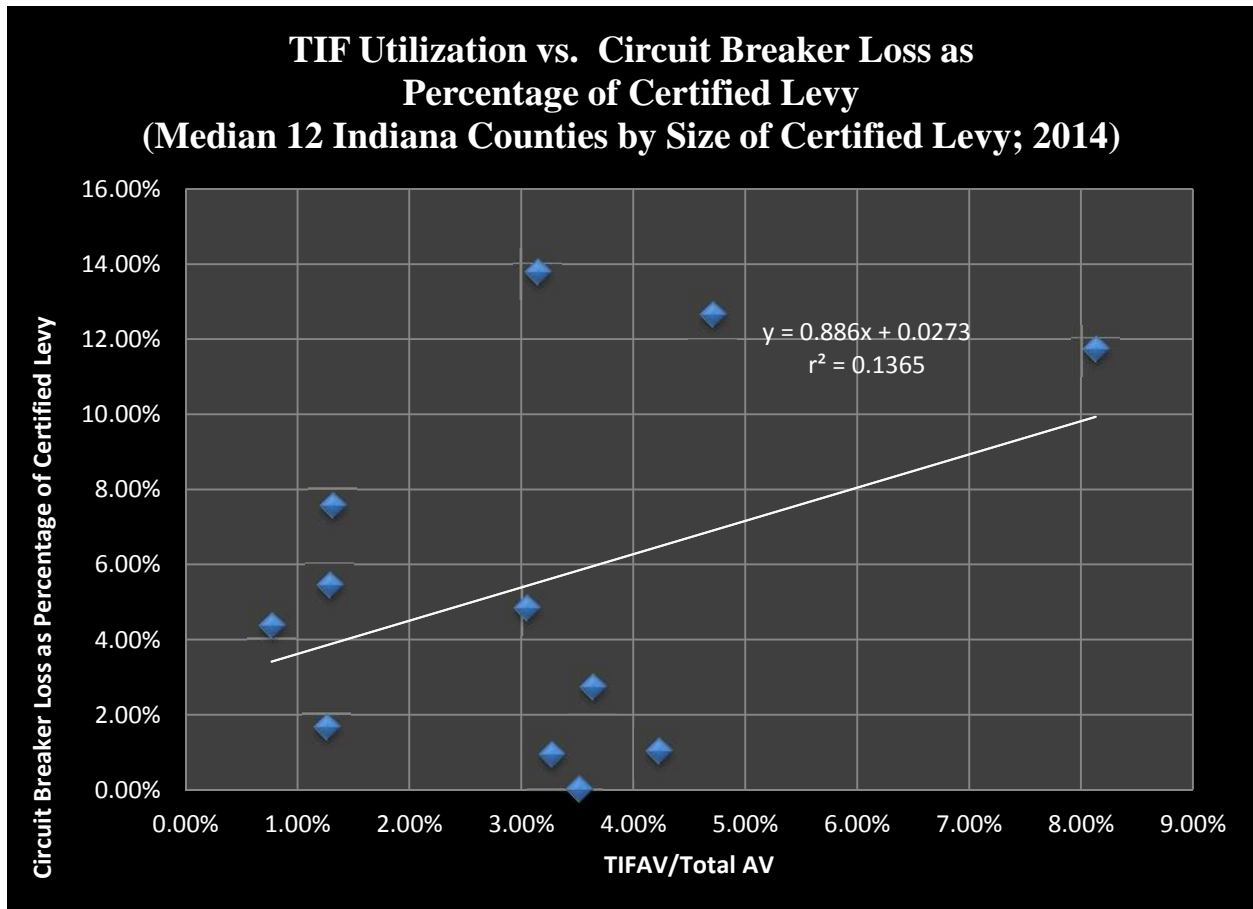
**Exhibit 1 (continued)**

**TIF Utilization vs. Circuit Breaker Loss as Percentage of Certified Levy  
(Smallest 12 Indiana Counties by Size of Certified Levy; 2014)**



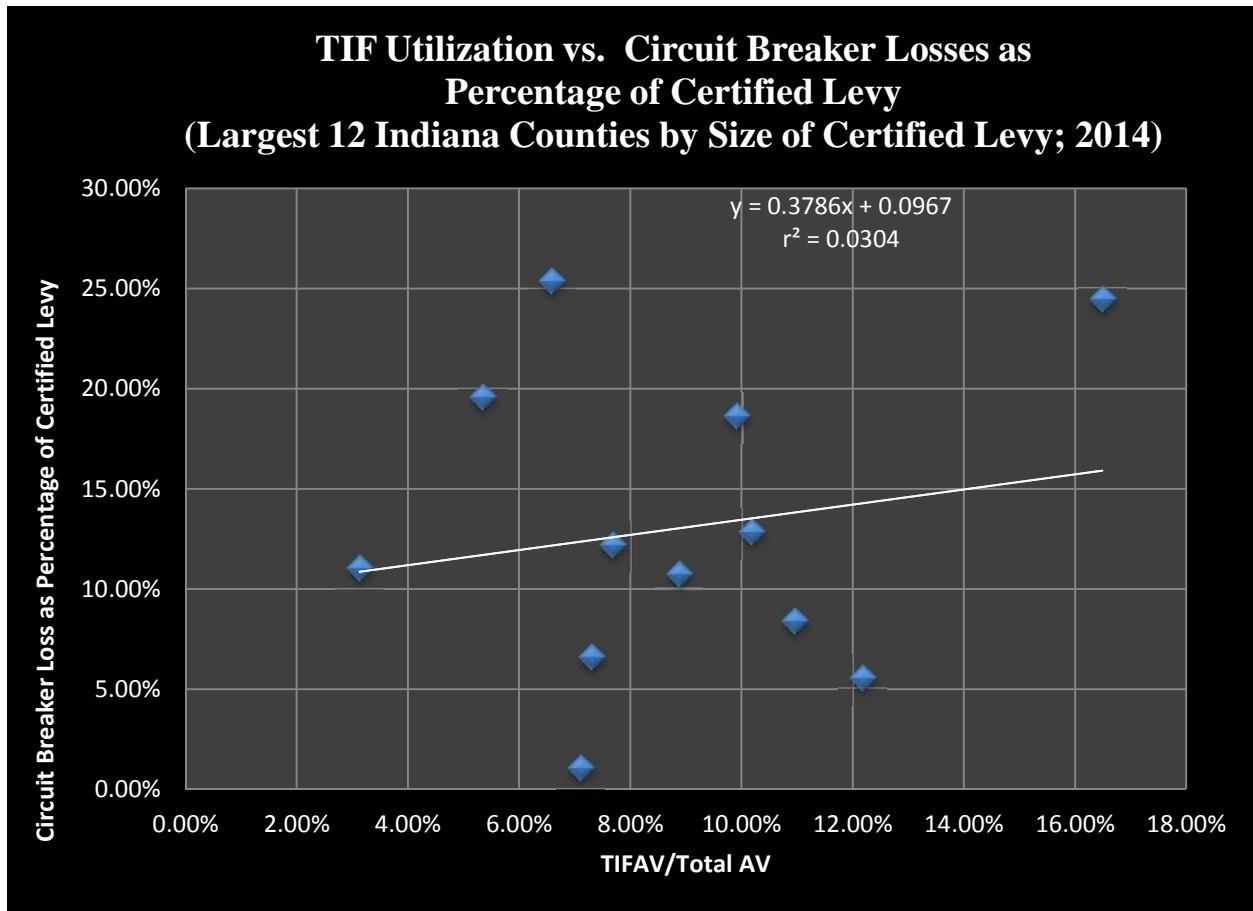
	<b>TIFAV/Total AV</b>	<b>Loss/Levy</b>
Ohio	0.00%	0.02%
Switzerland	0.00%	0.15%
Martin	0.54%	1.56%
Union	0.00%	6.25%
Warren	0.10%	0.03%
Crawford	2.66%	12.12%
Pulaski	0.00%	0.01%
Benton	0.01%	2.93%
Parke	2.08%	0.52%
Blackford	1.86%	14.97%
Orange	11.99%	0.62%
Fountain	3.94%	1.94%

**Exhibit 1 (continued)**



	<b>TIFAV/Total AV</b>	<b>Loss/Levy</b>
White	1.26%	1.66%
Miami	1.31%	7.56%
LaGrange	4.23%	1.02%
Putnam	3.27%	0.92%
Jasper	3.51%	0.02%
Daviess	8.13%	11.72%
Jefferson	3.05%	4.82%
Adams	0.77%	4.36%
Clinton	1.29%	5.44%
Huntington	4.71%	12.65%
Posey	3.64%	2.73%
Cass	3.15%	13.79%

**Exhibit 1 (continued)**



	<b>TIFAV/Total AV</b>	<b>Loss/Levy</b>
Madison	6.59%	25.35%
Johnson	7.10%	1.02%
Tippecanoe	12.18%	5.49%
Hendricks	10.18%	12.82%
Porter	7.30%	6.59%
Vanderburgh	8.88%	10.70%
Elkhart	5.34%	19.55%
St. Joseph	16.49%	24.44%
Allen	3.13%	11.01%
Hamilton	10.95%	8.36%
Lake	7.69%	12.17%
Marion	9.91%	18.59%

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**APPENDIX D.**  
**IC 36-7-14, AS AMENDED**  
**(REDEVELOPMENT COMMISSION AND TAX INCREMENT FINANCE),**  
**WITH SUMMARY OF 2017 LEGISLATIVE CHANGES**

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**2017 LEGISLATIVE CHANGES AFFECTING INDIANA REDEVELOPMENT COMMISSIONS**

**PREPARED BY:**

**Barnes & Thornburg LLP**

**May 1, 2017**

Although significant changes to the law applicable to Indiana Redevelopment Commissions were proposed during the course of this year's legislative session, most of the legislative proposals did not survive. Below is a summary of important legislative initiatives affecting Indiana Redevelopment Commissions that have been signed into law by Governor Holcomb and will become effective on July 1, 2017.

**EXEMPTION FROM APPRAISAL REQUIREMENTS FOR ACQUISITION BY A  
REDEVELOPMENT COMMISSION OF CERTAIN PROPERTIES**

The standard requirement of obtaining two appraisals prior to a Redevelopment Commission's acquisition of real property will no longer apply if either of the following is true:

1. The total purchase price for the property or an interest therein (including the land and any structures) is less than \$25,000; or
2. The property or interest therein is for sale at auction.

(SEA 152, §5, amending IC 36-7-14-19(a). Effective July 1, 2017.)

**SPECIAL PROCEDURES FOR ACQUISITION BY A REDEVELOPMENT COMMISSION OF  
PROPERTY THAT IS BLIGHTED, UNSAFE, ETC.**

Special procedures are added for the acquisition by a Redevelopment Commission from a willing seller of real property that the Redevelopment Commission determines to be blighted; unsafe; abandoned; foreclosed; or structurally damaged.

1. **Where the sale price does not exceed \$25,000 or the property is for sale by another government agency:** the Redevelopment Commission may purchase the property if the Redevelopment Commission has sufficient funds to do so (or issues an obligation to raise the necessary funds).

**2. Where the sale price exceeds \$25,000:**

- (a) The Redevelopment Commission must obtain two (2) independent appraisals of the property's fair market value.
- (b) The Redevelopment Commission must obtain the prior approval of the unit's legislative body (i.e., Town Council, Common Council, or the Board of Commissioners, except in Lake and St. Joseph Counties, where the legislative body is the County Council) if any of the following is true:
  - (i) The Redevelopment Commission desires to pay more than the greater of the two appraisals.
  - (ii) The payments for the property are to be made over a term that exceeds three (3) years.
  - (iii) The purchase price exceeds \$5 million.

(SEA 152, §6, amending IC 36-7-14 to add a new section 19.5. Effective July 1, 2017.)

**ADDITIONAL INFORMATION TO BE INCLUDED IN REDEVELOPMENT COMMISSION  
REPORT DUE BY APRIL 15 OF EACH YEAR**

The report that each Redevelopment Commission must file each year with the unit's executive and fiscal body will be required to include (with respect to the previous year), among other required information, a list of the depreciable personal property of any "designated taxpayer" for each TIF allocation area that is capturing assessed value from depreciable personal property, as well as the base assessed value and incremental assessed value of such depreciable personal property.

(HEA 1450, amending IC 36-7-14-13. Effective July 1, 2017.)

Note: These materials are intended for information only and are not to be considered legal advice.

**IC 36-7-14**

**Chapter 14. Redevelopment of Areas Needing Redevelopment Generally; Redevelopment Commissions**

**IC 36-7-14-0.5**

**Obligation and public funds**

Sec. 0.5. (a) The definitions in this section apply throughout this chapter.

(b) "Obligation" means any bond, note, warrant, lease, or other instrument under which money is borrowed.

(c) "Public funds" means all fees, payments, tax receipts, and funds of whatever kind or character coming into the possession of a:

- (1) redevelopment commission; or
- (2) department of redevelopment.

*As added by P.L.149-2014, SEC.1.*

**IC 36-7-14-1**

**Application of chapter; jurisdiction in excluded cities that elect to be governed by this chapter**

Sec. 1. (a) This chapter applies to all units except:

- (1) counties having a consolidated city, and units in those counties, except those units described in subsection (b); and
- (2) townships.

(b) This chapter applies to an excluded city (as defined in IC 36-3-1-7) that adopts an ordinance electing to be governed by this chapter and establishes a redevelopment commission under section 3 of this chapter. Upon the adoption of an ordinance under this subsection:

- (1) an area needing redevelopment;
- (2) an economic development area; or
- (3) an allocation area previously established under IC 36-7-15.1-37 through IC 36-7-15.1-58;

continues in full force and effect as if the area had been created under this chapter.

(c) An:

- (1) area needing redevelopment;
- (2) economic development area; or
- (3) allocation area previously established under IC 36-7-15.1-37 through IC 36-7-15.1-58;

described in subsection (b) is subject to the jurisdiction of the redevelopment commission established under section 3 of this chapter and is not subject to the jurisdiction of the commission (as defined in IC 36-7-15.1-37).

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.82; P.L.190-2005, SEC.5; P.L.1-2006, SEC.564.*

**IC 36-7-14-1.3**

**Effect of change of reference from "blighted, deteriorated, or deteriorating area" to "area needing redevelopment"**

Sec. 1.3. (a) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a blighted, deteriorated, or deteriorating area established under this chapter shall be treated as a reference to an area needing redevelopment (as defined in IC 36-7-1-3).

(b) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a redevelopment area established under this chapter shall be treated as a reference to a redevelopment project area established under this chapter or IC 36-7-15.1.

*As added by P.L.20-2010, SEC.9.*

**IC 36-7-14-1.5**

**Applicability of chapter to fire protection districts**

Sec. 1.5. Notwithstanding any other law, for:

- (1) areas needing redevelopment;
- (2) redevelopment project areas;
- (3) urban renewal project areas; or
- (4) economic development areas;

established after January 1, 1992, this chapter does not apply to fire protection districts established under IC 36-8-11.

*As added by P.L.63-1991, SEC.2. Amended by P.L.185-2005, SEC.7.*

### **IC 36-7-14-2**

#### **Declaration of public purpose; opportunities for redevelopment by private enterprise**

Sec. 2. (a) The clearance, replanning, and redevelopment of areas needing redevelopment under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(b) Each unit shall, to the extent feasible under this chapter and consistent with the needs of the unit as a whole, afford a maximum opportunity for rehabilitation or redevelopment of areas by private enterprise. *As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.8.*

### **IC 36-7-14-2.5**

#### **Economic development areas; public functions, uses, and purposes; approvals; liberal construction**

Sec. 2.5. (a) The assessment, planning, replanning, remediation, development, and redevelopment of economic development areas: (1) are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

(A) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and

(B) the costs of these projects; (2) will:

(A) benefit the public health, safety, morals, and welfare; (B) increase the economic well-being of the unit and the state; and

(C) serve to protect and increase property values in the unit and the state; and

(3) are public uses and purposes for which public money may be spent and private property may be acquired.

(b) This section and sections 41 and 43 of this chapter shall be liberally construed to carry out the purposes of this section.

(c) Except as provided in subsection (d), a redevelopment commission may not enter into any obligation payable from public funds without first obtaining the approval, by ordinance or resolution, of the legislative body of the unit.

(d) A redevelopment commission is not required to obtain the approval of the legislative body of the unit under this section if:

(1) the obligation is for the acquisition of real property under this chapter; and

(2) the agreement to acquire the real property requires the redevelopment commission to:

(A) make payments for the real property to be acquired for a term of three (3) years or less; or

(B) purchase the real property for a cost of less than five million dollars (\$5,000,000).

A redevelopment commission may not enter into an obligation payable from public funds, other than an obligation described in this subsection, unless the redevelopment commission first obtains the approval of the legislative body of the unit as provided in subsection (c).

(e) The approving ordinance or resolution of a legislative body under subsection (c) must include the following:

(1) The maximum amount of the obligation.

(2) The maximum interest rate or rates, any provisions for redemption before maturity, and any provisions for the payment of capitalized interest associated with the obligation.

(3) The maximum term of the obligation.

*As added by P.L.380-1987(ss), SEC.8; P.L.393-1987(ss), SEC.2. Amended by P.L.192-1988, SEC.1; P.L.221-2007, SEC.30; P.L.149-2014, SEC.2.*

### **IC 36-7-14-3**

#### **Redevelopment departments and commissions; creation; taxing districts; oversight**

Sec. 3. (a) A unit may establish a department of redevelopment controlled by a board of five (5) members to be known as

“\_Redevelopment Commission”, designating the name of the municipality or county. However, in the case of a county, the county executive may adopt an ordinance providing that the county redevelopment commission consists of seven (7) members.

(b) A redevelopment commission and a department of redevelopment are subject to oversight by the legislative body of the unit, including a review by the legislative body of the commission’s and department’s annual budget. A redevelopment commission and a department of redevelopment are:

(1) subject to audit by the state board of accounts under

IC 5-11;

(2) covered by IC 5-14-1.5 (the public meetings law); and

(3) covered by IC 5-14-3 (the public records law).

(c) Subject to section 3.5 of this chapter, all of the territory within the corporate boundaries of a municipality constitutes a taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in this chapter. Subject to section 3.5 of this chapter, all of the territory



in a county, except that within a municipality that has a redevelopment commission, constitutes a taxing district for a county.

(d) All of the taxable property within a taxing district is considered to be benefited by redevelopment projects carried out under this chapter to the extent of the special taxes levied under this chapter. *As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.35-1990, SEC.51; P.L.190-2005, SEC.6; P.L.149-2014, SEC.3.*

### **IC 36-7-14-3.1**

#### **Electronic meetings**

Sec. 3.1. The commission may conduct meetings electronically as provided in IC 36-7-14.5-9.5.

*As added by P.L.55-2016, SEC.1.*

### **IC 36-7-14-3.5**

#### **Annexation of area in county; redevelopment districts; property tax proceeds; outstanding obligations; special tax**

Sec. 3.5. (a) This section applies whenever:

- (1) a municipality with a redevelopment district is annexing an area in a county; or
- (2) a municipality establishes a redevelopment district;

after the county in which the municipality is located has established a redevelopment district.

(b) This subsection applies whenever:

- (1) the area to be annexed or to be included in the municipality's district includes all or part of an allocation area established by a county redevelopment commission for purposes of section 39 of this chapter; and
- (2) bonds or lease obligations are outstanding that are payable by the county redevelopment commission in whole or in part from property tax proceeds allocated from the allocation area under section 39 of this chapter.

The county redevelopment commission shall continue to receive allocations of property tax proceeds from the area annexed or included in the municipality's district for the commission's allocation fund as if the annexation or establishment of the district had not occurred as long as any bonds or lease obligations payable by the county from allocated property tax proceeds are outstanding. After the final effectiveness of the annexation or the establishment of the municipality's district, the county redevelopment commission may not issue bonds or enter into leases that are payable from allocated property tax proceeds from the part of the allocation area annexed or included unless the legislative body of the municipality adopts an ordinance approving the issuance and this use of allocated property tax proceeds from that part of the allocation area.

(c) This subsection applies whenever bonds or lease obligations are outstanding that are payable by the county redevelopment commission in whole or in part from the special tax levied under section 27 of this chapter. The county redevelopment commission shall continue to levy a special tax on property in the area annexed or included in the municipality's district as long as any bonds or lease obligations payable by the county are outstanding. After the final effectiveness of the annexation or the establishment of the municipality's district, the county redevelopment commission may not levy the special tax for new bonds or lease obligations in the annexed or included area unless the legislative body of the municipality adopts an ordinance approving the levy.

*As added by P.L.35-1990, SEC.52.*

### **IC 36-7-14-3.7**

#### **Transfer of control and jurisdiction over certain development areas; requirements**

Sec. 3.7. (a) As used in this section, "development area" means a redevelopment project area, economic development area, or urban renewal project area established under this chapter.

(b) The jurisdiction and control over a development area established by the redevelopment commission of a first municipality may be transferred from that redevelopment commission to the redevelopment commission of a second, adjacent municipality if:

- (1) the owners of one hundred percent (100%) of the real property in the development area consent to the transfer;
- (2) the fiscal body of the first municipality and the fiscal body of the second, adjacent municipality:
  - (A) adopt or have adopted:
    - (i) substantially similar ordinances; or
    - (ii) an interlocal agreement;

consenting to the transfer of the jurisdiction and control over the development area; and (B) agree or have agreed to transfer the geographic territory comprising the development area from the first municipality to the second, adjacent municipality through disannexation, interlocal agreement, or any other legal means;

- (3) no tax increment from an allocation area within the development area has been pledged for the payment of bonds or the payment of lease rentals; and
- (4) either the first municipality or the second, adjacent municipality has before the date of the transfer completed a reorganization under IC 36-1.5.

(c) If the requirements of subsection (b) are satisfied:

- (1) the jurisdiction and control over the development area is transferred without any other action required from the fiscal bodies, the redevelopment commissions, or the plan commissions of the municipalities or from any other state or local entity;
- (2) the development area is thereafter part of the territory that is under the jurisdiction and control of the redevelopment commission of the second, adjacent municipality;
- (3) the development area or the redevelopment plan may be altered or amended by the second, adjacent municipality and the redevelopment commission of the second, adjacent municipality as otherwise provided in this chapter; and
- (4) any property taxes collected within the development area that were payable to the first municipality, to any taxing district of the first municipality, or to the redevelopment commission of the first municipality shall after the transfer be payable to the second, adjacent municipality, to the taxing districts of the second, adjacent municipality, or to the redevelopment commission of the second, adjacent municipality, as appropriate.

(d) If, before January 1, 2013, the redevelopment commission of the first municipality has entered into an agreement to reimburse a person or political subdivision for infrastructure improvements from tax increments from an allocation area within the development area, the obligation to make the reimbursement is transferred to the redevelopment commission of the second, adjacent municipality upon the effective date of the transfer of the jurisdiction and control over the development area.

(e) The authority to transfer the jurisdiction and control over a development area as provided in this section expires December 31, 2013.

*As added by P.L.255-2013, SEC.15.*

#### **IC 36-7-14-6.1**

##### **Commissioners; appointment; nonvoting adviser**

Sec. 6.1. (a) The five (5) commissioners for a municipal redevelopment commission shall be appointed as follows:

- (1) Three (3) shall be appointed by the municipal executive.
- (2) Two (2) shall be appointed by the municipal legislative body.

The municipal executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(b) The commissioners for a county redevelopment commission that has five (5) members shall be appointed as follows:

- (1) The county executive shall appoint all the members whose terms of office begin before January 1, 2008.
- (2) For terms of office beginning after December 31, 2007, the county executive shall appoint three (3) members, and the county fiscal body shall appoint two (2) members.

The county executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(c) The commissioners for a county redevelopment commission that has seven (7) members shall be appointed as follows:

- (1) The county executive shall appoint all the members whose terms of office begin before January 1, 2008.
- (2) For terms of office beginning after December 31, 2007, the county executive shall appoint four (4) members, and the county fiscal body shall appoint three (3) members.

The county executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(d) A nonvoting adviser appointed under this section:

- (1) must also be a member of the school board of a school corporation that includes all or part of the territory served by the redevelopment commission or an individual recommended by the school board to the entity that appoints the nonvoting adviser;
- (2) is not considered a member of the redevelopment commission for purposes of this chapter but is entitled to attend and participate in the proceedings of all meetings of the redevelopment commission;
- (3) is not entitled to a salary, per diem, or reimbursement of expenses;

(4) serves for a term of two (2) years and until a successor is appointed; and

(5) serves at the pleasure of the entity that appointed the nonvoting adviser.

*As added by Acts 1981, P.L.310, SEC.83. Amended by P.L.190-2005, SEC.7; P.L.146-2008, SEC.723; P.L.55-2016, SEC.2.*

#### **IC 36-7-14-7**

##### **Commissioners; terms of office; vacancies; oaths; bonds; qualifications; reimbursement for expenses; compensation**

Sec. 7. (a) Each redevelopment commissioner shall serve for one (1) year from the first day of January after his appointment and until his successor is appointed and has qualified, except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the vacated term.

(b) Each redevelopment commissioner, before beginning his duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of his appointment, which shall be promptly filed with the clerk for the unit that he serves.

(c) Each redevelopment commissioner, before beginning his duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be in the penal sum of fifteen thousand dollars (\$15,000) and must be conditioned on the faithful performance of the duties of his office and the accounting for all monies and property that may come into his hands or under his control. The cost of the bond shall be paid by the special taxing district.

(d) A redevelopment commissioner must be at least eighteen (18) years of age, and must be a resident of the unit that he serves.

(e) If a commissioner ceases to be qualified under this section, he forfeits his office.

(f) Except as provided in subsection (g), redevelopment commissioners are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(g) A redevelopment commissioner who does not otherwise hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive:

(1) a salary; or

(2) a per diem;

and is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.84; P.L.10-1997, SEC.35; P.L.2-1998, SEC.84.*

#### **IC 36-7-14-8 Version b**

##### **Meetings; officers; rules; quorum; treasurer disbursements before commission approval; accounting for redevelopment commission funds; short term borrowing by unit**

*Note: This version of section effective 1-1-2017.*

Sec. 8. (a) The redevelopment commissioners shall hold a meeting for the purpose of organization not later than thirty (30) days after they are appointed and, after that, each year on a day that is not a Saturday, a Sunday, or a legal holiday and that is their first meeting day of the year. They shall choose one (1) of their members as president, another as vice president, and another as secretary. These officers shall perform the duties usually pertaining to their offices and shall serve from the date of their election until their successors are elected and qualified.

(b) The fiscal officer of the unit establishing a redevelopment commission is the treasurer of the redevelopment commission. Notwithstanding any other provision of this chapter, but subject to subsection (c), the treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the redevelopment commission in accordance with the requirements of state laws that apply to other funds and accounts administered by the fiscal officer. The treasurer shall report annually to the redevelopment commission before April 1.

(c) The treasurer of the redevelopment commission may disburse funds of the redevelopment commission only after the redevelopment commission allows and approves the disbursement. However, the redevelopment commission may, by rule or resolution, authorize the treasurer to make certain types of disbursements before the redevelopment commission's allowance and approval at its next regular meeting.

(d) The following apply to funds of the redevelopment commission:

(1) The funds must be accounted for separately by the unit establishing the redevelopment commission and the daily balance of the funds must be maintained in a separate ledger statement.

(2) Except as provided in subsection (e), all funds designated as redevelopment commission funds must be accessible to the redevelopment commission at any time.

(3) The amount of the daily balance of redevelopment commission funds may not be below zero (0) at any time.

(4) The funds may not be maintained or used in a manner that is intended to avoid the waiver procedures and requirements for a unit and the redevelopment commission under subsection (e).

(e) If the fiscal body of a unit determines that it is necessary to engage in short term borrowing until the next tax collection period, the fiscal body of the unit may request approval from the redevelopment commission to waive the requirement in subsection (d)(2). In order to waive the requirement under subsection (d)(2), the fiscal body of the unit and the redevelopment commission must adopt similar resolutions that set forth:

- (1) the amount of the funds designated as redevelopment commission funds that are no longer accessible to the redevelopment commission under the waiver; and
- (2) an expiration date for the waiver.

If a loan is made to a unit from funds designated as redevelopment funds, the loan must be repaid by the unit and the funds made accessible to the redevelopment commission not later than the end of the calendar year in which the funds are received by the unit.

(f) Subsections (d) and (e) do not restrict transfers or uses by a redevelopment commission made to meet commitments under a written agreement of the redevelopment commission that was entered into before January 1, 2016, if the written agreement complied with the requirements existing under the law at the time the redevelopment commission entered into the written agreement.

(g) The redevelopment commissioners may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the money and property placed in their custody by this chapter. In addition to the annual meeting, the commissioners may, by resolution or in accordance with their rules and bylaws, prescribe the date and manner of notice of other regular or special meetings.

(h) This subsection does not apply to a county redevelopment commission that consists of seven (7) members. Three (3) of the redevelopment commissioners constitute a quorum, and the concurrence of three (3) commissioners is necessary to authorize any action.

(i) This subsection applies only to a county redevelopment commission that consists of seven (7) members. Four (4) of the redevelopment commissioners constitute a quorum, and the concurrence of four (4) commissioners is necessary to authorize any action.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.192-1988, SEC.4; P.L.41-1992, SEC.4; P.L.18-1992, SEC.24; P.L.190-2005, SEC.8; P.L.149-2014, SEC.4; P.L.87-2015, SEC.1; P.L.204-2016, SEC.32.*

#### **IC 36-7-14-9**

##### **Commissioners; removal from office**

Sec. 9. (a) The municipal executive or municipal legislative body that appointed a municipal redevelopment commissioner may summarily remove that commissioner from office at any time.

(b) The county executive may summarily remove a county redevelopment commissioner from office at any time.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.85.*

#### **IC 36-7-14-10**

##### **Commissioners and nonvoting advisers; pecuniary interests in property and transactions**

Sec. 10. (a) A redevelopment commissioner or a nonvoting adviser appointed under section 6.1 of this chapter may not have a pecuniary interest in any contract, employment, purchase, or sale made under this chapter. However, any property required for redevelopment purposes in which a commissioner or nonvoting adviser has a pecuniary interest may be acquired, but only by gift or condemnation.

(b) A transaction made in violation of this section is void.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.86; P.L.146-2008, SEC.724.*

#### **IC 36-7-14-11**

##### **Duties of commission**

Sec. 11. The redevelopment commission shall:

- (1) investigate, study, and survey areas needing redevelopment within the corporate boundaries of the unit;
- (2) investigate, study, determine, and, to the extent possible, combat the causes of areas needing redevelopment;
- (3) promote the use of land in the manner that best serves the interests of the unit and its inhabitants;
- (4) cooperate:
  - (A) with the departments and agencies of: (i) the unit; and (ii) other governmental entities; and
  - (B) with:
    - (i) public instrumentalities; and
    - (ii) public corporate bodies;

- created by state law;
- in the manner that best serves the purposes of this chapter;
- (5) make findings and reports on their activities under this section, and keep those reports open to inspection by the public at the offices of the department;
- (6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and
- (7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the unit and its inhabitants.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.9; P.L.221-2007, SEC.31.*

### **IC 36-7-14-12.2**

#### **Powers of commission**

Sec. 12.2. (a) The redevelopment commission may do the following:

- (1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit.
- (2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the unit and its inhabitants.
- (3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.
- (4) Clear real property acquired for redevelopment purposes. (5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:
  - (A) Hazardous substances. (B) Petroleum.
  - (C) Other pollutants.
- (6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:
  - (A) Hazardous substances. (B) Petroleum.
  - (C) Other pollutants.
- (7) Repair and maintain structures acquired for redevelopment purposes.
- (8) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.
- (9) Survey or examine any land to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes and to determine the value of that land.
- (10) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:
  - (A) real property acquired or being acquired for redevelopment purposes; or
  - (B) any area needing redevelopment within the jurisdiction of the commissioners.
- (11) Institute or defend in the name of the unit any civil action. (12) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the department of redevelopment.
- (13) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.
- (14) Appoint clerks, guards, laborers, and other employees the commission considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.
- (15) Prescribe the duties and regulate the compensation of employees of the department of redevelopment.
- (16) Provide a pension and retirement system for employees of the department of redevelopment by using the Indiana public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development. (17) Discharge and appoint successors to employees of the department of redevelopment subject to subdivision (14).
- (18) Rent offices for use of the department of redevelopment, or accept the use of offices furnished by the unit.
- (19) Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies.
- (20) Expend, on behalf of the special taxing district, all or any part of the money of the special taxing district.

- (21) Contract for the construction of:
- (A) local public improvements (as defined in IC 36-7-14.5-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the corporate boundaries of the unit; or
  - (B) any structure that enhances development or economic development.
- (22) Contract for the construction, extension, or improvement of pedestrian skyways.
- (23) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.
- (24) Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units in a multiple unit residential structure within the district. However, financial assistance may be provided only to individuals and families whose income is at or below the unit's median income for individuals and families, respectively.
- (25) Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:
- (A) provide financial assistance for the purposes described in subdivision (24); or
  - (B) construct, rehabilitate, or repair commercial property within the district.
- (26) Require as a condition of financial assistance to the owner of a multiple unit residential structure that any of the units leased by the owner must be leased:
- (A) for a period to be determined by the commission, which may not be less than five (5) years;
  - (B) to families whose income does not exceed eighty percent (80%) of the unit's median income for families; and
  - (C) at an affordable rate.
- (27) This subdivision does not apply to a redevelopment commission in a county for which the total amount of net property taxes allocated to all allocation areas or other tax increment financing areas established by a redevelopment commission, military base reuse authority, military base development authority, or another similar entity in the county in the preceding calendar year exceeded nineteen percent (19%) of the total net property taxes billed in the county in the preceding calendar year. Subject to prior approval by the fiscal body of the unit that established the redevelopment commission, expend money and provide financial assistance (including grants and loans):
- (A) in direct support of:
    - (i) an active military base located within the unit; or
    - (ii) an entity located in the territory or facilities of a military base or former military base within the unit that is scheduled for closing or is completely or partially inactive or closed, or an entity that is located in any territory or facilities of the United States Department of Defense within the unit that are scheduled for closing or are completely or partially inactive or closed; including direct support for the promotion of the active military base or entity, the growth of the active military base or entity, and activities at the active military base or entity; and
  - (B) in support of any other entity that provides services or direct support to an active military base or entity described in clause (A).

The fiscal body of the unit that established the redevelopment commission must separately approve each grant, loan, or other expenditure for financial assistance under this subdivision. The terms of any loan that is made under this subdivision may be changed only if the change is approved by the fiscal body of the unit that established the redevelopment commission. As used in this subdivision, "active military base" has the meaning set forth in IC 36-1-4-20.

(b) Conditions imposed by the commission under subsection (a)(26) remain in force throughout the period determined under subsection (a)(26)(A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(c) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(d) All powers that may be exercised under this chapter by the redevelopment commission may also be exercised by the redevelopment commission in carrying out its duties and purposes under IC 36-7-14.5. However, if a power pertains to issuing bonds or incurring an obligation, the exercise of the power must first be specifically approved by the fiscal or legislative body of the unit, whichever applies.

(e) A commission may not exercise the power of eminent domain. *As added by P.L.1-1990, SEC.363. Amended by P.L.35-1990, SEC.53; P.L.185-2005, SEC.10; P.L.221-2007, SEC.32; P.L.149-2014, SEC.5; P.L.95-2014, SEC.2.*

**IC 36-7-14-12.4**

**Ownership prohibition regarding single family dwellings**

Sec. 12.4. Notwithstanding any other provision in this chapter, after June 30, 2014: (1) a redevelopment commission;

(2) a department of redevelopment; or

(3) any other entity:

(A) established by the commission or department; or

(B) controlled by the commission or a member of the commission regardless of any pecuniary interest the member may have;

may not own, lease, or otherwise hold a single family dwelling or condominium unit for purposes of leasing for the use by individuals as a dwelling. In addition, an arrangement or agreement that is contrary to this section may not be extended beyond the term of the arrangement or agreement as in effect on June 30, 2014. However, a commission, department, or entity covered by this section may own property in the capacity of a land bank for a unit.

*As added by P.L.149-2014, SEC.7.*

**IC 36-7-14-13\***

**Annual reports; contents; subject to laws of general nature**

Sec. 13. (a) Not later than April 15 of each year, the redevelopment commissioners or their designees shall file with the unit's executive and fiscal body a report setting out their activities during the preceding calendar year.

(b) The report of the commissioners of a municipal redevelopment commission must show the names of the then qualified and acting commissioners, the names of the officers of that body, the number of regular employees and their fixed salaries or compensation, the amount of the expenditures made during the preceding year and their general purpose, an accounting of the tax increment revenues expended by any entity receiving the tax increment revenues as a grant or loan from the commission, the amount of funds on hand at the close of the calendar year, and other information necessary to disclose the activities of the commissioners and the results obtained. (c) The report of the commissioners of a county redevelopment commission must show all the information required by subsection (b), plus the names of any commissioners appointed to or removed from office during the preceding calendar year.

(d) A copy of each report filed under this section must be submitted to the department of local government finance in an electronic format.

(e) The report required under subsection (a) must also include the following information set forth for each tax increment financing district regarding the previous year:

(1) Revenues received.

(2) Expenses paid.

(3) Fund balances.

(4) The amount and maturity date for all outstanding obligations.

(5) The amount paid on outstanding obligations.

(6) A list of all the parcels included in each tax increment financing district allocation area and the base assessed value and incremental assessed value for each parcel in the list.

(7) To the extent that the following information has not previously been provided to the department of local government finance:

(A) The year in which the tax increment financing district was established.

(B) The section of the IC under which the tax increment financing district was established.

(C) Whether the tax increment financing district is part of an area needing redevelopment, an economic development area, a redevelopment project area, or an urban renewal project area.

(D) If applicable, the year in which the boundaries of the tax increment financing district were changed and a description of those changes.

(E) The date on which the tax increment financing district will expire.

(F) A copy of each resolution adopted by the redevelopment commission that establishes or alters the tax increment financing district.

(f) A redevelopment commission and a department of redevelopment are subject to the same laws, rules, and ordinances of a general nature that apply to all other commissions or departments of the unit.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.88; P.L.112-2012, SEC.54; P.L.105-2013, SEC.4; P.L.218-2013, SEC.15; P.L.149-2014, SEC.8; P.L.5-2015, SEC.67; P.L.87-2015, SEC.2; P.L.204-2016, SEC.33.*

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\*See 2017 legislative change at beginning of this Appendix D.

**IC 36-7-14-14****Contracts to perform powers and duties**

Sec. 14. (a) A county may contract with a city within the county to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the city.

(b) A city may contract with the county in which it is located to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the county.

(c) A city or county may contract with:

- (1) a public instrumentality; or
- (2) a public corporate body;

created by state law to have the powers listed in section 12.2(a)(4) through 12.2(a)(7) of this chapter performed by the public instrumentality or public corporate body.

(d) A contract made under this section must be for a stated and limited period and may be renewed.

(e) Whenever a city official acts under a contract made under this section, or whenever permits or other writings are used under such a contract, the action or use must be in the name of the county redevelopment commission.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.3-1989, SEC.229; P.L.1-1990, SEC.364; P.L.221-2007, SEC.34.*

**IC 36-7-14-15****Data concerning areas in need of redevelopment; declaratory resolution; amendment to resolution or plan; approval**

Sec. 15. (a) Whenever the redevelopment commission finds that:

- (1) an area in the territory under its jurisdiction is an area needing redevelopment;
- (2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or the ordinary operations of private enterprise without resort to this chapter;
- (3) the public health and welfare will be benefited by:
  - (A) the acquisition and redevelopment of the area under this chapter as a redevelopment project area; or
  - (B) the amendment of the resolution or plan, or both, for an existing redevelopment project area; and
- (4) in the case of an amendment to the resolution or plan for an existing redevelopment project area:
  - (A) the amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter; and
  - (B) the resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit;

the commission shall cause to be prepared the data described in subsection (b).

(b) After making a finding under subsection (a), the commission shall cause to be prepared:

- (1) maps and plats showing:
  - (A) the boundaries of the area in which property would be acquired for, or otherwise affected by, the establishment of a redevelopment project area; or the amendment of the resolution or plan for an existing area;
  - (B) the location of the various parcels of property, streets, alleys, and other features affecting the acquisition, clearance, remediation, replatting, replanning, rezoning, or redevelopment of the area, indicating any parcels of property to be excluded from the acquisition or otherwise excluded from the effects of the establishment of the redevelopment project area; or the amendment of the resolution or plan for an existing area; and
  - (C) the parts of the area acquired, if any, that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes under the redevelopment plan;
- (2) lists of the owners of the various parcels of property proposed to be acquired for, or otherwise affected by, the establishment of an area or the amendment of the resolution or plan for an existing area; and
- (3) an estimate of the costs, if any, to be incurred for the acquisition and redevelopment of property.

(c) This subsection applies to the initial establishment of a redevelopment project area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

- (1) the area needing redevelopment is a menace to the social and economic interest of the unit and its inhabitants;
- (2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and
- (3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, and that the department of redevelopment proposes to acquire all of the interests in the land within the boundaries, with certain designated exceptions, if there are any.



(d) This subsection applies to the amendment of the resolution or plan for an existing redevelopment project area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

- (1) it will be of public utility and benefit to amend the resolution or plan for the area; and
- (2) any additional area to be acquired under the amendment is designated as part of the existing redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, including any changes made to those boundaries by the amendment, and describe the activities that the department of redevelopment is permitted to take under the amendment, with any designated exceptions. The resolution and all supporting information shall be submitted to the legislative body of the unit establishing the redevelopment commission for approval. The legislative body must approve the additional area as part of the redevelopment project area for purposes of this chapter.

(e) For the purpose of adopting a resolution under subsection (c), or (d), it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commissioners. Property excepted from the application of a resolution may be described by street numbers or location.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.35-1990, SEC.55; P.L.185-2005, SEC.11; P.L.221-2007, SEC.35; P.L.146-2008, SEC.725; P.L.172-2011, SEC.147; P.L.149-2014, SEC.9.*

### **IC 36-7-14-15.5**

#### **Redevelopment project areas in certain counties; inclusion of additional areas outside boundaries**

Sec. 15.5. (a) This section applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) In adopting a declaratory resolution under section 15 of this chapter, a redevelopment commission may include a provision stating that the redevelopment project area is considered to include one (1) or more additional areas outside the boundaries of the redevelopment project area if the redevelopment commission makes the following findings and the requirements of subsection (c) are met:

- (1) One (1) or more taxpayers presently located within the boundaries of the redevelopment project area are expected within one (1) year to relocate all or part of their operations outside the boundaries of the redevelopment project area and have expressed an interest in relocating all or part of their operations within the boundaries of an additional area.
- (2) The relocation described in subdivision (1) will contribute to the continuation of the conditions described in IC 36-7-1-3 in the redevelopment project area.
- (3) For purposes of this section, it will be of public utility and benefit to include the additional areas as part of the redevelopment project area.

(c) Each additional area must be designated by the redevelopment commission as a redevelopment project area or an economic development area under this chapter.

(d) Notwithstanding section 3 of this chapter, the additional areas shall be considered to be a part of the redevelopment special taxing district under the jurisdiction of the redevelopment commission. Any excess property taxes that the commission has determined may be paid to taxing units under section 39(b)(4) of this chapter shall be paid to the taxing units from which the excess property taxes were derived. All powers of the redevelopment commission authorized under this chapter may be exercised by the redevelopment commission in additional areas under its jurisdiction.

(e) The declaratory resolution must include a statement of the general boundaries of each additional area. However, it is sufficient to describe those boundaries by location in relation to public ways, streams, or otherwise, as determined by the commissioners.

(f) The declaratory resolution may include a provision with respect to the allocation and distribution of property taxes with respect to one (1) or more of the additional areas in the manner provided in section 39 of this chapter. If the redevelopment commission includes such a provision in the resolution, allocation areas in the redevelopment project area and in the additional areas considered to be part of the redevelopment project area shall be considered a single allocation area for purposes of this chapter.

(g) The additional areas must be located within the same county as the redevelopment project area but are not otherwise required to be within the jurisdiction of the redevelopment commission, if the redevelopment commission obtains the consent by ordinance of:

- (1) the county legislative body, for each additional area located within the unincorporated part of the county; or
- (2) the legislative body of the city or town affected, for each additional area located within a city or town.

In granting its consent, the legislative body shall approve the plan of development or redevelopment relating to the additional area.

(h) A declaratory resolution previously adopted may be amended to include a provision to include additional areas as set forth in this section and an allocation provision under section 39 of this chapter with respect to one (1) or more of the additional areas in accordance with sections 15, 16, and 17 of this chapter.

(i) The redevelopment commission may amend the allocation provision of a declaratory resolution in accordance with sections 15,

16, and 17 of this chapter to change the assessment date that determines the base assessed value of property in the allocation area to any assessment date following the effective date of the allocation provision of the declaratory resolution. Such a change may relate to the assessment date that determines the base assessed value of that portion of the allocation area that is located in the redevelopment project area alone, that portion of the allocation area that is located in an additional area alone, or the entire allocation area.

*As added by P.L.170-1990, SEC.1. Amended by P.L.12-1992, SEC.169; P.L.185-2005, SEC.12; P.L.146-2008, SEC.726; P.L.203-2011, SEC.5; P.L.119-2012, SEC.206.*

### **IC 36-7-14-16**

#### **Approval of resolutions and plans by unit**

Sec. 16. (a) This subsection does not apply to the redevelopment commission of an excluded city described in section 1(b) of this chapter. After adoption under section 15 of this chapter of a resolution that designates a redevelopment project area or amends the resolution or plan for an existing area, the redevelopment commission shall submit the resolution and supporting data to the plan commission of the unit, or if there is no plan commission, then to the body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the redevelopment plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The redevelopment commission may amend or modify the resolution and proposed plan in order to conform them to the requirements of the plan commission. The plan commission shall issue its written order approving or disapproving the resolution and redevelopment plan, and may, with the consent of the redevelopment commission, rescind or modify that order.

(b) This subsection does not apply to the redevelopment commission of an excluded city described in section 1(b) of this chapter. The redevelopment commission may not proceed with:

- (1) the acquisition of a redevelopment project area; or
- (2) the implementation of an amendment to the resolution or plan for an existing redevelopment project area;

until the approving order of the plan commission is issued and approved by the municipal legislative body or county executive.

(c) In determining the location and extent of a redevelopment project area proposed to be acquired for redevelopment, the redevelopment commission and the plan commission of the unit shall give consideration to transitional and permanent provisions for adequate housing for the residents of the area who will be displaced by the redevelopment project.

(d) After adoption under section 15 of this chapter of a resolution that designates a redevelopment project area or amends the resolution or plan for an existing area, a redevelopment commission in an excluded city that is exempt from the requirements of subsections (a) and (b) shall submit the resolution and supporting data to the municipal legislative body of the excluded city. The municipal legislative body may:

- (1) determine if the resolution and the redevelopment plan conform to the plan of development for the unit; and
- (2) approve or disapprove the resolution and plan proposed.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.190-2005, SEC.9; P.L.185-2005, SEC.13; P.L.1-2006, SEC.565; P.L.146-2008, SEC.727.*

### **IC 36-7-14-17**

#### **Notice and hearing**

Sec. 17. (a) After receipt of the written order of approval of the plan commission and approval of the municipal legislative body or county executive, the redevelopment commission shall publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1. The notice must:

- (1) state that maps and plats have been prepared and can be inspected at the office of the department; and
- (2) name a date when the commission will:
  - (A) receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed project or other actions to be taken under the resolution; and
  - (B) determine the public utility and benefit of the proposed project or other actions.

All persons affected in any manner by the hearing, including all taxpayers of the special taxing district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the commission by the notice given under this section.

(b) A copy of the notice of the hearing on the resolution shall be filed in the office of the unit's plan commission, board of zoning appeals, works board, park board, and building commissioner, and any other departments, bodies, or officers of the unit having to do with unit planning, variances from zoning ordinances, land use, or the issuance of building permits. These agencies and officers shall take notice of the pendency of the hearing and, until the commission confirms, modifies and confirms, or rescinds the resolution, or the confirmation of the resolution is set aside on appeal, may not:

- (1) authorize any construction on property or sewers in the area described in the resolution, including substantial modifications, rebuilding, conversion, enlargement, additions, and major structural improvements; or
- (2) take any action regarding the zoning or rezoning of property, or the opening, closing, or improvement of streets, alleys, or boulevards in the area described in the resolution.

This subsection does not prohibit the granting of permits for ordinary maintenance or minor remodeling, or for changes necessary for the continued occupancy of buildings in the area.

(c) If the resolution to be considered at the hearing includes a provision establishing or amending an allocation provision under section 39 of this chapter, the redevelopment commission shall file the following information with each taxing unit that is wholly or partly located within the allocation area:

- (1) A copy of the notice required by subsection (a).
- (2) A statement disclosing the impact of the allocation area, including the following:
  - (A) The estimated economic benefits and costs incurred by the allocation area, as measured by increased employment and anticipated growth of real property assessed values.
  - (B) The anticipated impact on tax revenues of each taxing unit.

The redevelopment commission shall file the information required by this subsection with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the hearing.

(d) At the hearing, which may be adjourned from time to time, the redevelopment commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the commission shall take final action determining the public utility and benefit of the proposed project or other actions to be taken under the resolution, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the commission shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 18 of this chapter.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.45, SEC.29; P.L.38-1988, SEC.8; P.L.18-1992, SEC.25; P.L.25-1995, SEC.83; P.L.146-2008, SEC.728.*

### **IC 36-7-14-17.5**

#### **Notice and hearing; amendment of resolution or plan; procedure**

Sec. 17.5. (a) In addition to the requirements of section 17 of this chapter, if the resolution or plan for an existing redevelopment project area is proposed to be amended in a way that changes:

- (1) parts of the area that are to be devoted to a public way, levee, sewerage, park, playground, or other public purposes;
- (2) the proposed use of the land in the area; or
- (3) requirements for rehabilitation, building requirements, proposed zoning, maximum densities, or similar requirements;

the commission must, at least ten (10) days before the public hearing under section 17 of this chapter, send the notice required by section

17 of this chapter by first class mail to affected neighborhood associations.

(b) In addition to the requirements of section 17 of this chapter, if the resolution or plan for an existing redevelopment project area is proposed to be amended in a way that:

- (1) enlarges the boundaries of the area; or
- (2) adds one (1) or more parcels to the list of parcels to be acquired;

the commission must, at least ten (10) days before the public hearing under section 17 of this chapter, send the notice required by section

17 of this chapter by first class mail to affected neighborhood associations and to persons owning property that is in the proposed enlargement of the area or that is proposed to be added to the acquisition list. If the enlargement of an area is proposed, notice must also be filed in accordance with section 17(b) of this chapter, and agencies and officers may not take actions prohibited by section 17(b) of this chapter in the proposed enlarged area.

(c) The commission may require that neighborhood associations register with the commission. The commission may adopt a rule that requires that a neighborhood association encompass a part of the geographic area included in or proposed to be included in a redevelopment project area, urban renewal area, or economic development area to qualify as an affected neighborhood association. *As added by P.L.114-1989, SEC.4. Amended by P.L.185-2005, SEC.14; P.L.146-2008, SEC.729.*

## **IC 36-7-14-18**

### **Appeals**

Sec. 18. (a) A person who filed a written remonstrance with the redevelopment commission under section 17 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the commission and his remonstrance against that order, together with his bond conditioned to pay the costs of his appeal if the appeal is determined against him. The only ground of remonstrance that the court may hear is whether the proposed project will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances, and may confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

*As added by Acts 1981, P.L.309, SEC.33.*

## **IC 36-7-14-19\*\* ,\*\*\***

### **Acquisition of real property; procedure; approval**

Sec. 19. (a) If no appeal is taken or if an appeal is taken but is unsuccessful, the redevelopment commission shall proceed with the proposed project to the extent that money is available for that purpose.

(b) The redevelopment commission shall first approve and adopt a list of the real property and interests in real property to be acquired and the price to be offered to the owner of each parcel of interest. The prices to be offered may not exceed the average of two (2) independent appraisals of fair market value procured by the commission except that appraisals are not required in transactions with other governmental agencies.

However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars (\$10,000), the second appraisal may be made by a qualified employee of the department of redevelopment. The prices indicated on the list may not be exceeded unless specifically authorized by the commission or ordered by a court in condemnation proceedings. The commission may except from acquisition any real property in the area if the commission finds that such an acquisition is not necessary under the redevelopment plan. Appraisals made under this section are for the information of the commission and are not open for public inspection.

(c) Negotiations for the purchase of property may be carried on directly by the redevelopment commission, by its employees, or by expert negotiations, but no option, contract, or understanding relative to the purchase of real property is binding on the commission until approved and accepted by the commission in writing. The commission may authorize the payment of a nominal fee to bind an option and as a part of the consideration for conveyance may agree to pay the expense incident to the conveyance and determination of the title of the property. Payment for the property purchased shall be made when and as directed by the commission but only on delivery of proper instruments conveying the title or interest of the owner to the "City (Town or County) of for the use and benefit of its department of redevelopment". Notwithstanding the other provisions of this subsection, any agreement by the commission to:

(1) make payments for the property to be purchased for a term exceeding three (3) years; or

(2) pay a purchase price for the property that exceeds five million dollars (\$5,000,000);

is subject to the prior approval of the legislative body of the unit.

(d) All real property and interests in real property acquired by the redevelopment commission are free and clear of all liens, assessments, and other governmental charges except for current property taxes, which shall be prorated to the date of acquisition.

(e) Notwithstanding subsections (a) through (d), the redevelopment commission may, before the time referred to in this section, accept gifts of property needed for the redevelopment of redevelopment project areas if the property is free and clear of all liens other than taxes, assessments, and other governmental charges. The commission may, before the time referred to in this section, take options on or contract for the acquisition of property needed for the redevelopment of redevelopment project areas if the options and contracts are not binding on the commission or the district until the time referred to in this section and until money is available to pay the consideration set out in the options or contracts.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.114-1989, SEC.5; P.L.35-1990, SEC.56; P.L.185-2005, SEC.15; P.L.149-2014, SEC.10.*

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\*\* See 2017 legislative change at beginning of this Appendix D.

\*\*\* See new Section 19.5 at beginning of this Appendix D.

**IC 36-7-14-20****Eminent domain; procedure; legislative body resolution**

Sec. 20. (a) If the legislative body of the unit that established the department of redevelopment considers it necessary to acquire real property in a redevelopment project area by the exercise of the power of eminent domain, the legislative body shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the unit on behalf of the department of redevelopment, in the circuit or superior court of the county in which the property is situated.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section, but property belonging to the state or any political subdivision may not be acquired without its consent.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the unit for the use and benefit of its department of redevelopment.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.2-2002, SEC.110; P.L.185-2005, SEC.16; P.L.146-2008, SEC.730; P.L.149-2014, SEC.11.*

**IC 36-7-14-21****Commission authority in redevelopment area**

Sec. 21. (a) The redevelopment commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared, and with the following with respect to environmental contamination:

(1) Investigation.

(2) Remediation.

The redevelopment commission may carry out activities under this subsection by labor employed directly by the commission or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) In the planning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the redevelopment commission shall proceed in the same manner as private owners of the property. It may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Any construction work required in connection with improvements in the area described in the resolution may be carried out by:

(1) the appropriate municipal or county department or agency; or

(2) the department of redevelopment, if:

(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the department of redevelopment.

(e) The redevelopment commission may pay any charges or assessments made on account of orders, approval, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(f) None of the real property acquired under this chapter may be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the redevelopment commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.89; Acts 1982, P.L.33, SEC.30; P.L.221-2007, SEC.36.*

**IC 36-7-14-22****Public sale or lease of real property; procedure**

Sec. 22. (a) This section does not apply to the sale or grant of real property or interests in real property to urban enterprise associations or community development corporations under section 22.2 of this chapter. The provisions of this section concerning publication and bidding procedures do not apply to sales, leases, or other dispositions of real property to other public agencies for public purposes.

(b) Before offering for sale or lease to the public any of the real property acquired, the redevelopment commission shall cause two (2) separate appraisals of the sale value, or rental value in case of a lease, to be made by independent appraisers. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars (\$10,000), the second appraisal may be made by a qualified employee of the department of redevelopment. In making appraisals, the appraisers shall take into consideration the size, location, and physical condition of the parcels, the advantages accruing to the parcels under the redevelopment plan, and all other factors having a bearing on the value of the parcels. The appraisals are solely for the information of the commission, and are not open for public inspection.

(c) The redevelopment commission shall then prepare an offering sheet showing the parcels to be offered and the offering prices, which may not be less than the average of the two (2) appraisals. Copies of the offering sheets shall be furnished to prospective buyers on request. Maps and plats showing the size and location of all parcels to be offered shall also be kept available for inspection at the office of the department.

(d) A notice shall be published in accordance with IC 5-3-1. The notice must state that at a designated time the commission will open and consider written offers for the purchase or lease of the real property being offered. In giving the notice it is not necessary to describe each parcel separately, or to specify the exact terms of disposition, but the notice:

- (1) must state the general location of the parcels;
- (2) call attention generally to any limitations on the use to be made of the real property offered; and
- (3) state that a bid submitted by a trust (as defined in

IC 30-4-1-1(a)) must identify each:

- (A) beneficiary of the trust; and
- (B) settlor empowered to revoke or modify the trust.

(e) At the time fixed in the notice the commission shall open and consider any offers received. These offers may consist of consideration in the form of cash, other property, or a combination of cash and other property. However, with respect to property other than cash, the offer must be accompanied by evidence of the property's fair market value that is satisfactory to the commission in its sole discretion. All offers received shall be opened at public meetings of the commission and shall be kept open for public inspection.

(f) The commission may reject any bids and may make awards to the highest and best bidders. In determining the best bids, the commission shall take into consideration the following factors:

- (1) The size and character of the improvements proposed to be made by the bidder on the real property bid on.
- (2) The bidder's plans and ability to improve the real property with reasonable promptness.
- (3) Whether the real property when improved will be sold or rented.
- (4) The bidder's proposed sale or rental prices.
- (5) The bidder's compliance with subsection (d)(3).
- (6) Any factors that will assure the commission that the sale or lease, if made, will further the execution of the redevelopment plan and best serve the interest of the community, from the standpoint of both human and economic welfare.

(g) The commission may contract with a bidder in regard to the factors listed in subsection (f), and the contract may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of repurchase, or other rights and remedies if the bidder fails to comply with the contract.

(h) After the opening and consideration of the written offers filed in response to the notice, the commission may dispose of the remainder of the available real property either at public sale or by private negotiation carried on by the commission, its regular employees, or real estate experts employed for that purpose. For a period of thirty (30) days after the opening of the written offers, no sale or lease may be made at a price or rental less than that shown on the offering sheet, except in the case of sales or rentals of ten (10) or more parcels to a purchaser or lessee who agrees to improve the parcels immediately, but after that period the commission may adjust the offering prices in the manner the commission considers necessary to further the redevelopment plan.

(i) A conveyance under this section may not be made until the agreed consideration has been paid, unless the redevelopment commission passes a resolution expressly providing that the consideration does not have to be paid before the conveyance is made. In addition, such a resolution may provide for a mortgage or other security. All deeds, leases, land sale contracts, or other conveyances, and all contracts and agreements, including contracts of purchase and sale and contracts for advancements, loans, grants, contributions, or other aid, shall be executed in the name of the "City (or Town or County) of \_\_\_\_\_, Department of Redevelopment", and shall be signed by the president or vice president of the redevelopment commission and attested by its secretary. A seal is not required on these instruments or any other instruments executed in the name of the department.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.45, SEC.30; P.L.114-1989, SEC.6; P.L.336-1989(ss), SEC.51; P.L.31-1994, SEC.17; P.L.39-1994, SEC.24; P.L.113-2002, SEC.5.*

**IC 36-7-14-22.2**

**Sale or grant of real property to urban enterprise association or community development corporation; procedure**

Sec. 22.2. (a) The commission may sell or grant, at no cost, title to real property to an urban enterprise association for the purpose of developing the real property if the following requirements are met:

(1) The urban enterprise association has incorporated as a nonprofit corporation under IC 5-28-15-14(b)(3).

(2) The parcel of property to be sold or granted is located entirely within the enterprise zone for which the urban enterprise association was created under IC 5-28-15-13.

(3) The urban enterprise association agrees to cause development on the parcel of property within a specified period that may not exceed five (5) years from the date of the sale or grant. (4) The urban enterprise association agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the enterprise zone.

(b) The commission may sell or grant, at no cost, title to real property to a community development corporation (as defined in IC 4-4-28-2) for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

(1) The community development corporation has as a major corporate purpose and function the provision of housing for low and moderate income families within the geographic area in which the parcel of real property is located.

(2) The community development corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of real property within a specified period, which may not exceed five (5) years from the date of the sale or grant.

(3) The community development corporation agrees that the community development corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:

(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The community development corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the community development corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined by an appraiser, who may be an employee of the department. However, if the commission has obtained the parcel in the manner described in subsection (c), an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide at a public meeting whether the commission will sell or grant the parcel of real property. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the urban enterprise association or community development corporation will cause development on the property.

(f) Before conducting a meeting under subsection (g), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address, if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a meeting to sell or grant the parcel to an urban enterprise zone or to a community development corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the urban enterprise association or to the community development corporation.

(h) A conveyance of property under this section shall be made in accordance with section 22(i) of this chapter.

(i) An urban enterprise association that purchases or receives real property under this section shall report the terms of the conveyance to the board of the Indiana economic development corporation not later than thirty (30) days after the date the conveyance of the property is made.

*As added by P.L.113-2002, SEC.6. Amended by P.L.1-2003, SEC.99; P.L.4-2005, SEC.134.*

### **IC 36-7-14-22.5**

#### **Additional commission powers concerning real property; public meeting**

Sec. 22.5. (a) This section applies to the following:

(1) Real property:

- (A) that was acquired by the commission to carry out a redevelopment project, an economic development area project, or an urban renewal project; and
- (B) relative to which the commission has, at a public hearing, decided that the real property is not needed to complete the redevelopment activity, an economic development activity, or urban renewal activity in the project area.

(2) Real property acquired under this chapter that is not in a redevelopment project area, economic development area, or an urban renewal project area.

(3) Parcels of property secured from the county under IC 6-1.1-25-9(e) that were acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(4) Real property donated or transferred to the commission to be held and disposed of under this section. However, this section does not apply to property acquired under section 32.5 of this chapter (before its repeal).

(b) The commission may do the following to or for real property described in subsection (a):

- (1) Examine, classify, manage, protect, insure, and maintain the property.
- (2) Eliminate deficiencies (including environmental deficiencies), carry out repairs, remove structures, and make improvements.
- (3) Control the use of the property.
- (4) Lease the property.
- (5) Use any powers under section 12.2 of this chapter in relation to the property.

(c) The commission may enter into contracts to carry out part or all of the functions described in subsection (b).

(d) The commission may extinguish all delinquent taxes, special assessments, and penalties relative to real property donated to the commission to be held and disposed of under this section. The commission shall provide the county auditor with a list of the real property on which delinquent taxes, special assessments, and penalties are extinguished under this subsection.

(e) Subject to the prior approval by the legislative body of the unit, real property described in subsection (a) may be sold, exchanged, transferred, granted, donated, or otherwise disposed of in any of the following ways:

- (1) In accordance with section 22, 22.2, 22.6, 22.7, or 22.8 of this chapter.
- (2) In accordance with the provisions authorizing an urban homesteading program under IC 36-7-17 or IC 36-7-17.1.

The commission shall provide to the legislative body of the unit at a public meeting all the information supporting the action the commission proposes to take under this subsection, including any terms and conditions to which the commission would have to agree to carry out the action.

(f) In disposing of real property under subsection (e), the commission may:

- (1) group together properties for disposition in a manner that will best serve the interest of the community, from the standpoint of both human and economic welfare; and
- (2) group together nearby or similar properties to facilitate convenient disposition.

*As added by P.L.169-2006, SEC.70. Amended by P.L.118-2013, SEC.12; P.L.149-2014, SEC.12; P.L.183-2016, SEC.9.*

### **IC 36-7-14-22.6**

#### **“Abutting landowner”; “offering price”; sale to abutting landowner; appraisal**

Sec. 22.6. (a) As used in this section, “abutting landowner” means an owner of property that:

- (1) touches, borders on, or is contiguous to the property that is the subject of sale; and
- (2) does not constitute a: (A) public easement; or (B) public right-of-way.

(b) As used in this section, “offering price” means the appraised value of real property plus all costs associated with the sale, including:

- (1) appraisal fees;
- (2) title insurance;
- (3) recording fees; and
- (4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than fifteen thousand dollars (\$15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission may proceed under this section.

(d) The commission may determine that:

- (1) the highest and best use of the tract is sale to an abutting landowner;



- (2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or
- (3) it is economically unjustifiable to sell the tract under section 22 of this chapter.

(e) Not more than ten (10) days after the commission makes a determination under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

- (1) the property may not be sold to a person who is ineligible under IC 36-1-11-16; and
- (2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
  - (A) beneficiary of the trust; and
  - (B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the commission shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The commission shall also have each tract appraised. The appraiser must be a person who is professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars (\$6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission is not required to have the tract appraised.

(g) If, not more than ten (10) days after the date of publication of the notice under subsection (e), the commission receives one (1) or more eligible offers to purchase a tract listed in the notice at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract under section 22(f), 22(g), and 22(i) of this chapter.

(h) Notwithstanding subsection (g), if not more than ten (10) days after the date of publication of the notice under subsection (e) the commission does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract as follows:

- (1) If only one (1) eligible abutting landowner makes an eligible offer to purchase the tract, then subject to IC 36-1-11-16 and without further appraisal or notice, the commission shall offer to negotiate for the sale of the tract with that abutting landowner.
- (2) If more than one (1) eligible abutting landowner submits an eligible offer to purchase the tract, the tract shall be sold to the eligible abutting landowner who submits the highest eligible offer for the tract and who complies with any requirement under subsection (e)(2).
- (3) If no eligible abutting landowner submits an eligible offer to purchase the tract, the commission may sell the tract to any person who submits the highest eligible offer for the tract, except a person who is ineligible to purchase the tract under IC 36-1-11-16.

*As added by P.L.169-2006, SEC.71.*

### **IC 36-7-14-22.7**

#### **Disposal of real property; appraisal**

Sec. 22.7. (a) The commission may dispose of real property to which section 22.5 of this chapter applies by following the procedure set forth in this section.

- (b) The commission shall first have the property appraised by two (2) appraisers. The appraisers must be:
- (1) persons who are professionally engaged in making appraisals;
  - (2) persons who are licensed under IC 25-34.1; or
  - (3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property. (c) The commission may:

- (1) negotiate a sale or transfer; and
- (2) dispose of the property;

at a value that is not less than the appraised value determined under subsection (b).

(d) Disposal of real property under this chapter is subject to the approval of the commission. The commission may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1.

(e) In addition to any other reason for disapproving a disposal of property under this section, the commission may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that the bidder will reside on that property for at least one (1) year after the bidder obtains possession of the property.

*As added by P.L.169-2006, SEC.72.*

### **IC 36-7-14-22.8**

#### **New opportunity area**

Sec. 22.8. (a) This section applies only in Lake County as a three (3) year pilot program to obtain experience with the method of disposing of real property set forth in this section.

(b) A redevelopment commission may establish a new opportunity area in accordance with the criteria and procedures set forth in this section. A redevelopment commission may dispose of property to which section 22.5 of this chapter applies as provided in this section if the property is located in a new opportunity area.

(c) A redevelopment commission may determine that the following findings apply to an area within the jurisdiction of the redevelopment commission:

(1) At least one-third (1/3) of the parcels in the area are vacant or abandoned, as determined under IC 36-7-37 or another statute.

(2) At least one-third (1/3) of the parcels in the area have at least one (1) of the following characteristics:

(A) The dwelling on the parcel is not permanently occupied.

(B) Two (2) or more property tax payments owed on the parcel are delinquent.

(3) None of the properties in the area have been annexed within the immediately preceding five (5) years over a remonstrance of a majority of the land owners within the annexed area.

(4) The area cannot be improved by the ordinary operation of private enterprise because of:

(A) the existence of conditions that lower the value of the land below that of nearby land; or

(B) other conditions similar to the conditions described in clause (A).

(5) Each of the parcels in the area are residential parcels that are less than one (1) acre in size.

(6) The property tax collection rate over the immediately preceding two (2) years has been less than sixty percent (60%).

(7) The sale of parcels that are held by the redevelopment commission and are located in the new opportunity area to individuals and other private entities will benefit the public health and welfare of the residents of the surrounding area and the area governed by the commission.

(d) Whenever a redevelopment commission makes the findings described in subsection (c), a redevelopment commission may adopt a resolution declaring the area to be a new opportunity area.

(e) After a redevelopment commission adopts a resolution declaring an area to be a new opportunity area, the redevelopment commission may dispose of properties to which section 22.5 of this chapter applies that are located in the new opportunity area by using the following procedure:

(1) The redevelopment commission shall give notice in accordance with IC 5-3-1 twice by publication, one (1) week apart, with the last publication occurring at least ten (10) days before the date on which the redevelopment commission intends to convene the meeting described in subdivision (2). The notice must include the following:

(A) The date, time, and place of the meeting described in subdivision (2).

(B) A description of each parcel to be offered for sale by parcel number and common address.

(C) A statement that the redevelopment commission:

(i) is accepting bids on the properties described under clause (B); and

(ii) intends to sell each property described under clause (B) to the highest responsible and responsive bidder.

(2) The redevelopment commission shall hold a meeting on the date and at the time and place specified in the notice described in subdivision (1) at which bids for the properties described in the notice shall be opened and read aloud. The redevelopment commission may thereafter sell each property to the highest responsible and responsive bidder.

(f) This section expires July 1, 2019.

*As added by P.L.183-2016, SEC.10.*

### **IC 36-7-14-23**

#### **Unit officers; duties regarding department funds**

Sec. 23. Each officer of the unit who has duties in respect to the funds and accounts of the unit shall perform the same duties with respect to the funds and accounts of the department of redevelopment, except as otherwise provided in this chapter. An officer performing these duties is not entitled to any compensation in addition to that paid him by the unit.

*As added by Acts 1981, P.L.309, SEC.33.*

### **IC 36-7-14-24**

#### **Payment of expenses incurred before tax levy; procedure**

Sec. 24. (a) All expenses incurred by the department of redevelopment that must be paid before the collection of taxes levied under this chapter shall be paid in the manner prescribed by this section. The commission shall certify the items of expense to the fiscal officer of the unit requesting payment of the

amounts certified. Subject to appropriation by the fiscal body of the unit, the fiscal officer shall then draw a warrant in the requested amount to be paid out of the general fund of the unit. If the unit has no unappropriated monies in its general fund, the fiscal officer of the unit may recommend to the fiscal body the temporary transfer from other funds of the unit of a sufficient amount to meet the items of expense, or the making of a temporary loan for that purpose. The fiscal body may make the transfer or authorize the temporary loan in the same manner that other transfers and temporary loans are made by the unit.

(b) The amount advanced by the unit under this section may not exceed fifty thousand dollars (\$50,000), and the fund or funds of the unit from which the advancement is made shall be fully reimbursed and repaid by the redevelopment commission out of legally available revenues.

(c) The redevelopment commission may not use any part of the amount advanced by the unit under this section in the acquisition of real property.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.146-2008, SEC.731.*

### **IC 36-7-14-25**

#### **Repealed**

*(Repealed, as amended by Acts 1981, P.L.45, SEC.31, and also as amended by Acts 1981, P.L.180, SEC.10, by Acts 1982, P.L.6, SEC.25.)*

### **IC 36-7-14-25.1**

#### **Issuance of bonds; procedure; tax exemption; limitations; indebtedness of taxing district; legislative body approval**

Sec. 25.1. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by bond resolution and subject to subsections (c) and (p), issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

- (1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;
- (2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;
- (3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and
- (4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17.

(b) If the redevelopment commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The legislative body of the unit must adopt a resolution that specifies the public purpose of the bond, the use of the bond proceeds, the maximum principal amount of the bond, the term of the bond, and the maximum interest rate or rates of the bond, any provision for redemption before maturity, and any provision for the payment of capitalized interest. The bonds must be dated as set forth in the bond resolution and negotiable, subject to the requirements of the bond resolution for registering the bonds. The resolution authorizing the bonds must state:

- (1) the denominations of the bonds;
- (2) the place or places at which the bonds are payable; and
- (3) the term of the bonds, which may not exceed:
  - (A) fifty (50) years, for bonds issued before July 1, 2008;
  - (B) thirty (30) years, for bonds issued after June 30, 2008, to finance:
    - (i) an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6);
    - (ii) a part of an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6); or
    - (iii) property used in the operation or maintenance of an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6);that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008; or
  - (C) twenty-five (25) years, for bonds issued after June 30, 2008, that are not described in clause (B).

The bond resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the redevelopment commission.

(d) The redevelopment commission shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds, subject to subsections (c) and (p). The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds must be executed by the appropriate officer of the unit and attested by the municipal or county fiscal officer.

(f) The bonds are exempt from taxation for all purposes.

(g) The municipal or county fiscal officer shall give notice of the sale of the bonds by publication in accordance with IC 5-3-1. The municipal fiscal officer, or county fiscal officer or executive, shall sell the bonds to the highest bidder, but may not sell them for less than ninety-seven percent (97%) of their par value. However, bonds payable solely or in part from tax proceeds allocated under section 39(b)(3) of this chapter, or other revenues of the district may be sold at a private negotiated sale.

(h) Except as provided in subsection (i), a redevelopment commission may not issue the bonds when the total issue, including bonds already issued and to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the special taxing district, as determined under IC 36-1-15.

(i) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the redevelopment commission:

(1) from a special tax levied upon all of the property in the taxing district, as provided by section 27 of this chapter;

(2) from the tax proceeds allocated under section 39(b)(3) of this chapter;

(3) from other revenues available to the redevelopment commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3).

If the bonds are payable solely from the tax proceeds allocated under section 39(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount not to exceed the maximum amount approved by the legislative body in the resolution described in subsection (c).

(j) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(k) All laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and the approval of the appropriation by the department of local government finance apply to all bonds issued under this chapter that are payable from the special benefits tax levied pursuant to section 27 of this chapter or from taxes allocated under section 39 of this chapter.

(l) All laws relating to:

(1) the filing of petitions requesting the issuance of bonds; and

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

apply to bonds issued under this chapter except for bonds payable solely from tax proceeds allocated under section 39(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(m) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(n) Any amount remaining in the debt service reserve after all of the bonds of the issue for which the debt service reserve was established have matured shall be:

(1) deposited in the allocation fund established under section 39(b)(3) of this chapter; and

(2) to the extent permitted by law, transferred to the county or municipality that established the department of redevelopment for use in reducing the county's or municipality's property tax levies for debt service.

(o) If bonds are issued under this chapter that are payable solely or in part from revenues to the redevelopment commission from a project or projects, the redevelopment commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the redevelopment commission. The redevelopment commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the redevelopment commission that are payable solely from revenues of the commission shall contain a statement to that effect in the form of bond.

(p) If the total principal amount of bonds authorized by a resolution of the redevelopment commission adopted before July 1, 2008, is equal to or greater than three million dollars (\$3,000,000), the bonds may not be issued without the approval, by resolution, of the legislative body of the unit. Bonds authorized in any principal amount by a resolution of the redevelopment commission adopted after June 30, 2008, may not be issued without the approval of the legislative body of the unit.

*As added by Acts 1982, P.L.6, SEC.24. Amended by P.L.72-1983, SEC.2; P.L.380-1987(ss), SEC.10; P.L.5-1988, SEC.215; P.L.114-1989, SEC.7; P.L.18-1990, SEC.292; P.L.6-1997, SEC.209; P.L.90-2002, SEC.473; P.L.224-2003, SEC.269; P.L.185-2005, SEC.17; P.L.219-2007, SEC.125; P.L.146-2008, SEC.732; P.L.203-2011, SEC.6; P.L.149-2014, SEC.13.*

### **IC 36-7-14-25.2**

#### **Leased facilities; procedure; fiscal body approval**

Sec. 25.2. (a) Subject to the prior approval of the fiscal body of the unit under subsection (c), a redevelopment commission may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed:

- (1) fifty (50) years, for a lease entered into before July 1, 2008; or
- (2) twenty-five (25) years, for a lease entered into after June 30, 2008.

The lease may provide for payments to be made by the redevelopment commission from special benefits taxes levied under section 27 of this chapter, taxes allocated under section 39 of this chapter, any other revenues available to the redevelopment commission, or any combination of these sources.

(b) A lease may provide that payments by the redevelopment commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the redevelopment commission only after a public hearing by the redevelopment commission at which all interested parties are provided the opportunity to be heard. After the public hearing, the redevelopment commission may adopt a resolution authorizing the execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the redevelopment commission must also be approved by an ordinance or resolution of the fiscal body of the unit. The approving ordinance or resolution of the fiscal body must include the following:

- (1) The maximum annual lease rental for the lease.
- (2) The maximum interest rate or rates, any provisions for redemption before maturity, and any provisions for the payment of capitalized interest associated with the lease.
- (3) The maximum term of the lease.

(d) Upon execution of a lease providing for payments by the redevelopment commission in whole or in part from the levy of special benefits taxes under section 27 of this chapter and upon approval of the lease by the unit's fiscal body, the redevelopment commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the redevelopment district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be.

(e) Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for a hearing in the redevelopment district, which must be not less than five (5) or more than thirty (30) days after the time is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the redevelopment commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease, and as to whether the payments under it are fair and reasonable, is final.

(f) A redevelopment commission entering into a lease payable from allocated taxes under section 39 of this chapter or other available funds of the redevelopment commission may:

- (1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; and
- (2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the redevelopment commission to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(h) Except as provided in this section, no approvals of any governmental body or agency are required before the redevelopment commission enters into a lease under this section.

(i) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or enjoin the performance must be brought within thirty (30) days after the decision of the department. (j) If a redevelopment commission exercises an option to buy a leased facility from a lessor, the redevelopment commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the redevelopment commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the redevelopment commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

*As added by P.L.380-1987(ss), SEC.11. Amended by P.L.90-2002, SEC.474; P.L.146-2008, SEC.733; P.L.149-2014, SEC.14.*

### **IC 36-7-14-25.3**

#### **Lessors of redevelopment facilities; effect of other statutory provisions**

Sec. 25.3. (a) Any of the following persons may lease facilities referred to in section 25.2 of this chapter to a redevelopment commission under this chapter:

- (1) A not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.
- (2) A redevelopment authority established under IC 36-7-14.5.

(b) Notwithstanding any other law, a lessor under this section and section 25.2 of this chapter is a qualified entity for purposes of IC 5-1.4.

(c) Notwithstanding any other law, a redevelopment facility leased by the redevelopment commission under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by a redevelopment commission to a lessor described in subsection (c) may be made from sources set forth in section 25.2 of this chapter so long as the payments and the lease are structured to prevent the lease obligation from constituting a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

*As added by P.L.380-1987(ss), SEC.12.*

### **IC 36-7-14-25.5 Version b**

#### **Payment of redevelopment bonds or leases; pledge or covenant of legislative body**

*Note: This version of section effective 1-1-2017.*

Sec. 25.5. (a) Notwithstanding any other law, the legislative body may pledge revenues received or to be received by the unit from:

- (1) the unit's additional revenue from the local income tax that is designated for certified shares or economic development under IC 6-3.6-6;
- (2) any other source legally available to the unit for the purposes of this chapter; or
- (3) any combination of revenues under subdivisions (1) through (2); in any amount to pay amounts payable under section 25.1 or 25.2 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase revenues at the time it is necessary to raise funds to pay any amounts payable under section 25.1 or 25.2 of this chapter.

(c) The commission may pledge revenues received or to be received from any source legally available to the commission for the purposes of this chapter in any amount to pay amounts payable under section 25.1 or 25.2 of this chapter.

(d) The pledge or the covenant under this section may be for the life of the bonds issued under section 25.1 of this chapter, the term of a lease entered into under section 25.2 of this chapter, or for a shorter period as determined by the legislative body. Money pledged by the legislative body under this section shall be considered revenues or other money available to the commission under sections 25.1 through 25.2 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant so long as any bonds issued under section 25.1 of this chapter are outstanding or as long as any lease entered into under section 25.2 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

*As added by P.L.380-1987(ss), SEC.13. Amended by P.L.38-1988, SEC.9; P.L.35-1990, SEC.57; P.L.172-2011, SEC.148; P.L.197-2016, SEC.126.*

**IC 36-7-14-26**

**Capital fund; deposits; gifts; allocation fund**

Sec. 26. (a) All proceeds from the sale of bonds under section 25.1 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the acquisition and redevelopment of property. The fund shall be known as the redevelopment district capital fund. Any surplus of funds remaining after all expenses are paid shall be paid into and become a part of the redevelopment district bond fund established under section 27 of this chapter.

(b) All gifts or donations that are given or paid to the department of redevelopment or to the unit for redevelopment purposes shall be promptly deposited to the credit of the redevelopment district capital fund. The redevelopment commission may use these gifts and donations for the purposes of this chapter.

(c) Before the eleventh day of each calendar month the fiscal officer shall notify the redevelopment commission and the officers of the unit who have duties in respect to the funds and accounts of the unit of the amount standing to the credit of the redevelopment district capital fund at the close of business on the last day of the preceding month.

(d) A redevelopment commission shall deposit in the allocation fund established under section 39(b)(3) of this chapter of an allocation area the proceeds from the sale or leasing of property in the area under section 22 of this chapter if:

- (1) there are outstanding bonds that were issued to pay costs of redevelopment in the allocation area; and
- (2) the bonds are payable solely or in part from tax proceeds allocated under section 39(b)(3) of this chapter.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.72-1983, SEC.3; P.L.38-1988, SEC.10; P.L.203-2011, SEC.7.*

**IC 36-7-14-27**

**Certain bonds or leases; special tax levy; legislative body approval; disposition of accumulated revenues; review of sufficiency of levies**

Sec. 27. (a) This section applies only to:

- (1) bonds that are issued under section 25.1 of this chapter; and
- (2) leases entered into under section 25.2 of this chapter; which are payable from a special tax levied upon all of the property in the special taxing district. This section does not apply to bonds or leases that are payable solely from tax proceeds allocated under section 39(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(b) The redevelopment commission, with the prior approval of the legislative body, shall levy each year a special tax on all of the property of the redevelopment taxing district, in such a manner as to meet and pay the principal of the bonds as they mature, together with all accruing interest on the bonds or lease rental payments under section 25.2 of this chapter. The commission shall cause the tax levied to be certified to the proper officers as other tax levies are certified, and to the auditor of the county in which the redevelopment district is located, before the second day of October in each year. The tax shall be estimated and entered on the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other state and county taxes are estimated, entered, collected, and enforced. The amount of the tax levied to pay bonds or lease rentals payable from the tax levied under this section shall be reduced by any amount available in the allocation fund established under section 39(b)(3) of this chapter or other revenues of the redevelopment commission to the extent such revenues have been set aside in the redevelopment bond fund.

(c) As the tax is collected, it shall be accumulated in a separate fund to be known as the redevelopment district bond fund and shall be applied to the payment of the bonds as they mature and the interest on the bonds as it accrues, or to make lease payments and to no other purpose. All accumulations of the fund before their use for the payment of bonds and interest or to make lease payments shall be deposited with the depository or depositories for other public funds of the unit in accordance with IC 5-13, unless they are invested under IC 5-13-9.

(d) If there are no outstanding bonds that are payable solely or in part from tax proceeds allocated under section 39(b)(3) of this chapter and that were issued to pay costs of redevelopment in an allocation area that is located wholly or in part in the special taxing district, then all proceeds from the sale or leasing of property in the allocation area under section 22 of this chapter shall be paid into the redevelopment district bond fund and become a part of that fund. In arriving at the tax levy for any year, the redevelopment commission shall take into account the amount of the proceeds deposited under this subsection and remaining on hand.

(e) The tax levies provided for in this section are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the lease payable from the levy of taxes.  
*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.180, SEC.11; P.L.72-1983, SEC.4; P.L.19-1987, SEC.49; P.L.380-1987(ss), SEC.14; P.L.146-2008, SEC.734; P.L.203-2011, SEC.8; P.L.149-2014, SEC.15.*

### **IC 36-7-14-27.5**

#### **Tax anticipation warrants; authorization; procedure; legislative body approval**

Sec. 27.5. (a) Subject to the prior approval by the legislative body of the unit, the redevelopment commission may borrow money in anticipation of receipt of the proceeds of taxes levied for the redevelopment district bond fund and not yet collected, and may evidence this borrowing by issuing warrants of the redevelopment district. However, the aggregate principal amount of warrants issued in anticipation of and payable from the same tax levy or levies may not exceed an amount equal to eighty percent (80%) of that tax levy or levies, as certified by the department of local government finance, or as determined by multiplying the rate of tax as finally approved by the total assessed valuation (after deducting all mortgage deductions) within the redevelopment district, as most recently certified by the county auditor.

(b) The warrants may be authorized and issued at any time after the tax or taxes in anticipation of which they are issued have been levied by the redevelopment commission. For purposes of this section, taxes for any year are considered to be levied upon adoption by the commission of a resolution prescribing the tax levies for the year. However, the warrants may not be delivered and paid for before final approval of the tax levy or levies by the county board of tax adjustment or, if appealed, by the department of local government finance, unless the issuance of the warrants has been approved by the department.

(c) All action that this section requires or authorizes the redevelopment commission to take may be taken by resolution, which need not be published or posted. The resolution takes effect immediately upon its adoption by the redevelopment commission. An action to contest the validity of tax anticipation warrants may not be brought later than ten (10) days after the sale date.

(d) In their resolution authorizing the warrants, the redevelopment commission must provide that the warrants mature at a time or times not later than December 31 after the year in which the taxes in anticipation of which the warrants are issued are due and payable.

(e) In their resolution authorizing the warrants, the redevelopment commission may provide:

- (1) the date of the warrants;
- (2) the interest rate of the warrants;
- (3) the time of interest payments on the warrants;
- (4) the denomination of the warrants;
- (5) the form either registered or payable to bearer, of the warrants;
- (6) the place or places of payment of the warrants, either inside or outside the state;
- (7) the medium of payment of the warrants;
- (8) the terms of redemption, if any, of the warrants, at a price not exceeding par value and accrued interest;
- (9) the manner of execution of the warrants; and
- (10) that all costs incurred in connection with the issuance of the warrants may be paid from the proceeds of the warrants.

(f) The warrants shall be sold for not less than par value, after notice inviting bids has been published under IC 5-3-1. The redevelopment commission may also publish the notice in other newspapers or financial journals.

(g) Warrants and the interest on them are not subject to any limitation contained in section 25.1 of this chapter, and are payable solely from the proceeds of the tax levy or levies in anticipation of which the warrants were issued. The authorizing resolution must pledge a sufficient amount of the proceeds of the tax levy or levies to the payment of the warrants and the interest.

*As added by Acts 1981, P.L.310, SEC.90. Amended by P.L.1-1994, SEC.176; P.L.90-2002, SEC.475; P.L.224-2007, SEC.121; P.L.146-2008, SEC.735; P.L.149-2014, SEC.16.*

### **IC 36-7-14-28**

#### **Tax levy for planning, property acquisition, and expenses; deposit in capital and general funds**

Sec. 28. (a) A tax at a rate not to exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed valuation in a municipality and a tax at a rate not to exceed one and thirty-three hundredths cents (\$0.0133) per one hundred dollars (\$100) of assessed valuation in a county may be levied each year for the purposes of this chapter, including:

- (1) the payment, in whole or in part, of planning and survey costs;
- (2) the costs of property acquisition and redevelopment; and
- (3) the payment of all general expenses of the department of redevelopment.

However, a county may not levy this tax within the jurisdiction of a city redevelopment commission.



(b) Each year the redevelopment commission shall formulate and file a budget for the tax levy, in the same manner as executive departments of the unit are required to formulate and file budgets. This budget is subject to review and modification in the same manner as the budgets and tax levies formulated by executive departments of the unit.

(c) Revenues obtained from the tax levy for the payment in whole or in part of the costs of acquisition of land, rights-of-way, or other properties shall be deposited in the redevelopment district capital fund established under section 26 of this chapter. Other revenues obtained from the tax levy shall be deposited in a fund to be known as the redevelopment district general fund.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.380-1987(ss), SEC.15; P.L.6-1997, SEC.210.*

#### **IC 36-7-14-29**

##### **Payments from funds; procedure**

Sec. 29. (a) All payments from any of the funds established by this chapter shall be made by warrants drawn by the proper officers of the unit upon vouchers of the redevelopment commission signed by the president or vice president and the secretary or executive secretary.

(b) Each of the funds established by this chapter is a continuing fund and does not revert to the general fund of the unit at the end of the calendar year.

*As added by Acts 1981, P.L.309, SEC.33.*

#### **IC 36-7-14-30**

##### **Urban renewal projects; authorization**

Sec. 30. In addition to its authority under any other section of this chapter, the redevelopment commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination and the prevention of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes and is related to a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as the following:

- (1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.
- (2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary for the following:
  - (A) To eliminate unhealthful, unsanitary, or unsafe conditions.
  - (B) To mitigate or eliminate environmental contamination.
  - (C) To do any of the following:
    - (i) Lessen density.
    - (ii) Reduce traffic hazards.
    - (iii) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.
    - (iv) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3.
    - (v) Provide land for needed public facilities.
- (3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project.
- (4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.18; P.L.221-2007, SEC.37.*

#### **IC 36-7-14-31**

##### **Urban renewal plans**

Sec. 31. An urban renewal project undertaken under this chapter must be undertaken in accordance with an urban renewal plan for the area of the project. For purposes of this chapter, an urban renewal plan is a plan for an urban renewal project that:

- (1) conforms to the general plan for the municipality or county as a whole; and
- (2) is sufficiently complete to indicate:
  - (A) land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation proposed to be carried out in the area of the urban renewal project;
  - (B) zoning and planning changes, if any; (C) land uses;
  - (D) maximum densities;
  - (E) building requirements; and
  - (F) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

*As added by Acts 1981, P.L.309, SEC.33.*

### **IC 36-7-14-32**

#### **Urban renewal projects; powers and duties of commissions; units and officers**

Sec. 32. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the redevelopment commission, municipal, county, public, and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the redevelopment commission may also:

- (1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;
- (2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- (3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;
- (4) make preliminary surveys, including environmental assessments, to determine if the undertaking and carrying out of an urban renewal project are feasible;
- (5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;
- (6) make relocation payments to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and
- (7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.19; P.L.221-2007, SEC.38.*

### **IC 36-7-14-33**

#### **Urban renewal projects; cooperation with public entities**

Sec. 33. (a) Any:

- (1) political subdivision;
- (2) other governmental entity;
- (3) public instrumentality created by state law; or
- (4) public body created by state law;

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The redevelopment commission may delegate to:

- (1) an executive department of a unit or county;
- (2) another governmental entity;
- (3) a public instrumentality created by state law; or
- (4) a public body created by state law;

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department, entity, public instrumentality, or public body is authorized to act. The department, entity, public instrumentality, or public body may then carry out or perform those powers or functions for the commission.

(c) A unit, another governmental entity, a public instrumentality created by state law, or a public body created by state law may enter into agreements with the redevelopment commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.221-2007, SEC.39.*

### **IC 36-7-14-34**

#### **Preparation of urban rehabilitation programs**

Sec. 34. (a) The redevelopment commission may prepare a workable program:

- (1) to use private and public resources to eliminate and prevent the conditions described in IC 36-7-1-3 in urban areas;
- (2) to encourage needed urban rehabilitation;
- (3) to provide for the redevelopment of areas needing redevelopment; or

(4) to undertake any feasible activities that are suitably employed to achieve the objectives of such a program.

(b) A program established under subsection (a) may include an official plan of action for:

- (1) effectively dealing with the problem of areas needing redevelopment within the community; and
- (2) the establishment and preservation of a well planned community with well organized residential neighborhoods of decent homes and suitable living environment for adequate family life.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.20.*

### **IC 36-7-14-35**

#### **Federal aid; issuance of bonds, notes, and warrants to federal government; federal loan agreements as security for other loans; approval of fiscal body**

Sec. 35. (a) Subject to the approval of the fiscal body of the unit that established the department of redevelopment, and in order to:

- (1) undertake survey and planning activities under this chapter;
- (2) undertake and carry out any redevelopment project, urban renewal project, or housing program;
- (3) pay principal and interest on any advances;
- (4) pay or retire any bonds and interest on them; or
- (5) refund loans previously made under this section;

the redevelopment commission may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the unit or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) Subject to the approval of the fiscal body of the unit that established the department of redevelopment, the redevelopment commission may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this or any other chapter, bonds, notes, or warrants issued by the redevelopment commission under this section may:

- (1) be in the amounts, form, or denomination;
- (2) be either coupon or registered;
- (3) carry conversion or other privileges;
- (4) have a rank or priority;
- (5) be of such description;
- (6) be secured (subject to other provisions of this section) in such manner;
- (7) bear interest at a rate or rates;
- (8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;
- (9) be subject to terms of redemption (with or without premium);
- (10) contain or be subject to any covenants, conditions, and provisions; and
- (11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the redevelopment commission under this chapter, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of the unit in the name of the "City (or Town or County) of \_\_\_\_\_, Department of Redevelopment", and must be attested by the appropriate officers of the unit.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the redevelopment commission shall certify a copy of that resolution to the officers of the unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the

signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the redevelopment commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the redevelopment commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.154-2006, SEC.71; P.L.146-2008, SEC.737.*

### **IC 36-7-14-36**

#### **Neighborhood development programs; authorization; procedure; federal aid**

Sec. 36. (a) In addition to all of the other powers, authority, and jurisdiction of a redevelopment commission operating under this chapter, a commission may undertake a neighborhood development program. A neighborhood development program may include one (1) or more contiguous or noncontiguous areas needing redevelopment. These areas may include redevelopment project areas or urban renewal project areas.

(b) Whenever the redevelopment commission finds that any area in the territory under their jurisdiction is an area needing redevelopment to an extent that cannot be corrected by regulatory processes or by the ordinary operations of private enterprise without resort to the provisions of this chapter, and that the public health and welfare would be benefited by the redevelopment or urban renewal of that area under this chapter, the commission shall prepare a description and map showing the boundaries of the area to be included in the neighborhood development program.

(c) After preparation of the description and map under subsection (b), the redevelopment commission shall adopt a resolution declaring, confirming, and delineating the general boundaries of the area and of the parts of that area that are to be designated as redevelopment project areas or urban renewal areas. However, an area may not be designated as a redevelopment project area or urban renewal area unless the required appraisals, maps, plats and plans have been prepared and all other requirements of this chapter are met.

(d) Areas designated as redevelopment project areas or urban renewal areas under this section are considered to be redevelopment project areas or urban renewal areas for all purposes of this chapter. Areas within the neighborhood development program area that are not so designated are not considered to be redevelopment project areas or urban renewal areas until designated as such by an amendment to the neighborhood development plan, adopted in the same manner and with the same procedure as a declaratory and confirmatory resolution declaring an area a redevelopment project area or urban renewal area.

(e) The redevelopment commission may make studies, appraisals, maps, plats, and plans of areas within the neighborhood development program area that have not been designated as redevelopment project areas or urban renewal project areas. However, the commission may not acquire any land in those areas until the neighborhood development plan has been amended to designate that land as a part of an urban renewal or redevelopment project area.

(f) The redevelopment commission may amend the neighborhood development plan, in the manner prescribed by subsection (d), to include additional areas in the neighborhood development program areas, either generally or as urban renewal or redevelopment project areas.

(g) The redevelopment commission may apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the federal government, may contract with the federal government for any costs arising from a neighborhood development program, or may otherwise contract with the federal government concerning a neighborhood development program, to the same extent as they may for urban renewal project areas.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.21.*

### **IC 36-7-14-37**

#### **Redevelopment districts and departments; tax exemptions**

Sec. 37. (a) Real property acquired by the redevelopment district is exempt from taxation while owned by the district.

(b) All receipts of the department of redevelopment, including receipts from the sale of real property, personal property, and materials disposed of, are exempt from all taxes.

(c) All other property of the department of redevelopment is exempt from taxation.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.192-2002(ss), SEC.176.*

### **IC 36-7-14-39**

#### **Distribution and allocation of taxes; allocation area; base assessed value determinations; allocation of excess assessed value**

Sec. 39. (a) As used in this section:

“Allocation area” means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

“Base assessed value” means the following:

- (1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:
  - (A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus
  - (B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.
- (2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:
  - (A) the net assessed value of all the property as finally determined for the assessment date immediately provision of the declaratory resolution, as adjusted under subsection (h); plus
  - (B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.
- (3) If:
  - (A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and
  - (B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).
- (4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).
- (5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.
- (6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, “property taxes” means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, “property taxes” also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes, taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or amendment that establishes an allocation provision must

include a specific finding of fact, supported by evidence, that the adoption of the allocation provision will result in new property taxes in the area that would not have been generated but for the adoption of the allocation provision. For an allocation area established before July 1, 1995, the expiration date of any allocation provisions for the allocation area is June 30, 2025, or the last date of any obligations that are outstanding on July 1, 2015, whichever is later. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

- (1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:
  - (A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
  - (B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

- (2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

- (3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
- (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.
- (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.
- (E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.
- (G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.
- (H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.
- (I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

- (i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by
- (ii) the STEP ONE sum.

STEP THREE: Multiply:

- (i) the STEP TWO quotient; times
- (ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

- (i) in the allocation area; and
- (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

- (i) Make, when due, any payments required under clauses (A) through (K), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.
- (ii) Make any reimbursements required under this subdivision.
- (iii) Pay any expenses required under this subdivision.
- (iv) Establish, augment, or restore any debt service reserve under this subdivision.

(M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission.

(4) Except as provided in subsection (g), before June 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3), plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area, and (in an electronic format) the department of local government finance. The notice must:

- (i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or
- (ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3) or lessors under section 25.3 of this chapter.

(C) If:

- (i) the amount of excess assessed value determined by the commission is expected to generate more than two hundred percent (200%) of the amount of allocated tax proceeds necessary to make, when due, principal and interest payments on bonds described in subdivision (3); plus
- (ii) the amount necessary for other purposes described in subdivision (3);

the commission shall submit to the legislative body of the unit its determination of the excess assessed value that the commission proposes to allocate to the respective taxing units in the manner prescribed in subdivision (1). The legislative body of the unit may approve the commission's determination or modify the amount of the excess assessed value that will be allocated to the respective taxing units in the manner prescribed in subdivision (1).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of: (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or (2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the property as valued without regard to this section; or
- (2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment of real property in an area under IC 6-1.1-4-4 and after each reassessment in an area under a reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection:

- (1) may not include the effect of phasing in assessed value due to property tax abatements under IC 6-1.1-12.1;
- (2) may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment, the reassessment under the reassessment plan, or the annual adjustment had not occurred; and



(3) may decrease base assessed value only to the extent that assessed values in the allocation area have been decreased due to annual adjustments or the reassessment under the reassessment plan.

Assessed value increases attributable to the application of an abatement schedule under IC 6-1.1-12.1 may not be included in the base assessed value of an allocation area. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

*As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.57, SEC.40; Acts 1981, P.L.180, SEC.12; P.L.23-1983, SEC.17; P.L.72-1983, SEC.5; P.L.9-1986, SEC.9; P.L.393-1987(ss), SEC.4; P.L.37-1988, SEC.25; P.L.38-1988, SEC.11; P.L.114-1989, SEC.9; P.L.41-1992, SEC.5; P.L.18-1992, SEC.26; P.L.25-1995, SEC.84; P.L.85-1995, SEC.40; P.L.255-1997(ss), SEC.15; P.L.90-2002, SEC.476; P.L.192-2002(ss), SEC.177; P.L.4-2005, SEC.135; P.L.185-2005, SEC.22; P.L.216-2005, SEC.6; P.L.154-2006, SEC.72; P.L.146-2008, SEC.738; P.L.88-2009, SEC.13; P.L.182-2009(ss), SEC.404; P.L.203-2011, SEC.9; P.L.112-2012, SEC.55; P.L.218-2013, SEC.16; P.L.149-2014, SEC.18; P.L.95-2014, SEC.3; P.L.87-2015, SEC.3; P.L.184-2016, SEC.29.*

### **IC 36-7-14-39.2**

#### **Designated taxpayer; modification of definition of property taxes; allocation provision of declaratory resolution**

Sec. 39.2. (a) This section applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) As used in this section, "designated taxpayer" means any taxpayer designated by the commission in a declaratory resolution adopted or amended under section 15 or 17.5 of this chapter and with respect to which the commission finds that taxes to be derived from the taxpayer's depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are reasonably expected to exceed in one (1) or more future years the taxes to be derived from the taxpayer's real property in the allocation area in excess of the taxes attributable to the base assessed value of that real property.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 39(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property of designated taxpayers, in accordance with the procedures and limitations set forth in this section and section 39 of this chapter. If such a modification is included in the resolution for purposes of section 39 of this chapter, the term "base assessed value" with respect to the depreciable personal property of designated taxpayers means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding:

(1) the effective date of the modification, for modifications adopted before July 1, 1995; and

(2) the adoption date of the modification for modifications adopted after June 30, 1995;

as adjusted under section 39(h) of this chapter.

*As added by P.L.170-1990, SEC.3. Amended by P.L.12-1992, SEC.170; P.L.25-1995, SEC.85; P.L.119-2012, SEC.207.*

### **IC 36-7-14-39.3**

#### **Definitions; legalization of certain declaratory resolutions and actions of redevelopment commissions; effect of certain amendments to section**

Sec. 39.3. (a) As used in this section, "depreciable personal property" refers to:

(1) all of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area.

(b) As used in this section, "designated taxpayer" means any taxpayer designated by the commission in a declaratory resolution adopted or amended under section 15 or 17.5 of this chapter, and with respect to which the commission finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt

service or to provide security for bonds issued under section 25.1 of this chapter or to make payments or to provide security on leases payable under section 25.2 of this chapter in order to provide local public improvements for a particular allocation area. However, a commission may not designate a taxpayer after June 30, 1992, unless the commission also finds that:

- (1) the taxpayer's property in the allocation area will consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects or regulated amusement devices (as defined in IC 22-12-1-19.1) and related improvements; and
- (2) the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects, other than an amusement park or tourism industry project.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 39(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 39 of this chapter. If such a modification is included in the resolution, for purposes of section 39 of this chapter the term "base assessed value" with respect to the depreciable personal property means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding:

- (1) the effective date of the modification, for modifications adopted before July 1, 1995; and
- (2) the adoption date of the modification for modifications adopted after June 30, 1995;

as adjusted under section 39(h) of this chapter.

(d) A declaratory resolution of a city redevelopment commission that is adopted before March 20, 1990, is legalized and validated as if it had been adopted under this section.

(e) An action taken by a redevelopment commission before February 24, 1992, to designate a taxpayer, modify the definition of property taxes, or establish a base assessed value as described in this section, as in effect on February 24, 1992, is legalized and validated as if this section, as in effect on February 24, 1992, had been in effect on the date of the action.

(f) The amendment made to this section by P.L.41-1992, does not affect actions taken pursuant to P.L.35-1990.

(g) A declaratory resolution or an amendment to a declaratory resolution that was adopted by:

- (1) a county redevelopment commission for a county; or
- (2) a city redevelopment commission for a city;

before February 26, 1992, is legalized and validated as if the declaratory resolution or amendment had been adopted under this section as amended by P.L.147-1992.

*As added by P.L.35-1990, SEC.59. Amended by P.L.147-1992, SEC.1; P.L.41-1992, SEC.6; P.L.1-1993, SEC.244; P.L.19-1994, SEC.17; P.L.25-1995, SEC.86; P.L.172-2011, SEC.149; P.L.220-2011, SEC.664; P.L.6-2012, SEC.244.*

#### **IC 36-7-14-39.6**

##### **Authorization to enter into an agreement with a taxpayer for waiver of review of an assessment of property taxes in an allocation area during the term of bonds or lease obligations payable from allocated property taxes**

Sec. 39.6. A redevelopment commission may enter into a written agreement with a taxpayer who owns, or is otherwise obligated to pay property taxes on, tangible property that is or will be located in an allocation area established under this chapter in which the taxpayer waives review of any assessment of the taxpayer's tangible property that is located in the allocation area for an assessment date that occurs during the term of any specified bond or lease obligations that are payable from property taxes in accordance with an allocation provision for the allocation area and any applicable statute, ordinance, or resolution. An agreement described in this section may precede the establishment of the allocation area or the determination to issue bonds or enter into leases payable from the allocated property taxes.

*As added by P.L.249-2015, SEC.26.*

#### **IC 36-7-14-40**

##### **Violations; penalties**

Sec. 40. A person who knowingly:

- (1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or
- (2) fails to follow the voucher and warrant procedure prescribed by this chapter in expending any money raised under this chapter;

commits a Level 5 felony.

*As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.158-2013, SEC.675.*

### **IC 36-7-14-41**

#### **Economic development area; determination; enlargement**

Sec. 41. (a) The commission may, by following the procedures set forth in sections 15 through 17 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 18 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds that:

- (1) the plan for the economic development area:
  - (A) promotes significant opportunities for the gainful employment of its citizens;
  - (B) attracts a major new business enterprise to the unit;
  - (C) retains or expands a significant business enterprise existing in the boundaries of the unit; or
  - (D) meets other purposes of this section and sections 2.5 and 43 of this chapter;
- (2) the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 2.5 and 43 of this chapter because of:
  - (A) lack of local public improvement;
  - (B) existence of improvements or conditions that lower the value of the land below that of nearby land;
  - (C) multiple ownership of land; or
  - (D) other similar conditions;
- (3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;
- (4) the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:
  - (A) the attraction or retention of permanent jobs;
  - (B) an increase in the property tax base;
  - (C) improved diversity of the economic base; or
  - (D) other similar public benefits; and
- (5) the plan for the economic development area conforms to other development and redevelopment plans for the unit.

(c) The determination that a geographic area is an economic development area must be approved by the unit's legislative body. The approval may be given either before or after judicial review is requested. The requirement that the unit's legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area. However, the enlargement of any boundary in the economic development area must be approved by the unit's legislative body.

*As added by P.L.380-1987(ss), SEC.16 and P.L.393-1987(ss), SEC.5. Amended by P.L.114-1989, SEC.11; P.L.146-2008, SEC.739; P.L.172-2011, SEC.150.*

### **IC 36-7-14-43**

#### **Rights, powers, privileges, and immunities exercisable by commission in economic development area; fiscal or legislative body authorization; conditions**

Sec. 43. (a) All of the rights, powers, privileges, and immunities that may be exercised by the commission in a redevelopment project area or urban renewal area may be exercised by the commission in an economic development area, subject to the following:

- (1) The content and manner of exercise of these rights, powers, privileges, and immunities shall be determined by the purposes and nature of an economic development area. A right, power, privilege, or immunity that pertains to issuing bonds or incurring an obligation may not be exercised by a redevelopment commission unless it is first specifically authorized by the fiscal or legislative body of the unit, whichever applies, regardless of any other law.
- (2) Real property (or interests in real property) relative to which action is taken in an economic development area is not required to meet the conditions described in IC 36-7-1-3.
- (3) The special tax levied in accordance with section 27 of this chapter may be used to carry out activities under this chapter in economic development areas.
- (4) Bonds may be issued in accordance with section 25.1 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas if no other revenue sources are available for this purpose.
- (5) The tax exemptions set forth in section 37 of this chapter are applicable in economic development areas.
- (6) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes.

(b) The content and manner of discharge of duties set forth in section 11 of this chapter shall be determined by the purposes and nature of an economic development area.  
*As added by P.L.192-1988, SEC.2. Amended by P.L.185-2005, SEC.23; P.L.146-2008, SEC.740; P.L.149-2014, SEC.19.*

#### **IC 36-7-14-44**

##### **Military base reuse area**

Sec. 44. A redevelopment project area, an urban renewal area, or an economic development area established under this chapter may not include any land that constitutes part of a military base reuse area established under IC 36-7-30.

*As added by P.L.26-1995, SEC.2. Amended by P.L.185-2005, SEC.24.*

#### **IC 36-7-14-45**

##### **Establishment of program for housing; notices; conditions**

Sec. 45. (a) The commission may establish a program for housing by resolution. The program, which may include any relevant elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 48 of this chapter for the accomplishment of the program. The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.

(b) The notice and hearing provisions of sections 17 and 17.5 of this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any housing program to the commission, the department of redevelopment:

- (1) shall consult with persons interested in or affected by the proposed program;
- (2) shall provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program; and
- (3) shall hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

*As added by P.L.154-2006, SEC.73.*

#### **IC 36-7-14-46**

##### **Commission authority in program for housing**

Sec. 46. All the rights, powers, privileges, and immunities that may be exercised by the commission in blighted, deteriorated, or deteriorating areas may be exercised by the commission in implementing its program for housing, including the following:

- (1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the housing program.
- (2) Bonds may be issued under this chapter to accomplish the housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a housing program for which bonds were previously issued.
- (3) Leases may be entered into under this chapter to accomplish the housing program.
- (4) The tax exemptions set forth in section 37 of this chapter are applicable.
- (5) Property taxes may be allocated under section 39 of this chapter.

*As added by P.L.154-2006, SEC.74. Amended by P.L.149-2014, SEC.20.*

#### **IC 36-7-14-47**

##### **Commission findings required; contents**

Sec. 47. The commission must make the following findings in the resolution adopting a housing program under section 45 of this chapter:

- (1) Not more than twenty-five (25) acres of the area included in the allocation area has been annexed during the preceding five (5) years.
- (2) No area within the allocation area has been annexed within the preceding five (5) years over a remonstrance of a majority of the owners of land within the annexed area.
- (3) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:
  - (A) the lack of public improvements;
  - (B) the existence of improvements or conditions that lower the value of the land below that of nearby land; or

- (C) other similar conditions.
- (4) The public health and welfare will be benefited by accomplishment of the program.
- (5) The accomplishment of the program will be of public utility and benefit as measured by:
  - (A) the provision of adequate housing for low and moderate income persons;
  - (B) an increase in the property tax base; or
  - (C) other similar public benefits.
- (6) At least one-third (1/3) of the parcels in the allocation area established by the program are vacant.
- (7) At least seventy-five percent (75%) of the allocation area is used for residential purposes or is planned to be used for residential purposes.
- (8) At least one-third (1/3) of the residential units in the allocation area were constructed before 1941.
- (9) At least one-third (1/3) of the parcels in the allocation area have at least one (1) of the following characteristics:
  - (A) The dwelling unit on the parcel is not permanently occupied.
  - (B) The parcel is the subject of a governmental order, issued under a statute or an ordinance, requiring the correction of a housing code violation or unsafe building condition.
  - (C) Two (2) or more property tax payments on the parcel are delinquent.
  - (D) The parcel is owned by local, state, or federal government.
- (10) The total area within the county or municipality that is included in any allocation area established for a housing program under section 45 of this chapter does not exceed three hundred (300) acres.

*As added by P.L.154-2006, SEC.75. Amended by P.L.68-2013, SEC.1.*

**IC 36-7-14-48**

**Allocation of property taxes; fund; use; credit calculation; limitation on distribution of fund; excess assessed valuation calculation**

Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

- (1) The construction, rehabilitation, or repair of residential units within the allocation area.
- (2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.
- (3) The acquisition of real property and interests in real property within the allocation area.
- (4) The demolition of real property within the allocation area.
- (5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.
- (6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).
- (7) For property taxes first due and payable before January 1, 2009, providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

- (A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) (before its repeal) for that year as determined under IC 6-1.1-21-4(a)(1) (before its repeal) that is attributable to the taxing district; by
- (B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) (before its repeal) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) (before its repeal) that under IC 6-1.1-22-9 are due and payable in a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(3)(A) through 39(b)(3)(H) and 39(b)(3)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before June 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:

(A) make the distribution required under section 39(b)(2) of this chapter;

(B) make, when due, principal and interest payments on bonds described in section 39(b)(3) of this chapter;

(C) pay the amount necessary for other purposes described in section 39(b)(3) of this chapter; and

(D) reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area, and (in an electronic format) the department of local government finance.

The notice must:

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(3) If:

(A) the amount of excess assessed value determined by the commission is expected to generate more than two hundred percent (200%) of the amount of allocated tax proceeds necessary to make, when due, principal and interest payments on bonds described in subdivision (1); plus

(B) the amount necessary for other purposes described in subdivision (1);

the commission shall submit to the legislative body of the unit its determination of the excess assessed value that the commission proposes to allocate to the respective taxing units in the manner prescribed in subdivision (2). The legislative body of the unit may approve the commission's determination or modify the amount of the excess assessed value that will be allocated to the respective taxing units in the manner prescribed in subdivision (2).

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-12-37) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) (before its repeal) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2) (before its repeal).

*As added by P.L.154-2006, SEC.76. Amended by P.L.219-2007, SEC.126; P.L.146-2008, SEC.741; P.L.1-2009, SEC.165; P.L.203-2011, SEC.10; P.L.149-2014, SEC.21; P.L.87-2015, SEC.4; P.L.184-2016, SEC.30.*

#### **IC 36-7-14-49**

##### **Program for age-restricted housing**

Sec. 49. (a) A commission may adopt a resolution to establish a program for age-restricted housing. The program:

- (1) must be limited to age-restricted housing that satisfies the requirements of 42 U.S.C. 3607 (the federal Housing for Older Persons Act);
- (2) may include any relevant elements the commission considers appropriate;
- (3) may be adopted as part of a redevelopment plan or an amendment to a redevelopment plan; and
- (4) may establish an allocation area for purposes of sections 39 and 50 of this chapter for the accomplishment of the program.

The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.

(b) The notice and hearing provisions of sections 17 and 17.5 of this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any age-restricted housing program to the commission, the department of redevelopment:

- (1) shall consult with persons interested in or affected by the proposed program; and
- (2) shall hold public meetings in the areas to be affected by the proposed program to obtain the views of affected persons.

*As added by P.L.7-2013, SEC.1.*

#### **IC 36-7-14-50**

##### **Powers of commission in implementing age-restricted housing program**

Sec. 50. (a) Except as provided in subsection (b), all the rights, powers, privileges, and immunities that may be exercised by a commission in blighted, deteriorated, or deteriorating areas may be exercised by a commission in implementing its program for age-restricted housing, including the following:

- (1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the purposes of the age-restricted housing program.
- (2) Bonds may be issued under this chapter to accomplish the purposes of the age-restricted housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area established under section 49 of this chapter, except for refunding bonds or bonds issued in an amount necessary to complete an age-restricted housing program for which bonds were previously issued.
- (3) Leases may be entered into under this chapter to accomplish the purposes of the age-restricted housing program.
- (4) The tax exemptions set forth in section 37 of this chapter are applicable.
- (5) Property taxes may be allocated under section 39 of this chapter.

(b) A commission may not exercise the power of eminent domain in implementing its age-restricted housing program.

*As added by P.L.7-2013, SEC.2. Amended by P.L.2-2014, SEC.120.*

#### **IC 36-7-14-51**

##### **Findings for age-restricted housing program**

Sec. 51. (a) A commission must make the following findings in the resolution adopting an age-restricted housing program under section 49 of this chapter:

- (1) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:
  - (A) the lack of public improvements;

- (B) the existence of improvements or conditions that lower the value of the land below that of nearby land; or
- (C) other similar conditions.
- (2) The public health and welfare will be benefited by accomplishment of the purposes of the program.
- (3) The accomplishment of the purposes of the program will be of public utility and benefit as measured by:
  - (A) an increase in the property tax base;
  - (B) encouraging an age-diverse population in the unit; or
  - (C) other similar public benefits.
- (4) The program will enable the unit to encourage older residents to locate or relocate to the unit.
- (5) The program will not increase the school-age population.

(b) Any program for age-restricted housing established under this section and subject to the provisions of section 52 of this chapter may not require a developer, owner, or other interested party of any proposed or existing development to comply with any provisions of this section or the provisions of section 52 of this chapter unless the commission or its designated agent receives a notarized writing signed by the owner or owners of record of a development within the program area affirmatively indicating the owner's or owners' consent to comply. If the commission or its designated agent receives such a consent, the consenting party or the commission may terminate the application of this section to the proposed or existing development only if the commission and the consenting party agree to do so.

*As added by P.L.7-2013, SEC.3.*

**IC 36-7-14-52**

**“Base assessed value”; allocation of taxes for age-restricted housing program; use of taxes; allocation of excess assessed value**

Sec. 52. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of the purposes of an age-restricted housing program adopted under section 49 of this chapter, “base assessed value” means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for an age-restricted housing program adopted under section 49 of this chapter may be used only for purposes related to the accomplishment of the purposes of the program, including, but not limited to, the following:

- (1) The construction of any infrastructure (including streets, sidewalks, and sewers) or local public improvements in, serving, or benefiting the allocation area.
- (2) The acquisition of real property and interests in real property within the allocation area.
- (3) The preparation of real property in anticipation of development of the real property within the allocation area.
- (4) To do any of the following:
  - (A) Pay the principal of and interest on bonds or any other obligations payable from allocated tax proceeds in the allocation area that are incurred by the redevelopment district for the purpose of financing or refinancing the age-restricted housing program established under section 49 of this chapter for the allocation area.
  - (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in the allocation area.
  - (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in the allocation area and from the special tax levied under section 27 of this chapter.
  - (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to the allocation area.
  - (E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in the allocation area.
  - (F) Make payments on leases payable from allocated tax proceeds in the allocation area under section 25.2 of this chapter.
  - (G) Reimburse the unit for expenditures made by the unit for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to the allocation area.

(c) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for an age-restricted housing program adopted under section 49 of this chapter, do the following before June 15 of each year:

- (1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:



- (A) make the distribution required under section 39(b)(2) of this chapter;
- (B) make, when due, principal and interest payments on bonds described in section 39(b)(3) of this chapter;
- (C) pay the amount necessary for other purposes described in section 39(b)(3) of this chapter; and
- (D) reimburse the county or municipality for anticipated expenditures described in subsection (b)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area, and (in an electronic format) the department of local government finance.

The notice must:

- (A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or
- (B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

*As added by P.L.7-2013, SEC.4. Amended by P.L.87-2015, SEC.5; P.L.184-2016, SEC.31.*

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# APPENDIX E.

## IC 36-7-25, AS AMENDED

### (ADDITIONAL POWERS OF REDEVELOPMENT COMMISSIONS)

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#### IC 36-7-25

##### Chapter 25. Additional Powers of Redevelopment Commissions

#### IC 36-7-25-1

##### Application

Sec. 1. This chapter applies to all units having a department of redevelopment under IC 36-7-14-3 or a department of metropolitan development as the redevelopment commission of a consolidated city or excluded city under IC 36-7-15.1.

*As added by P.L.35-1990, SEC.62. Amended by P.L.102-1999, SEC.28.*

#### IC 36-7-25-2

##### Definitions

Sec. 2. The definitions set forth in IC 36-7-14 and IC 36-7-15.1 apply throughout this chapter.

*As added by P.L.35-1990, SEC.62.*

#### IC 36-7-25-3

##### Financing of projects, improvements, and purposes

Sec. 3. (a) Projects, improvements, or purposes that may be financed by a commission in redevelopment project areas or economic development areas may be financed if the projects, improvements, or purposes are not located in those areas or the redevelopment district as long as the projects, improvements, or purposes directly serve or benefit those areas.

(b) This subsection applies only to counties having a consolidated city. A metropolitan development commission acting as the redevelopment commission of the consolidated city may finance projects, improvements, or purposes that are located in the county and in a reuse area established under IC 36-7-30, even though the reuse area is not located in the redevelopment district. However, at the time this financing is initiated, the redevelopment commission must make a finding that the project, improvement, or purpose will serve or benefit the redevelopment district.

*As added by P.L.35-1990, SEC.62. Amended by P.L.26-1995, SEC.13; P.L.185-2005, SEC.50.*

#### IC 36-7-25-4

##### Joint undertaking of redevelopment or economic development projects in contiguous areas

Sec. 4. Notwithstanding any other law, if two (2) or more units want to jointly undertake redevelopment or economic development projects in contiguous areas in the units' respective jurisdictions that benefit or serve the units' jurisdictions, the legislative body of a unit may:

- (1) assign an area within the unit's jurisdiction to the commission of another unit to allow the creation of an allocation area for the purpose of the allocation of property tax proceeds even though part of the allocation area will be outside the jurisdiction of the commission to which the new area is assigned; or
- (2) may pledge property tax proceeds that would be allocated to the unit's allocation fund to the commission of another unit for the projects.

The commission to which an area is assigned or allocated proceeds are pledged may then take all actions in the area or with respect to the pledged proceeds that could be taken by a commission in an allocation area or with respect to the commission's own revenues until the later of the time when an ordinance rescinding this assignment or pledge is adopted by the legislative body of the assigning or pledging unit or the date on which outstanding bonds or lease rentals payable from allocated property tax proceeds are finally retired. The assigning unit shall continue to tax the taxpayers in the assigned portion of the allocation area at the assigning unit's tax rates.

*As added by P.L.35-1990, SEC.62.*

#### IC 36-7-25-5

##### Project agreements; procedures

Sec. 5. A commission may enter into a project agreement with a developer that has been selected as the successful bidder after following the procedures set forth in IC 36-7-14-22, IC 36-7-15.1-15, or IC 36-7-15.1-44 regarding dispositions of property or interests. Any project agreement must be approved by resolution of the commission. The project agreement may contain terms and provisions for development of projects in a redevelopment or economic development area that are negotiated with the developer in the discretion of the commission, including the type and character of consideration for the disposition, conditions and covenants

as to future actions of the commission and the developer, and the obligation of the commission to exercise any of the commission's powers under IC 36-7-14, IC 36-7-15.1, this chapter, or any other applicable law. *As added by P.L.35-1990, SEC.62. Amended by P.L.102-1999, SEC.29.*

#### **IC 36-7-25-6**

##### **Limitation on taxpayer's right to challenge taxes or assessments; agreement; lien**

Sec. 6. Subject to section 6.5 of this chapter, a commission may enter into an agreement with a taxpayer in an allocation area that limits the taxpayer's rights to challenge the taxpayer's assessment or property taxes or that guarantees, enhances, or otherwise further secures bonds or lease obligations of the commission. The obligation to make payments under a taxpayer agreement that guarantee, enhance, or otherwise further secure bonds or lease obligations of the commission under this section shall be treated in the same manner as property taxes for purposes of IC 6-1.1-22-13, if, and to the extent that, the taxpayer agreement provides for a property tax lien.

*As added by P.L.35-1990, SEC.62. Amended by P.L.147-1992, SEC.2; P.L.200-2016, SEC.3.*

#### **IC 36-7-25-6.5**

##### **Certain tax exempt property; limitation on charges**

Sec. 6.5. (a) As used in this section, "qualified property" has the meaning set forth in IC 36-1-8-18.

(b) Notwithstanding section 6 of this chapter or any other law, and except as provided in subsections (c) and (d), an agreement entered into by a commission after June 30, 2016, may not include any of the following:

(1) A provision requiring a person to:

(A) make any payments in lieu of taxes; or

(B) except as provided in subsection (c), pay any other charge or user fee;

for or on qualified property.

(2) A provision requiring a person to limit the person's rights to challenge any of the following:

(A) The imposition of a payment in lieu of taxes or the payment of any other charge or user fee on qualified property.

(B) The assessment of property taxes imposed on qualified property.

(c) This section does not prohibit the imposing of utility fees or charges, sewer fees or charges, ditch or drainage assessments, storm water fees or charges, or waste collection or disposal fees or charges on qualified property.

(d) Upon the request of the owner of qualified property, a commission may enter into an agreement described in subsection (b) concerning the qualified property.

*As added by P.L.200-2016, SEC.4.*

#### **IC 36-7-25-7**

##### **Contracts with eligible entities for educational and training programs**

Sec. 7. (a) As used in this section, "eligible entity" means a person whose principal functions include the provision of:

(1) educational programs;

(2) work training programs;

(3) worker retraining programs; or

(4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(b) After making the findings set forth in subsection (c), a commission, or two (2) or more commissions acting jointly, may contract with an eligible entity to provide:

(1) educational programs;

(2) work training programs;

(3) worker retraining programs; or

(4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(c) Before a commission may contract for a program described in subsection (b), the commission must find that the program will promote the redevelopment and economic development of the unit, is of utility and benefit, and is in the best interests of the unit's residents.

(d) Except as provided in subsection (e), a commission may use any revenues legally available to the commission to fund a program described in subsection (b).

(e) A commission may not spend:

(1) bond proceeds; or

(2) more than fifteen percent (15%) of the allocated tax proceeds it receives on an annual basis;

to fund a program described in subsection (b).

*As added by P.L.182-2009(ss), SEC.513.*

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## APPENDIX F. 50 IAC 8 (TAX INCREMENT FINANCING REGULATIONS)

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### ARTICLE 8. TAX INCREMENT FINANCE

*NOTE: This article was jointly promulgated with the state board of accounts and also appears at 20 IAC 2.*

#### Rule 1. Definitions

##### 50 IAC 8-1-1 “Additional credit” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 8-22-3.5

Sec. 1. As used in this article, “additional credit” means the additional property tax credit established in IC 36-7-14-39.5 [IC 36-7-14-39.5 was repealed by P.L.146-2008, SECTION 813, effective January 1, 2009.]. (Department of Local Government Finance; 50 IAC 8-1-1; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352)

##### 50 IAC 8-1-2 “Allocation area” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39-2; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 2. As used in this article, “allocation area” means:

(1) the part of a blighted area to which an allocation provision of a declaratory resolution, adopted under IC 36-7-14-15 (or IC 36-7-15.1-8 for Marion County), refers for purposes of distribution and allocation of property taxes;

(2) an economic development area that has been designated as an allocation area pursuant to IC 36-7-14-41 and IC 36-7-14-43 or pursuant to IC 36-7-15.1-29 through IC 36-7-15.1-30;

(3) an allocation area established under IC 36-7-15.1-32 with respect to a program for housing; or

(4) an economic development district declared under IC 6-1.1-39-2.

(Department of Local Government Finance; 50 IAC 8-1-2; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352)

##### 50 IAC 8-1-3 “Allocation area assessment” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 3. As used in this article, “allocation area assessment” means the current aggregate assessed value of allocation area real property and allocation area personal property. (Department of Local Government Finance; 50 IAC 8-1-3; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352)

##### 50 IAC 8-1-4 “Allocation area personal property” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 4. As used in this article, “allocation area personal property” means depreciable personal property in an allocation area that is subject to property taxes and that has been included in the tax increment program pursuant to a resolution adopted by a redevelopment commission that is eligible to adopt such a resolution. (See 50 IAC 8-2-2(b).) (Department of Local Government Finance; 50 IAC 8-1-4; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352)

50 IAC 8-1-5 “Allocation area real property” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 5. As used in this article, “allocation area real property” means all of the individual parcels of real property located in an allocation area. (*Department of Local Government Finance; 50 IAC 8-1-5; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352*)

50 IAC 8-1-6 “Assessed value” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 6. As used in this article, “assessed value” or “assessed valuation” means net assessed value unless otherwise specified. (*Department of Local Government Finance; 50 IAC 8-1-6; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352*)

50 IAC 8-1-7 “Base assessment” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 8-22-3.5; IC 36-7-15.1-32

Sec. 7. As used in this article, “base assessment” means the aggregate assessed valuation of all allocation area real property and allocation area personal property as of the base assessment date. However, the “base assessment” in an allocation area established under IC 36-7-15.1-32 with respect to a program for housing does not include the assessed value of real property improvements as of the base assessment date. However, if the effective date of the allocation provision of a declaratory ordinance is after March 1, 1985, and before January 1, 1986, and if an improvement to property was partially completed on March 1, 1985, the unit may provide in the declaratory ordinance that the taxes attributable to the assessed value of the property as finally determined for March 1, 1984, shall be allocated to and, when collected, paid into the funds of the respective taxing units. (*Department of Local Government Finance; 50 IAC 8-1-7; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352*)

50 IAC 8-1-8 “Base assessment date” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 8. As used in this article, “base assessment date” means the March 1 that immediately precedes the effective date of a declaratory resolution by the redevelopment commission that either establishes an allocation area or adds new area to an existing allocation area. (If the effective date is March 1, the immediately preceding March 1 is the base assessment date.) (*Department of Local Government Finance; 50 IAC 8-1-8; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1352*)

50 IAC 8-1-9 “Blighted” defined

Authority: IC 36-7-14; IC 36-7-15.1

Affected: IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 9. As used in this article, “blighted” means with respect to units subject to IC 36-7-14 “blighted” and with respect to units subject to IC 36-7-15.1 “blighted, deteriorated, or deteriorating.” (*Department of Local Government Finance; 50 IAC 8-1-9; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-10 “Captured assessment” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 10. As used in this article, “captured assessment” means the amount of allocation area assessment used to calculate the tax increment. (*Department of Local Government Finance; 50 IAC 8-1-10; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-11 “Captured assessment individual component” defined  
Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 11. As used in this article, “captured assessment individual component” means, with respect to a parcel of allocation area real property or a return of allocation area personal property, the component of assessed valuation that, when aggregated with all other captured assessment individual components, constitutes the captured assessment. (*Department of Local Government Finance; 50 IAC 8-1-11; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-12 “Current base assessment” defined  
Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 12. As used in this article, “current base assessment” means the base assessment plus the uncaptured assessment. The amount of this assessed value is used in the calculation of a tax rate by each taxing unit in which the allocation area is located. (*Department of Local Government Finance; 50 IAC 8-1-12; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-13 “Current base assessment individual component” defined  
Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 13. As used in this article, “current base assessment individual component” means, with respect to a parcel of allocation area real property or a return of allocation area personal property, the component of assessed value that, when aggregated with all other current base assessment individual components, constitutes the current base assessment. (*Department of Local Government Finance; 50 IAC 8-1-13; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-14 “Housing program credit” defined  
Authority: IC 36-7-15.1-35  
Affected: IC 8-22-3.5; IC 36-7-15.1-35

Sec. 14. As used in this article, “housing program credit” means the credit established under IC 36-7-15.1-35 with respect to a program for housing. (*Department of Local Government Finance; 50 IAC 8-1-14; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-15 “Original base assessment individual real property component” defined  
Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 15. As used in this article, “original base assessment individual real property component” means, with respect to a parcel of allocation area real property, a component of assessed value that is no greater than the assessed value of the parcel as of the base assessment date. If the assessed value of the parcel in a later year is the same as or greater than its assessed value as of the base assessment date, the component in the later year equals the assessed value of the parcel as of the base assessment date. If the assessed value of the parcel in a later year is less than its assessed value as of the base assessment date, the component in the later year equals the actual assessed value of the parcel as of the assessment date of that later year. (*Department of Local Government Finance; 50 IAC 8-1-15; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-16 “Potential captured assessment” defined  
Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 16. As used in this article, “potential captured assessment” means the amount by which the allocation area assessment exceeds the base assessment. (*Department of Local Government Finance; 50 IAC 8-1-16; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-17 “Potential captured assessment individual component” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 17. As used in this article, “potential captured assessment individual component” means, with respect to a parcel of allocation area real property or a return of allocation area personal property, the component of assessed valuation that, when aggregated with all other potential captured assessment individual components, constitutes the potential captured assessment. (*Department of Local Government Finance; 50 IAC 8-1-17; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1353*)

50 IAC 8-1-18 “PTR credit” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 8-22-3.5

Sec. 18. “PTR credit” means the property tax replacement credit provided under IC 6-1.1-21 [*IC 6-1.1-21 was repealed by P.L.146-2008, SECTION 813, effective January 1, 2009.*]. (*Department of Local Government Finance; 50 IAC 8-1-18; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1354*)

50 IAC 8-1-19 “Redevelopment commission” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39-2; IC 8-22-3.5; IC 36-3-4-23; IC 36-7-14-6.1

Sec. 19. As used in this article, “redevelopment commission” means a redevelopment commission appointed under IC 36-7-14-6.1, a metropolitan development commission acting as the redevelopment commission of a consolidated city subject to IC 36-3-4-23, or a fiscal body of a unit that declares an economic development district under IC 6-1.1-39-2. The term redevelopment commission refers to all of these entities unless the context indicates otherwise. (*Department of Local Government Finance; 50 IAC 8-1-19; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1354*)

50 IAC 8-1-20 “Tax increment” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 20. As used in this article, “tax increment” means the property taxes generated from the captured assessment. (*Department of Local Government Finance; 50 IAC 8-1-20; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1354*)

50 IAC 8-1-21 “Uncaptured assessment” defined

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 21. As used in this article, “uncaptured assessment” means the amount of potential captured assessment which the redevelopment commission does not use to generate tax increment. (*Department of Local Government Finance; 50 IAC 8-1-21; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1354*)

Rule 2. Determination and Use of Tax Increment

50 IAC 8-2-1 Summary of rule

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 1. This rule applies to the establishment of allocation areas by redevelopment commissions and to the generation and use of tax increment in those areas. The following subject areas will be addressed by these rules:

(1) Section 2 of this rule addresses the designation of the geographical boundaries of an allocation area by the redevelopment commission, the findings that must be made before an allocation area is designated, and the determination whether the program includes allocation area personal property.



- (2) Section 3 of this rule addresses the effect on the base assessment of a change of the size of an allocation area or a change of the base assessment date.
- (3) Section 4 of this rule addresses the calculation of the potential captured assessment and the captured assessment.
- (4) Section 5 of this rule addresses the application of the property tax rate of each taxing unit to the assessed valuation of the taxing unit both within and without the allocation area.
- (5) Section 6 of this rule describes the application of the PTR credit, the additional credit, and the housing program credit.
- (6) Sections 7 through 8 of this rule describe the records that the county auditor must keep when there is not, and when there is, tax increment.
- (7) Sections 9 through 10 of this rule are examples of the apportionment of individual assessments under a program that includes only real property and under a program that includes both real and personal property.
- (8) Section 11 *[of this rule]* addresses the method for determining captured assessments when less than the full amount of potential captured assessment is required to generate the needed tax increment.
- (9) Section 12 of this rule describes the adjustments that the state board of tax commissioners must make after a general reassessment of real property.
- (10) Section 13 of this rule describes the permissible uses of tax increment by the redevelopment commission.

*(Department of Local Government Finance; 50 IAC 8-2-1; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1354)*

#### 50 IAC 8-2-2 Allocation area designation

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-1-3; IC 36-7-14; IC 36-7-15.1

Sec. 2. (a) A redevelopment commission that designates an allocation area or amends an area declaration must immediately notify the state board of tax commissioners of the designation.

(b) This subsection applies only to redevelopment commissions established under IC 36-7-14 and metropolitan development commissions acting as redevelopment commissions. A redevelopment commission declares an area to be blighted under IC 36-7-14-15 or IC 36-7-15.1-8 by adopting a resolution. The commission may designate an allocation area in the same resolution. A redevelopment commission may also amend a prior resolution that declared a blighted area to add an allocation area by following the same procedure contained in IC 36-7-14-15 through IC 36-7-14-18 or IC 36-7-15.1-8 through IC 36-7-15.1-11. An allocation area may also be created in an economic development area established under IC 36-7-14-41 or IC 36-7-15.1-29. In order for a redevelopment commission to be eligible to include taxes imposed on allocation area personal property in the tax increment finance program, it must have adopted a resolution before June 1, 1987, to include taxes imposed on depreciable personal property that has a useful life in excess of eight (8) years (personal property reportable on Total Pool 3 line 40 and Total Pool 4 line 55 on Form 103, Long Form). If such a resolution was adopted before that date, the redevelopment commission may adopt a new resolution to include a percentage of taxes imposed on all allocation area personal property in the tax increment finance program. That percentage may not exceed twenty-five percent (25%). If the redevelopment commission fails to adopt a new resolution, then no personal property taxes are included in the program.

(c) This subsection applies only to redevelopment commissions established under IC 36-7-14 and metropolitan development commissions acting as redevelopment commissions. In order to declare a blighted area, the redevelopment commission must find that the area meets the definition in IC 36-7-1-3, that the area has become blighted to an extent that it cannot be corrected by regulatory processes, or by the ordinary operations of private enterprise without resort to the provisions of IC 36-7-14 or IC 36-7-15.1, and that the public health and welfare will be benefited by the acquisition and redevelopment of the area. The redevelopment commission may declare any part of the blighted area as an allocation area. Given the statutes' use of the term "blighted" and the finding that must be made before a redevelopment commission may adopt a declaratory resolution, the declaration of a blighted area may include only a limited area. In the typical situation, the geographic description uses city streets or similar boundaries to carve out from a political subdivision only that portion that is truly blighted. It is unlikely that the boundaries of the blighted area coincide with those of a city or any other political subdivision.

(d) This subsection applies only to redevelopment commissions established under IC 36-7-14 and metropolitan development commissions acting as redevelopment commissions. In order to implement tax increment finance in an economic development area, the redevelopment commission must find that the area meets the following:

- (1) That the plan for the economic development area:
  - (A) promotes significant opportunities for the gainful employment of its citizens;
  - (B) attracts a major new business enterprise to the unit;
  - (C) retains or expands a significant business enterprise existing in the boundaries of the unit; or
  - (D) meets other purposes of IC 36-7-14-2.5, IC 36-7-14-41, IC 36-7-15.1-28 through IC 36-7-15.1-30.
- (2) That the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resorting to the powers allowed under IC 36-7-14-41, IC 36-7-14-43, IC 36-7-15.1-28 through IC 36-7-15.1-30 because of:
  - (A) lack of local public improvement;
  - (B) existence of improvements or conditions that lower the value of the land below that of nearby land;
  - (C) multiple ownership of land; or
  - (D) other similar conditions.
- (3) That the public health and welfare will be benefited by accomplishment of the plan for the economic development area.
- (4) That the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:
  - (A) attraction or retention of permanent jobs;
  - (B) increase in the property tax base;
  - (C) improved diversity of the economic base; or
  - (D) other similar public benefits.
- (5) That the plan for the economic development area conforms to other development or redevelopment plans for the unit (the comprehensive plan of development in the case of a consolidated city).
- (e) This subsection applies only to a metropolitan development commission acting as a redevelopment commission. In order to implement tax increment finance in an allocation area established under IC 36-7-15.1-32 with respect to a program for housing, the commission must find the following:
  - (1) That the program meets the purposes of IC 36-7-15.1-31.
  - (2) That the program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:
    - (A) lack of public improvements;
    - (B) existence of improvements or conditions that lower the value of the land below that of nearby land; or
    - (C) other similar conditions.
  - (3) That the public health and welfare will be benefited by accomplishment of the program.
  - (4) That the accomplishment of the program will be of public utility and benefit as measured by:
    - (A) provision of adequate housing for low and moderate income persons;
    - (B) increase in the property tax base; or
    - (C) other similar public benefits.
  - (5) That at least one-third (1/3) of the parcels in the allocation area established by the program are vacant.
  - (6) That at least three-fourths (3/4) of the allocation area is used for residential purposes or is planned to be used for residential purposes.
  - (7) That at least one-third (1/3) of the residential units in the allocation area were constructed before 1941.
  - (8) That at least one-third (1/3) of the parcels in the allocation area have one (1) or more of the following characteristics:
    - (A) The dwelling unit on the parcel is not permanently occupied.
    - (B) The parcel is the subject of a governmental order, issued under a statute or ordinance, requiring the correction of a housing code violation or unsafe building condition.
    - (C) Two (2) or more property tax payments on the parcel are delinquent.
    - (D) The parcel is owned by local, state, or federal government.
- (f) In order to implement tax increment finance in an economic development district declared under IC 6-1.1-39, the fiscal body of the unit must find the following:
  - (1) That in order to promote opportunities for the gainful employment of its citizens, the attraction of a new business enterprise to the unit, the retention or expansion of a business enterprise existing within the boundaries of the unit, or the preservation or enhancement of the tax base of the unit, an area under the fiscal body's jurisdiction should be declared an economic development district.

(2) That the public health and welfare of the unit will be benefited by designating the area as an economic development district.

(3) That there has been proposed a qualified industrial development project to be located in the economic development district, with the proposal supported by:

(A) financial and economic data; and

(B) preliminary commitments by business enterprises, associations, state or federal governmental units, or similar entities that evidence a reasonable likelihood that the proposed qualified industrial development project will be initiated and accomplished.

(g) A tax increment finance program in an economic development district declared under IC 6-1.1-39 may include any part of the property taxes imposed on depreciable personal property that the taxing unit has by ordinance allocated to the district. However, the ordinance may not limit the allocation to taxes on depreciable personal property with any particular useful life or lives. The limitation must instead be stated as a percentage of the assessed value of the personal property. If a unit had, by ordinance adopted before May 8, 1987, allocated to an economic development district property taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the ordinance continues in effect until an ordinance is adopted by the unit under IC 6-1.1-39-5(g)(2).

(h) It is unlikely that the boundaries of an economic development area, of an allocation area established under IC 36-7-15.1-32 with respect to a program for housing, or of an economic development district declared under IC 6-1.1-39-2 will coincide with those of a city or any other political subdivision. The declaration of an extensive area might violate the enabling statutes and might cause severe problems in administering the tax increment finance program. The greater the number of parcels of allocation area real property (and returns of allocation area personal property if it is part of the program), the greater is the difficulty in determining the potential captured assessment. (*Department of Local Government Finance; 50 IAC 8-2-2; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1355; errata filed Sep 5, 1989, 3:20 p.m.: 13 IR 87*)

#### 50 IAC 8-2-3 Allocation area changes; required information

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1-10.5

Sec. 3. (a) The redevelopment commission must, before the first March 1 after the base assessment date, file with the county auditor a copy of the allocation area map, the confirmed resolution adopted by the redevelopment commission, lists of parcel identification numbers of real property in the allocation area, and names of owners of depreciable personal property in the allocation area (if personal property is included in the program). The redevelopment commission must file with the county auditor the same information before the March 1 that next follows the adoption of a resolution that increases the size of an allocation area. If a redevelopment commission changes the base assessment date in an allocation area, it must, before March 1 that next follows the adoption of the resolution changing the base assessment date, file a copy of the resolution adopted by the redevelopment commission with the county auditor. The county auditor must maintain a yearly record of assessed valuation of allocation area real and personal property as it is affected by the computations described in sections 7 through 10 of this rule.

(b) If the redevelopment commission changes the base assessment date, the base assessment is determined as of the new base assessment date. Except as provided in IC 36-7-15.1-10.5 and IC 36-7-15.1-26.1 [*IC 36-7-15.1-26.1 was repealed by P.L.146-2008, SECTION 812, effective July 1, 2008.*] with respect to a metropolitan development commission, a redevelopment commission can adopt a resolution to change the base assessment date by using the same procedures for adoption of an allocation area resolution.

(c) If the redevelopment commission adopts a resolution to increase the size of an allocation area, the base assessment is determined for the added area as if it were a separately declared allocation area.

(d) If the redevelopment commission adopts a resolution to merge or consolidate existing allocation areas, the base assessment and base assessment date remain the same as they were before the merger or consolidation. However, the redevelopment commission may, in that resolution, designate a later base assessment date for any of the allocation areas that are merged or consolidated under the resolution. Before the March 1 that next follows the adoption of the resolution that consolidates existing allocation areas, the redevelopment commission must file with the county auditor a copy of the merger or consolidation resolution. (*Department of Local Government Finance; 50 IAC 8-2-3; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1357*)

50 IAC 8-2-4 Allocation of assessed value

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14-39; IC 36-7-15.1

Sec. 4. (a) For purposes of this section, obligations of a redevelopment commission are considered to include the payment of all obligations payable from tax increment as described in section 13 of this rule, and the funding of all accounts and reserves that might be required under a contract with bondholders or with lessors in lease financings.

(b) For purposes of the collection of tax increment in a particular year, all of the potential captured assessment is captured assessment unless the redevelopment commission notifies the county auditor by July 15 of the immediately preceding year to use only part of the potential captured assessment as captured assessment. This notice applies only to that particular year. The captured assessment may not exceed the potential captured assessment.

(c) Potential captured assessment may be captured only if tax increment is needed to satisfy obligations of the redevelopment commission. The redevelopment commission must determine before July 15 of each year whether the sum of the balance in the allocation fund plus estimated future investment earnings on that balance is sufficient to satisfy its obligations over the terms of those obligations. If so, the commission shall notify the county auditor by July 15 that no tax increment will be required in the following year, and that it is not necessary for any of the potential captured assessment to be captured. (However, see section 13(g) of this rule concerning the payment of collections to enterprise zone funds.) The redevelopment commission shall give the notice described in subsection (b) if it determines that capture of a portion of the potential captured assessment will result in a balance in the allocation fund in the following year that, when combined with future investment earnings on that balance and the resultant tax increment to be collected in the following year, will be sufficient to satisfy its obligations over the terms of those obligations.

(d) The redevelopment commission should consider giving the notice described in subsection (b) whenever it appears that the use of the entire potential captured assessment as captured assessment would generate more tax increment than will be needed to meet the obligations of the redevelopment commission. For purposes of determining the amount of potential captured assessment that will be captured, the redevelopment commission must consider the effect that the determination will have on the property tax rate in the taxing district in which the allocation area is located. The greater the amount of the potential captured assessment that is captured, the higher the tax rate and the tax increment will be.

(e) This subsection applies if notice has been given under subsection (b). To estimate the amount of potential captured assessment to be captured, the amount of tax increment that the redevelopment commission determines should be collected in the following year is divided by an estimate of the tax rate for the following year in the taxing district in which the allocation area is located. The estimate of the tax rate can be based on the current year's tax rate, with adjustments for changes for the following year that will be caused by factors such as the addition or elimination of debt service or a cumulative fund by one (1) or more of the taxing units that are part of the taxing district. The determination must also take into account the percentage of tax increment billed that is expected to be collected, any applicable percentage of additional credit or housing program credit, and any credits to be paid to taxpayers under IC 36-7-14-39(b)(2)(I). The redevelopment commission should determine the captured assessment in consultation with the county auditor, and must determine the captured assessment in an amount that will ensure that the redevelopment commission will receive tax increment sufficient to pay its obligations that are payable from tax increment. The county auditor must report any uncaptured assessment to the taxing units in which the allocation area is located by August 1.

Example

Desired tax increment = \$10,000

Estimated tax rate = \$8 (.08)

Estimated collection rate = 95%

Additional credit percentage = 15%

(1) In order to collect ten thousand dollars (\$10,000), taxes billed must be  $\$10,000/.95 = \$10,526$ .

(2) In order to bill ten thousand five hundred twenty-six dollars (\$10,526), gross taxes (taxes before application of the additional credit) must be  $\$10,526/.85 = \$12,384$ .

(3) The amount of potential captured assessment to be captured in order to reflect gross taxes of twelve thousand three hundred eighty-four dollars (\$12,384) is  $\$12,384/.08 = \$154,800$ .

(f) The sum of the uncaptured assessment and the base assessment equals the current base assessment. The current base assessment is subject to taxation by the taxing units and is used in calculating the property tax rates of

the taxing units. (*Department of Local Government Finance; 50 IAC 8-2-4; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1357*)

50 IAC 8-2-5 Application of tax rate

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 5. The property tax rate established for each taxing unit in which the allocation area is located is applied to the aggregate assessed value of the property located outside of the allocation area and the current base assessment as calculated under section 4 of this rule. The resulting property taxes are collected for the benefit of the taxing unit. The captured assessment is subject to the combined property tax rates of the taxing units in which the allocation area is located. The resulting tax increment is collected for the benefit of the allocation area. (*Department of Local Government Finance; 50 IAC 8-2-5; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1358*)

50 IAC 8-2-6 PTR credit; additional credit; housing program credit

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-1-10; IC 36-7-15.1-17.1; IC 36-7-15.1-35

Sec. 6. (a) In an allocation area established in an economic development district under IC 6-1.1-39, the PTR credit applies to property taxes on the current base assessment individual components and to tax increment if the district was established before January 1, 1988, and if the application of the credit was approved by the department of commerce before that date. In all other allocation areas, the PTR credit applies to property taxes on the current base assessment individual components, but not to tax increment.

(b) The additional credit applies to tax increment (except in Marion County and Fort Wayne). Upon the recommendation of the redevelopment commission, the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) may, by resolution, provide that the additional credit does not apply in a specified allocation area, or that it is to be reduced by a uniform percentage for all taxpayers in a specified allocation area. Such a resolution first applies to property taxes payable in the year following the year of adoption of the resolution. Whenever a municipal legislative body or county executive determines that application of the full additional credit would adversely affect the interests of the holders of bonds or other contractual obligations payable from tax increment in a way that would create a reasonable expectation that those bonds or other obligations would not be paid when due, the municipal legislative body or county executive must adopt a resolution to deny the additional credit or reduce it to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. Such a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations in a way that would create a reasonable expectation that the principal or interest on the bonds or other obligations would not be paid when due.

(c) A housing program credit applies to tax increment in Marion County if the city-county legislative body establishes the credit by ordinance. The credit first applies to property taxes payable in the year following the year of adoption of the ordinance. In addition to the ordinance by the legislative body, the redevelopment commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under IC 36-7-15.1-17.1 or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

(d) The redevelopment commission may adopt a resolution to prorate the housing program credit among all taxpayers if the tax increment is insufficient to grant the credit in full. Such a resolution first applies to property taxes payable in the year following the year of adoption of the resolution.

(e) In order to ensure that a resolution to eliminate or reduce the additional credit or the housing program credit can be reflected in tax bills in a particular year, the resolution must be adopted by November 15 of the preceding year. The redevelopment commission must immediately notify the county auditor of the adoption. (*Department of Local Government Finance; 50 IAC 8-2-6; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1358*)

50 IAC 8-2-7 No tax increment; records

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 7. With respect to any year in which an allocation area is in place but there is no captured assessment, the entire allocation area assessment is subject to taxation by the taxing units in which the allocation area is located, and the PTR credit applies to all of the taxes on that assessment in the same manner that it applies to other property taxes imposed by the taxing units. Because there is no tax increment, there is no additional credit or housing program credit. The county auditor must record the aggregate change in assessed value from the base assessment date of all real property in the allocation area and any personal property in the allocation area that is part of the tax increment finance program. Each year that such a record is required, the county auditor shall provide the record to each taxing unit in which the allocation area is located in order to allow the units to evaluate the potential effect on their tax rates in any later year when the redevelopment commission requires tax increment. The county auditor shall also provide the record to the redevelopment commission. (*Department of Local Government Finance; 50 IAC 8-2-7; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1359*)

50 IAC 8-2-8 Tax increment; records

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 8. (a) With respect to any year in which an allocation area is in place and there is captured assessment, only the current base assessment is taxed by the taxing units in which the allocation area is located. The PTR credit applies to taxes on the current base assessment individual components in the same manner that it applies to taxes on property in the taxing district outside the allocation area. The PTR credit also applies to taxes on captured assessment individual components in an economic development district declared under IC 6-1.1-39 if the district was established before January 1, 1988, and if the application of the credit was approved by the department of commerce before that date. If the additional credit (not applicable in Marion County or Fort Wayne) or the housing program credit (applicable only in Marion County) is in place (see section 6 of this rule), the credit applies to taxes on the captured assessment individual components. If the percentage of credit on taxes on the current base assessment individual components differs from the percentage of credit on taxes on the captured assessment individual components, then those components must be determined with respect to each parcel of allocation area real property and any returns of allocation area personal property. If the percentage of credit on taxes on both components is the same, then the amounts of these components must be determined only with respect to parcels or returns on which taxes are wholly or partially delinquent in order to determine the allocation of taxes between the redevelopment commission and the taxing units. (This also applies in an economic development district declared under IC 6-1.1-39.)

(b) If a determination of the amounts of the current base assessment individual components and the captured assessment individual components is required as described in subsection (a), the county auditor must first perform the apportionment to restore the base assessment described in section 9 or 10 of this rule. This determines the portion of the assessed value of each parcel of allocation area real property and of each return of personal property (if applicable) that is considered part of the base assessment, and the portion that is the potential captured assessment individual component. If all of the potential captured assessment is needed by the redevelopment commission to generate the tax increment, then each portion of an assessment that is determined under section 9 or 10 of this rule to be part of the base assessment equates to the current base assessment individual component, and each portion that is determined to be a potential captured assessment individual component equates to the captured assessment individual component. However, if the redevelopment commission does not use the full potential captured assessment (see section 4(c) through 4(d) of this rule), then apportionment under section 11 of this rule must be performed to determine the amounts of the current base assessment individual components and the captured assessment individual components.

(c) If a determination of the amounts of all current base assessment individual components and captured assessment individual components is not required as described in subsection (a), then it is necessary to determine the amounts of these components only with respect to parcels or returns on which taxes are wholly or partially delinquent. This subsection outlines the minimum number of calculations necessary to make that determination. The aggregate decreases of assessed value of all parcels of allocation area real property and all returns of allocation area personal property must be determined. This figure is added to the remainder of the base assessment subtracted

from the current year's assessed value of all allocation area real and personal property, which results in the aggregate increase of assessed value of all parcels and returns. The aggregate increases are then divided by the aggregate decreases to determine the percentage of the assessment of each parcel on which taxes are wholly or partially delinquent that is the potential captured assessment individual component. (Then determine captured.) (*Department of Local Government Finance; 50 IAC 8-2-8; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1359*)

50 IAC 8-2-9 Apportionment; real property example

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 9. This section addresses the apportionment to restore the base assessment that might be required as described in section 8 of this rule. (This is required only if the percentage of credit on taxes on the current base assessment individual components differs from the percentage of credit on taxes on the captured assessment individual components.) This section deals with a tax increment finance program that includes only real property. If the current year's assessed value of some of the parcels of allocation area real property is lower than it was on the base assessment date, then those lower assessed values must be compared with the assessed values of parcels whose current year's assessed value is higher than it was on the base assessment date. From the assessed value of the parcels whose assessed value is higher than it was on the base assessment date, an amount must be apportioned to restore the base assessment. The base assessment is restored by adding the amount apportioned with respect to each such parcel to the original base assessment individual real property component of that parcel. The apportionment is in the proportion that the amount of the aggregate decreases in the assessed valuation of allocation area real property from the base assessment date to the current assessment date bears to the amount of the aggregate increases in the assessed valuation of allocation area real property from the base assessment date to the current assessment date.

Example

- (1) Base assessment date is March 1, 1986.
- (2) There are five (5) parcels of allocation area real property.
- (3) AV = assessed valuation.

TABLE 1

	3/1/86 AV	3/1/88 AV	Increases	Decreases
Parcel #1	\$10,000	\$20,000	+ \$10,000	
#2	20,000	5,000		- \$15,000
#3	12,000	38,000	+ 26,000	
#4	6,000	3,000		- 3,000
#5	15,000	15,000		
	<u>\$63,000</u>	<u>\$81,000</u>	<u>+ \$36,000</u>	<u>- \$18,000</u>

- (4) The AV of all allocation area real and personal property in 1986 is sixty-three thousand dollars (\$63,000) (base assessment).
- (5) The AV of all allocation area real property in 1988 is eighty-one thousand dollars (\$81,000). The potential captured assessment in 1988 is \$81,000 - \$63,000 = \$18,000.
- (6) Table 2 lists the current AV of the original base assessment individual real property components.

TABLE 2

1988 AV of the Original Base Assessment  
Individual Real Property Components

Parcel #1	\$10,000
#2	5,000
#3	12,000
#4	3,000
#5	<u>15,000</u>
	<u>\$45,000</u>

- (7) The taxing units are actually entitled to tax AV in the amount at least equal to the base assessment, which was sixty-three thousand dollars (\$63,000). Therefore, there must be an apportionment to the taxing units of part of the increases that occurred between 1986 and 1988 with respect to Parcels #1 and #3 in order to assign to the taxing units an additional eighteen thousand dollars (\$18,000) from those increases to restore the base assessment. The apportionment is in the proportion that aggregate decreases in assessed

valuation of allocation area real property from 1986 to 1988 (eighteen thousand dollars (\$18,000)) bears to the aggregate increases in assessed valuation of allocation area real property from 1986 to 1988 (thirty-six thousand dollars (\$36,000)). Therefore, the percentage of the increase in assessed valuation of each real property parcel whose AV is greater in 1988 than it was in 1986 that is assigned to restore the base assessment is fifty percent (50%) ( $\$18,000/\$36,000 = 50\%$ ).

TABLE 3

	AV Increase 1986 to 1988	Apportionment Percentage	=	Assigned to Taxing Units to Restore the Base Assessment
Parcel #1	\$10,000	50%	=	\$5,000
#3	26,000	50%	=	13,000
				\$18,000

(8) The additional eighteen thousand dollars (\$18,000) assigned to the taxing units to restore the base assessment of sixty-three thousand dollars (\$63,000) is obtained by assigning five thousand dollars (\$5,000) from the Parcel #1 increase and thirteen thousand dollars (\$13,000) from the Parcel #3 increase. With respect to each parcel of allocation area real property, the following AV's (listed in the "Total" column) are considered part of the base assessment and are taxable by the taxing units in the same manner as property located outside of the allocation area:

TABLE 4

	1988 AV of the Original Base Assessment Individual Real Property Components	+	Apportionment of Increase from 1986 to 1988	=	Total
Parcel #1	\$10,000	+	\$5,000	=	\$15,000
#2	5,000				5,000
#3	12,000	+	13,000	=	25,000
#4	3,000				3,000
#5	15,000				15,000
	\$45,000		\$18,000		\$63,000

(9) The remainder of the increases in AV from 1986 to 1988 are considered to be potential captured assessment. The potential captured assessment individual components are as follows:

TABLE 5

	AV Increase 1986 to 1988	-	Apportioned to Taxing Units	=	Remainder
Parcel #1	\$10,000	-	\$5,000	=	\$5,000
#3	26,000	-	13,000	=	13,000
	\$36,000		\$18,000		\$18,000

(10) The AV taxable by the taxing units under Table 4 (sixty-three thousand dollars (\$63,000)) plus the AV taxable by the redevelopment district under Table 5 (eighteen thousand dollars (\$18,000)) equals the total March 1, 1988 AV (eighty-one thousand dollars (\$81,000)).

*(Department of Local Government Finance; 50 IAC 8-2-9; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1360)*

#### 50 IAC 8-2-10 Apportionment; real and personal property example

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 10. (a) This section addresses the apportionment to restore the base assessment that might be required as described in section 8 of this rule. (This is required only if the percentage of credit on taxes on the current base assessment individual components differs from the percentage of credit on taxes on the captured assessment individual components.) This section deals with a tax increment finance program that includes both real and personal property. (See section 2(b) of this rule concerning the limited circumstances under which personal property may be included in the program.) For purposes of this subsection, it is assumed that the redevelopment commission has adopted a resolution to include twenty-five percent (25%) of depreciable personal property in the tax increment finance program under section 2(b) of this rule and that the base assessment date precedes March 1, 1988. The inclusion of personal property requires consideration of additional factors in the computation of the potential captured assessment. As described in section 9 of this rule, if the assessed values of some of the parcels of allocation area real property are higher than they were on the base assessment date, then the increases may be apportioned, if necessary, to restore the base assessment. Any increases that are not used to restore the base assessment become part of the potential captured assessment.



(b) With respect to each personal property return that includes allocation area personal property, the assessed value of the property on the return as of the base assessment date must be compared to the assessed value of that property on the return as of the assessment date of the current year. If seventy-five percent (75%) of the assessed value as of the current assessment date is equal to or greater than the assessed value as of the base assessment date, then the full remaining twenty-five percent (25%) may be apportioned, if necessary, to restore the base assessment. If seventy-five percent (75%) of the assessed value as of the current assessment date is less than the assessed value as of the base assessment date, then any positive remainder obtained by subtracting the assessed value as of the base assessment date from the assessed value as of the current assessment date may be apportioned, if necessary, to restore the base assessment. In both cases, any amounts available to restore the base assessment that are not used for that purpose become part of the potential captured assessment.

(c) Restoration of the base assessment is required when the following amount is less than the base assessment:

- (1) the sum of the assessed value as of the current year of all original base assessment individual real property components; plus
- (2) the aggregate of the remaining current year assessed value of allocation area personal property after subtracting any portion of the assessed value that is available to restore the base assessment as described in subsection (b).

#### Example

(1) Base assessment date is March 1, 1986.

(2) There are three (3) parcels of allocation area real property and three (3) returns that include allocation area personal property.

(3) AV = assessed valuation.

		<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
Parcel	A	\$10,000	\$24,000	(1) \$14,000	(1) \$10,000
	B	20,000	5,000		5,000
	C	12,000	18,000	6,000	12,000
Personal Property					
Return	X	12,000	16,000	(2) 4,000	(2) 12,000
	Y	9,000	6,000	(3) -0-	6,000
	Z	10,000	12,000	2,000	10,000
		\$73,000	\$81,000	(4) \$26,000	(3) \$55,000
		<u>Column 5</u>	<u>Column 6</u>	<u>Column 7</u>	
Parcel	A	\$14,000   .6923 =	\$9,692	(1) \$19,692	(1) \$4,308
	B			5,000	
	C	6,000   .6923 =	4,154	16,154	1,846
Personal Property					
Return	X	4,000   .6923 =	2,769	(2) 14,765	1,231
	Y			6,000	
	Z	2,000   .6923 =	1,385	11,385	615
			\$18,000	\$73,000	(2) \$8,000

#### Column 1

March 1, 1986 AV of all parcels of allocation area real property and returns of allocation area personal property. The total of Column 1 is the base assessment.

#### Column 2

March 1, 1988 AV of all parcels of allocation area real property and returns of allocation area personal property.

#### Column 3

(1) Increases in the AV of allocation area real property from 1986 to 1988 (Parcels A and C).

(2) Twenty-five percent (25%) of Column 2 if seventy-five percent (75%) of Column 2 is equal to or greater than Column 1 (Return X).

(3) If seventy-five percent (75%) of Column 2 is less than Column 1, then the remainder of Column 2 minus Column 1 (not less than zero (0)) is listed in Column 3 (Returns Y and Z).

(4) The total of Column 3 is the amount available to restore the base assessment.

#### Column 4

(1) The original base assessment individual real property components as of March 1, 1988 (all parcels).

(2) With respect to each personal property return, the remainder of the current year AV of allocation area personal property (from Column 2) minus the amount of AV that is available to restore the base assessment (from Column 3).  
 (3) The total of Column 4 is the amount of AV that is taxable by the taxing units in which the allocation area is located unless that total is less than the base assessment (total of Column 1). The remainder of the total of Column 1 minus the total of Column 4 (\$73,000 - \$55,000 = \$18,000) must be restored from the amount of AV available for that purpose under Column 3 (twenty-six thousand dollars (\$26,000)).

Column 5

From each amount in Column 3, a percentage is used for restoration of the base assessment. The percentage is the amount to be restored (the total of Column 1 minus the total of Column 4) divided by the amount available for that purpose from Column 3 (\$18,000/\$26,000 = 69.23% or .6923).

Column 6

- (1) With respect to each parcel of real property, the sum of:  
 (A) the original base assessment individual real property components as of March 1, 1988, from Column 4(1); plus  
 (B) the portion of any real property AV increase from Column 3(1) that is computed for restoration of the base assessment under Column 5.  
 (2) With respect to each personal property return, the sum of:  
 (A) the amount of AV listed in Column 4(2); plus  
 (B) the portion of the AV from Column 3(2) and 3(3) that is computed for restoration of the base assessment under Column 5.

Note: With respect to each parcel and each return, the amount listed in Column 6 is the amount of the 1988 AV that is taxable by the taxing units in which the allocation area is located.

(3) The total of Column 6 is the restored base assessment.

Column 7

- (1) Potential captured assessment individual components (all parcels and returns).  
 (2) Potential captured assessment. (*Department of Local Government Finance; 50 IAC 8-2-10; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1362*)

50 IAC 8-2-11 Determination of captured assessments  
 Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
 Affected: IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 11. If pursuant to section 4 of this rule, it is determined that not all of the potential captured assessment is required in order to generate the needed tax increment, then there is a proportional decrease in the potential captured assessment individual components in order to determine the captured assessment individual components. Using the example from section 9 of this rule, if the redevelopment commission only uses twelve thousand dollars (\$12,000) of assessed value instead of the entire amount of the potential captured assessment (eighteen thousand dollars (\$18,000)), the captured assessment individual components are as follows:

	Proportion of AV Taxable by Redevelopment District	Uncaptured AV	Adjustment	Taxable by Taxing Units	Captured Assessment Individual Components
Parcel #1	(\$ 5,000/\$18,000)	\$6,000	= \$1,666.7	\$16,666.7	\$ 3,333.3
#3	(\$13,000/\$18,000)	\$6,000	= \$4,333.3	\$29,333.3	\$ 8,666.7
			\$6,000		\$12,000

(*Department of Local Government Finance; 50 IAC 8-2-11; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1363*)

50 IAC 8-2-12 Reassessment adjustments  
 Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1  
 Affected: IC 6-1.1; IC 8-22-3.5; IC 36-7-14; IC 36-7-15.1

Sec. 12. (a) For purposes of this section, “adequate potential captured assessment” means an amount of potential captured assessment that is sufficient to produce tax increment that equals or exceeds the amount that would have been produced if the general reassessment had not occurred.

(b) The state board of tax commissioners is required to adjust the base assessment one (1) time to neutralize any effect of a general reassessment on the tax increment. The adjustment does not include the effect of property tax abatements under IC 6-1.1-12.1. This section establishes the guidelines for the adjustment.

(c) The state board of tax commissioners will determine a tentative new base assessment under this subsection only if it receives before August 1 of a year in which a general reassessment of real property first becomes effective, an estimate under IC 6-1.1-17-1 of the amount of assessed valuation in the political subdivisions of a county in which an allocation area is located. For that year, the board will determine two (2) quotients with respect to each allocation area. The first is the quotient of the gross assessed valuation of all real property in the allocation area as of March 1 of the current year divided by the gross assessed valuation of all real property in the allocation area as of March 1 of the immediately preceding year. The second quotient results from the same calculation using the gross assessed valuation of real property in the county. The lesser of the two (2) quotients obtained with respect to each allocation area will be multiplied by the base assessment for the allocation area. That product will be the tentative new base assessment if the board determines that there is adequate potential captured assessment. If there is not adequate potential captured assessment, the board will adjust the base assessment to arrive at a tentative new base assessment that will result in an adequate potential captured assessment. The board will notify the county auditor, who shall notify the fiscal body of each affected taxing unit of the tentative new base assessment, which can be used to project property tax rates for the following year.

(d) The board will determine the new base assessment for each taxing unit by January 15 of the year following the year in which a general reassessment of real property first becomes effective. The board will use the same procedure for this adjustment that is used to determine the tentative new base assessment under subsection (c). The board will use the new base assessment in certifying the tax rates of the taxing units under IC 6-1.1-17-16.

(e) The board will use the best assessed valuation information available at the time it makes an adjustment to the base assessment under subsection (c) or (d). In making the adjustments, the board will exclude from consideration any assessed valuation of allocation area real property that is subject to appeal under IC 6-1.1-15. After the final resolution of such an appeal, the board will adjust the new base assessment considering any assessed valuation that had previously been excluded under this subsection. (*Department of Local Government Finance; 50 IAC 8-2-12; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1363; errata filed Sep 5, 1989, 3:20 p.m.: 13 IR 87*)

50 IAC 8-2-13 Tax increment; use

Authority: IC 6-1.1-39; IC 36-7-14; IC 36-7-15.1

Affected: IC 6-1.1-39-2; IC 8-22-3.5; IC 36-1-10; IC 36-7-14; IC 36-7-15.1

Sec. 13. (a) Tax increment in an allocation area established under IC 36-7-14 or IC 36-7-15.1, or in an economic development area, is paid into an allocation fund that may be used only to do one (1) or more of the following:

- (1) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
- (2) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (3) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under IC 36-7-14-27 or IC 36-7-15.1-19.
- (4) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements in that allocation area or serving the allocation area in counties other than Marion County.
- (5) Pay premiums on the redemption before maturity of bonds payable solely or in part from the tax increment in that allocation area.
- (6) Make payments on leases payable from tax increment in that allocation area under IC 36-7-14-25.2 or IC 36-7-15.1-17.1.
- (7) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in IC 36-7-14-25.1(a) or IC 36-7-15.1-17(a)) in that allocation area or serving the allocation area in counties other than Marion County.
- (8) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area or serving the allocation area in counties other than Marion County under any lease entered into under IC 36-1-10.
- (9) In counties other than Marion County, pay all or a portion of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. The amount of the credit

is determined under IC 36-7-14-39(b)(2)(I). (This is a credit that is paid to taxpayers from collected tax increment, unlike the additional credit and the housing program credit which reduce the tax increment collected.)

(b) Tax increment in an allocation area established under IC 36-7-15.1-32 with respect to a program for housing is paid into a special fund that may be used only for purposes related to the accomplishment of the program, including the following:

- (1) The construction, rehabilitation, or repair of residential units within the allocation area.
- (2) The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.
- (3) The acquisition of real property and interests in real property within the allocation area.
- (4) The demolition of real property within the allocation area.
- (5) To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.
- (6) To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).
- (7) To provide each taxpayer in the allocation area a credit for property tax replacement as determined under IC 36-7-15.1-35 (c) through IC 36-7-15.1-35 (d). However, this credit may be provided by the commission only if the city-county legislative body establishes the credit by ordinance adopted in the year before the year in which the credit is provided. (This is a credit that is paid to taxpayers from collected tax increment, unlike the additional credit and the housing program credit which reduce the tax increment collected.)

(c) Tax increment in an economic development district declared under IC 6-1.1-39-2 is paid into a special fund that may be used only to pay the principal of and interest on obligations owed by the unit under IC 4-4-8 [IC 4-4-8 was repealed by P.L.4-2005, SECTION 148, effective February 9, 2005.] for the financing of industrial development programs in, or serving, that economic development district.

(d) The allocation fund or special fund may not be used for the operating expenses of the redevelopment commission.

(e) A unit may be reimbursed under subsection (a)(7) or (a)(8) only for expenditures that qualify under that subsection and that were made after the adoption of the resolution in which the allocation area was declared. Supervisory expenses related to redevelopment projects in the allocation area that are paid to individuals retained to supervise such projects qualify as expenditures for which reimbursement can be made.

(f) Except as provided in subsection (g), the redevelopment commission shall direct the county auditor to pay to the taxing units in which the allocation area is located any part of the tax increment in excess of the amount that will be used in the following year to meet the obligations of the redevelopment commission (including the funding of all accounts and reserves that might be required under a contract with bondholders).

(g) For these allocation areas governed by IC 36-7-14, if any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1 [IC 4-4-6.1 was repealed by P.L.4-2005, SECTION 148, effective February 9, 2005.], then the taxing unit that designated the allocation area shall create a special zone fund and the redevelopment commission may not direct the county auditor to pay excess amounts to the taxing units. The county auditor shall deposit in the special zone fund incremental tax proceeds that exceed the amount needed for payments described in subsection (a). The special zone fund is used for certain programs related to the enterprise zone. (*Department of Local Government Finance; 50 IAC 8-2-13; filed Jan 30, 1989, 3:30 p.m.: 12 IR 1364*)