

SECOND REGULAR SESSION

SENATE BILL NO. 802

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE, EHLMANN, FLOTRON AND SCHNEIDER.

Read 1st time January 11, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2009S.031

AN ACT

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

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Section A. Section 99.805, RSMo Supp. 1999, is repealed and five new sections enacted in lieu thereof, to be known as sections 99.805, 99.866, 99.867, 99.868 and 99.869, to read as follows: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

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

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 or a United States census block group or contiguous block of groups, is less than fifty percent of that of the remaining municipalities in the metropolitan statistical area or, if the municipality is not located in a metropolitan statistical area, fifty percent of that of the nonmetropolitan areas of Missouri;

[(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", the median household income in the proposed redevelopment area is less than seventy percent of the metropolitan statistical area or, if the redevelopment area is not in a metropolitan statistical area, seventy percent of that of the nonmetropolitan areas of Missouri;

[(11)] **(14)** "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)] **(15)** "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)] **(16)** "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)] **(17)** "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)] **(18)** "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)] **(19)** "Taxing districts", any political subdivision of this state having the power to levy taxes;

[(17)] **(20)** "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)] **(21)** "Vacant land", any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

99.866. 1. The municipality 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 has low fiscal capacity; or

(2) The census tracts, as defined in the most recent decennial census, containing the proposed redevelopment area have high unemployment; or

(3) The census tracts, as defined in the most recent decennial census, containing the proposed redevelopment area are characterized by poverty; and

(4) The assessed valuation 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 documented pattern of business failures over the last three years;

or

(b) Business occupancy rates are less than seventy-five percent of capacity when the application is made; or

(c) There is a documented pattern of mortgage delinquencies 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.

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 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.

99.867. 1. The developer shall submit its proposed redevelopment plan to the governing body and the department of economic development. The department shall conduct a cost-benefit analysis of the impact of the proposed project including at least 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 one hundred eighty 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 sixty 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.

99.868. 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.

99.869. 1. The maximum amount of public funding 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 99.866, public funds may provide 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 in the area, public funds 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 99.867.

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