

# OVERVIEW OF TAX INCREMENT FINANCING AND REDEVELOPMENT COMMISSIONS IN INDIANA

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1. **CREATION OF REDEVELOPMENT COMMISSION.** 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 (except in a few counties), the Board of Commissioners of a county).
2. **MEMBERS OF REDEVELOPMENT COMMISSION.**
  - (a) **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.
  - (b) **Non-Voting School Board Member.** 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. Such non-voting member is appointed by the Mayor in cities, by the President of the Town Council in towns, and by the Board of Commissioners in counties.
  - (c) **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.
  - (d) **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.
  - (e) **Two Lucrative Office Prohibition.** 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 prohibition any type of compensation (*i.e.*, salary or per diem). By statute, the non-voting school board member is not entitled to any compensation.
  - (f) **Conflicts of Interest.** Redevelopment Commission members must be careful to avoid conflicts of interest. Redevelopment Commission members may not have a pecuniary interest in any contract, employment, purchase or sale made pursuant to the redevelopment statutes.

- (g) **Term of Service:** Members serve for a one-year term beginning on the January 1 following their appointment and until replaced, except that the originally appointed members serve for the remainder of the calendar year in which they are appointed, plus one year, and 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 and until replaced.
- (h) **Removal of Members.** The appointing person or body may remove its appointee at will, and without cause.
- (i) **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.

3. **MEETINGS OF REDEVELOPMENT COMMISSIONS; OFFICERS.**

- (a) **Initial Organizational Meeting.** The Redevelopment Commission members must hold an organization meeting within thirty (30) days after their appointment.
- (b) **Annual Meeting.** The Redevelopment Commission must meet on the first day of January of each year that is not a weekend or holiday.
- (c) **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.
- (d) **Election of Officers.** The members must elect a President, a Vice President and a Secretary, who serve until they are replaced by the members.
- (e) **Role of Unit's Fiscal Officer.** The unit's fiscal officer (Clerk-Treasurer, Controller or Auditor) is generally required to perform the same duties with respect to the funds and accounts of the Redevelopment Commission as it performs with respect to the funds and accounts of the unit. Note: **Pursuant to Senate Enrolled Act 118, effective July 1, 2014, the fiscal officer of the unit will be deemed to be the treasurer of the Redevelopment Commission. (Under current law, Redevelopment Commissions are permitted to appoint a private party to serve as treasurer.)** Matthew Kimmick, City/County Controller  
Office of Finance & Management
- (f) **Public Notices of Meetings.** Unless a specific statute requires more, only an Indiana Open Door Law notice is required in advance of meetings. [Open Door Law requirements (see Indiana Code 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.]

- (g) **Rules and By-laws.** The Redevelopment Commission may, but is not required to, adopt rules and by-laws.
- (h) **Quorum Requirement.** A majority of the voting members constitute a quorum.
- (i) **Voting Requirements.** Action by the Redevelopment Commission requires the affirmative vote of a majority of the members of the Redevelopment Commission (not just a majority of those present at a meeting).

4. **JURISDICTION OF REDEVELOPMENT COMMISSION.**

(a) **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.

(b) **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.

(c) **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.

5. **GENERAL DUTIES OF REDEVELOPMENT COMMISSION.** Duties of the Redevelopment Commission include the following:

- (a) Investigate, survey and study areas in the unit that need redevelopment.
- (b) Study and combat the factors causing an area to need redevelopment.
- (c) Select and acquire areas needing redevelopment.

6. **ANNUAL NOTICE AND REPORTING REQUIREMENTS OF REDEVELOPMENT COMMISSIONS**

- (a) By **January 30** 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 (*i.e.*, Mayor, Town Council President, or County Commissioners, as appropriate), containing the information set forth in Indiana Code 36-7-14-13.
- (b) By **March 15** of each year, each Redevelopment Commission must include in its report required to be filed with the executive of the unit (*i.e.*, Mayor of a city, Town Council President of a town, or County Commissioners of most counties) an accounting of the tax increment revenues expended by any entity receiving the tax increment revenues as a grant or loan from the commission. In addition, a copy of such report must be submitted to the department of local government finance in an electronic format under IC 5-14-6.
- (c) **Pursuant to Senate Enrolled Act 118, effective July 1, 2014, the treasurer of the Redevelopment Commission and the Redevelopment Authority will be required to submit annual reports to the unit's fiscal body (*i.e.*, Common Council, Town Council, or the County Council) by July 1 of each year.**
- (d) Under current law, the Redevelopment Commission has an affirmative obligation to notify by **July 15** of each year the county auditor and also the fiscal body of the city, town or county that created the commission, and each taxing unit that is wholly or partly located in the TIF allocation area, 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, **under Senate Enrolled Act 118, effective July 1, 2014, for purposes of this annual reporting process which Redevelopment Commissions must undertake each year prior to July 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.**

see page 9 for Auditor's March 1 reporting requirements

- (e) Redevelopment Commissions are required to submit a report by **August 1** of each year to the fiscal body of the unit (Common Council in cities, Town Council in towns, and County Councils in counties). The report is required to include specified information for each tax increment financing (TIF) district for the previous year, including:

- Revenues received;
- Expenses paid;
- Fund balances;
- Amount and maturity date for all outstanding obligations;
- Amount paid on outstanding obligations; and
- List of parcels included in each TIF District and the base assessed value and incremental assessed value for each parcel in the list.

- (f) By **October 1** of each year, the fiscal body of the unit will be required to compile the reports received for all TIF Districts and submit a comprehensive report to the Department of Local Government Finance (DLGF) in a form to be determined by the DLGF.

#### 7. **LEGISLATIVE BODY OVERSIGHT OF REDEVELOPMENT COMMISSION AND ITS ANNUAL BUDGET**

**Under Senate Enrolled Act 118, effective July 1, 2014, Redevelopment Commissions will be subject to oversight by the legislative body of the applicable unit, including a review of the Redevelopment Commission's annual budget.**

8. **APPROVALS REQUIRED.** Various Redevelopment Commission actions require legislative or fiscal body approval (such as the issuance of bonds, generally regardless of amount, any amendments to a declaratory resolution or plan, the use of eminent domain and entering into a lease). Note: **pursuant to Senate Enrolled Act 118, effective July 1, 2014, Redevelopment Commissions will no longer have the power of eminent domain.** Under current law, such power exists only in "areas needing redevelopment" and not in "economic development areas." Note that the local governmental units themselves still have the power of eminent domain in areas needing redevelopment as well as in economic development areas. Note also that even under current law, legislative body approval is, in all events, required for the exercise of eminent domain by a Redevelopment Commission.

#### 9. **GENERAL POWERS OR REDEVELOPMENT COMMISSION.**

- (a) Acquisition of property needed for redevelopment or economic development purposes. (NOTE: A Redevelopment Commission does not have condemnation powers in an Economic Development Area).
- (b) Disposition of property acquired for redevelopment or economic development purposes.
- (c) Holding and using property for redevelopment or economic development purposes.
- (d) **Clearance** of property acquired for redevelopment or economic development purposes. **demolition**

- (e) Remediation of environmental contamination of property acquired for redevelopment or economic development purposes.
- (f) Repair, remodeling, maintenance or improvement of property acquired for redevelopment or economic development purposes.

10. **CREATION OF “AREAS NEEDING REDEVELOPMENT” AND “ECONOMIC DEVELOPMENT AREAS.”**

(a) **Procedural Steps.**

- (i) **Determination of Boundaries of Proposed Area.** Factors to be considered include the challenges in administration (for example, TIF calculations) of large areas with a large number of parcels, as well as where any tax increment will need to be used.
- (ii) **Creation of Plan for Proposed Area.** When drafting a Redevelopment Plan (or an Economic Development Plan) for its compliance with Indiana Code 36-7-14, as amended (the “Act”), the following is a list of items that should be included or covered in the Plan:
  - (1) **Legal Description of the Redevelopment Area (or Economic Development Area):** Section 15 of the Act requires a general description of the Area in the Declaratory Resolution. It is customary practice to also include, at the very least, a general description of the boundaries of the Area in the Plan. Preferably, the Plan will contain a legal description of the Area.
  - (2) **Maps and Plats of the Area:** Section 15 of the Act requires the Redevelopment Commission to cause “maps and plats” to be prepared showing the boundaries of the Area, along with various other items. It is customary practice to include a fairly descriptive map of the Area in the Plan, outlining the boundaries of the Area somewhere on the map.
  - (3) **Acquisition List, or a Statement of No Acquisition:** Section 15 of the Act also requires the preparation by the Redevelopment Commission of a list of the owners of the parcels of property within the Area that are proposed to be acquired under the Plan. Therefore, the Plan should either (i) contain an acquisition list of such owners, or (ii) contain a statement that the Redevelopment Commission does not, or does not currently, anticipate acquiring property as part of the Plan.
  - (4) **Estimate of the Cost of Acquisition and Redevelopment (or Economic Development):** Section 15 of the Act 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 Plan to set forth this estimate, typically with an allocation of the total estimate between the various projects and/or costs.

- (5) **Statutory Findings:** The Plan should have a section devoted to statutory findings. Specifically, to create a Redevelopment Area (or an Economic Development Area), the Redevelopment Commission must make certain findings set forth in the Act. The best Plans set forth the language of the statutory findings and analytically describe how each of the required findings is met by the Area.
- a. **Findings Required To Establish An “Area Needing Redevelopment:”**
    - i. the area in the territory under the Redevelopment Commission’s jurisdiction is an “area needing redevelopment,” meaning an area in which normal development and occupancy are undesirable or impossible because of any of the following:
      - 1) Lack of development.
      - 2) Cessation of growth.
      - 3) Deteriorated or deteriorating improvements.
      - 4) Environmental contamination.
      - 5) Character of occupancy.
      - 6) Age.
      - 7) Obsolescence.
      - 8) Substandard buildings.
      - 9) Other factors that impair values or prevent a normal use or development of property;
  - b. 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 the Act; and
  - c. the public health and welfare will be benefited by the acquisition and redevelopment of the area under the Act as a redevelopment project area.
  - d. **Findings Required To Establish An “Economic Development Area:”**
    - i. the plan for the economic development area:
      - 1) promotes significant opportunities for the gainful employment of its citizens;
      - 2) attracts a major new business enterprise to the unit;

infrastructure  
demolition, brownfields

assembly, maybe not acquisition...  
see page 14 for guidance on  
real property acquisition

note these are only the requirements  
to \*establish\* the EDA

- 3) retains or expands a significant business enterprise existing in the boundaries of the unit; or
  - 4) meets other purposes of this section and sections 2.5 and 43 of the Act;
  - ii. 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 the Act because of:
    - 1) lack of local public improvement;
    - 2) existence of improvements or conditions that lower the value of the land below that of nearby land;
    - 3) multiple ownership of land; or
    - 4) other similar conditions;
  - iii. the public health and welfare will be benefited by accomplishment of the plan for the economic development area;
  - iv. the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:
    - 1) the attraction or retention of permanent jobs;
    - 2) an increase in the property tax base;
    - 3) improved diversity of the economic base; or
    - 4) other similar public benefits; and
  - v. the plan for the economic development area conforms to other development and redevelopment plans for the unit.
- (iii) Redevelopment Commission adopts Declaratory Resolution approving the Plan and declaring the Area to be a Redevelopment Area (or an Economic Development Area).
  - (iv) Plan Commission adopts resolution approving the Plan and the Declaratory Resolution and finding that the Plan conforms to the unit's plan of development for the Area.
  - (v) The Common Council, Town Council or 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.

- (vi) **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.
- (vii) **Notice of Public Hearing by Redevelopment Commission.** The Redevelopment Commission, at least ten days in advance, must cause to be published a notice of public hearing by the Redevelopment Commission relating to the creation of the 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.
- (viii) **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.
- (ix) **Required Filings.** 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.

#### 11. DESIGNATION OF ALLOCATION AREAS.

- (a) **Procedures.** To create an allocation area in part or all of the Area Needing Redevelopment (or Economic Development Area), the Redevelopment Commission must include appropriate provisions as part of the Declaratory Resolution. A Redevelopment Commission may also add TIF allocation provisions to an existing Area Needing Redevelopment (or Economic Development Area) by following the procedures required to amend the Declaratory Resolution. Note: **Pursuant to Senate Enrolled Act 118, effective July 1, 2014, the creation or expansion of a TIF Allocation Area will require 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.**
- (b) **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.”) re: "net" residential gains/losses (Midtown TIF "fix")
- (c) **Concept of Base Assessment Date.** If a Declaratory Resolution with tax allocation provisions is adopted before March 1, then the base assessment date will be the prior March 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 March 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.

- (d) **Administration of TIF by Auditor.** The Redevelopment Commission should be in regular communication with the County Auditor to ensure that the Auditor is aware of which parcels are within an allocation area, and to ensure that TIF calculations are being computed correctly. **The Auditor will reset the base each year to neutralize the effect of reassessment and trending.**
- (e) **Permissible Uses of TIF Revenues.**
- (i) Indiana Code generally permits TIF revenues to be used for property rights acquired by the Redevelopment Commission in furtherance of redevelopment or economic development purposes that serve or benefit the allocation area generating the TIF revenues, or to pay debt service on bonds or lease payments used to finance such property.
  - (ii) **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, then the project being financed with the TIF revenues must be physically connected to the allocation area.**
  - (iii) Redevelopment Commissions may spend up to 15% of their annual TIF revenues for educational or worker retraining programs. (Indiana Code 36-7-25-7.)
  - (iv) Paying the costs of an eligible efficiency project within the unit. "Eligible efficiency project" is defined in 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."
  - (v) Under regulations issued by the Department of Local Government Finance, a Redevelopment Commission may in some cases be able to use TIF to pay the salary of staff to the extent that the employee's services relate to a particular project in the allocation area and the Redevelopment Commission carefully records and documents the employee's services relating to such project.
  - (vi) TIF revenues may not be used for the operation expenses of the Redevelopment Commission.
  - (vii) TIF revenues may be used to pay for professional services relating to the allocation area, such as legal or accounting costs.
- (f) **Depreciable Personal Property TIF.** Most TIF districts collect TIF only on real property. 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:
- (i) 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 the Act or to make

payments or to provide security on leases payable under section 25.2 of the Act in order to provide local public improvements for the allocation area;

- (ii) 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
- (iii) the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects.

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

- (g) **Limit on Term of TIF District.** Effective January 1, 2010, the 25-year limit (imposed in 2008) on the term of a new TIF allocation area established after June 30, 2008, was modified to provide that **the 25-year clock does not begin to tick until debt that is secured by TIF is incurred.** TIF allocation areas created before July 1, 2008, have a thirty-year maximum term starting with the date of creation, except for TIF allocation areas created before July 1, 1995 (so-called "legacy TIF Districts"), which have no term limit. However, **under Senate Enrolled Act 118, effective July 1, 2014, legacy TIF districts (with the sole exception of the Consolidated Allocation Area in Indianapolis) will have a statutorily imposed termination date of the later of (a) June 30, 2025, or (b) the final maturity date of obligations payable from the TIF District that are issued by July 1, 2015.**

Presumably, the new termination date for legacy TIF Districts would apply only to the portion of the TIF District created before July 1, 1995, and not to any expansions that occurred after June 30, 1995. Expansions that occurred after June 30, 1995, should keep their existing termination dates. Such termination dates are tied to when the portion of the TIF district was created, as follows:

**Date of Creation of TIF District Portion: Maximum Term of TIF District Portion**

July 1, 1995 through June 30, 2008: 30 years

July 1, 2008 through Dec. 31, 2009: 25 years

Jan. 1, 2010 or later: 25 years after debt is issued and the first principal payment or lease payment is scheduled to be paid from TIF.

Since TIF obligations issued under current law may not have a final maturity date longer than 25 years after their date of issuance, the practical effect of the legislation will be to limit the term of legacy TIF Districts to not later than June 30, 2040.

- (h) **TIF Replacement.** The significant changes to the property tax system set forth in HEA 1001 (2010) likely will have some financial impact, positive or negative, on each outstanding TIF area in Indiana. If the changes result in a loss of TIF revenue to a redevelopment commission such that the commission cannot meet its financial obligations, the act provides the commission with three options for

replacing the lost revenue: (a) a tax levy on the entire redevelopment district, (b) a special assessment on the taxpayers who are located in the TIF allocation area, or (c) a downward adjustment to the base assessed value of the TIF allocation area. Options (a) and (b) above would require approval by the legislative body of the unit.

- (i) **Tax Increment Replacement Levies Or Assessments Do Not Count Against Maximum Levy.** For Redevelopment Commissions eligible to impose a tax increment replacement levy or an assessment because changes in law have reduced their TIF collections in a way that endangers debt repayment or **coverage ratio covenant compliance**, Indiana law was amended in 2010 so that these remedies will not count against the unit's maximum levy. (See Indiana Code 6-1.1-21.2-15.)
- (j) **TIF and 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.** re: "net" residential gains/losses

**NOTE:** Complicated rules exist relating to whether apartments and condominiums are treated as residential property, or are instead treated as commercial property and therefore capturable for purposes of TIF. The following rules generally apply:

- (i) 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.
- (ii) 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.
- (iii) Property is also generally classified as commercial (and therefore capturable) if it consists of condominiums with **four or more stories.**

(k) **Financings Involving TIF.**

- (i) 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.**
- (ii) Financings where TIF is a source of repayment combined with another source, such as COIT revenues or property taxes.
- (iii) Financings involving the issuance by the unit of (taxable) economic development revenue bonds on behalf of a private company, where the Redevelopment Commission pledges TIF revenues to the payment of the promissory note issued by the private company to secure the repayment of the bonds.
- (iv) Lease financings, typically involving the establishment by the unit of a Redevelopment Authority to serve as the issuer of bonds payable from

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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.

- (v) **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.
- (vi) Bonds payable from the levy of special taxing district taxes are subject to a 2% debt limit. 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.
- (vii) **Referendums and Petition/Remonstrance.** The new referendum and petition/remonstrance requirements will apply to TIF bonds only if (a) the projected TIF revenues are insufficient to pay debt service on the bonds, and (b) a full general obligation property tax is pledged as a back-up source of payment on the bonds.
- (viii) **Limit on Term of Debt.** Financings will generally be limited to 25 years.
- (ix) **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%-150%) of the debt service on the combined old and proposed new bonds.
- (x) 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 recently 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 the general 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.

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12. **EFFECT OF TAX ABATEMENT ON TIF DISTRICTS.** Tax abatements have the effect of lowering the amount of TIF revenues by virtue of decreasing property taxes otherwise payable. **NOTE: 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.** CCC
13. **ACQUISITION OF REAL PROPERTY BY REDEVELOPMENT COMMISSIONS.** The process which a Redevelopment Commission must follow to acquire property generally consists of the following:
  - (a) The Redevelopment Commission obtains two independent professional appraisals of the value of the property. These appraisals are not open for public inspection.
  - (b) 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.
  - (c) The Redevelopment Commission should verify that the acquisition of the property is part of the Plan for the Area; otherwise, it will need to amend the Plan to add the project.
  - (d) The Redevelopment Commission should ensure that a proper appropriation exists for the expenditure of funds, or should follow the procedures for an additional appropriation.
14. **DISPOSITION OF PROPERTY BY REDEVELOPMENT COMMISSIONS.** Indiana law relating to the disposition of property is more flexible for Redevelopment Commissions than for the civil unit. The process generally involves obtaining 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 agreeing to satisfy any 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 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 or nominal or no consideration by the purchase).
15. **AMENDMENTS OF REDEVELOPMENT OR ECONOMIC DEVELOPMENT PLANS.** Most types of amendments require that the Redevelopment Commission follow the same procedures as apply to the creation of a new area, including Plan Commission approval and approval by the City Common Council, Town Council or County Commissioners. Until June 30, 2011, in order to expand an existing redevelopment area or economic development area, the Redevelopment Commission was required to make a finding that the existing area **does not generate sufficient revenues** to meet the financial obligations of the original project. This requirement could be waived with the prior approval of the Indiana Economic Development Commission. Also, all expansions, regardless of size, must go through the same process required for the original establishment of an area. Under prior law the commission could expand an area by no more than 20% of its original size with one public hearing, abbreviated fact findings and approval of the commission only. **A TIF district can also be amended to remove material "decrements."** **Effective July 1, 2011,** the **process for enlarging an existing TIF District** no longer requires a finding that the

existing area does not generate sufficient revenue to meet the financial obligations of the original project, nor is Indiana Economic Development Commission approval necessary. The Redevelopment Commission will simply be required to go through the same process required for the original establishment of an area. (House Enrolled Act 1004)

16. **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 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.
17. **HOUSING TIF.** 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.
18. **AGE RESTRICTED HOUSING TIF DISTRICTS.** House Enrolled Act 1359, passed in 2013, permits Redevelopment Commissions to establish TIF Districts designed to encourage older residents to locate or relocate to the unit, without increasing the school-age population. The "age-restricted housing" TIF Districts would be required to satisfy the Federal Housing for Older Persons Act.
19. **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 be less than the entire unit.
20. **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.
21. **SOURCES OF FUNDS FOR REDEVELOPMENT COMMISSIONS.**
  - (a) TIF Revenues.
  - (b) Pledges of COIT, EDIT, *etc.*, by unit.
  - (c) Tax Abatement contributions.
  - (d) Limited property tax rate.
  - (e) In some cases, temporary loans from the unit.
22. **STATUTORY AUTHORITY FOR REDEVELOPMENT COMMISSIONS AND TIF.** The principal statutes governing Redevelopment Commissions and TIF are Indiana Code 36-7-14 (for Indianapolis and Marion County, Indiana Code 36-7-15.1) and Indiana Code 36-7-25.