



QUICK GUIDE TO TIFS (Updated 7/07)

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WHAT IS TIF?



Tax Increment Financing, or TIF, has been a self-help development tool for municipalities to fight urban blight. It is used by municipalities to develop unproductive areas with declining or stagnant property values that would not otherwise be redeveloped. When properly applied, TIF enables many municipalities to generate increased tax value for the whole community.

HOW TIFS WORK

TIF's give municipalities extraordinary powers, including the power to tax revenues. For an area to qualify for a TIF, it must meet statutory qualifications as a “blighted” or “conservation” area (see pg. 2). When a TIF is created, the equalized assessed valuations (EAVs) on which property taxes are based are considered “frozen” at a “base EAV level.”

Generally, the city borrows money by issuing bonds. The money is then used to make the TIF land more attractive through improvements in infrastructure and public utilities, and to provide services such as land clearance. These improvements are supposed to attract developers who otherwise would not have been interested in or capable of developing the TIF land.

As the TIF area develops and the land is improved, the equalized assessed

value is supposed to increase to reflect these improvements. This increase in equalized assessed value over the base level at the time of the creation of a TIF is called the increment. The base EAV revenues continue to go to the taxing bodies serving the TIF area, but any rise in revenues goes into a municipal fund to pay off the municipality's debt and expenses incurred for development.

Property tax revenues to local taxing bodies, such as school districts, remain at the base level for the entire length of the TIF, which may be more than 30 years, if the municipality is able to get an extension beyond the initial 23 year term. Ideally, after the TIF project is complete, the developed land increases the tax base for all taxing bodies within the area. Once the debt and expenses are retired, the incremental EAV becomes available to all taxing bodies.

If an area is truly blighted and no development would occur without the TIF, all the taxing districts stand to gain from a TIF because their tax base will eventually experience improvements that would not have otherwise occurred. If, however, the EAV is rising naturally, or the property would have been improved without a TIF, then the taxing bodies within the area are losing the EAV that would have otherwise been theirs. To prevent this from happening, the Illinois statute requires two specific tests to be met before a TIF district is legally implemented. (65 Illinois Compiled Statutes [ILCS] 5/11-74.4 *et seq.*).

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QUALIFICATIONS

Illinois legislation requires that proposed TIF areas:

- Meet a statutory definition of a “blighted,” “conservation,” or “vacant,” area;

AND

- Not reasonably be anticipated to be developed without the adoption of the TIF redevelopment plan.

The Illinois TIF statute, 65 ILCS 5/11-74.4-3(a), defines “blighted area” as:

“[A]ny improved or vacant area within the boundaries of a redevelopment project area located within territorial limits of the municipality where, if improved, industrial, commercial and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, (see below), each of which is present . . . [and] reasonably distributed throughout the improved part of the redevelopment project area:”

- dilapidation
- obsolescence
- deterioration
- structures below minimum code
- illegal use of individual structures
- excessive vacancies
- lack of ventilation, light or sanitary facilities
- inadequate utilities
- excessive land coverage / overcrowding of structures & community facilities
- deleterious land use or layout
- environmental clean up
- lack of community planning
- the decline of the total equalized assessed value of the project area for 3 of the last 5 years prior to the

year of the proposed redevelopment project

In order for land to be considered a conservation area, a combination of 3 or more of the same factors must be present.

The Illinois TIF statute, 65 ILCS 5/11-74.4-3(b), defines “vacant land” as well. Vacant land must contain 2 or more of these conditions:

- too narrow or irregular to develop
- platting that excluded rights-of-ways for streets
- a lack of easements for public utilities
- diversity of ownership that impedes development of the land
- property subject to tax sales due to tax delinquencies within the last 5 years
- deterioration of structures near the vacant land
- EPA mandated environmental clean-up and remediation costs
- a decline of the total equalized assessed value of the project area for 3 of the last 5 years prior to the year of the proposed redevelopment project

Vacant land must also exhibit one of the following statutorily defined characteristics, including, but not limited to: unused quarries, mines or strip mine ponds; unused rail yards, rail tracks, or railroads; and areas subject to chronic flooding. Also, a potential vacant TIF area must be between 50 and 100 acres and must be 75% vacant.

The second threshold condition for TIF qualification is known as the “but for” precondition: “but for the TIF, no development would occur.”

If an area has the potential to develop without the expenditure of public funds, then TIF cannot be used. The Illinois

Department of Revenue explains the two reasons for this condition. First, the prerequisite demonstrates that TIF is an economic tool of last resort, to be used after everything else to promote redevelopment has failed. Second, the “but for” provision is supposed to protect other taxing districts from being denied revenues that would be generated without the TIF.

POTENTIAL ADVERSE EFFECTS OF A TIF

Although there are winners and losers even in a “good” TIF, when TIF is applied to land that could be developed without public intervention, certain groups suffer:

- ***Increasing the tax burden to taxpayers:*** If the taxing bodies in the TIF district are not already taxing at the maximum amount permitted, they can increase the property tax rate when faced with increased expenses. The taxing body may have to burden all taxpayers in the taxing district to compensate for being frozen out of what would have been the natural increment in the TIF district.
- ***Hidden tax that evades any referendum requirements:*** If the projected tax to pay off the debt incurred for the TIF does not materialize, the cost of the project may be ultimately borne by the taxpayers who will pay through other municipal funds or tax increases.
- ***Developers given unnecessary subsidies:*** When developers receive subsidies to redevelop in areas where private investment is already occurring, this represents “gravy”. If the developer would have invested regardless of the TIF subsidy, the subsidy is

unnecessary and a waste of taxpayers’ money.

- ***Municipalities given increased powers over the use of the tax increment:*** Money is diverted away from the other taxing bodies and into a special TIF fund. The intended use of this money is to improve the TIF district. However, some municipalities are using the revenue for projects with little public consensus or oversight.

IMPORTANT LEGISLATIVE UPDATE

On May 22, 2007, the Illinois General Assembly passed House Bill 3434. Under this bill, the Illinois Department of Revenue would be required to conduct a study about the feasibility of placing more explicit TIF information on property tax bills. This information would allow residents to examine what amount of their property taxes are spent on a TIF. The Department of Revenue must report back to the Governor and Illinois General Assembly by April 1, 2008. At this time, the bill has not yet been signed into law by Governor Blagojevich.

TIF LEGISLATIVE REFORMS

In 1999, the General Assembly passed legislation amending the provisions for TIF redevelopment projects. The revisions include changes in reporting requirements and housing relocation assistance.

- ***Reporting Requirements***
In addition to an annual report that must be filed with the Comptroller, an additional report must be filed. The Comptroller must create a system that allows the municipality to file this report electronically. Further, the report must be available to the public for viewing and copying. To request these TIF reports from the Illinois Comptroller, go to:

<http://www.ioc.state.il.us/Office/LocalGovt/index.cfm?DisplayPage=68>

The report must include specific information regarding each redevelopment project area. The report must also feature a list of the redevelopment project areas administered by the municipality and, if applicable, the date each redevelopment project area was designated or terminated by the municipality. Also, an itemized list of all expenditures, a breakdown of balances and anticipated redevelopment project costs must be included.

Detailed information must also be provided regarding contracts that the municipality's tax increment advisors or consultants have entered into with entities or persons who received, or are receiving, payments financed by tax increment revenues produced by the same redevelopment project area.

Any reports submitted to the municipality by the joint review board must be included.

Additionally, an analysis of public and private investment must be reported detailing the estimated amounts of these investments and both a current ratio of public to private investment and an estimated ratio of public to private investment through the completion of the redevelopment project.

Changes that involve additional parcels of property, substantial changes in the nature and extent of land use or increases in the number of displaced low and very low income homes now requires notice to the community, convening of the Joint Review Board, and a public hearing. However, if the changes in the plan do not involve any of these factors, the

municipality can enact an ordinance to amend the redevelopment plan and avoid the procedure.

- ***Notice***

Notice must be given to taxing bodies and registered organizations. Community members and organizations may register with the municipality through the "Interested Persons Registry" to receive information on the proposed project. Notice must be a good faith effort and given through regular mail. Registered organizations will receive notice via certified mail.

- ***Joint Review Board***

The Joint Review Board must include a community member from the project area, and representatives from the township and fire protection district.

- ***Public Hearings***

The public hearing must occur 21 days prior to the adoption of the municipal ordinance. Notice of the hearing must be made by mail at least 15 days before the hearing.

The purpose of the hearing is to advise the public about the project and to receive public comment. Any interested person or representative of an affected taxing district may be heard orally and may file, with the person conducting the meeting, statements that pertain to the subject matter of the meeting.

- ***Housing Displacement***

Residential displacement could require a feasibility and housing impact study prior to the execution of a redevelopment plan. If 10 or more inhabited residential units are displaced or 75 or more residential units are included in the project area, these studies are mandatory.

Redevelopment plans will not be adopted if the homes of low income and very low-income persons are removed, and

relocation assistance and replacement housing do not meet the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Municipalities should pay up to 50 % of the cost of construction of new housing units using bonds issued by the city or TIF revenues. The replacement housing could be existing or newly constructed housing.

Moreover, the replacement housing must be proffered in or near the redevelopment area.

- ***Housing Impact Study***

Part I of this study must identify the number of single family and multiple family units as well as the number of inhabited and uninhabited units. Also, the racial and ethnic composition of the inhabited units from the most recent federal census must be included. Part II of the study should include the plans for relocating displaced residents, the type, location and cost of the new housing and the extent of relocation assistance.

- ***Feasibility Study***

This study must identify the boundaries of the area for the proposed redevelopment. Also, the purpose(s) of the plan must be examined, including a general description of tax increment allocation financing under this Act and the name, phone number and address

of a municipal officer to contact for more information about the plan.

RELEVANT CASE LAW

- **Castel Properties, Ltd. v. City of Marion:** In 1994, the Illinois Appellate Court held that the TIF statute does not require specific plans to eliminate each factor of a blighted area. Rather, the goal is to provide stimulus and economic development that will lead to eventual reduction and elimination of the blighted area.

Castel Properties, Ltd. v. City of Marion, 259 Ill.App.3d 432 (Ill.App. 5 Dist., 1994).

FOR MORE INFORMATION

The Illinois Tax Increment Association maintains an extensive website covering TIFs. Visit: <http://www.illinois-tif.com/> with TIF questions, concerns, or comments. The website includes links to relevant TIF legislation, briefs, information, and professional resources.

Cook County Commissioner Michael Quigley published a report in April, 2007 examining TIFs in Chicago. The report, which recommends certain changes to current TIF policies and procedures, tends to be critical of TIFs, but contains useful general information about TIFs. The report is available at: <http://www.commissionerquigley.com/library/taleoftwocities.pdf>

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