

TAX INCREMENT FINANCE ("TIF") IN INDIANA

**BOONE COUNTY ECONOMIC DEVELOPMENT CORPORATION
ECONOMIC DEVELOPMENT AND COMMUNITY EDUCATION SERIES**

September 17, 2009

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- I. TIF Basics
 - A. Statutory definitions
 - 1. Redevelopment District
 - 2. Redevelopment Area
 - 3. Economic Development Area
 - 4. Allocation Area
 - B. Property subject to capture
 - 1. Real property
 - 2. Depreciable personal property (only for certain types of facilities)
 - 3. Residential property cannot be captured (but some multi-family units and condos may be treated as commercial property)
 - C. Projects eligible to be financed
 - 1. Off-site infrastructure (roads, sewer, water, etc.); generally considered public projects subject to public bidding and common construction wage statutes
 - 2. Land acquisition, site work and on-site improvements, including buildings and equipment
 - a. Federal tax issues
 - b. Public acquisition and disposition of property issues

II. Key Participants for the Municipality

A. Elected officials

1. Counties: County Commissioners and County Council
2. Cities: Mayor and Common Council members
3. Towns: Town Council members, including Town Council President

B. Appointed officials

1. Redevelopment Commission
2. Redevelopment Authority
3. Economic Development Commission
4. Plan Commission

C. Employees

1. Town managers
2. Redevelopment or Economic Development directors
3. Local economic development officials (LEDOs) (typically employed by nonprofit organizations)

III. Negotiating the Terms of the Deal

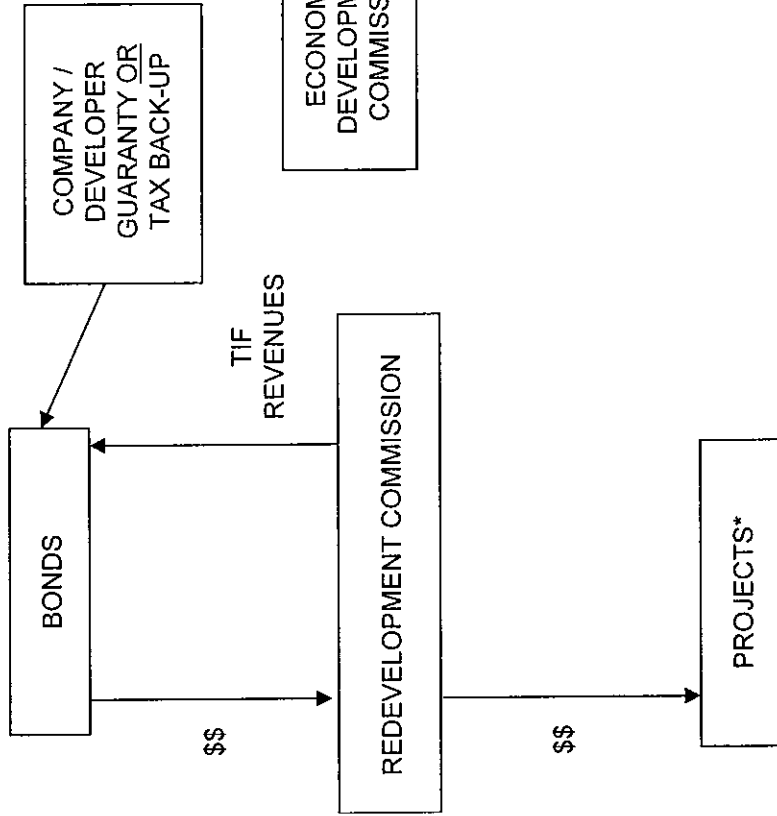
A. Setting the Parameters

1. The “but for” test--making the case for the use of TIF
2. Memorandum of Understanding or Development Agreement before starting project

B. Structuring the TIF Bonds

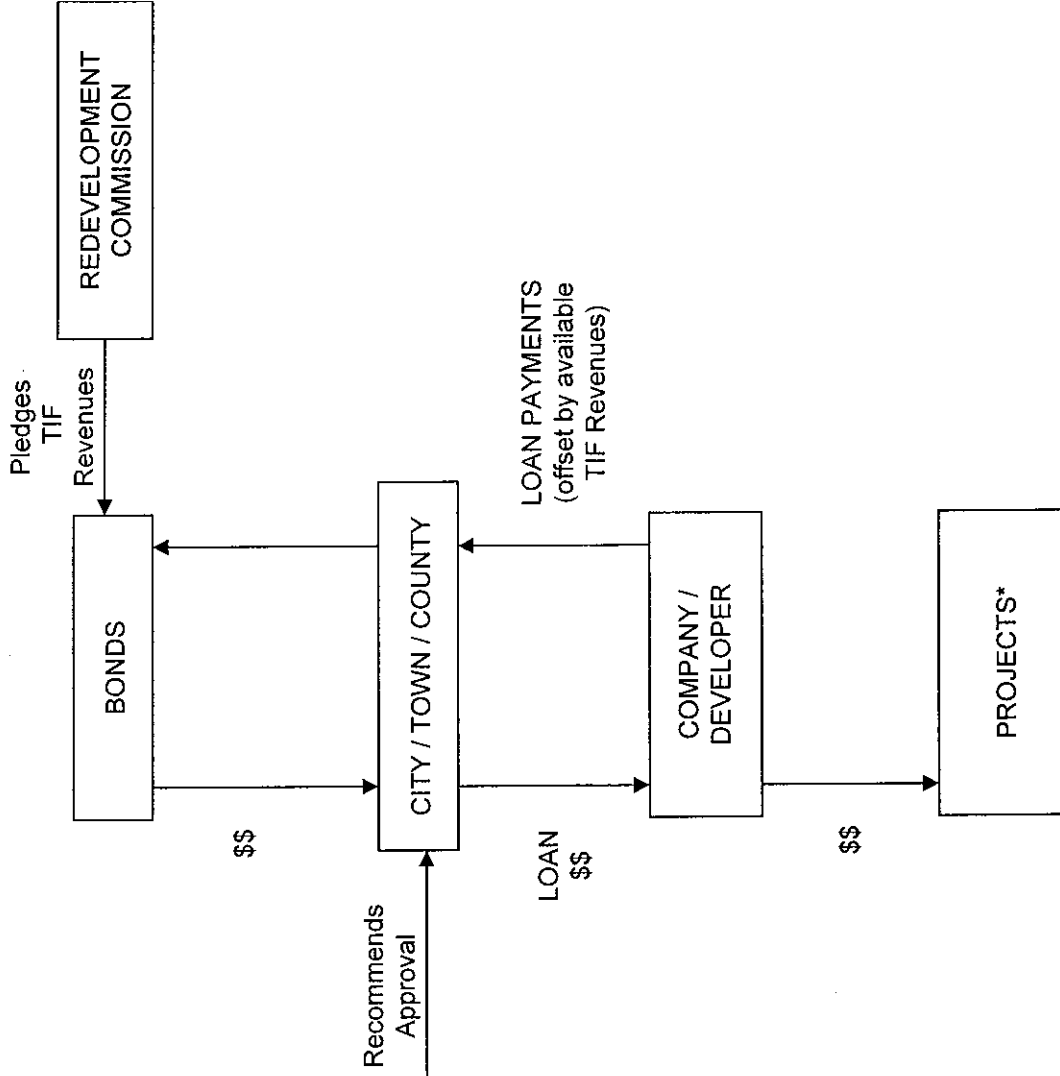
1. Taxable vs. tax-exempt
2. Traditional Redevelopment Commission bonds vs. Economic Development Commission (EDC) model (see attached chart)
 - a. Trade-off between tax status of bonds and cost/control of project construction
3. Straight bond issue vs. lease structure

TRADITIONAL MODEL



** Projects must be publicly bid and are subject to common construction wage laws*

EDC MODEL



** Projects are not required to be publicly bid and are not subject to common construction wage laws*

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Impact of HEA 1001 (2008 and 2009 Versions) on Tax Increment Finance (TIF) in Indiana

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**IMPACT OF HEA 1001 (2008 VERSION) ON TAX INCREMENT FINANCE (TIF) IN
INDIANA**

House Enrolled Act 1001 enacted during the 2008 legislative session made several changes to Indiana statutes governing redevelopment and tax increment finance, all of which become effective July 1, 2008. Set forth below is a brief summary of the major changes:

1. Appointments of Redevelopment Commission Members in Counties: Previously, all of the appointments were made by the legislative body. Now **two of the five members are to be appointed by County fiscal body** (three members in Counties with seven-member Redevelopment Commissions).
2. Additional Local School Board Member: **An additional non-voting** local school board member must be appointed to the Redevelopment Commission by the Mayor, Town Council President or County Commissioners (as appropriate). This local school board member must be part of a board of a school corporation that includes all or a part of the territory served by the Redevelopment Commission.
3. Expanding a Redevelopment or Economic Development Area: In order to expand an existing redevelopment area or economic development area, the Redevelopment Commission must make a finding that the existing area **does not generate sufficient revenues** to meet the financial obligations of the original project. This requirement can be waived with the prior approval of the Indiana Economic Development Commission. Also, all expansions, regardless of size, must go through the same process required for the original establishment of an area. Under prior law the commission could expand an area by no more than 20% of its original size with one public hearing, abbreviated fact findings and approval of the commission only.
4. Eligible Projects: Under prior law, among other things TIF proceeds could be used to pay debt service on bonds issued by the unit, or to reimburse the unit, for projects that were "in or serving" a TIF allocation area. That language was modified to provide that such projects must be "physically located in or physically connected to" the TIF allocation area.
5. Approvals Required: Various Redevelopment Commission actions will now require legislative or fiscal body approval (such as the issuance of bonds regardless of amount, any amendments to a declaratory resolution or plan, and the use of eminent domain).
6. Term Limits for TIF Districts: Maximum term for TIF Districts reduced from 30 years to 25 years.
7. Limit on Term of Debt: Financings will generally be limited to 25 years.
8. Referendums and Petition/Remonstrance: The Senate version of HEA 1001 would have imposed a petition/remonstrance process on the issuance of TIF bonds, but this provision was removed from the final enrolled act in conference committee. As was the case under prior law, the new referendum and petition/remonstrance requirements will apply to TIF bonds only if (a) the projected TIF revenues are insufficient to pay debt service on the bonds, and (b) a full general obligation property tax is pledged as a back-up source of payment on the bonds.

9. Refundings: Savings resulting from a refunding bond issue may not be used for additional projects, but rather must be used for funding debt service reserves, reducing levies or reducing debt. Also, the maturity date of refunding bonds must not exceed the original maturity date of the bonds being refunded.

10. TIF Replacement: The significant changes to the property tax system set forth in HEA 1001 likely will have some financial impact, positive or negative, on each outstanding TIF area in Indiana. If the changes result in a loss of TIF revenue to a redevelopment commission such that the commission cannot meet its financial obligations, the act provides the commission with three options for replacing the lost revenue: (a) a tax levy on the entire redevelopment district, (b) a special assessment on the taxpayers who are located in the TIF allocation area, or (c) a downward adjustment to the base assessed value of the TIF allocation area. Options (a) and (b) above would require approval by the legislative body of the unit.

11. Annual Notice Requirement: Under prior law, by July 15 of each year a redevelopment commission was required to notify the county auditor of the amount, if any, of incremental assessed value that did not need to be captured to meet TIF obligations in the following budget year and therefore could be released to the respective taxing units. This had been widely interpreted to mean that no notice was required at all if the commission intended to capture all of the TIF in the next budget year. Under HEA 1001 the commission now has an affirmative obligation to notify by July 15 of each year not only the county auditor, but also the fiscal body of the city, town or county that created the commission, and each taxing unit that is wholly or partly located in the TIF allocation area, of the commission's determination regarding use of TIF in the following budget year and potential release of excess assessed value to the taxing units.

IMPACT OF HEA 1001 (2009 VERSION) ON TAX INCREMENT FINANCE (TIF) IN INDIANA

House Enrolled Act 1001 enacted during the 2009 legislative session made the following additional changes to Indiana statutes governing redevelopment and tax increment finance:

1. New Eligible Uses of TIF: Redevelopment Commissions are now permitted to spend up to 15 percent of their annual TIF for educational or worker retraining programs. (See IC 36-7-25-7, as amended by H.E.A. 1001)

2. Maximum Term of New TIF Allocation Areas: Effective January 1, 2010, the 25-year limit (imposed in 2008) on the life of a new TIF district established after June 30, 2008, has been modified to provide that the 25-year clock does not begin to tick until debt that is secured by TIF is incurred. (See IC 36-7-14-39, as amended by H.E.A. 1001)

3. Tax Increment Replacement Levies or Assessments Will Not County Against Maximum Levy: For Redevelopment Commissions eligible to impose a tax increment replacement levy or an assessment because changes in law have reduced their TIF collections in a way that endangers debt repayment or coverage ratio covenant compliance, Indiana law has been amended so that these remedies will not count against the unit's maximum levy. (See 6-1.1-21.2-15, as amended by H.E.A. 1001)