

14-168-301. Definitions.

As used in this act subchapter, unless the context otherwise requires:

- (1) "Applicable ad valorem rate" means the total ad valorem rate less the debt service ad valorem rate;
- (2) "Base value" means the assessed value of all property within a redevelopment district subject to ad valorem taxation, as of the most recent assessment preceding the formation of the redevelopment district;
- (3)(A) "Blighted area" means an area in which the structures, buildings, or improvements, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals, or welfare.

(B) "Blighted area" includes any area which, by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax on special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, or any area which is predominantly open and which because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community;
- (4) "Current value" means the assessed value of all property within a redevelopment district subject to ad valorem taxation, as of the most recent assessment after the formation of the redevelopment district;
- (5) "Debt service ad valorem rate" means that portion of the total ad valorem rate that has been, at January 1, 2001, pledged to the payment of debt service on bonds issued by any taxing unit in which all or any part of the redevelopment district is located;
- (6)(A) "Incremental value", for any redevelopment district, means the difference between the base value and the current value.

(B) The incremental value will be positive if the current value exceeds the base value, and the incremental value will be negative if the current value is less than the base value;
- (7) "Local governing body" means the city council, city board of directors, county quorum court, or any other legislative body governing a local government in the State of Arkansas;
- (8) "Local government" means any city or county in the State of Arkansas;
- (9)(A) "Project costs" means expenditures made in preparation of the project plan and made, or estimated to be made, or monetary obligations incurred, or estimated to be incurred, by the local government, which are listed in the project plan as costs of public works or improvements within a

redevelopment project district, plus any costs incidental thereto.

(B) Project costs include, but are not limited to:

(i) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures, the demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures, environmental remediation, parking and landscaping, the acquisition of equipment, and site clearing, grading, and preparation;

(ii) Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs, all costs of issuance, and any redemption premiums, credit enhancement, or other related costs;

(iii) Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the local government of real or personal property within a redevelopment district for consideration which is less than its cost to the local government;

(iv) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services;

(v) Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by local government employees in connection with the implementation of a project plan;

(vi) Relocation costs, including, but not limited to, those relocation payments made following condemnation and job training and retraining;

(vii) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies, and the costs of informing the public with respect to the creation of redevelopment project areas and the implementation of project plans;

(viii) The amount of any contributions made in connection with the implementation of the project plan;

(ix) Payments made, in the discretion of the local governing body, which are found to be necessary or convenient to the creation of redevelopment areas or the implementation of project plans; and

(x) That portion of costs related to the construction of environmental protection devices, storm or sanitary sewer lines, water lines, or amenities or streets or the rebuilding or expansion of streets, the construction, alteration, rebuilding, or expansion of which is necessitated by the project plan for a district, whether or not the construction, alteration, rebuilding, or expansion is within the area;

(10) "Project plan" means the plan which shall be adopted by a local governing body for a redevelopment project as described in § 14-168-308;

(11) "Real property" means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest, and right, legal or equitable, in them, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens;

(12) "Redevelopment district" means a contiguous geographic area within a city or county in which

a redevelopment project will be undertaken, as defined and created by ordinance of the local governing body;

(13)(A) "Redevelopment project" means an undertaking for eliminating or preventing the development or spread of slums or deteriorated, deteriorating, or blighted areas, for discouraging the loss of commerce, industry, or employment, or for increasing employment, or any combination thereof.

(B) A redevelopment project may include one (1) or more of the following:

(i) The acquisition of land and improvements, if any, within the redevelopment district and clearance of the land so acquired; or

(ii) The development, redevelopment, revitalization, or conservation of the project area whenever necessary to provide land for needed public facilities, public housing, or industrial or commercial development or revitalization, to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration; or

(C) The financial or other assistance in the relocation of persons and organizations displaced as a result of carrying out the redevelopment project and other improvements necessary for carrying out the project plan, together with such site improvements as are necessary for the preparation of any sites and making any land or improvements acquired in the project area available, by sale or by lease, for public housing or for development, redevelopment, or rehabilitation by private enterprise for commercial or industrial uses in accordance with the plan;

(D) The construction of capital improvements within a redevelopment district designed to alleviate deteriorating conditions or a blighted area or designed to increase or enhance the development of commerce, industry, or housing within the redevelopment district; or

(E) Any other projects the local governing body deems appropriate to carry out the purposes of this subchapter;

(14) "Special fund" means a separate fund for a redevelopment district established by the local government into which all tax increment revenues and other pledged revenues are deposited and from which all project costs are paid;

(15) "Tax increment" means the incremental value of a redevelopment district multiplied by the applicable ad valorem rate;

(16) "Taxing unit" means any city, county, school district, or community college district; and

(17) "Total ad valorem rate" means the total millage rate of all county, city, school, or other local general property taxes levied on all taxable property within a redevelopment district in a year.

History. Acts 2001, No. 1197, § 2.

14-168-302. Construction.

The General Assembly declares that this subchapter is necessary for the welfare of this state and its inhabitants, and it is the intent of the General Assembly that it is to be broadly construed to effect its purpose.

History. Acts 2001, No. 1197, § 3.

14-168-303. Powers supplemental.

The powers conferred by this subchapter are in addition and supplemental to the powers conferred upon local governments and improvement districts by the General Assembly relating to the issuance of bonds.

History. Acts 2001, No. 1197, § 4.

14-168-304. Powers generally.

In addition to any other powers conferred by law, a local government may exercise any powers necessary and convenient to carry out the purpose of this subchapter, including the power to:

- (1) Create redevelopment districts and to define the boundaries of redevelopment districts;
- (2) Cause project plans to be prepared, to approve the project plans, and to implement the provisions and effectuate the purposes of the project plans;
- (3) Issue redevelopment bonds and notes and to pledge tax increments and other redevelopment revenues for repayment of them;
- (4) Deposit moneys into the special fund for any redevelopment project district;
- (5) Enter into any contracts or agreements, including agreements with bondholders, determined by the local governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;
- (6) Receive from the federal government or the state loans and grants for, or in aid of, a redevelopment project and to receive contributions from any other source to defray project costs;
- (7)(A) Exercise the right of eminent domain to condemn property for the purposes of implementing the project plan.
(B) The rules and procedures set forth in §§ 18-15-301 - 18-15-307 shall govern all condemnation proceedings authorized in this subchapter;
- (8) Make relocation payments to such persons, businesses, or organizations as may be displaced as a result of carrying out the redevelopment project;
- (9) Clear and improve property acquired by it pursuant to the project plan and construct public facilities on it or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration, or repair of the property;
- (10) Cause parks, playgrounds, or water, sewer, or drainage facilities, or any other public improvements, including, but not limited to, fire stations, community centers, and other public buildings, which it is otherwise authorized to undertake, to be laid out, constructed, or furnished in connection with the redevelopment project;
- (11) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon, or discontinue public ways and construct sidewalks in, or adjacent to, the redevelopment project;
- (12) Cause private ways, sidewalks, ways for vehicular travel, playgrounds, or water, sewer, or drainage facilities and similar improvements to be constructed within the redevelopment project for the particular use of the redevelopment district or those dwelling or working in it;
- (13) Construct any capital improvements of a public nature, as such term is defined in § 14-164-303 (a)(2), as now or hereafter amended;
- (14) Construct capital improvements to be leased or sold to private entities in connection with the

goals of the redevelopment project;

(15) Designate one (1) or more official or employee of the local government to make decisions and handle the affairs of redevelopment districts created pursuant to this subchapter;

(16) Adopt ordinances or bylaws or repeal or modify such ordinances or bylaws or establish exceptions to existing ordinances and bylaws regulating the design, construction, and use of buildings within the redevelopment district;

(17) Sell, mortgage, lease, transfer, or dispose of any property, or interest therein, acquired by it pursuant to the project plan for development, redevelopment, or rehabilitation in accordance with the project plan;

(18) Invest project revenues as provided in this subchapter; and

(19) Do all things necessary or convenient to carry out the powers granted in this subchapter.

History. Acts 2001, No. 1197, § 5.

14-168-305. Creation of district.

(a) The local governing body, upon its own initiative or upon request of affected property owners or upon request of the city or county planning commission, may designate the boundaries of a proposed redevelopment district.

(b)(1) The local governing body shall hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a redevelopment district and its proposed boundaries.

(2)(A) Notice of the hearing shall be published in a newspaper of general circulation in the city or county at least fifteen (15) days prior to the hearing.

(B) Prior to this publication, a copy of the notice shall be sent by first-class mail to the chief executive officer of all local governmental and taxing entities having the power to levy taxes on property located within the proposed redevelopment district and to the school board of any school district which includes property located within the proposed redevelopment district.

(c) The local governing body shall adopt an ordinance which:

(1) Describes the boundaries of a redevelopment district sufficiently definite to identify with ordinary and reasonable certainty the territory included in, which boundaries may create a contiguous or noncontiguous district;

(2) Creates the redevelopment district as of a date provided in it;

(3)(A) Assigns a name to the redevelopment district for identification purposes.

(B) The name may include a geographic or other designation, shall identify the city or county authorizing the district, and shall be assigned a number, beginning with the number one (1).

(C) Each subsequently created district shall be assigned the next consecutive number; and

(4) Contains findings that the real property within the redevelopment district will be benefitted by eliminating or preventing the development or spread of slums or blighted, deteriorated, or deteriorating areas, or discouraging the loss of commerce, industry, or employment, or increasing employment, or any combination thereof.

(d)(1) No county shall establish a redevelopment district, any portion of which is within the boundaries of a city.

(2) Provided, however, that one (1) or more local governments through interlocal agreement may join in the creation of a district, the boundaries of which lie in one (1) or more local governments.

(e)(1) The ordinance shall establish a special fund as a separate fund into which all tax increment revenues and other revenues designated by the local government for the benefit of the redevelopment district shall be deposited, and from which all project costs shall be paid.

(2) Such special fund may be assigned to and held by a trustee for the benefit of bondholders if tax increment financing is used.

(f)(1) The boundaries of the redevelopment district may be modified from time to time by ordinance of the local government.

(2) Provided, however, that in the event any bonds, notes or other obligations are outstanding with respect to the redevelopment district, any change in the boundaries shall not reduce the amount of tax increment available to secure such tax increment financing.

History. Acts 2001, No. 1197, § 6.

14-168-306. Project plan - Approval.

(a)(1) Upon the creation of the redevelopment district, the local governing body shall cause the preparation of a project plan for each redevelopment district, and such project plan shall be adopted by ordinance of the local governing body.

(2) This process shall conform to the procedures set forth in this section.

(b) Each project plan shall include:

(1) A statement listing the kind, number, and location of all proposed public works or improvements within the district or, to the extent provided, outside the district;

(2) An economic feasibility study;

(3) A detailed list of estimated project costs;

(4) A description of the methods of financing all estimated project costs, including the issuance of tax increment bonds; and the time when the costs or monetary obligations related thereto are to be incurred;

(5) A certification by the county tax assessor of the base value, total ad valorem rate, debt service ad valorem rate, and applicable ad valorem rate for the redevelopment district;

(6) The type and amount of any other revenues that are expected to be deposited to the special fund of the redevelopment district;

(7) A map showing existing uses and conditions of real property in the district;

(8) A map of proposed improvements and uses in the district;

(9) Proposed changes of zoning ordinances;

(10) Appropriate cross-references to any master plan, map, building codes, and city ordinances affected by the project plan;

(11) A list of estimated nonproject costs; and

(12) A statement of the proposed method for the relocation of any persons to be displaced.

(c) If the project plan is to include tax increment financing, the tax increment financing portion of the plan shall set forth:

(1) The amount of indebtedness to be incurred pursuant to this subchapter;

(2) An estimate of the tax increment to be generated as a result of the project;

(3) The method for calculating the tax increment, which shall be in conformance with the provisions of this subchapter, together with any provision for adjustment of the method of calculation;

(4) Any other revenues, such as payment-in-lieu-of-taxes revenues, to be used to secure the tax increment financing; and

(5) Any other provisions as may be deemed necessary in order to carry out any tax increment financing to be used for the redevelopment project.

(d) If less than all of the tax increment is to be used to fund a redevelopment project or to pay project costs or retire tax increment financing, the project plan shall set forth the portion of the tax increment to be deposited in the special fund of the redevelopment district, and provide for the distribution of the remaining portion of the tax increment to the taxing units in which the district lies.

(e)(1) The local governing body shall hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan.

(2)(A) Notice of the hearing shall be published in a newspaper of general circulation in the city or county at least fifteen (15) days prior to the hearing.

(B) Prior to this publication, a copy of the notice shall be sent by first-class mail to the chief executive officer of all local governmental and taxing entities having the power to levy taxes on property located within the proposed redevelopment district and to the school board of any school district which includes property located within the proposed redevelopment district.

(3) The hearing may be held in conjunction with the hearing set forth in § 14-168-305(b)(1).

(4) Prior to publication, a copy of the notice shall be sent by first-class mail to the chief executive officer of all local governments or entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed redevelopment district.

(f)(1) Approval by the local governing body of a project plan must be within one (1) year after the date of the county assessor's certification required by subdivision (b)(5) of this section.

(2) The approval shall be by ordinance which contains a finding that the plan is economically feasible.

History. Acts 2001, No. 1197, § 7.

14-168-307. Project plan - Amendment.

(a) The local governing body may adopt by ordinance an amendment to a project plan.

(b)(1) Adoption of an amendment to a project plan shall be preceded by a public hearing held by the local governing body as provided in § 14-168-306(e)(1), at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment.

(2)(A) Notice of the hearing shall be published in a newspaper of general circulation in the city or county once a week for two (2) consecutive weeks. The first such publication shall be fifteen (15) days prior to the hearing.

(B) Prior to publication, a copy of the notice shall be sent by first-class mail to the chief executive officer of all local governments or entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district.

(c)(1) One (1) or more existing redevelopment districts may be combined pursuant to lawfully adopted amendments to the original plans for each district.

(2) Provided that the local governing body finds that the combination of the districts will not impair the security for any bonds previously issued pursuant to this subchapter.

History. Acts 2001, No. 1197, § 8.

14-168-308. Termination of districts.

(a) No redevelopment district may be in existence for a period longer than twenty-five (25) years, unless, pursuant to amendment of the redevelopment plan, additional bonds have been issued and would not be fully paid until after the date which is twenty-five (25) years from the date of creation of the district.

(b) The local governing body may set a shorter period for the existence of the district, and may also provide that no bonds shall have a final maturity on a date later than the termination date of the district.

(c) Upon termination of the district, no further ad valorem tax revenues shall be distributed to the special fund of the district.

(d)(1) The local governing body shall adopt, upon the expiration of the time periods set forth in this section, an ordinance terminating the redevelopment district.

(2) Provided, however, that no district shall be terminated so long as bonds with respect to the district remain outstanding.

History. Acts 2001, No. 1197, § 9.

14-168-309. Costs of formation.

(a) The local government may pay, but shall have no obligation to pay, the costs of preparing the project plan or forming the redevelopment district.

(b) If the local government elects not to incur those costs, they shall be made project costs of the district and reimbursed from bond proceeds or other financing, or may be paid by developers, property owners, or other persons interested in the success of the redevelopment project.

History. Acts 2001, No. 1197, § 10.

14-168-310. Overlapping districts.

The boundaries of any redevelopment districts shall not overlap with any other redevelopment district.

History. Acts 2001, No. 1197, § 11.

14-168-311. Valuation of real property.

(a)(1) Upon and after the effective date of the creation of a redevelopment project district, the county assessor of the county in which the district is located shall transmit to the county clerk, upon the request of the local governing body, the base value, total ad valorem rate, debt service ad valorem rate, and applicable ad valorem rate for the redevelopment district and shall certify to it.

(2)(A) The assessor shall undertake, upon request of the local governing body, an investigation, examination, and inspection of the taxable real property in the district and shall reaffirm or revalue the base value for assessment of the property in accordance with the findings of the investigation, examination, and inspection.

(B) The assessor shall determine, according to his or her best judgment from all sources available to him or her, the full aggregate value of the taxable property in the district, which aggregate valuation, upon certification thereof by the assessor to the clerk, constitutes the base value of the area.

(b)(1)(A)(i) The assessor shall give notice annually to the designated finance officer of each taxing unit having the power to levy taxes on property within each district of the current value and the incremental value of the property in the redevelopment district.

(ii) The assessor shall also determine the tax increment by applying the applicable ad valorem rate to the incremental value.

(B) The notice shall also explain that the entire amount of the tax increment allocable to property within the redevelopment district will be paid to the special fund of the redevelopment district.

(2) The assessor shall identify upon the assessment roll those parcels of property which are within each existing district specifying on it the name of each district.

History. Acts 2001, No. 1197, § 12.

14-168-312. Division of ad valorem real property tax revenue.

(a) For so long as the redevelopment district exists, the tax assessor shall divide the ad valorem tax revenue collected, with respect to taxable property in the district, as follows:

(1) The assessor shall determine for each tax year:

(A) The amount of total ad valorem tax revenue which should be generated by multiplying the total ad valorem rate times the current value;

(B) The amount of ad valorem tax revenue which should be generated by multiplying the applicable ad valorem rate times the base value;

(C) The amount of ad valorem tax revenue which should be generated by multiplying the debt service ad valorem rate times the current value; and

(D) The amount of ad valorem revenue which should be generated by multiplying the applicable ad valorem rate times the incremental value;

(2) The assessor shall determine from the calculations set forth in subdivision (a)(1) of this section the percentage share of total ad valorem revenue for each according to subdivisions (a)(1)(B) - (D) of this section, by dividing each of such amounts by the total ad valorem revenue figure determined by the calculation in subdivision (a)(1)(A) of this section; and

(3) On each date on which ad valorem tax revenue is to be distributed to taxing units, such revenue shall be distributed by:

(A) Applying the percentage share determined according to subdivision (a)(1)(B) of this section to the revenues received and distributing such share to the taxing entities entitled to such distribution pursuant to current law;

(B) Applying the percentage share determined according to subdivision (a)(1)(C) of this section to the revenues received and distributing such share to the taxing entities entitled to such distribution by reason of having bonds outstanding; and

(C) Applying the percentage share determined according to subdivision (a)(1)(D) of this section to the revenues received and distributing such share to the special fund of the redevelopment district.

(b) In each year for which there is a positive tax increment, the county treasurer shall remit to the special fund of the redevelopment district that portion of the ad valorem taxes that consists of the tax increment.

(c) Any additional moneys appropriated to the redevelopment district pursuant to an appropriation by the local governing body and any additional moneys dedicated to the fund from other sources shall be deposited to the redevelopment district fund by the treasurer of the local government.

(d) Any funds so deposited into the special fund of the redevelopment district may be used to pay project costs, principal and interest on bonds, and to pay for any other improvements of the redevelopment district deemed proper by the local governing body.

(e) Unless otherwise directed pursuant to any agreement with bondholders, moneys in the fund may

be temporarily invested in the same manner as other municipal funds.

(f) If less than all of the tax increment is to be used for project costs or pledged to secure tax increment financing as provided in the plan for the redevelopment project, the assessor shall account for such fact in distributing the ad valorem tax revenues.

History. Acts 2001, No. 1197, § 13.

14-168-313. Payments in lieu of taxes and other revenues.

(a) The local governing body may elect to deposit in the special fund of the redevelopment district all or any portion of the local government's share of payments in lieu of taxes on property within the redevelopment district.

(b) Other revenues to be derived from the redevelopment project may also be deposited in the special fund at the direction of the local governing body.

History. Acts 2001, No. 1197, § 14.

14-168-314. Bonds generally.

(a)(1) Bonds may be issued for project costs which may include interest prior to and during the carrying out of a project and for a reasonable time thereafter, with such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out, and financing the project.

(2) The proceeds of bonds may also be used to reimburse the costs of any interim financing entered on behalf of the redevelopment district.

(b) Bonds issued under this subchapter shall be payable solely from the tax increment or other revenues deposited to the credit of the special fund of the redevelopment district and shall not be deemed to be a pledge of the faith and credit of the local government.

(c) Every bond issued under this subchapter shall recite on its face that it is a special obligation bond payable solely from the tax increment and other revenues pledged for its repayment.

History. Acts 2001, No. 1197, § 15.

14-168-315. Redevelopment bonds or notes - Authority to issue.

For the purpose of paying project costs or of refunding notes issued under this subchapter for the purpose of paying project costs, the local governing body may issue redevelopment bonds or notes payable out of positive tax increments and other revenues deposited to the special fund of the redevelopment district.

History. Acts 2001, No. 1197, § 16.

14-168-316. Redevelopment bonds or notes - Authorizing resolution.

(a) Redevelopment bonds and notes shall be authorized by ordinance of the local governing body.
(b)(1) The ordinance shall state the name of the redevelopment project district, the amount of bonds or notes authorized, and the interest rate to be borne by the bonds or notes.

(2) The ordinance may prescribe the terms, form, and content of the bonds or notes and such other matters as the local governing body deems useful, or it may include by reference the terms and conditions set forth in a trust indenture or other document securing the redevelopment bonds.

History. Acts 2001, No. 1197, § 17.

14-168-317. Redevelopment bonds or notes - Terms, conditions, etc.

(a)(1) Redevelopment bonds or notes may not be issued in an amount exceeding the estimated aggregate project costs, including all costs of issuance of the bonds or notes.

(2) The redevelopment bonds and notes shall not be included in the computation of the constitutional debt limitation of a local government.

(b)(1) The bonds or notes shall mature over a period not exceeding twenty-five (25) years from their date of issuance or a period terminating with the date of termination of the redevelopment district, whichever period terminates earlier.

(2) The bonds or notes may contain a provision authorizing their redemption, in whole or in part, at stipulated prices, at the option of the local government on any interest payment date and, if so, shall provide the method of selecting the bonds or notes to be redeemed.

(3) The principal and interest on the bonds and notes may be payable at any place set forth in the resolution, trust indenture, or other document governing the bonds.

(4) The bonds or notes shall be issued in registered form.

(5) The bonds or notes may be in any denominations.

(6) Each such bond or note is declared to be a negotiable instrument.

(c) The bonds or notes may be sold at public or private sale.

(d) Insofar as they are consistent with subdivision (a)(1) and subsections (b) and (c) of this section, the provisions of §§ 14-169-220 and 14-169-221 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes are incorporated by reference therein.

(e)(1) The bonds may be refunded or refinanced and refunding bonds may be issued in any principal amount.

(2) Provided, that the last maturity of the refunding bonds shall not be later than the last maturity of the bonds being refunded.

History. Acts 2001, No. 1197, § 18.

14-168-318. Redevelopment bonds or notes - Security - Marketability.

To increase the security and marketability of redevelopment bonds or notes, the local government may:

(1) Create a lien for the benefit of the bondholders upon any public improvements or public works financed by the bonds; or

(2) Make such covenants and do any and all such actions, not inconsistent with the Arkansas Constitution, which may be necessary or convenient or desirable in order to additionally secure the bonds or notes, or which tend to make the bonds or notes more marketable according to the best judgment of the local governing body.

History. Acts 2001, No. 1197, § 19.

14-168-319. Redevelopment bonds or notes - Special fund for repayment.

(a) Redevelopment bonds and notes are payable out of the special fund created for each redevelopment district under this subchapter.

(b)(1) The local governing body shall irrevocably pledge all or part of the special fund to the payment of the bonds or notes.

(2) The special fund, or the designated part thereof, may thereafter be used only for the payment of the bonds or notes and their interest until they have been fully paid.

(c) A holder of the bonds or notes shall have a lien against the special fund for payment of the bonds or notes and interest on them and may bring suit, either at law or in equity, to enforce the lien.

History. Acts 2001, No. 1197, § 20.

14-168-320. Redevelopment bonds or notes - Tax exemption.

Bonds and notes issued under this subchapter, together with the interest and income therefrom, shall be exempt from all state, county, and municipal income taxes.

History. Acts 2001, No. 1197, § 21.

14-168-321. Excess funds.

(a) Moneys received in the special fund of the district in excess of amounts needed to pay project costs may be used by the local governing body for other purposes of the district or for any other lawful purpose of the local governing body.

(b) Upon termination of the district, all amounts in the special fund of the district may be used by the local governing body for any lawful purpose.

History. Acts 2001, No. 1197, § 22.

14-168-322. Impact reports.

The Assessment Coordination Department, in cooperation with other state agencies and local governments, shall make a comprehensive impact report to the Governor and to the General Assembly at the beginning of each biennium as to the economic, social, and financial effect and impact of community redevelopment financing projects.

History. Acts 2001, No. 1197, § 23.

Thanks to Amendment 78 of the Arkansas Constitution, and Act 1197 of 2001, Arkansas Cities and Counties now have a powerful and flexible financing tool at their disposal: Tax Increment Financing Districts ("TIF Districts"). When used properly, TIF Districts provide a means by which Cities and Counties can undertake a redevelopment project, discussed in detail below, to encourage private enterprise and the investment of private capital in an undeveloped, underdeveloped, or deteriorating area, known under applicable Arkansas law as a "blighted" area. Although TIF Districts are widely used in some states, they have been relatively underutilized in Arkansas.

I. Introduction

This article will introduce Cities, Counties, developers, and other interested parties to the basic concept of tax increment financing and TIF Districts. To accomplish this introduction, the article will (1) discuss the general concept of TIF Districts, and the factors that should be considered before their creation, (2) provide some insight on the types of redevelopment projects that a TIF District may undertake, (3) consider the types of costs that may be funded by a TIF District, and the means of funding them, and finally, (4) briefly explain the process by which a City or County may create a TIF District and undertake a redevelopment project.

A. General Concept and Factors

TIF Districts essentially allow a City or County to identify a blighted area, create a redevelopment project plan to counter that blight, and create a TIF District to implement the redevelopment project plan and complete the redevelopment project. This concept does not appear novel or unique at first glance—until one considers the method by which the financing of the redevelopment project is accomplished. The beauty of a TIF District lies in the fact that, when properly evaluated and implemented, it can be completely self-financing.

The self-financing concept of a TIF District may be summarized as follows:

- the TIF District undertakes the redevelopment project;
- the improvements resulting from the redevelopment project increase the assessed value of the taxable property within the TIF district;
- the increase in the taxable property value results in an increase in the amount of ad valorem taxes collected within the TIF District;
- the increase in ad valorem taxes, or "tax increment," is pledged solely to financing the redevelopment project.

Ark. Code Ann. §§ 14-168-311, -312. Thus, by using a TIF District, a City or County can improve a blighted area, encourage private enterprise and the investment of private capital in that area, and do it all with a potentially self-financing project.

Although there are many benefits in using tax increment financing, there are some potential challenges as well. One issue that a City or County must consider before using

a TIF District is the effect it may have on other local taxing authorities. For example, local taxing authorities may be concerned that they will not initially enjoy the increase in ad valorem taxes. Another concern is the use of TIF Districts to subsidize redevelopment projects that would have been undertaken by private industry, regardless of whether tax increment financing was available. It should be noted that a recent concern about the potential effect TIF Districts could have on the amount of state school district funds provided to school districts was remedied by the passage of Act 43 of the Second Extraordinary Session of 2003.

A prudent way to deal with these concerns is to address them early in the planning process by initiating communication among all potentially affected entities and parties. Arkansas law has wisely created a public forum in which to discuss these concerns. Any City or County attempting to form a TIF District must provide notice to the general public and to other local taxing authorities prior to such a formation, and conduct a public hearing. Ark. Code Ann. §§ 14-168-305, -306. In addition, Arkansas Cities and Counties may opt to share with other taxing authorities the additional tax revenues generated by a TIF District. Ark. Code Ann. §§ 14-168-306(d), -312(f), -321.

B. Types of Redevelopment Projects

As mentioned above, TIF Districts are an attractive financing tool because of their great flexibility. In Arkansas, for example, TIF Districts may engage in a wide variety of redevelopment projects, and are given significant powers with which to accomplish them. Redevelopment projects are defined broadly to include any "undertaking for eliminating or preventing the development or spread of slums or deteriorated, deteriorating, or blighted areas, for discouraging the loss of commerce, industry, or employment, or for increasing employment, or any combination thereof." Ark. Code Ann. § 14-168-301(13)(A).

A redevelopment project undertaken by a TIF Districts may include a wide variety of activities, including but not limited to (1) acquiring land and improvements, (2) developing, redeveloping, revitalizing, or conserving a project area to provide land for public facilities and housing, eliminating unhealthy, unsanitary, or unsafe conditions, and lessening traffic congestion, (3) providing financial assistance to those displaced by the redevelopment project, (4) completing any necessary site improvements, and (5) constructing capital improvements within the TIF District. Ark. Code Ann. § 14-168-301(13)(B)-(13)(E).

C. Costs and Available Financing

TIF Districts may finance virtually all of the costs associated with a redevelopment project. This includes the project costs involved in the formation of the TIF District itself. Ark. Code Ann. 14-168-309. Such project costs include, but are not limited to, capital costs, financing costs, real property assembly costs, professional service costs, imputed administrative costs, relocation costs, organizational costs, repayment of initial contributions made for implementation, and certain other necessary

or convenient costs. Professional service costs include costs incurred for architectural, planning, engineering, and legal advice and services. Ark. Code Ann. § 14-168-301(9)(B).

The costs of a redevelopment project are generally funded with the additional ad valorem taxes collected due to the increased value of the taxable property within the TIF District. As mentioned above, this difference in the ad valorem taxes collected prior to the existence of the TIF District, and those collected as a result of the improvements made pursuant to a redevelopment project, is commonly known as the "tax increment," and referred to under Arkansas law as the "incremental value." Ark. Code Ann. § 14-168-301(6)(A). The funds generated through this tax increment are deposited in a designated account. The TIF District may then use these funds to complete the redevelopment project, or it may instead opt to issue bonds, use the bond proceeds to complete the redevelopment project, and pledge the tax increment to the repayment of the bonds. Ark. Code Ann. § 14-168-314.

Bonds issued by a TIF District have several attractive characteristics. First, the interest and income realized from the bonds are exempt from state, county, and municipal income taxes, and in some cases may be exempt from certain federal taxes as well. Ark. Code Ann. § 14-168-320. Second, the bonds are payable solely from the tax increment or other specifically designated revenues, and are not deemed a pledge of the faith and credit of the issuing City or County. Ark. Code Ann. § 14-168-314. Finally, the bonds are secured by a pledge of all or a part of the funds in the designated account discussed above, and can be further secured by a pledge of certain of the improvements completed in connection with the redevelopment project. Ark. Code Ann. §§ 14-168-318, -319.

D. Creation Process

TIF Districts are created via a relatively simple administrative process, but one that is highly publicized. The process includes the following steps: (1) the City or County designates the proposed boundaries of the TIF District; (2) notice of the designation is provided to the public and to the affected local taxing authorities, and a public hearing follows; (3) the City or County passes an ordinance creating the TIF District and authorizing a project plan that, among other things, sets out the redevelopment project and addresses its feasibility; (4) when the project plan is completed, notice of its existence is provided to the public and to the affected local taxing authorities, and a public hearing follows; (5) the City or County passes an ordinance accepting the project plan, and the redevelopment project begins.

II. Conclusion

TIF Districts are an exciting and useful financing tool available to Cities, Counties, and developers in Arkansas. With proper evaluation, implementation, and cooperation, TIF Districts may be used to increase the welfare, prosperity, and living conditions of Arkansans, and to reduce the number of blighted areas in our State. For more information on the details of tax increment financing and the creation and use of

TIF Districts, please contact Chad M. Avery or _____, attorneys in the real estate development and municipal finance division of Gill Elrod Ragon Owen & Sherman, P.A, at (501) 376-3800.