

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 802

90TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Economic Development, March 2, 2000, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

2909S.08C

AN ACT

To repeal section 99.805, RSMo Supp. 1999, relating to tax increment financing, and to enact in lieu thereof six new sections relating to the same subject, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 99.805, RSMo Supp. 1999, is repealed and six new sections enacted in lieu thereof, to be known as sections 99.805, 99.866, 99.867, 99.868, 99.869 and 99.872, to read as follows:

99.805. As used in sections 99.800 to 99.865, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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 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 for projects approved on or after December 23, 1997;

(4) "Economic activity taxes", the total additional revenue from taxes which are imposed by a municipality and other taxing districts, and which are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments. For redevelopment projects or redevelopment plans approved after December 23, 1997, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

(5) "Economic development area", any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and (3) of this section, and in which the governing body of the municipality finds that redevelopment will not be solely used for development of commercial businesses which unfairly compete in the local economy and is in the public interest because it will:

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

(b) Result in increased employment in the municipality; or

(c) Result in preservation or enhancement of the tax base of the municipality;

(6) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo. This subdivision shall

be applicable only to a redevelopment area designated by ordinance adopted after December 23, 1997;

(7) "High unemployment", exists when unemployment in the proposed redevelopment area is at least one and one-half times that of the metropolitan statistical area in which the area is located or, one and one-half times the unemployment rate of nonmetropolitan counties if the area is not located in a metropolitan statistical area;

(8) "Low fiscal capacity", exists when the per capita assessed valuation of property in the municipality is less than sixty percent of the entire county in which it is located, or, in unincorporated areas, when the per capita assessed valuation of property in the school district is less than sixty percent of the entire county in which it is located;

[[7)] **(9)** "Municipality", a city, village, or incorporated town or any county of this state. For redevelopment areas or projects approved on or after December 23, 1997, "municipality" applies only to cities, villages, incorporated towns or counties established for at least one year prior to such date;

[[8)] **(10)** "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a municipality to carry out a redevelopment project or to refund outstanding obligations;

[[9)] **(11)** "Ordinance", an ordinance enacted by the governing body of a city, town, or village or a county or an order of the governing body of a county whose governing body is not authorized to enact ordinances;

[[10)] **(12)** "Payment in lieu of taxes", those estimated revenues from real property in the area selected for a redevelopment project, which revenues according to the redevelopment project or plan are to be used for a private use, which taxing districts would have received had a municipality not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 2 of section 99.850;

(13) "Poverty", either a Missouri municipality within a metropolitan statistical area which has a population of at least fifteen hundred and median household income of under eighty percent of the median household income for the metropolitan statistical area, according to the last decennial census, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least one thousand five hundred, and each block group having a median household income of under eighty percent of the median household income for

the metropolitan area in Missouri, according to the last decennial census. In addition, the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under eighty percent of the median household income for the nonmetropolitan areas in Missouri according to the last decennial census or a census block group or contiguous group of block groups which has a population of at least one thousand five hundred, and each block group having a median household income of under eighty percent of the median household income for the nonmetropolitan areas of Missouri, according to the last decennial census;

(14) "Public subsidy", any combination of public grants or loans, tax abatements, tax credits, industrial revenue bonds, tax increment financing, or other instruments having similar economic effect which are made available to the developer for the direct benefit of the redevelopment project from actual or potential tax revenues from any taxing district. Subsidies do not include fees for service generated from the redevelopment project, such as parking receipts;

[(11)] **(15) "Redevelopment area", an area designated by a municipality, in respect to which the municipality 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, an enterprise zone pursuant to sections 135.200 to 135.256, RSMo, or a combination thereof, which area includes only those parcels of real property directly and substantially benefited by the proposed redevelopment project;**

[(12)] **(16) "Redevelopment plan", the comprehensive program of a 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 taxing districts which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of section 99.810;**

[(13)] **(17) "Redevelopment project", any development project within a redevelopment area in furtherance of the objectives of the redevelopment plan; any such redevelopment project shall include a legal description of the area selected for the redevelopment project;**

[(14)] **(18) "Redevelopment project costs" include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan or redevelopment project, as applicable. Such costs include, but are not limited to, the following:**

- (a) Costs of studies, surveys, plans, and specifications;
- (b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except the reasonable costs incurred by the commission established in section 99.820 for the administration of sections 99.800 to 99.865, such

costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of a redevelopment plan or project;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures;

(e) Initial costs for an economic development area;

(f) Costs of construction of public works or improvements;

(g) Financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations, and which may include payment of interest on any obligations issued pursuant to sections 99.800 to 99.865 accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto;

(h) All or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs;

(i) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or are required to be paid by federal or state law;

(j) Payments in lieu of taxes;

[(15)] **(19)** "Special allocation fund", the fund of a municipality or its commission which contains at least two separate segregated accounts for each redevelopment plan, maintained by the treasurer of the municipality or the treasurer of the commission into which payments in lieu of taxes are deposited in one account, and economic activity taxes and other revenues are deposited in the other account;

[(16)] **(20)** "Taxing districts", any political subdivision of this state having the power to levy taxes;

[(17)] **(21)** "Taxing districts' capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from the redevelopment project; and

[(18)] **(22)** "Vacant land", any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

99.866. The provisions of sections 99.866 to 99.872 shall apply to any city not within a county, any county of the first classification with a population of more than nine hundred thousand, any county of the first classification with a population of more than one hundred seventy thousand and less than two hundred five thousand, any

county of the third classification with a population of more than nineteen thousand five hundred and less than twenty thousand, any county of the first classification with a charter form of government and a population of less than two hundred fifty thousand according to the most recent federal decennial census and any county of the first classification with a population of more than eighty thousand and less than eighty-three thousand according to the most recent federal decennial census.

99.867. 1. The municipality or census block group or groups and any proposed redevelopment area shall meet the requirements of section 99.810 and this section. An area can qualify if:

- (1) The host municipality or unincorporated area has low fiscal capacity; or**
- (2) The census block group or groups, as defined in the most recent decennial census, containing the proposed redevelopment area have high unemployment; or**
- (3) The census block group or groups, as defined in the most recent decennial census, containing the proposed redevelopment area are characterized by poverty; and**
- (4) Except in a federal enterprise zone or a federal empowerment zone area, or a municipality, census block group or groups with a median household income less than seventy percent of that of the metropolitan area, the assessed valuation, reduced by the percentage of increase in the consumer price index as reported by the United States Department of Labor, of the parcels included in the proposed redevelopment area, taken together, has not increased in the three most recent reassessment periods; and**
- (5) The area meets at least one of the following:**
 - (a) There is a pattern of business failures over the last three years, as demonstrated by foreclosures, denied loans, loan defaults, or equivalent statistical documentation; or**
 - (b) Business occupancy rates are less than seventy-five percent of capacity when the application is made; or**
 - (c) There is a pattern of neighborhood decline demonstrated by mortgage delinquencies, denied mortgage loans or equivalent statistical documentation for residential properties within the proposed area over the last three years; or**
 - (d) Less than seventy-five percent of the residential units in the proposed redevelopment area are occupied as of the date of application; or**
 - (e) The project is to expand or upgrade an existing nonretail business in place without a change in existing predominant land use; or**
 - (f) The project is to redevelop in place an existing retail or commercial property that is at least fifty percent vacant.**

2. No more than fifty percent of the costs of a redevelopment project may be allocated or expended for retail development unless:

(1) The redevelopment is in a municipality, census block group or group of block groups with a median household income less than seventy percent of that of the metropolitan area, a distressed community as defined in section 135.530, RSMo, a federal enterprise zone or a federal empowerment zone; or

(2) At least fifty percent of the residents living within a one-quarter mile radius of the boundary of the proposed district are living in poverty, as defined in section 99.805; or

(3) The development project is to redevelop in place an existing retail property that is at least fifty percent vacant.

99.868. 1. The developer shall submit its proposed redevelopment plan to the governing body and the department of economic development. The department shall develop and apply a standard methodology to conduct a cost-benefit analysis of the impact of each redevelopment project which includes, at a minimum, an assessment of the following:

- (1) Fiscal impacts;**
- (2) Net new job growth;**
- (3) Accessibility of employment opportunities for residents of the host municipality;**
- (4) Wages associated with net new jobs;**
- (5) Effect on the viability of nearby land uses;**
- (6) Impact on community cohesiveness and diversity;**
- (7) Environmental impacts such as air, soil and water; and**
- (8) Sustainability of the revenue stream for affected municipalities.**

2. The department shall prepare a cost-benefit analysis of the proposed redevelopment project and shall submit it to the developer, the host municipality and surrounding municipalities within ninety days unless the department and the developer agree to a different timetable. The department shall charge the developer a fee set in an amount not to exceed the department's cost for conducting the cost-benefit analysis. The analysis shall be available to the public at a location within the host municipality for at least thirty days before the municipality makes a decision on the proposal.

3. A proposal shall not be approved unless the cost-benefit analysis shows that the proposal will not have a significant negative impact on local taxing jurisdictions.

99.869. Any affected person may file an action in the circuit court of jurisdiction to challenge any decision of the tax increment financing commission or the governing body within sixty days of such decision. This action will be limited to certifying whether the redevelopment project meets the eligibility requirements set forth in sections 99.867,

99.868 and 99.872.

99.872. 1. The maximum amount of public subsidy for projects approved pursuant to sections 99.805 to 99.865 shall be thirty percent of the total project costs, except that:

(1) If the area meets two of the three criteria established in subdivisions (1) to (3) of subsection 1 of section 99.867, or if the area is a federal enterprise zone or a federal empowerment zone, or a municipality, census block group or group of block groups where the median household income is less than seventy percent of the median household income of the metropolitan area, the public subsidy may be fifty percent of the project costs; or

(2) If at least twenty percent of the project costs are to improve, increase or preserve affordable housing or manufacturing in the area, a public subsidy may provide fifty percent of the project costs.

2. The municipality and the developer shall annually submit information to the department regarding an approved plan for as long as the plan is in effect. The department shall establish reporting requirements by rule promulgated pursuant to chapter 536, RSMo. The department shall submit a report to the governor and the general assembly by December thirty-first of each year. The report shall, at a minimum, identify the number and location of redevelopment areas, quantify public investment in each, and assess the public benefit derived from the redevelopment area using the criteria set out in section 99.868.

Section B. The repeal and reenactment of section 99.805 and the enactment of sections 99.866, 99.867, 99.868, 99.869 and 99.872, shall become effective July 1, 2001.

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