

## ALERTS

### Public Finance Alert - 2014 Legislative Overview For Redevelopment Commission Members And Their Attorneys

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Principal provisions of 2014 Legislation with Direct Impact on Indiana Redevelopment Commissions: Senate Enrolled Act 118 (awaiting signature of Governor Pence)

**1. Termination Date for “Legacy” TIF Districts.** Tax allocation areas (“TIF Districts”) created prior to July 1, 1995 were not required to set a termination date. Such areas will now 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 termination date 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 Distriction Portion | Maximum Term of TIF District Portion**

July 1, 1995 - June 30, 2008 | 30 years

July 1, 2008 - 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.

The only exception made in the bill is for the “Consolidated Allocation Area” in Indianapolis.

**2. Pass Through of Assessed Valuation.** For purposes of the 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

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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.

**3. Additional Finding Required for Creation or Expansion of a TIF District.**

The creation or expansion of a TIF District 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 provision.

**4. Legislative Body Approval of Redevelopment Commission Obligations.**

A Redevelopment Commission will not be permitted to issue debt obligations (including lease obligations) without first obtaining the approval of the legislative body of the applicable governmental unit (common council for cities, town council for towns, and county commissioners for most counties). An exception is made for obligations incurred for the acquisition of real property meeting specified criteria relating to the term and amount of the obligation.

Note that such approval is already a requirement for most Redevelopment Commission and Redevelopment Authority financings.

**5. Legislative Body Approval of Property Disposition.**

Under certain limited circumstances, property disposition by a Redevelopment Commission or a Redevelopment Authority will require the prior approval of the unit's legislative body.

**6. Legislative Body Oversight of Redevelopment Commission and its Annual Budget.**

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.

**7. Elimination of power of eminent domain.**

SEA 118 removes from Redevelopment Commissions the power of eminent domain. Under current law, such power existed 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.

**8. Unit's Fiscal Officer Deemed to be Treasurer of Redevelopment Commission.**

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.)

**9. Annual Reports to Fiscal Body of the Unit.**

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.

**10. Prohibition on Ownership of Single-Family Dwellings or Condominium Units.** The new law will prohibit the ownership by Redevelopment Commissions or Redevelopment Authorities of single-family dwellings or condominium units, for purposes of leasing them for use by individuals as a dwelling, after June 30, 2014.

**11. General Effective Date of S.E.A. 118.** The new law, if signed by the Governor, will have a general effective date of July 1, 2014.

A full text of the bill is available online at <http://iga.in.gov/legislative/2014/bills/senate/118/#>

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