House Bill 3301

BY DELEGATES STORCH, HARDY, ROWAN, BOGGS, ROWE, HOTT, WILLIAMS, ANDERSON, HOWELL, HORNBUCKLE AND ROHRBACH

[Passed April 10, 2021; in effect ninety days from passage.]
WEST VIRGINIA LEGISLATURE
2021 REGULAR SESSION

ENROLLED

House Bill 3301

By Delegates Storch, Hardy, Rowan, Boggs, Rowe, Hott, Williams, Anderson, Howell, Hornbuckle and Rohrbach

[Passed April 10, 2021; in effect ninety days from passage.]
AN ACT to amend and reenact §7-11B-3, §7-11B-7, §7-11B-9, §7-11B-10, §7-11B-18, and §7-11B-22 of the Code of West Virginia, 1931, as amended, relating generally to property tax increment financing districts; authorizing payment in lieu of tax agreements for property located within property tax increment financing districts; authorizing a county commission or municipality to extend the termination time of certain districts; modifying the revenue sources for a district that is extended; eliminating certain existing limitations on the terms of property tax increment financing obligations issued to refund existing obligations; and providing clarifications with respect to the base assessed value and termination date when two or more tax increment financing districts have been combined.

Be it enacted by the Legislature of West Virginia:

§7-11B-3. Definitions.

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

(b) Words and phrases defined. —

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

"Base assessed value" means the taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the landbooks and personal property books of the assessor on July 1 of the calendar year preceding the effective date of the order or ordinance creating and establishing the development or redevelopment district; Provided, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats,
personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax
situs within a development or redevelopment district are excluded from the base assessed value.

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

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

“Conservation area” means any improved area within the boundaries of a development or
redevelopment district located within the territorial limits of a municipality or county in which fifty
percent or more of the structures in the area have an age of thirty-five years or more. A
conservation area is not yet a blighted area but is detrimental to the public health, safety, morals
or welfare and may become a blighted area because of any one or more of the following factors:
Dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of
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structures below minimum code standards; abandonment; excessive vacancies; overcrowding of
structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate
utilities; excessive land coverage; deleterious land use or layout; depreciation of physical
maintenance; and lack of community planning. A conservation area shall meet at least three of
the factors provided in this subdivision.

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

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

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

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

(A) The acquisition of land and improvements, if any, within the development or
redevelopment district and clearance of the land so acquired; or
(B) The development, redevelopment, revitalization or conservation of the project area whenever necessary to provide land for needed public facilities, public housing or industrial or commercial development or revitalization, to eliminate unhealthful, unsanitary or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to public welfare or otherwise remove or prevent the spread of blight or deterioration;

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

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

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

“Development or redevelopment district” means an area proposed by one or more agencies as a development or redevelopment district which may include one or more counties, one or more municipalities or any combination thereof, that has been approved by the county commission of each county in which the project area is located if the project is located outside the corporate limits of a municipality, or by the governing body of a municipality if the project area is located within a municipality, or by both the county commission and the governing body of the municipality when the development or redevelopment district is located both within and without a municipality.
“Division of Highways” means the state Department of Transportation, Division of Highways.

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

(A) Discourage commerce, industry or manufacturing from moving their operations to another state;
(B) Result in increased employment in the municipality or county, whichever is applicable;
(C) Result in preservation or enhancement of the tax base of the county or municipality.

“Governing body of a municipality” means the city council of a Class I, Class II or Class III municipality in this state.

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

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

“Intergovernmental agreement” means any written agreement that may be entered into by and between two or more county commissions, or between two or more municipalities, or between a county commission and a municipality, in the singular and the plural, or between two or more government entities and the Commissioner of Highways: Provided, That any intergovernmental agreement shall not be subject to provisions governing intergovernmental agreements set forth
in other provisions of this code, including, but not limited to, §8-23-1 et seq. of this code, but shall be subject to the provisions of this article.

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

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

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

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

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

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

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

“Project” means any capital improvement, facility or both, as specifically set forth and defined in the project plan, requiring an investment of capital including, but not limited to,
extensions, additions or improvements to existing facilities, including water or wastewater facilities, and the remediation of contaminated property as provided for in §22-22-1 et seq. of this code, but does not include performance of any governmental service by a county or municipal government.

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

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

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

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

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

(D) Professional service costs including, but not limited to, those costs incurred for architectural planning, engineering and legal advice and services;
(E) Imputed administrative costs including, but not limited to, reasonable charges for time
spent by county employees or municipal employees in connection with the implementation of a
project plan;

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

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

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

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

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

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

"Real property" means all lands, including improvements and fixtures on them and
property of any nature appurtenant to them or used in connection with them and every estate,
interest and right, legal or equitable, in them, including terms of years and liens by way of
judgment, mortgage or otherwise, and indebtedness secured by the liens.
“Redevelopment area” means an area designated by a county commission or the
governing body of a municipality in respect to which the commission or governing body has made
a finding that there exist conditions which cause the area to be classified as a blighted area, a
conservation area, an economic development area or a combination thereof, which area includes
only those parcels of real property directly and substantially benefitted by the proposed
redevelopment project located within the development or redevelopment district or land
contiguous thereto.

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

“Tax increment” means the amount of regular levy property taxes attributable to the
amount by which the current assessed value of real and tangible personal property having a tax
situs in a development or redevelopment district exceeds the base assessed value of the property:

Provided, That where the period of existence of a development or redevelopment district is
extended beyond its originally scheduled termination date as permitted by §7-11B-10 of this code,
only the regular and excess property tax levies of the county commission and any Class I, II, III
or IV municipality, a portion of which is located within the boundaries of the development or
redevelopment district, shall be included in the tax increment following the originally scheduled
termination date of the development or redevelopment district.

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

“This code” means the Code of West Virginia, 1931, as amended by the Legislature.

“Total ad valorem property tax regular levy rate” means the aggregate levy rate of all levying bodies on all taxable property having a tax situs within a development or redevelopment district in a tax year but does not include excess levies, levies for general obligation bonded 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 municipalities, upon their own initiative or upon application of an agency or a developer, may propose creation of a development or redevelopment district and designate the boundaries of the district: Provided, That a district may not include noncontiguous land.

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

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

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

(3) Prior to the first day of publication, a copy of the notice shall be sent by first-class mail to the director of the Development Office and to the chief executive officer of all other local levying
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bodies having the power to levy taxes on real and tangible personal property located within the
proposed development or redevelopment district.

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

(c) After the public hearing, the county commission, or the governing body of the
municipality, shall finalize the boundaries of the development or redevelopment district, the
development or redevelopment project plan, or both, and submit the same to the director of the
Development Office for his or her review and approval. The director, within sixty days after receipt
of the application, shall approve the application as submitted, reject the application or return the
application to the county commission or governing body of the municipality for further
development or review in accordance with instructions of the director of the Development Office.

A development or redevelopment district or development or redevelopment project plan may not
be adopted by the county commission or the governing body of a municipality until after it has
been approved by the executive director of the Development Office.

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

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

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

(3) Assigns a name to the development or redevelopment district for identification
purposes.
(A) The name may include a geographic or other designation, shall identify the county or
municipality authorizing the district and shall be assigned a number, beginning with the number
one.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

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

(2) The termination date for the combined development or redevelopment district which results from the combination of two or more previously created districts shall be the termination
date as provided pursuant to §7-11B-10 of this code of the development or redevelopment district which had the latest termination date prior to the combination of such districts.

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

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

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

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

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

(e) The governing body of the municipality shall repeal, upon the expiration of the time periods set forth in this section, the ordinance establishing the development or redevelopment
Provided, That no district shall be terminated so long as bonds with respect to the district remain outstanding.

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

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

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

(c) Any payment in lieu of taxes agreement shall be made between the public entity that owns the property, the lessee of the property who would be making the payment in lieu of taxes and the county school board, county commission and any municipal authority within whose jurisdiction the real or personal property is situate. The payment in lieu of taxes agreement shall provide the amount that shall be paid by the lessee and the amount, if any, that shall be attributable to the base assessed value of the property and the incremental value.
(d) Following the amendments to this section enacted in the 2021 regular session of the Legislature, any portion of the payment in lieu of taxes attributable in the payment in lieu of tax agreement to the incremental value shall be deposited in the tax increment financing fund. Following the amendments to this section enacted in the 2021 regular session of the Legislature, the remaining portion of the in lieu payment shall be distributed among the levying bodies as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 26th day of April, 2021.

Governor