

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

House Bill 3301

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[Passed April 10, 2021; in effect ninety days from passage.]

1 AN ACT to amend and reenact §7-11B-3, §7-11B-7, §7-11B-9, §7-11B-10, §7-11B-18, and §7-
2 11B-22 of the Code of West Virginia, 1931, as amended, relating generally to property tax
3 increment financing districts; authorizing payment in lieu of tax agreements for property
4 located within property tax increment financing districts; authorizing a county commission
5 or municipality to extend the termination time of certain districts; modifying the revenue
6 sources for a district that is extended; eliminating certain existing limitations on the terms
7 of property tax increment financing obligations issued to refund existing obligations; and
8 providing clarifications with respect to the base assessed value and termination date when
9 two or more tax increment financing districts have been combined.

Be it enacted by the Legislature of West Virginia:

§7-11B-3. Definitions.

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

4 (b) Words and phrases defined. —

5 “Agency” includes a municipality, a county or municipal development agency established
6 pursuant to authority granted in §7-12-1 of this code, a port authority, an airport authority or any
7 other entity created by this state or an agency or instrumentality of this state that engages in
8 economic development activity or the Division of Highways.

9 “Base assessed value” means the taxable assessed value of all real and tangible personal
10 property, excluding personal motor vehicles, having a tax situs within a development or
11 redevelopment district as shown upon the landbooks and personal property books of the assessor
12 on July 1 of the calendar year preceding the effective date of the order or ordinance creating and
13 establishing the development or redevelopment district: *Provided*, That for any development or
14 redevelopment district approved after the effective date of the amendments to this section
15 enacted during the regular session of the Legislature in 2014, personal trailers, personal boats,

16 personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax
17 situs within a development or redevelopment district are excluded from the base assessed value.

18 “Blighted area” means an area within the boundaries of a development or redevelopment
19 district located within the territorial limits of a municipality or county in which the structures,
20 buildings or improvements, by reason of dilapidation, deterioration, age or obsolescence,
21 inadequate provision for access, ventilation, light, air, sanitation, open spaces, high density of
22 population and overcrowding or the existence of conditions which endanger life or property, are
23 detrimental to the public health, safety, morals or welfare. “Blighted area” includes any area which,
24 by reason of the presence of a substantial number of substandard, slum, deteriorated or
25 deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in
26 relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions,
27 deterioration of site or other improvements, diversity of ownership, defective or unusual conditions
28 of title or the existence of conditions which endanger life or property by fire and other causes, or
29 any combination of such factors, substantially impairs or arrests the sound growth of a
30 municipality, retards the provision of housing accommodations or constitutes an economic or
31 social liability and is a menace to the public health, safety, morals or welfare in its present
32 condition and use, or any area which is predominantly open and which because of lack of
33 accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site
34 improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

35 “Commissioner of Highways” means the Commissioner of the Division of Highways.

36 “Conservation area” means any improved area within the boundaries of a development or
37 redevelopment district located within the territorial limits of a municipality or county in which fifty
38 percent or more of the structures in the area have an age of thirty-five years or more. A
39 conservation area is not yet a blighted area but is detrimental to the public health, safety, morals
40 or welfare and may become a blighted area because of any one or more of the following factors:
41 Dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of

42 structures below minimum code standards; abandonment; excessive vacancies; overcrowding of
43 structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate
44 utilities; excessive land coverage; deleterious land use or layout; depreciation of physical
45 maintenance; and lack of community planning. A conservation area shall meet at least three of
46 the factors provided in this subdivision.

47 “County commission” means the governing body of a county of this state and, for purposes
48 of this article only, includes the governing body of a Class I, Class II or Class III municipality in
49 this state.

50 “Current assessed value” means the annual taxable assessed value of all real and tangible
51 personal property, excluding personal motor vehicles, having a tax situs within a development or
52 redevelopment district as shown upon the landbook and personal property records of the
53 assessor: *Provided*, That for any development or redevelopment district approved after the
54 effective date of the amendments to this section enacted during the regular session of the
55 Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes,
56 personal ATVs and personal motorcycles having a tax situs within a development or
57 redevelopment district are excluded from the current assessed value.

58 “Development office” means the West Virginia Department of Economic Development
59 created in §5B-2-1 of this code.

60 “Development project” or “redevelopment project” means a project undertaken in a
61 development or redevelopment district for eliminating or preventing the development or spread of
62 slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce,
63 industry or employment, for increasing employment or for any combination thereof in accordance
64 with a tax increment financing plan. A development or redevelopment project may include one or
65 more of the following:

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

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

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

81 (D) The construction of capital improvements within a development or redevelopment
82 district designed to increase or enhance the development of commerce, industry or housing within
83 the development project area; or

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

86 "Development or redevelopment district" means an area proposed by one or more
87 agencies as a development or redevelopment district which may include one or more counties,
88 one or more municipalities or any combination thereof, that has been approved by the county
89 commission of each county in which the project area is located if the project is located outside the
90 corporate limits of a municipality, or by the governing body of a municipality if the project area is
91 located within a municipality, or by both the county commission and the governing body of the
92 municipality when the development or redevelopment district is located both within and without a
93 municipality.

94 "Division of Highways" means the state Department of Transportation, Division of
95 Highways.

96 "Economic development area" means any area or portion of an area within the boundaries
97 of a development or redevelopment district located within the territorial limits of a municipality or
98 county that is neither a blighted area nor a conservation area and for which the county commission
99 finds that development or redevelopment will not be solely used for development of commercial
100 businesses that will unfairly compete in the local economy and that development or
101 redevelopment is in the public interest because it will:

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

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

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

107 "Governing body of a municipality" means the city council of a Class I, Class II or Class III
108 municipality in this state.

109 "Incremental value", for any development or redevelopment district, means the difference
110 between the base assessed value and the current assessed value. The incremental value will be
111 positive if the current value exceeds the base value and the incremental value will be negative if
112 the current value is less than the base assessed value.

113 "Includes" and "including", when used in a definition contained in this article, shall not
114 exclude other things otherwise within the meaning of the term being defined.

115 "Intergovernmental agreement" means any written agreement that may be entered into by
116 and between two or more county commissions, or between two or more municipalities, or between
117 a county commission and a municipality, in the singular and the plural, or between two or more
118 government entities and the Commissioner of Highways: *Provided*, That any intergovernmental
119 agreement shall not be subject to provisions governing intergovernmental agreements set forth

120 in other provisions of this code, including, but not limited to, §8-23-1 *et seq.* of this code, but shall
121 be subject to the provisions of this article.

122 “Local levying body” means the county board of education and the county commission
123 and includes the governing body of a municipality when the development or redevelopment district
124 is located, in whole or in part, within the boundaries of the municipality.

125 “Obligations” or “tax increment financing obligations” means bonds, loans, debentures,
126 notes, special certificates or other evidences of indebtedness issued by a county commission or
127 municipality pursuant to this article to carry out a development or redevelopment project or to
128 refund outstanding obligations under this article.

129 “Order” means an order of the county commission adopted in conformity with the
130 provisions of this article and as provided in this chapter.

131 “Ordinance” means a law adopted by the governing body of a municipality in conformity
132 with the provisions of this article and as provided in §8-1-1 *et seq.* of this code.

133 “Payment in lieu of taxes” means a payment with respect to real and personal property
134 located in a development or redevelopment district and owned in title by this state, a political
135 subdivision of this state or an agency or instrumentality thereof, that is made by the lessee of such
136 property pursuant to a written payment in lieu of taxes agreement, whether in effect as of, or
137 subsequent to, the date of creation of the development or redevelopment district.

138 “Person” means any natural person, and any corporation, association, partnership, limited
139 partnership, limited liability company or other entity, regardless of its form, structure or nature,
140 other than a government agency or instrumentality.

141 “Private project” means any project that is subject to ad valorem property taxation in this
142 state or to a payment in lieu of tax agreement that is undertaken by a project developer in
143 accordance with a tax increment financing plan in a development or redevelopment district.

144 “Project” means any capital improvement, facility or both, as specifically set forth and
145 defined in the project plan, requiring an investment of capital including, but not limited to,

146 extensions, additions or improvements to existing facilities, including water or wastewater
147 facilities, and the remediation of contaminated property as provided for in §22-22-1 *et seq.* of this
148 code, but does not include performance of any governmental service by a county or municipal
149 government.

150 "Project area" means an area within the boundaries of a development or redevelopment
151 district in which a development or redevelopment project is undertaken as specifically set forth
152 and defined in the project plan.

153 "Project costs" means expenditures made in preparation of the development or
154 redevelopment project plan and made, or estimated to be made, or monetary obligations incurred,
155 or estimated to be incurred, by the county commission which are listed in the project plan as
156 capital improvements within a development or redevelopment district, plus any costs incidental
157 thereto. "Project costs" include, but are not limited to:

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

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

166 (C) Real property assembly costs, meaning any deficit incurred resulting from the sale or
167 lease as lessor by the county commission of real or personal property having a tax situs within a
168 development or redevelopment district for consideration that is less than its cost to the county
169 commission;

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

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

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

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

180 (H) Payments made, in the discretion of the county commission or the governing body of
181 a municipality, which are found to be necessary or convenient to creation of development or
182 redevelopment districts or the implementation of project plans; and

183 (I) That portion of costs related to the construction of environmental protection devices,
184 storm or sanitary sewer lines, water lines, amenities or streets or the rebuilding or expansion of
185 streets, or the construction, alteration, rebuilding or expansion of which is necessitated by the
186 project plan for a development or redevelopment district, whether or not the construction,
187 alteration, rebuilding or expansion is within the area or on land contiguous thereto.

188 "Project developer" means any person who engages in the development of projects in the
189 state.

190 "Project plan" means the plan for a development or redevelopment project that is adopted
191 by a county commission or governing body of a municipality in conformity with the requirements
192 of this article and this chapter or §8-1-1 *et seq.* of this code.

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

197 “Redevelopment area” means an area designated by a county commission or the
198 governing body of a municipality in respect to which the commission or governing body has made
199 a finding that there exist conditions which cause the area to be classified as a blighted area, a
200 conservation area, an economic development area or a combination thereof, which area includes
201 only those parcels of real property directly and substantially benefitted by the proposed
202 redevelopment project located within the development or redevelopment district or land
203 contiguous thereto.

204 “Redevelopment plan” means the comprehensive program under this article of a county
205 or municipality for redevelopment intended by the payment of redevelopment costs to reduce or
206 eliminate those conditions, the existence of which qualified the redevelopment area as a blighted
207 area, conservation area, economic development area or combination thereof, and to thereby
208 enhance the tax bases of the levying bodies which extend into the redevelopment area. Each
209 redevelopment plan shall conform to the requirements of this article.

210 “Tax increment” means the amount of regular levy property taxes attributable to the
211 amount by which the current assessed value of real and tangible personal property having a tax
212 situs in a development or redevelopment district exceeds the base assessed value of the property:
213 *Provided*, That where the period of existence of a development or redevelopment district is
214 extended beyond its originally scheduled termination date as permitted by §7-11B-10 of this code,
215 only the regular and excess property tax levies of the county commission and any Class I, II, III
216 or IV municipality, a portion of which is located within the boundaries of the development or
217 redevelopment district, shall be included in the tax increment following the originally scheduled
218 termination date of the development or redevelopment district.

219 “Tax increment financing fund” means a separate fund for a development or
220 redevelopment district established by the county commission or governing body of the
221 municipality into which all tax increment revenues and other pledged revenues are deposited and

222 from which projected project costs, debt service and other expenditures authorized by this article
223 are paid.

224 "This code" means the Code of West Virginia, 1931, as amended by the Legislature.

225 "Total ad valorem property tax regular levy rate" means the aggregate levy rate of all
226 levying bodies on all taxable property having a tax situs within a development or redevelopment
227 district in a tax year but does not include excess levies, levies for general obligation bonded
228 indebtedness or any other levies that are not regular levies.

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

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

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

9 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
10 with §59-3-2 of this code.

11 (2) The notice shall include the time, place and purpose of the public hearing, describe in
12 sufficient detail the tax increment financing plan, the proposed boundaries of the development or
13 redevelopment district and, when a development or redevelopment project plan is being
14 proposed, the proposed tax increment financing obligations to be issued to finance the
15 development or redevelopment project costs.

16 (3) Prior to the first day of publication, a copy of the notice shall be sent by first-class mail
17 to the director of the Development Office and to the chief executive officer of all other local levying

18 bodies having the power to levy taxes on real and tangible personal property located within the
19 proposed development or redevelopment district.

20 (4) All parties who appear at the hearing shall be afforded an opportunity to express their
21 views on the proposal to create the development or redevelopment district and, if applicable, the
22 development or redevelopment project plan and proposed tax increment financing obligations.

23 (c) After the public hearing, the county commission, or the governing body of the
24 municipality, shall finalize the boundaries of the development or redevelopment district, the
25 development or redevelopment project plan, or both, and submit the same to the director of the
26 Development Office for his or her review and approval. The director, within sixty days after receipt
27 of the application, shall approve the application as submitted, reject the application or return the
28 application to the county commission or governing body of the municipality for further
29 development or review in accordance with instructions of the director of the Development Office.
30 A development or redevelopment district or development or redevelopment project plan may not
31 be adopted by the county commission or the governing body of a municipality until after it has
32 been approved by the executive director of the Development Office.

33 (d) Upon approval of the application by the Development Office, the county commission
34 may enter an order and the governing body of the municipality proposing the district or
35 development or redevelopment project plan may adopt an ordinance, that:

36 (1) Describes the boundaries of a development or redevelopment district sufficiently to
37 identify with ordinary and reasonable certainty the territory included in the district, which
38 boundaries shall create a contiguous district;

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

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

43 (A) The name may include a geographic or other designation, shall identify the county or
44 municipality authorizing the district and shall be assigned a number, beginning with the number
45 one.

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

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

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

53 (6) Establishes a tax increment financing fund as a separate fund into which all tax
54 increment revenues and other revenues designated by the county commission, or governing body
55 of the municipality, for the benefit of the development or redevelopment district shall be deposited,
56 and from which all project costs shall be paid, which may be assigned to and held by a trustee for
57 the benefit of bondholders if tax increment financing obligations are issued by the county
58 commission or the governing body of the municipality; and

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

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

67 (B) Ad valorem taxes collected from regular levies upon real and tangible personal
68 property having a tax situs in the district that are attributable to the lower of the base assessed

69 value or the current assessed value of real and tangible personal property located in the
70 development project area shall be allocated to the levying bodies in the same manner as
71 applicable to the tax year in which the development or redevelopment project plan is adopted by
72 order of the county commission or by ordinance adopted by the governing body of the
73 municipality;

74 (C) The tax increment with respect to real and tangible personal property in the
75 development or redevelopment district shall be allocated and paid into the tax increment financing
76 fund and shall be used to pay the principal of and interest on tax increment financing obligations
77 issued to finance the costs of the development or redevelopment projects in the development or
78 redevelopment district. Any levying body having a development or redevelopment district within
79 its taxing jurisdiction shall not receive any portion of the annual tax increment except as otherwise
80 provided in this article; and

81 (D) In no event shall the tax increment include any taxes collected from excess levies,
82 levies for general obligation bonded indebtedness or any levies other than the regular levies
83 provided for in §11-8-1 *et seq.* of this code.

84 (e) Proceeds from tax increment financing obligations issued under this article may only
85 be used to pay for costs of development and redevelopment projects to foster economic
86 development in the development or redevelopment district or land contiguous thereto.

87 (f) Notwithstanding subsection (d) of this section, a county commission may not enter an
88 order approving a development or redevelopment project plan unless the county commission
89 expressly finds and states in the order that the development or redevelopment project is not
90 reasonably expected to occur without the use of tax increment financing.

91 (g) Notwithstanding subsection (d) of this section, the governing body of a municipality
92 may not adopt an ordinance approving a development or redevelopment project plan unless the
93 governing body expressly finds and states in the ordinance that the development or

94 redevelopment project is not reasonably expected to occur without the use of tax increment
95 financing.

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

99 (i) A tax increment financing plan that has been approved by a county commission or the
100 governing body of a municipality may be amended by following the procedures set forth in this
101 article for adoption of a new development or redevelopment project plan.

102 (j) The county commission may modify the boundaries of the development or
103 redevelopment district, from time to time, or the governing body of a county may extend the length
104 of existence of the development or redevelopment district as set forth in §7-11B-10 of this code,
105 subject to the limitations and requirements of this section, by entry of an order modifying the order
106 creating the development or redevelopment district.

107 (k) The governing body of a municipality may modify the boundaries of the development
108 or redevelopment district, from time to time, or extend the length of existence of the development
109 or redevelopment district as set forth in §7-11B-10 of this code, by amending the ordinance
110 creating the development or redevelopment district.

111 (l) Before a county commission or the governing body of a municipality may amend such
112 an order or ordinance, the county commission or municipality shall give the public notice as
113 provided in subdivisions (1) and (2), subsection (b) of this section, hold a public hearing, as
114 provided in subdivision (4), subsection (b) of this section, obtain the approval of the director of the
115 Development Office, and obtain the formal consent of the governing body of any Class I, II, III or
116 IV municipality a portion of which is located within the boundaries of the development or
117 redevelopment district. In the event any tax increment financing obligations are outstanding with
118 respect to the development or redevelopment district, any change in the boundaries shall not

119 reduce the amount of tax increment available to secure the outstanding tax increment financing
120 obligations.

§7-11B-9. Project plan – amendment.

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

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

6 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
7 with §59-3-2 of this code.

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

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

13 (c) One or more existing development or redevelopment districts may be combined
14 pursuant to lawfully adopted amendments to the original plans for each district: *Provided*, That
15 the county commission, or governing body of the municipality, finds that the combination of the
16 districts will not impair the security for any tax increment financing obligations previously issued
17 pursuant to this article.

18 (1) The base assessed value of the real and tangible personal property located in the
19 combined development or redevelopment district following such combination shall be the same
20 base assessed value as existed for such real and tangible personal property in each of the
21 separate development or redevelopment districts prior to such combination.

22 (2) The termination date for the combined development or redevelopment district which
23 results from the combination of two or more previously created districts shall be the termination

24 date as provided pursuant to §7-11B-10 of this code of the development or redevelopment district
25 which had the latest termination date prior to the combination of such districts.

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

1 (a) No development or redevelopment district may be in existence for a period longer than
2 thirty years and no tax increment financing obligations may have a final maturity date later than
3 the termination date of the area or district: *Provided*, That, for any existing development or
4 redevelopment district for which tax increment financing obligations have been issued by a county
5 commission, or the governing body of a municipality, prior to December 31, 2020, the termination
6 date for that existing development or redevelopment district may be extended not more than five
7 years or until December 31, 2050, whichever is earlier.

8 (b) The county commission or governing body of the municipality creating the development
9 or redevelopment district may set a shorter period for the existence of the district. In this event,
10 no tax increment financing obligations may have a final maturity date later than the termination
11 date of the district. The county commission or the governing body of the municipality which
12 created the development or redevelopment district may not take action to terminate a district prior
13 to the time otherwise provided in its official action creating or extending the district if the county
14 commission or the governing body of the municipality then has tax increment revenue obligations
15 which remain outstanding and unpaid.

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

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

22 (e) The governing body of the municipality shall repeal, upon the expiration of the time
23 periods set forth in this section, the ordinance establishing the development or redevelopment

24 district: *Provided*, That no district shall be terminated so long as bonds with respect to the district
25 remain outstanding.

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

1 (a) The county commission or municipality that created the development or redevelopment
2 district shall deposit in the tax increment financing fund of the development or redevelopment
3 district all payments in lieu of taxes received pursuant to any agreement entered into on or
4 subsequent to the date of creation of a development or redevelopment district on tax exempt
5 property located within the development or redevelopment district, and prior to the amendments
6 to this section enacted in the 2021 regular session of the Legislature.

7 (b) Any real or personal property located within the development or redevelopment district
8 and owned by this state, a political subdivision of this state or an agency or instrumentality thereof
9 may be made subject to a payment in lieu of taxes agreement. The real and personal property
10 subject to a payment in lieu of taxes agreement is deemed public property and exempt from ad
11 valorem property taxation by this state, a political subdivision of this state, an agency or
12 instrumentality thereof or other levying body, so long as it is owned in title by this state, a political
13 subdivision of this state or an agency or instrumentality thereof. The exemption from ad valorem
14 property taxation is applicable to any leasehold or similar interest held by persons other than this
15 state, a political subdivision of this state or an agency or instrumentality thereof, if acquired or
16 constructed with the written agreement of the county school board, county commission and any
17 municipal authority within whose jurisdiction the real and personal property is physically situated.

18 (c) Any payment in lieu of taxes agreement shall be made between the public entity that
19 owns the property, the lessee of the property who would be making the payment in lieu of taxes
20 and the county school board, county commission and any municipal authority within whose
21 jurisdiction the real or personal property is situate. The payment in lieu of taxes agreement shall
22 provide the amount that shall be paid by the lessee and the amount, if any, that shall be
23 attributable to the base assessed value of the property and the incremental value.

24 (d) Following the amendments to this section enacted in the 2021 regular session of the
25 Legislature, any portion of the payment in lieu of taxes attributable in the payment in lieu of tax
26 agreement to the incremental value shall be deposited in the tax increment financing fund.
27 Following the amendments to this section enacted in the 2021 regular session of the Legislature,
28 the remaining portion of the in lieu payment shall be distributed among the levying bodies as
29 follows:

30 (1) The portion of the in lieu tax payment attributable to the base value of the property
31 shall be distributed to the levying bodies in the same manner as taxes attributable in the payment
32 in lieu of tax agreement to the base value of other property in the district are distributed; and

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

36 (e) Other revenues to be derived from the development or redevelopment district may also
37 be deposited in the tax increment financing fund at the direction of the county commission.

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

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

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

7 (c) Tax increment financing obligations shall mature over a period not exceeding thirty
8 years from their issue date, or a period terminating with the date of termination of the development
9 or redevelopment district, whichever period terminates earlier.

10 (d) Tax increment financing obligations may contain a provision authorizing their
11 redemption, in whole or in part, at stipulated prices, at the option of the county commission or

12 municipality issuing the obligations, and, if so, the obligations shall provide the method of selecting
13 the tax increment financing obligations to be redeemed.

14 (e) The principal and interest on tax increment financing obligations may be payable at
15 any place set forth in the resolution, trust indenture or other document governing the obligations.

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

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

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

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

21 (j) Insofar as they are consistent with subsections (a), (b) and (c) of this section, the
22 procedures for issuance, form, contents, execution, negotiation and registration of county and
23 municipal industrial or commercial revenue bonds set forth in §13-2C-1 *et seq.* of this code are
24 incorporated by reference herein.

25 (k) The bonds may be refunded or refinanced and refunding bonds may be issued in any
26 principal amount: *Provided*, That the last maturity of the refunding bonds shall not be later than
27 the termination date of the district as set forth in §7-11B-10 of this code.

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

.....
Chairman, House Committee

.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

.....
President of the Senate

The within this the.....
day of, 2021.

.....
Governor