

FILED

2004 APR -6 A 11:48

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



# ENROLLED

## House Bill No. 4624

(By Delegates Michael, Doyle, H. White, Campbell,  
Browning, Proudfoot and Ashley)



Passed March 13, 2004

In Effect from Passage

FILED

2004 APR -6 A 11:48

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

## ENROLLED

### H. B. 4624

(BY DELEGATES MICHAEL, DOYLE, H. WHITE, CAMPBELL,  
BROWNING, PROUDFOOT AND ASHLEY)

---

[Passed March 13, 2004; in effect from passage.]

---

AN ACT to amend and reenact §7-11B-2, §7-11B-3, §7-11B-4, §7-11B-6, §7-11B-7, §7-11B-8, §7-11B-9, §7-11B-10, §7-11B-11, §7-11B-12, §7-11B-13, §7-11B-15, §7-11B-16, §7-11B-17, §7-11B-18, §7-11B-19, §7-11B-20, §7-11B-21, §7-11B-22, §7-11B-23, §7-11B-24 and §7-11B-26 of the code of West Virginia, 1931, as amended, all relating generally to tax increment financing; defining certain terms and phrases; providing additional requirements for development or redevelopment project plans; providing for Class II legal advertisements for public hearings; providing mechanism for more than one development or redevelopment project plan per development or redevelopment district; revising conflict of interest provisions; providing for issuance of parity and subordinate bonds; and making technical corrections.

*Be it enacted by the Legislature of West Virginia:*

That §7-11B-2, §7-11B-3, §7-11B-4, §7-11B-6, §7-11B-7, §7-11B-8, §7-11B-9, §7-11B-10, §7-11B-11, §7-11B-12, §7-11B-13, §7-11B-15, §7-11B-16, §7-11B-17, §7-11B-18, §7-11B-19, §7-11B-20,

§7-11B-21, §7-11B-22, §7-11B-23, §7-11B-24 and §7-11B-26 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 11B. WEST VIRGINIA TAX INCREMENT FINANCING ACT.**

**§7-11B-2. Findings and legislative purpose.**

1           (a) It is found and declared to be the policy of this state to  
2 promote and facilitate the orderly development and economic  
3 stability of its communities. County commissions need the  
4 ability to raise revenue to finance capital improvements and  
5 facilities that are designed to encourage economic growth and  
6 development in geographic areas characterized by high levels  
7 of unemployment, stagnant employment, slow income growth,  
8 contaminated property or inadequate infrastructure. The  
9 construction of necessary capital improvements in accordance  
10 with local economic development plans will encourage invest-  
11 ing in job-producing private development and expand the public  
12 tax base.

13           (b) It is also found and declared that capital improvements  
14 or facilities in any area that result in the increase in the value of  
15 property located in the area or encourage increased employment  
16 within the area will serve a public purpose for each taxing unit  
17 possessing the authority to impose ad valorem taxes in the area.

18           (c) It is the purpose of this article:

19           (1) To encourage local levying bodies to cooperate in the  
20 allocation of future tax revenues that are used to finance capital  
21 improvements and facilities designed to encourage private  
22 development in selected areas; and

23           (2) To assist local governments that have a competitive  
24 disadvantage in their ability to attract business, private invest-  
25 ment or commercial development due to their location; to

26 encourage remediation of contaminated property; to prevent or  
27 arrest the decay of selected areas due to the inability of existing  
28 financing methods to provide capital improvements and  
29 facilities; and to encourage private investment designed to  
30 promote and facilitate the orderly development or redevelop-  
31 ment of selected areas.

**§7-11B-3. Definitions.**

1 (a) *General.* — When used in this article, words and phrases  
2 defined in this section shall have the meanings ascribed to them  
3 in this section unless a different meaning is clearly required  
4 either by the context in which the word or phrase is used or by  
5 specific definition in this article.

6 (b) *Words and phrases defined.* —

7 (1) “Agency” includes a municipality, a county or municipi-  
8 pal development agency established pursuant to authority  
9 granted in section one, article twelve of this chapter, a port  
10 authority, an airport authority or any other entity created by this  
11 state or an agency or instrumentality of this state that engages  
12 in economic development activity.

13 (2) “Base assessed value” means

14 The taxable assessed value of all real and tangible personal  
15 property, excluding personal motor vehicles, having a tax situs  
16 within a development or redevelopment district as shown upon  
17 the landbooks and personal property books of the assessor on  
18 the first day of July of the calendar year preceding the effective  
19 date of the order or ordinance creating and establishing the  
20 development or redevelopment district.

21 (3) “Blighted area” means an area within the boundaries of  
22 a development or redevelopment district located within the  
23 territorial limits of a municipality or county in which the

24 structures, buildings or improvements, by reason of dilapida-  
25 tion, deterioration, age or obsolescence, inadequate provision  
26 for access, ventilation, light, air, sanitation, open spaces, high  
27 density of population and overcrowding or the existence of  
28 conditions which endanger life or property, are detrimental to  
29 the public health, safety, morals or welfare. "Blighted area"  
30 includes any area which, by reason of the presence of a substan-  
31 tial number of substandard, slum, deteriorated or deteriorating  
32 structures, predominance of defective or inadequate street  
33 layout, faulty lot layout in relation to size, adequacy, accessibil-  
34 ity or usefulness, unsanitary or unsafe conditions, deterioration  
35 of site or other improvements, diversity of ownership, defective  
36 or unusual conditions of title or the existence of conditions  
37 which endanger life or property by fire and other causes, or any  
38 combination of such factors, substantially impairs or arrests the  
39 sound growth of a municipality, retards the provision of  
40 housing accommodations or constitutes an economic or social  
41 liability and is a menace to the public health, safety, morals or  
42 welfare in its present condition and use, or any area which is  
43 predominantly open and which because of lack of accessibility,  
44 obsolete platting, diversity of ownership, deterioration of  
45 structures or of site improvements, or otherwise, substantially  
46 impairs or arrests the sound growth of the community.

47 (4) "Conservation area" means any improved area within  
48 the boundaries of a development or redevelopment district  
49 located within the territorial limits of a municipality or county  
50 in which fifty percent or more of the structures in the area have  
51 an age of thirty-five years or more. A conservation area is not  
52 yet a blighted area but is detrimental to the public health, safety,  
53 morals or welfare and may become a blighted area because of  
54 any one or more of the following factors: Dilapidation; obsoles-  
55 cence; deterioration; illegal use of individual structures;  
56 presence of structures below minimum code standards; aban-  
57 donment; excessive vacancies; overcrowding of structures and  
58 community facilities; lack of ventilation, light or sanitary

59 facilities; inadequate utilities; excessive land coverage; deleteri-  
60 ous land use or layout; depreciation of physical maintenance;  
61 and lack of community planning. A conservation area shall  
62 meet at least three of the factors provided in this subdivision.

63 (5) “County commission” means the governing body of a  
64 county of this state and, for purposes of this article only,  
65 includes the governing body of a Class I or II municipality in  
66 this state.

67 (6) “Current assessed value” means

68 The annual taxable assessed value of all real and tangible  
69 personal property, excluding personal motor vehicles, having a  
70 tax situs within a development or redevelopment district as  
71 shown upon the landbook and personal property records of the  
72 assessor.

73 (7) “Development office” means the West Virginia devel-  
74 opment office created in section one, article two, chapter five-b  
75 of this code.

76 (8) “Development project” or “redevelopment project”  
77 means a project undertaken in a development or redevelopment  
78 district for eliminating or preventing the development or spread  
79 of slums or deteriorated, deteriorating or blighted areas, for  
80 discouraging the loss of commerce, industry or employment, for  
81 increasing employment or for any combination thereof in  
82 accordance with a tax increment financing plan. A development  
83 or redevelopment project may include one or more of the  
84 following:

85 (A) The acquisition of land and improvements, if any,  
86 within the development or redevelopment district and clearance  
87 of the land so acquired; or

88 (B) The development, redevelopment, revitalization or  
89 conservation of the project area whenever necessary to provide  
90 land for needed public facilities, public housing, or industrial or  
91 commercial development or revitalization, to eliminate un-  
92 healthful, unsanitary or unsafe conditions, to lessen density,  
93 mitigate or eliminate traffic congestion, reduce traffic hazards,  
94 eliminate obsolete or other uses detrimental to public welfare  
95 or otherwise remove or prevent the spread of blight or deterio-  
96 ration;

97 (C) The financial or other assistance in the relocation of  
98 persons and organizations displaced as a result of carrying out  
99 the development or redevelopment project and other improve-  
100 ments necessary for carrying out the project plan, together with  
101 those site improvements that are necessary for the preparation  
102 of any sites and making any land or improvements acquired in  
103 the project area available, by sale or lease, for public housing or  
104 for development, redevelopment or rehabilitation by private  
105 enterprise for commercial or industrial uses in accordance with  
106 the plan;

107 (D) The construction of capital improvements within a  
108 development or redevelopment district designed to increase or  
109 enhance the development of commerce, industry or housing  
110 within the development project area; or

111 (E) Any other projects the county commission or the  
112 agency deems appropriate to carry out the purposes of this  
113 article.

114 (9) "Development or redevelopment district" means an area  
115 proposed by one or more agencies as a development or redevelop-  
116 ment district, which may include one or more counties, one  
117 or more municipalities or any combination thereof, that has  
118 been approved by the county commission of each county in  
119 which the project area is located if the project is located outside

120 the corporate limits of a municipality, or by the governing body  
121 of a municipality if the project area is located within a munici-  
122 pality, or by both the county commission and the governing  
123 body of the municipality when the development or redevelop-  
124 ment district is located both within and without a municipality.

125 (10) "Economic development area" means any area or  
126 portion of an area within the boundaries of a development or  
127 redevelopment district located within the territorial limits of a  
128 municipality or county that does not meet the requirements of  
129 subdivisions (3) and (4) of this subsection and for which the  
130 county commission finds that development or redevelopment  
131 will not be solely used for development of commercial busi-  
132 nesses that will unfairly compete in the local economy and that  
133 development or redevelopment is in the public interest because  
134 it will:

135 (A) Discourage commerce, industry or manufacturing from  
136 moving their operations to another state;

137 (B) Result in increased employment in the municipality or  
138 county, whichever is applicable; or

139 (C) Result in preservation or enhancement of the tax base  
140 of the county or municipality.

141 (11) "Governing body of a municipality" means the city  
142 council of a Class I or Class II municipality in this state.

143 (12) "Incremental value", for any development or redevel-  
144 opment district, means the difference between the base assessed  
145 value and the current assessed value. The incremental value will  
146 be positive if the current value exceeds the base value and the  
147 incremental value will be negative if the current value is less  
148 than the base assessed value.

149 (13) “Includes” and “including”, when used in a definition  
150 contained in this article, shall not be deemed to exclude other  
151 things otherwise within the meaning of the term being defined.

152 (14) “Local levying body” means the county board of  
153 education, and the county commission, and includes the  
154 governing body of a municipality when the development or  
155 redevelopment district is located, in whole or in part, within the  
156 boundaries of the municipality.

157 (15) “Obligations” or “tax increment financing obligations”  
158 means bonds, loans, debentures, notes, special certificates or  
159 other evidences of indebtedness issued by a county commission  
160 or municipality pursuant to this article to carry out a develop-  
161 ment or redevelopment project or to refund outstanding  
162 obligations under this article.

163 (16) “Order” means an order of the county commission  
164 adopted in conformity with the provisions of this article and as  
165 provided in this chapter.

166 (17) “Ordinance” means a law adopted by the governing  
167 body of a municipality in conformity with the provisions of this  
168 article and as provided in chapter eight of this code.

169 (18) “Payment in lieu of taxes” means those estimated  
170 revenues from real property and tangible personal property  
171 having a tax situs in the area selected for a development or  
172 redevelopment project, which revenues according to the  
173 development or redevelopment project or plan are to be used for  
174 a private use, which levying bodies would have received had a  
175 county or municipality not adopted one or more tax increment  
176 financing plans and which would result from levies made after  
177 the date of adoption of a tax increment financing plan during  
178 the time the current assessed value of all taxable real and  
179 tangible personal property in the area selected for the develop-  
180 ment or redevelopment project exceeds the total base assessed

181 value of all taxable real and tangible personal property in the  
182 development or redevelopment district until the designation is  
183 terminated as provided in this article.

184 (19) "Person" means any natural person, and any corpora-  
185 tion, association, partnership, limited partnership, limited  
186 liability company or other entity, regardless of its form,  
187 structure or nature, other than a government agency or instru-  
188 mentality.

189 (20) "Private project" means any project that is subject to  
190 ad valorem property taxation in this state or to a payment in lieu  
191 of tax agreement that is undertaken by a project developer in  
192 accordance with a tax increment financing plan in a develop-  
193 ment or redevelopment district.

194 (21) "Project" means any capital improvement, facility or  
195 both, as specifically set forth and defined in the project plan,  
196 requiring an investment of capital, including, but not limited to,  
197 extensions, additions or improvements to existing facilities,  
198 including water or wastewater facilities, and the remediation of  
199 contaminated property as provided for in article twenty-two,  
200 chapter twenty-two of this code, but does not include perfor-  
201 mance of any governmental service by a county or municipal  
202 government.

203 (22) "Project area" means an area within the boundaries of  
204 a development or redevelopment district in which a develop-  
205 ment or redevelopment project is undertaken, as specifically set  
206 forth and defined in the project plan.

207 (23) "Project costs" means expenditures made in prepara-  
208 tion of the development or redevelopment project plan and  
209 made, or estimated to be made, or monetary obligations  
210 incurred, or estimated to be incurred, by the county commission  
211 which are listed in the project plan as capital improvements  
212 within a development or redevelopment district, plus any costs

213 incidental thereto. "Project costs" include, but are not limited  
214 to:

215 (A) Capital costs, including, but not limited to, the actual  
216 costs of the construction of public works or improvements,  
217 capital improvements and facilities, new buildings, structures  
218 and fixtures, the demolition, alteration, remodeling, repair or  
219 reconstruction of existing buildings, structures and fixtures,  
220 environmental remediation, parking and landscaping, the  
221 acquisition of equipment and site clearing, grading and prepara-  
222 tion;

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

227 (C) Real property assembly costs, meaning any deficit  
228 incurred resulting from the sale or lease as lessor by the county  
229 commission of real or personal property having a tax situs  
230 within a development or redevelopment district for consider-  
231 ation that is less than its cost to the county commission;

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

235 (E) Imputed administrative costs, including, but not limited  
236 to, reasonable charges for time spent by county employees or  
237 municipal employees in connection with the implementation of  
238 a project plan;

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

242 (G) Organizational costs, including, but not limited to, the  
243 costs of conducting environmental impact and other studies,  
244 and the costs of informing the public with respect to the  
245 creation of a development or redevelopment district and the  
246 implementation of project plans;

247 (H) Payments made, in the discretion of the county com-  
248 mission or the governing body of a municipality, which are  
249 found to be necessary or convenient to creation of development  
250 or redevelopment districts or the implementation of project  
251 plans; and

252 (I) That portion of costs related to the construction of  
253 environmental protection devices, storm or sanitary sewer lines,  
254 water lines, amenities or streets or the rebuilding or expansion  
255 of streets, or the construction, alteration, rebuilding or expan-  
256 sion of which is necessitated by the project plan for a develop-  
257 ment or redevelopment district, whether or not the construction,  
258 alteration, rebuilding or expansion is within the area or on land  
259 contiguous thereto.

260 (24) "Project developer" means any person who engages in  
261 the development of projects in the state.

262 (25) "Project plan" means the plan for a development or  
263 redevelopment project that is adopted by a county commission  
264 or governing body of a municipality in conformity with the  
265 requirements of this article and this chapter or chapter eight of  
266 this code.

267 (26) "Real property" means all lands, including improve-  
268 ments and fixtures on them and property of any nature appurte-  
269 nant to them or used in connection with them and every estate,  
270 interest and right, legal or equitable, in them, including terms  
271 of years and liens by way of judgment, mortgage or otherwise,  
272 and indebtedness secured by the liens.

273       (27) “Redevelopment area” means an area designated by a  
274 county commission, or the governing body of a municipality, in  
275 respect to which the commission or governing body has made  
276 a finding that there exist conditions which cause the area to be  
277 classified as a blighted area, a conservation area, an economic  
278 development area or a combination thereof, which area includes  
279 only those parcels of real property directly and substantially  
280 benefitted by the proposed redevelopment project located  
281 within the development or redevelopment district or land  
282 contiguous thereto.

283       (28) “Redevelopment plan” means the comprehensive  
284 program under this article of a county or municipality for  
285 redevelopment intended by the payment of redevelopment costs  
286 to reduce or eliminate those conditions, the existence of which  
287 qualified the redevelopment area as a blighted area, conserva-  
288 tion area, economic development area or combination thereof,  
289 and to thereby enhance the tax bases of the levying bodies  
290 which extend into the redevelopment area. Each redevelopment  
291 plan shall conform to the requirements of this article.

292       (29) “Tax increment” means

293       The amount of regular levy property taxes attributable to  
294 the amount by which the current assessed value of real and  
295 tangible personal property having a tax situs in a development  
296 or redevelopment district exceeds the base assessed value of the  
297 property.

298       (30) “Tax increment financing fund” means a separate fund  
299 for a development or redevelopment district established by the  
300 county commission, or governing body of the municipality, into  
301 which all tax increment revenues and other pledged revenues  
302 are deposited and from which projected project costs, debt  
303 service and other expenditures authorized by this article are  
304 paid.

305 (31) “This code” means the code of West Virginia, one  
306 thousand nine hundred thirty-one, as amended by the Legisla-  
307 ture.

308 (32) “Total ad valorem property tax regular levy rate”  
309 means the aggregate levy rate of all levying bodies on all  
310 taxable property having a tax situs within a development or  
311 redevelopment district in a tax year but does not include excess  
312 levies, levies for general obligation bonded indebtedness or any  
313 other levies that are not regular levies.

#### **§7-11B-4. Powers generally.**

1 In addition to any other powers conferred by law, a county  
2 commission or governing body of a Class I or II municipality  
3 may exercise any powers necessary and convenient to carry out  
4 the purpose of this article, including the power to:

5 (1) Create development and redevelopment areas or  
6 districts and to define the boundaries of those areas or districts;

7 (2) Cause project plans to be prepared, to approve the  
8 project plans, and to implement the provisions and effectuate  
9 the purposes of the project plans;

10 (3) Establish tax increment financing funds for each  
11 development or redevelopment district;

12 (4) Issue tax increment financing obligations and pledge tax  
13 increments and other revenues for repayment of the obligations;

14 (5) Deposit moneys into the tax increment financing fund  
15 for any development or redevelopment district;

16 (6) Enter into any contracts or agreements, including, but  
17 not limited to, agreements with project developers, consultants,  
18 professionals, financing institutions, trustees and bondholders

19 determined by the county commission to be necessary or  
20 convenient to implement the provisions and effectuate the  
21 purposes of project plans;

22 (7) Receive from the federal government or the state loans  
23 and grants for, or in aid of, a development or redevelopment  
24 project and to receive contributions from any other source to  
25 defray project costs;

26 (8) Exercise the right of eminent domain to condemn  
27 property for the purposes of implementing the project plan. The  
28 rules and procedures set forth in chapter fifty-four of this code  
29 shall govern all condemnation proceedings authorized in this  
30 article;

31 (9) Make relocation payments to those persons, businesses,  
32 or organizations that are displaced as a result of carrying out the  
33 development or redevelopment project;

34 (10) Clear and improve property acquired by the county  
35 commission pursuant to the project plan and construct public  
36 facilities on it or contract for the construction, development,  
37 redevelopment, rehabilitation, remodeling, alteration or repair  
38 of the property;

39 (11) Cause parks, playgrounds or water, sewer or drainage  
40 facilities or any other public improvements, including, but not  
41 limited to, fire stations, community centers and other public  
42 buildings, which the county commission is otherwise authorized  
43 to undertake to be laid out, constructed or furnished in connec-  
44 tion with the development or redevelopment project. When the  
45 public improvement of the county commission is to be located,  
46 in whole or in part, within the corporate limits of a municipal-  
47 ity, the county commission shall consult with the mayor and the  
48 governing body of the municipality regarding the public  
49 improvement and shall pay for the cost of the public improve-  
50 ment from the tax increment financing fund;

51 (12) Lay out and construct, alter, relocate, change the grade  
52 of, make specific repairs upon or discontinue public ways and  
53 construct sidewalks in, or adjacent to, the project area: *Pro-*  
54 *vided*, That when the public way or sidewalk is located within  
55 a municipality, the governing body of the municipality shall  
56 consent to the same and if the public way is a state road, the  
57 consent of the commissioner of highways shall be necessary;

58 (13) Cause private ways, sidewalks, ways for vehicular  
59 travel, playgrounds or water, sewer or drainage facilities and  
60 similar improvements to be constructed within the project area  
61 for the particular use of the development or redevelopment  
62 district or those dwelling or working in it;

63 (14) Construct any capital improvements of a public nature;

64 (15) Construct capital improvements to be leased or sold to  
65 private entities in connection with the goals of the development  
66 or redevelopment project;

67 (16) Cause capital improvements owned by one or more  
68 private entities to be constructed within the development or  
69 redevelopment district;

70 (17) Designate one or more official or employee of the  
71 county commission to make decisions and handle the affairs of  
72 development and redevelopment project areas or districts  
73 created by the county commission pursuant to this article;

74 (18) Adopt orders, ordinances or bylaws or repeal or  
75 modify such ordinances or bylaws or establish exceptions to  
76 existing ordinances and bylaws regulating the design, construc-  
77 tion and use of buildings within the development or redevelop-  
78 ment district created by a county commission or governing  
79 body of a municipality under this article;

80 (19) Enter orders, adopt bylaws or repeal or modify such  
81 orders or bylaws or establish exceptions to existing orders and  
82 bylaws regulating the design, construction and use of buildings  
83 within the development or redevelopment district created by a  
84 county commission or governing body of a municipality under  
85 this article;

86 (20) Sell, mortgage, lease, transfer or dispose of any  
87 property or interest therein, by contract or auction, acquired by  
88 it pursuant to the project plan for development, redevelopment  
89 or rehabilitation in accordance with the project plan;

90 (21) Expend project revenues as provided in this article;  
91 and

92 (22) Do all things necessary or convenient to carry out the  
93 powers granted in this article.

**§7-11B-6. Application for development or redevelopment plan**

1 (a) An agency or a project developer may apply to a county  
2 commission or the governing body of a municipality for  
3 adoption of a development or redevelopment project plan. The  
4 application shall state the project's economic impact, viability,  
5 estimated revenues and potential for job creation and such other  
6 information as the county commission or the governing body of  
7 the municipality may require.

8 (b) Copies of the application shall be made available to the  
9 public in the county clerk's office or the municipal recorder's  
10 office when the application is filed with the governing body of  
11 a municipality.

**§7-11B-7. Creation of a development or redevelopment or district.**

1 (a) County commissions and the governing bodies of Class  
2 I and II municipalities, upon their own initiative or upon  
3 application of an agency or a developer, may propose creation  
4 of a development or redevelopment district and designate the  
5 boundaries of the district: *Provided*, That a district may not  
6 include noncontiguous land.

7 (b) The county commission or municipality proposing  
8 creation of a development or redevelopment district shall then  
9 hold a public hearing at which interested parties are afforded a  
10 reasonable opportunity to express their views on the proposed  
11 creation of a development or redevelopment district and its  
12 proposed boundaries.

13 (1) Notice of the hearing shall be published as a Class II  
14 legal advertisement in accordance with section two, article  
15 three, chapter fifty-nine of this code.

16 (2) The notice shall include the time, place and purpose of  
17 the public hearing, describe in sufficient detail the tax incre-  
18 ment financing plan, the proposed boundaries of the develop-  
19 ment or redevelopment district and, when a development or  
20 redevelopment project plan is being proposed, the proposed tax  
21 increment financing obligations to be issued to finance the  
22 development or redevelopment project costs.

23 (3) Prior to the first day of publication, a copy of the notice  
24 shall be sent by first-class mail to the director of the develop-  
25 ment office and to the chief executive officer of all other local  
26 levying bodies having the power to levy taxes on real and  
27 tangible personal property located within the proposed develop-  
28 ment or redevelopment district.

29 (4) All parties who appear at the hearing shall be afforded  
30 an opportunity to express their views on the proposal to create  
31 the development or redevelopment district and, if applicable,

32 the development or redevelopment project plan and proposed  
33 tax increment financing obligations.

34 (c) After the public hearing, the county commission, or the  
35 governing body of the municipality, shall finalize the bound-  
36 aries of the development or redevelopment district, the develop-  
37 ment or redevelopment project plan, or both, and submit the  
38 same to the director of the development office for his or her  
39 review and approval. The director, within sixty days after  
40 receipt of the application, shall approve the application as  
41 submitted, reject the application or return the application to the  
42 county commission or governing body of the municipality for  
43 further development or review in accordance with instructions  
44 of the director of the development office. A development or  
45 redevelopment district or development or redevelopment  
46 project plan may not be adopted by the county commission or  
47 the governing body of a municipality until after it has been  
48 approved by the executive director of the development office.

49 (d) Upon approval of the application by the development  
50 office, the county commission may enter an order and the  
51 governing body of the municipality proposing the district or  
52 development or redevelopment project plan may adopt an  
53 ordinance, that:

54 (1) Describes the boundaries of a development or redevel-  
55 opment district sufficiently to identify with ordinary and  
56 reasonable certainty the territory included in the district, which  
57 boundaries shall create a contiguous district;

58 (2) Creates the development or redevelopment district as of  
59 a date provided in the order or ordinance;

60 (3) Assigns a name to the development or redevelopment  
61 district for identification purposes.

62 (A) The name may include a geographic or other designa-  
63 tion, shall identify the county or municipality authorizing the  
64 district and shall be assigned a number, beginning with the  
65 number one.

66 (B) Each subsequently created district in the county or  
67 municipality shall be assigned the next consecutive number;

68 (4) Contains findings that the real property within the  
69 development or redevelopment district will be benefitted by  
70 eliminating or preventing the development or spread of slums  
71 or blighted, deteriorated or deteriorating areas, discouraging the  
72 loss of commerce, industry or employment, increasing employ-  
73 ment or any combination thereof;

74 (5) Approves the development or redevelopment project  
75 plan, if applicable;

76 (6) Establishes a tax increment financing fund as a separate  
77 fund into which all tax increment revenues and other revenues  
78 designated by the county commission, or governing body of the  
79 municipality, for the benefit of the development or redevelop-  
80 ment district shall be deposited, and from which all project  
81 costs shall be paid, which may be assigned to and held by a  
82 trustee for the benefit of bondholders if tax increment financing  
83 obligations are issued by the county commission or the govern-  
84 ing body of the municipality; and

85 (7) Provides that ad valorem property taxes on real and  
86 tangible personal property having a tax situs in the development  
87 or redevelopment district shall be assessed, collected and  
88 allocated in the following manner, commencing upon the date  
89 of adoption of such order or ordinance and continuing for so  
90 long as any tax increment financing obligations are payable  
91 from the tax increment financing fund, hereinafter authorized,  
92 are outstanding and unpaid:

93 (A) For each tax year, the county assessor shall record in  
94 the land and personal property books both the base assessed  
95 value and the current assessed value of the real and tangible  
96 personal property having a tax situs in the development or  
97 redevelopment district;

98 (B) Ad valorem taxes collected from regular levies upon  
99 real and tangible personal property having a tax situs in the  
100 district that are attributable to the lower of the base assessed  
101 value or the current assessed value of real and tangible personal  
102 property located in the development project area shall be  
103 allocated to the levying bodies in the same manner as applicable  
104 to the tax year in which the development or redevelopment  
105 project plan is adopted by order of the county commission or by  
106 ordinance adopted by the governing body of the municipality;

107 (C) The tax increment with respect to real and tangible  
108 personal property in the development or redevelopment district  
109 shall be allocated and paid into the tax increment financing fund  
110 and shall be used to pay the principal of and interest on tax  
111 increment financing obligations issued to finance the costs of  
112 the development or redevelopment projects in the development  
113 or redevelopment district. Any levying body having a develop-  
114 ment or redevelopment district within its taxing jurisdiction  
115 shall not receive any portion of the annual tax increment except  
116 as otherwise provided in this article; and

117 (D) In no event shall the tax increment include any taxes  
118 collected from excess levies, levies for general obligation  
119 bonded indebtedness or any levies other than the regular levies  
120 provided for in article eight, chapter eleven of this code.

121 (e) Proceeds from tax increment financing obligations  
122 issued under this article may only be used to pay for costs of  
123 development and redevelopment projects to foster economic

124 development in the development or redevelopment district or  
125 land contiguous thereto.

126 (f) Notwithstanding subsection (e) of this section, a county  
127 commission may not enter an order approving a development  
128 or redevelopment project plan unless the county commission  
129 expressly finds and states in the order that the development or  
130 redevelopment project is not reasonably expected to occur  
131 without the use of tax increment financing.

132 (g) Notwithstanding subsection (e) of this section, the  
133 governing body of a municipality may not adopt an ordinance  
134 approving a development or redevelopment project plan unless  
135 the governing body expressly finds and states in the ordinance  
136 that the development or redevelopment project is not reasonably  
137 expected to occur without the use of tax increment financing.

138 (h) No county commission shall establish a development or  
139 redevelopment district any portion of which is within the  
140 boundaries of a Class I, II, III or IV municipality without the  
141 formal consent of the governing body of such municipality.

142 (i) A tax increment financing plan that has been approved  
143 by a county commission or the governing body of a municipal-  
144 ity may be amended by following the procedures set forth in  
145 this article for adoption of a new development or redevelo-  
146 pment project plan.

147 (j) The county commission may modify the boundaries of  
148 the development or redevelopment district, from time to time,  
149 by entry of an order modifying the order creating the develop-  
150 ment or redevelopment district.

151 (k) The governing body of a municipality may modify the  
152 boundaries of the development or redevelopment district, from  
153 time to time, by amending the ordinance establishing the  
154 boundaries of the district.

155 (1) Before a county commission or the governing body of a  
156 municipality may amend such an order or ordinance, the county  
157 commission or municipality shall give the public notice, hold  
158 a public hearing and obtain the approval of the director of the  
159 development office, following the procedures for establishing  
160 a new development or redevelopment district. In the event any  
161 tax increment financing obligations are outstanding with respect  
162 to the development or redevelopment district, any change in the  
163 boundaries shall not reduce the amount of tax increment  
164 available to secure the outstanding tax increment financing  
165 obligations.

**§7-11B-8. Project plan – approval.**

1 (a) The county commission or municipality creating the  
2 district shall cause the preparation of a project plan for each  
3 development or redevelopment district and the project plan  
4 shall be adopted by order of the county commission, or ordi-  
5 nance adopted by the governing body of the municipality, after  
6 it is approved by the executive director of the development  
7 office. This process shall conform to the procedures set forth in  
8 this section.

9 (b) Each project plan shall include:

10 (1) A statement listing the kind, number and location of all  
11 proposed public works or other improvements within the  
12 district and on land outside but contiguous to the district;

13 (2) A cost-benefit analysis showing the economic impact of  
14 the plan on each levying body that is at least partially within the  
15 boundaries of the development or redevelopment district. This  
16 analysis shall show the impact on the economy if the project is  
17 not built and is built pursuant to the development or redevelop-  
18 ment plan under consideration. The cost-benefit analysis shall  
19 include a fiscal impact study on every affected levying body  
20 and sufficient information from the developer for the agency,

21 if any proposing the plan, the county commission be asked to  
22 approve the project and the development office to evaluate  
23 whether the project as proposed is financially feasible.

24 (3) An economic feasibility study;

25 (4) A detailed list of estimated project costs;

26 (5) A description of the methods of financing all estimated  
27 project costs, including the issuance of tax increment obliga-  
28 tions and the time when the costs or monetary obligations  
29 related thereto are to be incurred;

30 (6) A certification by the county assessor of the base  
31 assessed value of real and tangible personal property having a  
32 tax situs in a development or redevelopment district: *Provided,*  
33 That if such certification is made during the months of January  
34 or February of each year, the county assessor may certify an  
35 estimated base assessed value of real and tangible personal  
36 property having a tax situs in a development or redevelopment  
37 district: *Provided, however,* That prior to issuance of tax  
38 increment obligations, the county assessor shall certify a final  
39 base assessed value for the estimated base assessed value  
40 permitted by this section;

41 (7) The type and amount of any other revenues that are  
42 expected to be deposited to the tax increment financing fund of  
43 the development or redevelopment district;

44 (8) A map showing existing uses and conditions of real  
45 property in the development or redevelopment district;

46 (9) A map of proposed improvements and uses in the  
47 district;

48 (10) Proposed changes of zoning ordinances, if any;

49 (11) Appropriate cross-references to any master plan, map,  
50 building codes and municipal ordinances or county commission  
51 orders affected by the project plan;

52 (12) A list of estimated nonproject costs;

53 (13) A statement of the proposed method for the relocation  
54 of any persons, businesses or organizations to be displaced;

55 (14) A certificate from the executive director of the  
56 workers' compensation commission, the commissioner of the  
57 bureau of employment programs and the state tax commissioner  
58 that the project developer is in good standing with the workers'  
59 compensation commission, the bureau of employment programs  
60 and the state tax division; and

61 (15) A certificate from the sheriff of the county or counties  
62 in which the development or redevelopment district is located  
63 that the project developer is not delinquent on payment of any  
64 real and personal property taxes in such county.

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

67 (1) The amount of indebtedness to be incurred pursuant to  
68 this article;

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

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

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

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

80 (d) If less than all of the tax increment is to be used to fund  
81 a development or redevelopment project or to pay project costs  
82 or retire tax increment financing, the project plan shall set forth  
83 the portion of the tax increment to be deposited in the tax  
84 increment financing fund of the development or redevelopment  
85 district and provide for the distribution of the remaining portion  
86 of the tax increment to the levying bodies in whose jurisdiction  
87 the district lies.

88 (e) The county commission or governing body of the  
89 municipality that established the tax increment financing fund  
90 shall hold a public hearing at which interested parties shall be  
91 afforded a reasonable opportunity to express their views on the  
92 proposed project plan being considered by the county commis-  
93 sion or the governing body of the municipality.

94 (1) Notice of the hearing shall be published as a Class II  
95 legal advertisement in accordance with section two, article  
96 three, chapter fifty-nine of this code.

97 (2) Prior to this publication, a copy of the notice shall be  
98 sent by first-class mail to the chief executive officer of all other  
99 levying bodies having the power to levy taxes on property  
100 located within the proposed development or redevelopment  
101 district.

102 (f) Approval by the county commission or the governing  
103 body of a municipality of an initial development or redevelop-  
104 ment project plan must be within one year after the date of the  
105 county assessor's certification required by subdivision (6),  
106 subsection (b) of this section: *Provided*, That additional  
107 development or redevelopment project plans may be approved  
108 by the county commission or the governing body of a municipi-

109 pality in subsequent years, so long as the development or  
110 redevelopment district continues to exist. The approval shall be  
111 by order of the county commission or ordinance of the munic-  
112 ipality, which shall contain a finding that the plan is economi-  
113 cally feasible.

**§7-11B-9. Project plan – amendment.**

1 (a) The county commission may by order, or the governing  
2 body of a municipality by ordinance, adopt an amendment to a  
3 project plan.

4 (b) Adoption of an amendment to a project plan shall be  
5 preceded by a public hearing held by the county commission,  
6 or governing body of the municipality, at which interested  
7 parties shall be afforded a reasonable opportunity to express  
8 their views on the amendment.

9 (1) Notice of the hearing shall be published as a Class II  
10 legal advertisement in accordance with section two, article  
11 three, chapter fifty-nine of this code.

12 (2) Prior to publication, a copy of the notice shall be sent by  
13 first-class mail to the chief executive officer of all other local  
14 levying bodies having the power to levy taxes on property  
15 within the development or redevelopment district.

16 (3) Copies of the proposed plan amendments shall be made  
17 available to the public at the county clerk's office or municipal  
18 clerk's office at least fifteen days prior to the hearing.

19 (c) One or more existing development or redevelopment  
20 districts may be combined pursuant to lawfully adopted  
21 amendments to the original plans for each district: *Provided,*  
22 That the county commission, or governing body of the munic-  
23 ipality, finds that the combination of the districts will not impair

24 the security for any tax increment financing obligations  
25 previously issued pursuant to this article.

**§7-11B-10. Termination of development or redevelopment district.**

1 (a) No development or redevelopment district may be in  
2 existence for a period longer than thirty years and no tax  
3 increment financing obligations may have a final maturity date  
4 later than the termination date of the area or district.

5 (b) The county commission or governing body of the  
6 municipality creating the development or redevelopment  
7 district may set a shorter period for the existence of the district.  
8 In this event, no tax increment financing obligations may have  
9 a final maturity date later than the termination date of the  
10 district.

11 (c) Upon termination of the district, no further ad valorem  
12 tax revenues shall be distributed to the tax increment financing  
13 fund of the district.

14 (d) The county commission shall adopt, upon the expiration  
15 of the time periods set forth in this section, an order terminating  
16 the development or redevelopment district created by the  
17 county commission: *Provided*, That no district shall be termi-  
18 nated so long as bonds with respect to the district remain  
19 outstanding.

20 (e) The governing body of the county commission shall  
21 repeal, upon the expiration of the time periods set forth in this  
22 section, the ordinance establishing the development or redevel-  
23 opment district: *Provided*, That no district shall be terminated  
24 so long as bonds with respect to the district remain outstanding.

**§7-11B-11. Costs of formation of development or redevelopment district.**

1 (a) The county commission, or the governing body of a  
2 municipality, may pay, but shall have no obligation to pay, the  
3 costs of preparing the project plan or forming the development  
4 or redevelopment district created by them.

5 (b) If the county commission, or the governing body of the  
6 municipality, elects not to incur those costs, they shall be made  
7 project costs of the district and reimbursed from bond proceeds  
8 or other financing or may be paid by developers, property  
9 owners or other persons interested in the success of the devel-  
10 opment or redevelopment project.

**§7-11B-12. Overlapping districts prohibited.**

1 The boundaries of any development and redevelopment  
2 districts shall not overlap with any other development or  
3 redevelopment district.

**§7-11B-13. Conflicts of interest; required disclosures and absten-  
tion.**

1 (a) If any member of the governing body of an agency  
2 applying for a development or redevelopment district or a  
3 development or redevelopment project plan, a member of the  
4 county commission considering the application or a member of  
5 the governing body of a municipality considering the applica-  
6 tion owns or controls an interest, direct or indirect, in any  
7 property included in the development or redevelopment district,  
8 or proposed development or redevelopment district, he or she  
9 shall refrain from any further official involvement in regard to  
10 such application shall abstain from voting on any matter  
11 pertaining to such application, and shall abstain from communi-  
12 cating with other members concerning any matter pertaining to  
13 such application.

14 (b) With respect to development or redevelopment projects,  
15 the provisions of subsection (a), section fifteen, article ten,

16 chapter sixty-one of this code do not apply to any person who,  
17 or person whose spouse, is a salaried employee of a project  
18 developer under a contract subject to the provisions of said  
19 subsection if the employee, his or her spouse or child:

20 (1) Is not a party to the contract;

21 (2) Is not an owner, a shareholder, a director or an officer  
22 of a private entity under the contract;

23 (3) Receives no commission, bonus or other direct remuner-  
24 ation or thing of value by virtue of the contract;

25 (4) Does not participate in the deliberations or awarding of  
26 the contract; and

27 (5) Does not approve, vote for or otherwise authorize the  
28 payment of public funds, including, but not limited to, tax  
29 increment revenues, pursuant to or as a result of the contract.

30 (c) Additionally, no member of the county commission or  
31 governing body of a municipality considering a development or  
32 redevelopment district or project plan no member of the  
33 governing body of an agency proposing a development or  
34 redevelopment district or project plan, or any employee of the  
35 county, municipality or agency shall acquire any interest, direct  
36 or indirect, in any property in a development or redevelopment  
37 district or project area, or a proposed development or redevel-  
38 opment district or project area, during the period of time  
39 between when the individual first obtains personal knowledge  
40 of the development or redevelopment district or project plan  
41 and the completion of the public hearing regarding the develop-  
42 ment or redevelopment district or project plan or on a date  
43 which the county commission or governing body of a munic-  
44 ipality publicly announces that the development or redevel-  
45 opment district or project plan is no longer under consideration.

**§7-11B-15. Reports by county commissions and municipalities, contents, and publication; procedure to determine progress of project; reports by development office, content of reports; rule-making authority; development office to provide manual and assistance.**

1 (a) Each year, the county commission, or its designee, and  
2 the governing body of a municipality, or its designee, that has  
3 approved a development or redevelopment project plan shall  
4 prepare a report giving the status of each plan and each devel-  
5 opment and redevelopment project included in the plan and file  
6 it with the executive director of the development office by the  
7 first day of October each year. The report shall include the  
8 following information:

9 (1) The aggregate amount and the amount by source of  
10 revenue in the tax increment financing fund;

11 (2) The amount and purpose of expenditures from the tax  
12 increment financing fund;

13 (3) The amount of any pledge of revenues, including  
14 principal and interest on any outstanding tax increment financ-  
15 ing indebtedness;

16 (4) The base assessed value of the development or redevelop-  
17 ment project or the development or redevelopment district,  
18 as appropriate;

19 (5) The assessed value for the current tax year of the  
20 development or redevelopment project property or of the  
21 taxable property having a tax situs in the development or  
22 redevelopment district, as appropriate;

23 (6) The assessed value added to base assessed value of the  
24 development or redevelopment project or the taxable property

25 having a tax situs in the development or redevelopment district,  
26 as the case may be;

27 (7) Payments made in lieu of taxes received and expended;

28 (8) Reports on contracts made incidental to the implementa-  
29 tion and furtherance of a development or redevelopment plan or  
30 project;

31 (9) A copy of any development or redevelopment plan,  
32 which shall include the required findings and cost-benefit  
33 analysis;

34 (10) The cost of any property acquired, disposed of,  
35 rehabilitated, reconstructed, repaired or remodeled;

36 (11) The number of parcels of land acquired by or through  
37 initiation of eminent domain proceedings;

38 (12) The number and types of jobs projected by the project  
39 developer to be created, if any, and the estimated annualized  
40 wages and benefits paid or to be paid to persons filling those  
41 jobs;

42 (13) The number, type and duration of the jobs created, if  
43 any, and the annualized wages and benefits paid;

44 (14) The amount of disbursements from the tax increment  
45 financing fund during the most recently completed fiscal year,  
46 in the aggregate and in such detail as the executive director of  
47 the development office may require;

48 (15) An annual statement showing payments made in lieu  
49 of taxes received and expended during the fiscal year;

50 (16) The status of the development or redevelopment plan  
51 and projects therein;

52 (17) The amount of outstanding tax increment financing  
53 obligations; and

54 (18) Any additional information the county commission or  
55 the municipality preparing the report deems necessary or that  
56 the executive director of the development office may by  
57 procedural rule require.

58 (b) Data contained in the report required by subsection (a)  
59 of this section shall be deemed a public record as defined in  
60 article one, chapter twenty-nine-b of this code.

61 (1) The county commission's annual report shall be  
62 published on its web site, if it has a web site. If the county does  
63 not have a web site, the annual report shall be published on the  
64 web site of the development office.

65 (2) The municipality's annual report shall be published on  
66 its web site, if it has a web site. If the municipality does not  
67 have a web site, the annual report shall be published on the web  
68 site of the development office.

69 (c) After the close of the fiscal year, but on or before the  
70 first day of October each year, the county commission and the  
71 governing body of a municipality that approved a development  
72 or redevelopment plan shall publish in a newspaper of general  
73 circulation in the county or municipality, as appropriate, an  
74 annual statement showing for each development or redevelop-  
75 ment project or plan for which tax increment financing obliga-  
76 tions have been issued:

77 (1) A summary of receipts and disbursements, by major  
78 category, of moneys in the tax increment financing fund during  
79 that fiscal year;

80 (2) A summary of the status of the development or redevel-  
81 opment plan and each project therein;

82 (3) The amount of tax increment financing principal  
83 outstanding as of the close of the fiscal year; and

84 (4) Any additional information the county commission or  
85 municipality deems necessary or appropriate to publish.

86 (d) Five years after the establishment of a development or  
87 redevelopment plan, and every five years thereafter, the county  
88 commission or municipality that approved the plan shall hold  
89 a public hearing regarding that development or redevelopment  
90 plan and the projects created or to be created in the develop-  
91 ment or redevelopment district pursuant to this article.

92 (1) The purpose of the public hearing is to determine if the  
93 development or redevelopment plan and the proposed project or  
94 projects are making satisfactory progress under the proposed  
95 time schedule contained within the approved plans for comple-  
96 tion of the projects.

97 (2) Notice of this public hearing shall be given in a newspa-  
98 per of general circulation in the county, or in the municipality  
99 for a municipal plan, once each week for four successive weeks  
100 immediately prior to the hearing.

101 (3) Public hearings on development and redevelopment  
102 plans and projects may be held as part of a regular or special  
103 meeting of the county commission, or governing body of the  
104 municipality, that adopted the plan.

105 (e) The executive director of the development office shall  
106 submit a report to the governor, the speaker of the House of  
107 Delegates and the president of the Senate no later than February  
108 first of each year. The report shall contain a summary of all  
109 information received by the executive director pursuant to this  
110 section.

111 (f) For the purpose of facilitating and coordinating the  
112 reports required by this section, the executive director of the  
113 development office may promulgate procedural rules in the  
114 manner provided in article three, chapter twenty-nine-a of this  
115 code to ensure compliance with this section.

116 (g) The executive director of the development office shall  
117 provide information and technical assistance, as requested by a  
118 county commission or the governing body of a municipality, on  
119 the requirements of this article. The information and technical  
120 assistance shall be provided in the form of a manual, written in  
121 an easy-to-follow manner, and through consultations with staff  
122 of the development office.

123 (h) By the first day of October each year, each agency that  
124 proposed a development or redevelopment plan that was  
125 approved by a county commission, or the governing body of a  
126 municipality, and each county commission, or governing body  
127 of a municipality, that approved a development or redevelop-  
128 ment plan that was not proposed by an agency shall report to  
129 the executive director of the development office the name,  
130 address, phone number and primary line of business of any  
131 business that relocates to the development or redevelopment  
132 district during the immediately preceding fiscal year of the  
133 state. The executive director shall compile and report the same  
134 to the governor, the speaker of the House of Delegates and the  
135 president of the Senate by the first day of February of the next  
136 calendar year.

**§7-11B-16. Valuation of real property.**

1 (a) Upon and after the effective date of the creation of a  
2 development or redevelopment district, the county assessor of  
3 the county in which the district is located shall transmit to the  
4 county clerk a certified statement of the base assessed value,  
5 total ad valorem regular levy rate, total general obligation bond

6 debt service ad valorem rate and total excess levy rate applica-  
7 ble for the development or redevelopment district.

8 (1) The assessor shall undertake, upon request of the county  
9 commission, or the governing body of the municipality,  
10 creating the development or redevelopment district, an investi-  
11 gation, examination and inspection of the taxable real and  
12 tangible personal property having a tax situs in the district and  
13 shall reaffirm or revalue the base value for assessment of the  
14 property in accordance with the findings of the investigation,  
15 examination and inspection.

16 (2) The county assessor shall determine, according to his or  
17 her best judgment from all sources available to him or her, the  
18 full aggregate assessed value of the taxable property in the  
19 district, which aggregate assessed valuation, upon certification  
20 thereof by the assessor to the clerk, constitutes the base value  
21 of the development or redevelopment district.

22 (b) The county assessor shall give notice annually to the  
23 designated finance officer of each levying body having the  
24 power to levy taxes on property within each district of the  
25 current value and the incremental value of the property in the  
26 development or redevelopment district.

27 (c) The assessor shall also determine the tax increment by  
28 applying the applicable ad valorem regular levy rates to the  
29 incremental value.

30 (d) The notice shall also explain that the entire amount of  
31 the tax increment allocable to property within the development  
32 or redevelopment district will be paid to the tax increment  
33 financing fund of the development or redevelopment district  
34 until it is terminated.

35 (e) The assessor shall identify upon the landbooks those  
36 parcels of property that are within each existing development or

37 redevelopment district, specifying on landbooks the name of  
38 each district.

**§7-11B-17. Division of ad valorem real property tax revenue**

1 (a) For so long as the development or redevelopment  
2 district exists, the county sheriff shall divide the ad valorem tax  
3 revenue collected, with respect to taxable property in the  
4 district, as follows:

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

6 (A) The amount of ad valorem property tax revenue that  
7 should be generated by multiplying the assessed value of the  
8 property for the then current tax year by the aggregate of  
9 applicable levy rates for the tax year;

10 (B) The amount of ad valorem tax revenue that should be  
11 generated by multiplying the base assessed value of the  
12 property by the applicable regular ad valorem levy rates for the  
13 tax year;

14 (C) The amount of ad valorem tax revenue that should be  
15 generated by multiplying the assessed value of the property for  
16 the current tax year by the applicable levy rates for general  
17 obligation bond debt service for the tax year;

18 (D) The amount of ad valorem property tax revenue that  
19 should be generated by multiplying the assessed value of the  
20 property for the current tax year by the applicable excess levy  
21 rates for the tax year; and

22 (E) The amount of ad valorem property tax revenue that  
23 should be generated by multiplying the incremental value by  
24 the applicable regular levy rates for the tax year.

25 (2) The sheriff shall determine from the calculations set  
26 forth in subdivision (1) of this subsection the percentage share  
27 of total ad valorem revenue for each levying body according to  
28 paragraphs (B) through (D), inclusive, of said subdivision by  
29 dividing each of such amounts by the total ad valorem revenue  
30 figure determined by the calculation in paragraph (A) of said  
31 subdivision; and

32 (3) On each date on which ad valorem tax revenue is to be  
33 distributed to the levying bodies, such revenue shall be distrib-  
34 uted by:

35 (A) Applying the percentage share determined according to  
36 paragraph (B), subdivision (1) of this subsection to the revenues  
37 received and distributing such share to the levying bodies  
38 entitled to such distribution pursuant to current law;

39 (B) Applying the percentage share determined according to  
40 paragraph (C), subdivision (1) of this subsection to the revenues  
41 received and distributing such share to the levying bodies  
42 entitled to such distribution by reason of having general  
43 obligation bonds outstanding;

44 (C) Applying the percentage share determined according to  
45 paragraph (D), subdivision (1) of this subsection to the revenues  
46 received and distributing such share to the levying bodies  
47 entitled to such distribution by reason of having excess levies  
48 in effect for the tax year; and

49 (D) Applying the percentage share determined according to  
50 paragraph (E), subdivision (1) of this subsection to the revenues  
51 received and distributing such share to the tax increment  
52 financing fund of the development or redevelopment district.

53 (b) In each year for which there is a positive tax increment,  
54 the county sheriff shall remit to the tax increment financing  
55 fund of the development or redevelopment district that portion

56 of the ad valorem property taxes collected that consists of the  
57 tax increment.

58 (c) Any additional moneys appropriated to the development  
59 or redevelopment district pursuant to an appropriation by the  
60 county commission that created the district and any additional  
61 moneys dedicated to the fund from other sources shall be  
62 deposited to the tax increment financing fund for the develop-  
63 ment or redevelopment district by the sheriff.

64 (d) Any funds deposited into the tax increment financing  
65 fund of the development or redevelopment district may be used  
66 to pay project costs, principal and interest on bonds and the cost  
67 of any other improvements in the development or redevelop-  
68 ment district deemed proper by the county commission.

69 (e) Unless otherwise directed pursuant to any agreement  
70 with the holders of tax increment financing obligations, moneys  
71 in the tax increment financing fund may be temporarily  
72 invested in the same manner as other funds of the county  
73 commission, or the municipality, that established the fund.

74 (f) If less than all of the tax increment is to be used for  
75 project costs or pledged to secure tax increment financing as  
76 provided in the plan for the development or redevelopment  
77 district, the sheriff shall account for that fact in distributing the  
78 ad valorem property tax revenues.

#### **§7-11B-18. Payments in lieu of taxes and other revenues**

1 (a) The county commission or municipality that created the  
2 development or redevelopment district shall deposit in the tax  
3 increment financing fund of the development or redevelopment  
4 district all payments in lieu of taxes received pursuant to any  
5 agreement entered into on or subsequent to the date of creation  
6 of a development or redevelopment district on tax exempt

7 property located within the development or redevelopment  
8 district.

9 (b) The lessee of property that is exempt from property  
10 taxes because it is owned by this state, a political subdivision of  
11 this state or an agency or instrumentality thereof, which is the  
12 lessee of any facilities financed, in whole or in part, with tax  
13 increment financing obligations, shall execute a payment in lieu  
14 of tax agreement that shall remain in effect until the tax  
15 increment financing obligations are paid, during which period  
16 of time the lessee agrees to pay to the county sheriff an amount  
17 equal to the amount of ad valorem property taxes that would  
18 have been levied against the assessed value of the property were  
19 it owned by the lessee rather than a tax exempt entity. The  
20 portion of the payment in lieu of taxes attributable to the  
21 incremental value shall be deposited in the tax increment  
22 financing fund. The remaining portion of the in lieu payment  
23 shall be distributed among the levying bodies as follows:

24 (1) The portion of the in lieu tax payment attributable to the  
25 base value of the property shall be distributed to the levying  
26 bodies in the same manner as taxes attributable to the base  
27 value of other property in the district are distributed; and

28 (2) The portions of the in lieu tax payment attributable to  
29 levies for bonded indebtedness and excess levies shall be  
30 distributed in the same manner as those levies on other property  
31 in the district are distributed.

32 (c) Other revenues to be derived from the development or  
33 redevelopment district may also be deposited in the tax incre-  
34 ment financing fund at the direction of the county commission.

**§7-11B-19. Tax increment obligations generally.**

1 (a) Tax increment obligations may be issued by a county  
2 commission, or the governing body of the municipality, to pay

3 project costs for projects included in the development or  
4 redevelopment plan approved by the development office and  
5 adopted by the county commission, or the governing body of  
6 the municipality, that are located in a development or redevel-  
7 opment district or on land not in the district that is contiguous  
8 to the district and which contain infrastructure or other facilities  
9 which serve the district.

10 (1) Tax increment financing obligations may be issued for  
11 project costs, as defined in section three of this article, which  
12 may include interest prior to and during the acquisition,  
13 construction and equipping of a project and for a reasonable  
14 time thereafter, with such reserves as may be required by any  
15 agreement securing the obligations and all other expenses  
16 incidental to planning, carrying out and financing the project.

17 (2) The proceeds of tax increment financing obligations  
18 may also be used to reimburse the costs of any interim financ-  
19 ing or cash expenditures entered on behalf of projects in the  
20 development or redevelopment district.

21 (b) Tax increment financing obligations issued under this  
22 article shall be payable solely from the tax increment or other  
23 revenues deposited to the credit of the tax increment financing  
24 fund of the development or redevelopment district.

25 (c) Under no event shall tax increment financing obliga-  
26 tions be secured or be deemed to be secured by the full faith  
27 and credit of the county commission or the municipality issuing  
28 the tax increment financing obligations.

29 (d) Every tax increment financing bond, note or other  
30 obligation issued under this article shall recite on its face that  
31 it is a special obligation payable solely from the tax increment  
32 and other revenues pledged for its repayment.

**§7-11B-20. Tax increment financing obligations — authority to issue.**

1 For the purpose of paying project costs, or for the purpose  
2 of refunding notes issued under this article for the purpose of  
3 paying project costs, the county commission or municipality  
4 creating the development or redevelopment district may issue  
5 tax increment financing obligations payable out of tax incre-  
6 ments and other revenues deposited to the tax increment  
7 financing fund of the development or redevelopment district.

**§7-11B-21. Tax increment financing obligations — authorizing resolution.**

1 (a) Issuance of tax increment financing obligations shall be  
2 authorized by order of the county commission, or resolution of  
3 the municipality, that created the development or redevelop-  
4 ment district.

5 (b) The order, or resolution, shall state the name of the  
6 development or redevelopment district, the amount of tax  
7 increment financing obligations authorized, the type of obliga-  
8 tion authorized and the interest rate or rates to be borne by the  
9 bonds, notes or other tax increment financing obligations.

10 (c) The order or ordinance may prescribe the terms, form  
11 and content of the tax increment financing obligations and other  
12 particulars or information the county commission, or governing  
13 body of the municipality, issuing the obligations deems useful  
14 or it may include by reference the terms and conditions set forth  
15 in a trust indenture or other document securing the development  
16 or redevelopment project tax increment financing obligations.

**§7-11B-22. Tax increment financing obligations — terms, conditions.**

1 (a) Tax increment financing obligations may not be issued  
2 in an amount exceeding the estimated aggregate project costs,  
3 including all costs of issuance of the tax increment financing  
4 obligations.

5 (b) Tax increment financing obligations shall not be  
6 included in the computation of the constitutional debt limitation  
7 of the county commission or municipality issuing the tax  
8 increment financing obligations.

9 (c) Tax increment financing obligations shall mature over  
10 a period not exceeding thirty years from the date of entry of the  
11 county commission's order, or the effective date of the municipi-  
12 pal ordinance, creating the development or redevelopment  
13 district and approving the development or redevelopment plan,  
14 or a period terminating with the date of termination of the  
15 development or redevelopment district, whichever period  
16 terminates earlier.

17 (d) Tax increment financing obligations may contain a  
18 provision authorizing their redemption, in whole or in part, at  
19 stipulated prices, at the option of the county commission or  
20 municipality issuing the obligations, and, if so, the obligations  
21 shall provide the method of selecting the tax increment financ-  
22 ing obligations to be redeemed.

23 (e) The principal and interest on tax increment financing  
24 obligations may be payable at any place set forth in the resolu-  
25 tion, trust indenture or other document governing the obliga-  
26 tions.

27 (f) Bonds or notes shall be issued in registered form.

28 (g) Bonds or notes may be issued in any denomination.

29 (h) Each tax increment financing obligation issued under  
30 this article is declared to be a negotiable instrument.

31 (i) The tax increment financing obligations may be sold at  
32 public or private sale.

33 (j) Insofar as they are consistent with subsections (a), (b)  
34 and (c) of this section, the procedures for issuance, form,  
35 contents, execution, negotiation and registration of county and  
36 municipal industrial or commercial revenue bonds set forth in  
37 article two-c, chapter thirteen of this code are incorporated by  
38 reference herein.

39 (k) The bonds may be refunded or refinanced and refunding  
40 bonds may be issued in any principal amount: *Provided*, That  
41 the last maturity of the refunding bonds shall not be later than  
42 the last maturity of the bonds being refunded.

**§7-11B-23. Tax increment financing obligations -- security --  
marketability.**

1 To increase the security and marketability of tax increment  
2 financing obligations, the county commission or municipality  
3 issuing the obligations may:

4 (1) Create a lien for the benefit of the holders of the  
5 obligations upon any capital improvements, facilities or both  
6 financed by the obligations; or

7 (2) Make such covenants and do any and all such actions,  
8 not inconsistent with the constitution of this state, which may  
9 be necessary, convenient or desirable in order to additionally  
10 secure the obligations or which tend to make the obligations  
11 more marketable according to the best judgment of the county  
12 commission or municipality issuing the tax increment financing  
13 obligations.

**§7-11B-24. Tax increment financing obligations — special fund  
for repayment.**

1 (a) Tax increment financing obligations issued by a county  
2 commission or municipality are payable out of the tax incre-

3 ment financing fund created for each development and redevelop-  
4 opment district created under this article.

5 (b) The county commission or municipality issuing the tax  
6 increment financing obligations shall irrevocably pledge all or  
7 part of the tax increment financing fund to the payment of the  
8 obligations. The tax increment financing fund, or the designated  
9 part thereof, may thereafter be used only for the payment of the  
10 obligations and their interest until they have been fully paid.

11 (c) A holder of the tax increment financing obligations shall  
12 have a lien against the tax increment financing fund for  
13 payment of the obligations and interest on them and may bring  
14 suit to enforce the lien.

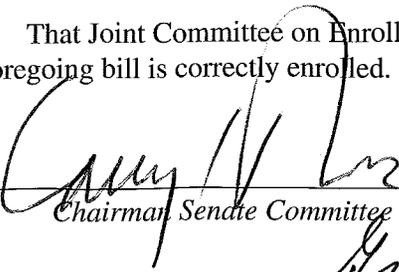
15 (d) A county commission or municipality may issue and  
16 secure additional bonds payable out of the tax increment fund  
17 created for each development or redevelopment district created  
18 under this article, which bonds may rank on a parity with, or be  
19 subordinate or superior to, other bonds issued by the county  
20 commission or municipality from each such tax increment fund.

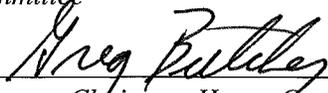
#### **§7-11B-26. Excess funds.**

1 (a) Moneys received in the tax increment financing fund of  
2 the development or redevelopment district in excess of amounts  
3 needed to pay project costs and debt service may be used by the  
4 county commission or municipality that created the develop-  
5 ment or redevelopment district for other projects within the  
6 district or distributed to the levying bodies as provided in this  
7 article.

8 (b) Upon termination of the district, all amounts in the tax  
9 increment financing fund of the district shall be paid over to the  
10 levying bodies in the same proportion that ad valorem property  
11 taxes on the base value was paid over to those levying bodies  
12 for the tax year in which the district is terminated.

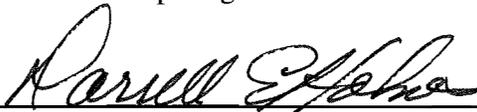
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

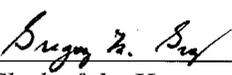
  
\_\_\_\_\_  
Chairman, Senate Committee

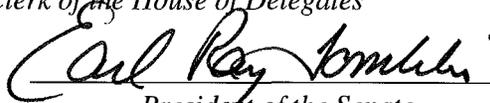
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect from passage.

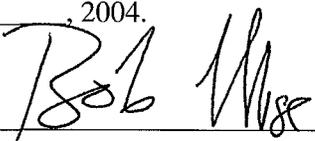
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 16<sup>th</sup>  
day of April, 2004.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/2/04

Time 2:18pm