

Chapter 1: MUNICIPAL TAX INCREMENT FINANCING RULE

Summary: This chapter outlines the purpose, definitions, application requirements, review procedures, designation procedures, and reporting requirements governing municipal tax increment financing districts, 30-A M.R.S.A. §§ 5221 - 5235

SECTION 1. PURPOSE AND DEFINITIONS**A. PURPOSE**

The municipal tax increment financing program, established under 30-A M.R.S.A., Chapter 206, is designed to assist municipalities in encouraging industrial, commercial, transit-oriented, or arts district development, increasing or retaining employment opportunities, and broadening tax bases. This chapter sets forth the provisions by which a municipality may utilize these programs, and describes application requirements, review procedures, designation procedures, and reporting requirements. It is the intent of the Department of Economic and Community Development to ensure, to the greatest extent possible, municipal control and responsibility for tax increment financing districts. It is the intent of the Department of Economic and Community Development to ensure that municipalities have the greatest possible access to municipal tax increment financing.

B. DEFINITIONS

All terms used but not defined in this Chapter shall have the meanings ascribed to those terms in Chapter 207 of Title 30-A of the Maine Revised Statutes, as amended. The following terms shall have the definitions hereinafter set forth:

"Captured assessed value" means the valuation amount by which the current assessed value of the development district exceeds the original assessed value of the district and is sheltered for otherwise authorized tax increment financing purposes

"Commissioner" means the Commissioner of the Department of Economic and Community Development.

"Credit enhancement agreement" means a contract between a municipality and a business that specifies (a) the project costs to which TIF funds will be applied, and (b) the obligations of the municipality and the business regarding the creation of a tax increment financing district and the implementation of the development program.

"Department" means the Department of Economic and Community Development.

"Development program" means a statement of means and objectives designed to improve the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation within the development district.

"Development program amendment" means any change to a state approved development program, including but not limited to the following:

- (a) Alteration of the district boundaries;
- (b) The addition or deletion of project costs to be financed through Tax Increment revenue;
- (c) An increase or decrease in the amount of indebtedness or other project costs to be financed through Tax Increment revenue, and
- (d) Municipal revaluation.

"Development program fund" means the account or accounts into which municipal tax increment revenues are deposited.

"Downtown redevelopment plan" means a document adopted by a municipal legislative body that describes the municipality's comprehensive plan for the physical and economic redevelopment of its downtown.

"Financial plan" means a statement of the costs and sources of revenue required to accomplish the development program.

"Fiscal year" means the period of time from April 1 through March 31 of each year.

"Governing body of the municipality" means the legislative body of a municipality at any regular, special or other duly constituted meeting. In accordance with 30-A M.R.S.A. §5235, for tax increment financing in an unorganized territory, the county commissioners shall act as the municipal legislative body.

"Municipal Tax increment" means that portion of all real and personal property taxes assessed by a municipality, apart from any state, county or special district tax, upon the captured assessed value of property in a development district.

"Physical description" means a description of the tax increment financing district, including:

- (a) Tax maps delineating the property in the proposed tax increment financing district;
- (b) A municipal map showing the site location of the proposed tax increment financing district relative to the municipal boundaries;

"Project cost account" means an account established by a municipality that is pledged to and charged with the payment of the project costs that are outlined in an approved financial plan and that are paid in a manner other than that described in subsection 5.

"Record of municipal approval" means the record of the series of local actions required pursuant to 30-A M.R.S.A. §§ 5253, 5223 and 5226 to designate a development district.

"Retail Business operation" means a business engaged primarily in making retail sales of consumer goods for household use to consumers who personally visit the location to purchase the goods, or a business providing consumer services for which sales tax is applicable.

"Sinking fund account" means an account established by a municipality that is pledged to and charged with the payment of the interest and principal for municipal indebtedness as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds, or other evidences of indebtedness that were issued to fund or refund the cost of an approved development program.

SECTION 2. APPLICATION REQUIREMENTS - ORIGINAL

A. GENERAL

Municipalities wishing to use municipal tax increment financing to fund development programs must submit an application to the Department conforming in all material respects to the requirements of Sections (B) below and providing any additional information the Department may request.

In accordance with 30-A M.R.S.A., §5235, a county may act as a municipality for the unorganized territory within that county for purposes of municipal tax increment financing.

B. MUNICIPAL TAX INCREMENT FINANCING APPLICATION

A municipality wishing to use municipal tax increment financing to fund a development program shall submit to the Department for review by the Commissioner an original and one copy of an application that satisfies the requirements of this section. The municipality shall provide with the application any additional information the Department may require.

An application for designation of a municipal tax increment financing district must contain the following, in the order listed:

1. A cover letter from an authorized municipal official certifying that all information contained in the application is true and correct to the best of his or her knowledge.
2. An Application Cover Sheet on a form provided by the Department;
3. A completed Employment Goals form provided by the Department;
4. A completed Statutory Requirements & Thresholds form provided by the Department;
5. A Development program which includes
 - a) Description of public facilities, improvements, or programs to be financed in whole or in part by the development program

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- b) Description of commercial facilities, arts districts, improvements or projects to be financed in whole or in part by the development program
 - c) Duration of the program (may not exceed 30 years)
 - d) Certification of original assessed value of the taxable property in the TIF district by the municipal tax assessor, using valuation from the prior March 31st
 - e) A physical description of the district including
 - i. A municipal map clearly showing the site location of the proposed district relative to the municipal boundaries; and
 - ii. Tax maps clearly delineating the boundaries of the proposed district
 - f) Financial plan
 - i. Cost estimates for the development program
 - ii. Amount of public indebtedness to be incurred
 - iii. Sources of anticipated revenues
 - iv. Description of the terms and conditions of any agreements, contracts or other obligations related to the development program (e.g. credit enhancement agreements CEAs)
 - v. Estimates of increased assessed values of the district for each year of the program
 - vi. Portion of the increased assessed values to be applied to the development program as captured assessed values and resulting tax increments in each year of the program
 - vii. Tax shift calculations for each year of the program
 - g) Plans for the relocation of persons displaced by the development activities
 - h) Proposed regulations and facilities to improve transportation
 - i) Environmental controls to be applied
 - j) Proposed operation of the development district after the planned capital improvements are completed

- 6) Evidence of public hearing
 - a) 10 day notice of public hearing, including proof of date of publication
 - b) Minutes of public hearing, attested to and signed
 - c) Record of district designation by municipal legislative body

C. ESTABLISHING ORIGINAL ASSESSED VALUE

Completed applications must contain current information regarding the assessed value of the district as of March 31 immediately preceding the date of completed application to the Department.

D. TIMING OF SUBMISSION

In order to establish the original assessed value specified in the municipality's development program, a municipality must submit its application to the Department by March 1 of the property tax year in which the municipality designates the tax increment financing district, unless the Commissioner, if requested by the municipality before March 1, authorizes submission after March 1 but before March 31.

SECTION 3. APPLICATION REQUIREMENTS – DOWNTOWN TIF DISTRICT

A. GENERAL

A municipality wishing to use municipal tax increment financing to fund a development program for a downtown tax increment financing district shall submit to the Department an original and three copies of an application that satisfies the requirements of this section. The municipality shall include with the application any additional information the Department may require.

B. CONTENTS

An application for approval of designation of a downtown tax increment financing district must contain the following:

1. All items specified in sections 2B, 3, 4 and
2. A comprehensive downtown redevelopment plan approved by the legislative body of the municipality.

SECTION 4. APPLICATION REQUIREMENTS – AMENDMENTS

A. GENERAL

A municipality wishing to amend an approved tax increment financing district and/or development program shall submit to the Department for an application that satisfies the requirements of this section. The municipality shall submit an original and four copies of

the application in the case of downtown tax increment financing districts and an original and two copies in the case of all other tax increment financing districts. The municipality shall include with the application any additional information the Department may require.

Examples of such amendments include but are not limited to: alteration of the district boundaries; addition or deletion of project costs to be financed from tax increment revenues; increase or decrease in the amount of indebtedness to be repaid from tax increment revenues; and municipal revaluation.

B. CONTENTS

An application for amendment of a municipal tax increment financing district and/or development program must contain:

1. A cover letter from an authorized municipal official certifying that all information contained in the amendment is true and correct to the best of his or her knowledge.
2. A narrative summary of the changes included in the proposed amendment;
3. Evidence of public hearing for the proposed amendment
 - a) 10 day notice of public hearing, including proof of date of publication
 - b) Minutes of public hearing, attested to and signed
 - c) Record of amended district designation by municipal legislative body

Further, the application must contain any of the following items which have changed from the original application, in the order listed:

4. A completed Employment Goals form provided by the Department;
5. A completed Statutory Requirements & Thresholds form provided by the Department;
6. A Development program which includes
 - a) Description of public facilities, improvements, or programs to be financed in whole or in part by the development program
 - b) Description of commercial facilities, arts districts, improvements or projects to be financed in whole or in part by the development program
 - c) Duration of the program (may not exceed 30 years)
 - d) Certification of original assessed value of the taxable property in the TIF district by the municipal tax assessor, using valuation from the prior March 31st

- e) A physical description of the amended district including
 - i. A municipal map clearly showing the site location of the proposed district relative to the municipal boundaries and original district; and
 - ii. Tax maps clearly delineating the boundaries of the proposed amended district
- f) Financial plan
 - i. Cost estimates for the development program
 - ii. Amount of public indebtedness to be incurred
 - iii. Sources of anticipated revenues
 - iv. Description of the terms and conditions of any agreements, contracts or other obligations related to the development program (e.g. credit enhancement agreements CEAs)
 - v. Estimates of increased assessed values of the district for each year of the program
 - vi. Portion of the increased assessed values to be applied to the development program as captured assessed values and resulting tax increments in each year of the program
 - viii. Tax shift calculations for each year of the program
- g) Plans for the relocation of persons displaced by the development activities
- h) Proposed regulations and facilities to improve transportation
- i) Environmental controls to be applied
- j) Proposed operation of the development district after the planned capital improvements are completed

C. **AMENDING ORIGINAL ASSESSED VALUE**

If the amendment changes the boundaries of the tax increment financing district, the application for the amendment must contain a statement of the new original assessed value of the district certified by the municipal tax assessor. The changes in boundaries and original assessed value are effective the date the amendment is approved by the Commissioner.

D. TIMING OF SUBMISSION

In order to establish the original assessed value specified in an amendment, a municipality must submit its application to the Department by March 1 of the property tax year in which the municipality approves the amendment, unless the Commissioner, if requested by the municipality before March 1, authorizes submission after March 1 but before March 31.

SECTION 5. DEPARTMENT REVIEW AND CERTIFICATION**A. REVIEW BY COMMISSIONER**

Upon receipt of an application for approval of the designation or amendment of a tax increment financing district, the Commissioner shall review the application to ensure that it is complete and satisfies the requirements of both 30-A M.R.S.A., Chapter 206, and this Chapter of the Department's rules.

B. ACTION ON APPLICATION

After reviewing an application, the Commissioner shall issue a Certificate of Approval, deny the application, stating in writing the reason or reasons for the denial or issue a conditional approval in accordance with section 5, subsection F.

C. CERTIFICATE OF APPROVAL

1. Contents – Original or Downtown designation
 - a. The name of the tax increment financing district;
 - b. The effective date of the approval
 - c. The term of the tax increment financing district, not to exceed 30 years from the date of designation of the district;
 - d. The requirements for capturing value;
 - e. The requirement that tax increment financing revenues be deposited and held in a project cost account and/or sinking fund account and be used only for approved project costs;
 - f. The requirement that the municipality notify the Department promptly if the tax increment financing district is terminated;
 - g. The requirement that, if tax increment revenues derived from the district are deposited into the municipality's general fund, the incremental property values generating the revenues deposited in the general fund be included with the municipality's equalized assessed value and not be captured;

- h. The requirement that any amendment of the district comply with (1) the statutes governing approval of the original designation of the district and (2) this Chapter of the Department's rules; and
 - i. Any other information the Department determines necessary.
2. Contents – Amended designation
- a. The name of the tax increment financing district;
 - b. The term of the tax increment financing district, not to exceed 30 years from the date of original designation of the district
 - c. The effective date of the approval;
 - d. If applicable, the Department's authorization to increase or reduce the original assessed value of the district and by what amounts;
 - e. The requirement that tax increment financing revenues be deposited and held in a project cost account and/or sinking fund account and be used only for approved project costs;
 - f. The requirement that the municipality notify the Department promptly if the tax increment financing district is terminated;
 - g. The requirement that, if tax increment revenues derived from the district are deposited into the municipality's general fund, the incremental property values generating the revenues deposited in the general fund be included with the municipality's equalized assessed value and not be captured;
 - h. The requirement that any additional amendment of the district comply with
 - (1) the statutes governing approval of the original designation of the district and
 - (2) this Chapter of the Department's rules; and
 - i. Any other information the Department determines necessary.

D. COMMENCEMENT TO DEVELOPMENT PROGRAM

The development program for a tax increment financing district begins on the date the Commissioner issues a Certificate giving final approval to the program, and on that date a municipality may begin expending funds and incurring obligations with respect to approved project costs. An amendment of a development program begins on the date the Commissioner issues a Certificate giving final approval to the amendment, and on that date a municipality may begin expending funds and incurring obligations with respect to any new project costs contained in the amendment. A municipality may not expend funds

or incur obligations with respect to a project cost in an original or amended development program until the date the Commissioner gives final approval to the original development program or the amendment.

E. TERMINATION OF DISTRICT AND DEVELOPMENT PROGRAM

A development district and its development program end on the date specified in the Certificate giving final approval to the original designation or the amendment of the district and/or the program. After that date, a municipality may not use tax increment revenues to fund project costs in the development program.

F. CONDITIONAL APPROVAL

To ensure compliance with 30-A M.R.S.A., Chapter 206, while at the same time furthering the intent and goals of Chapter 206, the Commissioner may approve the designation or amendment of a tax increment financing district and conditionally approve a portion of the district's proposed original or amended development program. The Commissioner may require the municipality to submit additional information regarding those portions of the development program that were not conditionally approved.

If the Commissioner approves the designation or amendment of a tax increment financing district and approves only part of the development program, the municipality may expend funds only on the approved part of the development program. A municipality may not expend funds on any part of the development program that has not been approved in writing by the Commissioner.

SECTION 7. ANNUAL REPORTING REQUIREMENTS.

A. MUNICIPALITIES

(APA Office Note: this sub-section has been deleted under the advice of the Office of the Attorney General due to a statutory change – see P.L. 2009 ch. 337.)

B. SITE VISITS

The Department and/or the State Tax Assessor may make site visits to approved tax increment financing districts as part of their duties to ensure compliance with statutory requirements.

STATUTORY AUTHORITY: 5 M.R.S.A. §13058(3)
30-A M.R.S.A. §5254-A(I-B) (C) and (6)

EFFECTIVE DATE:
June 13, 1994

EFFECTIVE DATE (ELECTRONIC CONVERSION):
May 15, 1996

CONVERTED TO MS WORD:
July 9, 2003

AMENDED:
December 22, 2009 – filing 2009-668

SUB-SECTION 7.A DELETED:
February 11, 2013 – quoting from a February 8, 2013 e-mail from William H. Laubenstein III, Assistant Attorney General: “This will confirm that the statutory requirement for annual reporting in the DECDTIF Rule (19-100, ch.1, sec. 7.A) was deleted in 2009. Accordingly, it would be appropriate to strike that provision from the rule. See PL 2009, ch. 337. The site visit requirement should not be stricken.”