

TIFS IN ILLINOIS
By Citizen Advocacy Center

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V. COMMON CRITIQUES OF TIF

I. WHAT IS TIF? WHAT IS A TIF DISTRICT? The Basics

Tax Increment Financing, or TIF, is a powerful municipal economic development tool created by the Illinois General Assembly in 1977. Although nearly every state in the nation adopted tax increment financing, each state's legislation differs. The Illinois Tax Increment Allocation Redevelopment Act

(<http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=006500050HArt.+11+Div.+74.4&ActID=802&ChapterID=14&SeqStart=209800000&SeqEnd=212000000>) is the basis for all the information in this website.

The purpose of TIF is to spur and fund development in areas with declining or stagnant property values through providing incentives to developers. The revenues used to pay for the incentives come from property taxes that the municipality diverts for the duration of the TIF district, typically 23-30 years. The theory is that the TIF designated area will develop due to the assistance of incentives to developers, and the property valuation for the TIF designated area will substantially increase and benefit all taxing bodies in the future.

The preamble to the Illinois Tax Increment Allocation Redevelopment Act

(<http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=006500050HArt.+11+Div.+74.4&ActID=802&ChapterID=14&SeqStart=209800000&SeqEnd=212000000>) repeatedly sets forth this purpose and the theory:

It is hereby found and declared that there exist in many municipalities within this State blighted conservation and industrial park conservation areas, as defined herein; that the conservation areas are rapidly deteriorating and declining and may soon become blighted areas if their decline is not checked, that **the stable economic and physical development of the blighted areas, conservation areas and industrial park conservation areas is endangered by the presence of blighting factors as manifested by progressive and advanced deterioration of the of structures, by the overuse of housing and other facilities, by a lack of physical maintenance of existing structures, by obsolete and inadequate community facilities and a lack of sound community planning, by obsolete platting, diversity of ownership, excessive tax and special assessment delinquencies, by the growth of a large surplus of workers who lack the skills to meet existing or potential employment opportunities or by a combination of these factors;** that as a result of the existence of blighted areas and areas requiring conservation, there is an excessive and disproportionate expenditure of public funds, **inadequate public and private investment**, unmarketability of property, growth in delinquencies and crime, and housing and zoning law violations in such areas together with an abnormal exodus of families and businesses so that **the decline of these areas impairs the value of private investments and threatens the sound growth and the tax base of existing districts in such areas**, and threatens the health, safety, morals, and welfare of the public and that the industrial park conservation areas include under-utilized areas which, if developed as industrial parks, will promote industrial and transportation activities, thereby reducing the evils attendant upon involuntary unemployment and enhancing the public health and welfare of this State.

It is hereby found and declared that in order to promote and protect the health, safety, morals, and welfare of the public, that blighted conditions need to be eradicated and conservation measures instituted, and that redevelopment of such areas be undertaken; **that to remove and alleviate adverse conditions it is necessary to encourage private investment and restore and enhance the tax base of the taxing districts in such areas by the development or redevelopment of project areas.** The eradication of blighted areas and treatment and improvement of conservation areas and industrial park conservation areas by redevelopment projects is hereby declared to be essential to the public interest.

It is found and declared that **the use of incremental tax revenues derived from the tax rates of various taxing districts in redevelopment project areas for the payment of redevelopment project costs is of benefit to said taxing districts for the reasons that taxing districts located in redevelopment project areas would not derive the benefits of an increased assessment base without the benefits of tax increment financing,** all surplus tax revenues are turned over to the taxing districts in redevelopment project areas and all said districts benefit from the removal of blighted conditions, the eradication of conditions requiring conservation measures, and the development of industrial parks.

The Incentive

Certain areas within municipalities are undesirable for development due to a variety of factors such as urban blight, vacancy rate, or old buildings. Projects are deemed unaffordable when comparing the developer's estimated project cost to anticipated revenues. TIF allows municipalities to provide financial incentives to make projects affordable to developers. The municipality usually borrows against future property tax increases to pay for TIF district redevelopment costs by issuing bonds. The bonds are then used to make improvements in infrastructure and public utilities, or to clear land for development. Because a developer is no longer shouldering these costs, projects are financially desirable and attract developers who otherwise would not develop these parcels of property. The municipality pays off the bond and continues to provide incentives for other TIF projects by capturing the gradual increase in property tax over the lifespan of the TIF district.

How the "Increment" in TIF Is Created

A TIF district is formally designated through compliance with the TIF statute. Upon creation, the municipality records the equalized assessed value (EAV) (<http://tax.illinois.gov/localgovernment/propertytax/taxbill.htm>) of all properties within a TIF district and "freezes" it at what is considered a "base EAV level" for all taxing bodies. Assessed valuation is the worth placed on a parcel of property for tax purposes which becomes the basis for determining what portion of the overall tax burden each property owner will bear. Municipalities apply a multiplier or an equalization factor to bring all property for a uniform level of assessment.

Most taxing bodies, such as counties, school districts, and park districts, rely on a percentage of property taxes to operate. For the duration of the TIF, the calculation for property taxes for all those taxing bodies that serve the TIF district is derived from the base EAV. As the municipality develops the land within the TIF district, the EAV for properties is supposed to increase to reflect the improvements. The increase in EAV of the property, over the base level of the

property at the time of the creation of TIF district, is called the increment. The increment is diverted to a municipal fund specifically for TIF redevelopment to pay off the municipality's debt and expenses incurred by the TIF district.

The TIF district ends once the debt and expenses for public and private redevelopment projects are fully repaid. All taxing bodies that were previously restricted to the base EAV can then access the current assessed valuation.

In the end, an area with previously stagnant or declining property values that would not have been developed but for the incentives provided by the municipality to the developers results in development that raises the EAV of the TIF district. Moreover, while the gradual increase in property valuation is diverted from other taxing bodies for a certain period of time, the fully redeveloped area is eventually released to all taxing bodies who can take advantage of the increased tax base for the benefit of the whole community.

Who Can Initiate Creation of a TIF District?

Private developers or businesses, local planning agencies, aldermen, or community groups may suggest creation of a TIF district. A municipality must first identify an economically stagnant or physically declining area and determine that private investment in the area is not likely to occur at a reasonable rate if no public investment is forthcoming.

What Powers Are Granted to a Municipality Governing a TIF District?

A municipality may make and enter into all contracts with property owners, developers, tenants, overlapping taxing bodies, and others necessary to the implementation of the Redevelopment Plan for the TIF district. In implementing the Redevelopment Plan, the municipality may acquire land by purchase, donation, lease, or eminent domain. The municipality may also own, convey, lease, mortgage, or dispose of land and other property.

The theory behind TIF is that it stimulates development on parcels of property to increase tax revenue generated off those parcels. Examples include the development of a high-end commercial venture in the location of a business location that is now vacant or a multi-story high end housing unit above a first-floor retail location where there was previously a one-story business. To maintain a certain community character and to provide incentives so that affected taxing bodies do not oppose a TIF, a municipality might also fund public goods that do not generate tax revenue. For example, a municipality may use TIF funds to purchase land to convert to a public park, which does not generate taxes, rather than having the park district pursue a local bond referendum to purchase the land for a public park. The proposed benefit is that a new park is created without the park district needing voter approval for a bond that would further affect the tax rate of that taxing body.

Additional uses of TIF funds include:

- Public infrastructure improvements such as road and sidewalk repairs, utility upgrades, water and sewer projects
- Land acquisition, clearance, and other land assembly and site preparation activities

- Rehabilitation of older, deteriorating, or obsolete buildings
- Low-income housing construction including finance and rehabilitation
- Correction or mitigation of environmental problems and concerns
- Job training, workforce readiness, and other related educational programs
- Incentives to retain or attract private development
- Interest on new construction loans

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II. PROCESS TO CREATE A TIF DISTRICT

● FEASIBILITY OR THE ELIGIBILITY STUDY

- **Definition** – A municipality should be prepared to defend the feasibility of its proposed TIF district. Many draft an Eligibility Study (<http://wauconda-il.gov/wp-content/uploads/2014/02/Approved-Eligibility-Study.pdf>), although this is not a requirement under the TIF statute. However, municipalities should have documentation of how the proposed redevelopment project area meets the feasibility criteria for establishing a TIF district.

When pursuing an Eligibility Study, a municipality will adopt an Ordinance (<http://www.ci.freeport.il.us/Ordinances%20&%20Resolutions/west%20ave%20tif%20inducement.pdf>) providing for preparation of an Eligibility Study. Otherwise, the municipality will report in some other documentation how the feasibility criteria are met.

The Eligibility Study sets forth the justification for the creation of a TIF district in a proposed area by detailing how the TIF statutory requirements are met. The municipality usually hires a consultant to conduct the research and prepare the Eligibility Study.

○ **Criteria for Evaluation in the Eligibility Study**

- **The “But For” Test.** This test asks if the land in question has not seen, and would not see, growth and development through private investment “but for” the assistance of the municipality and the creation of a TIF district. The concept behind the “but for” test signals that TIF is a last resort for seriously economically depressed areas. The “but for” test looks at factors such as: have previous proposals to develop land, if any, failed; has there been a change in zoning that would help make the area more desirable; and a review of the developer’s finances to determine that incentives are necessary to complete the project.

To demonstrate the lack of significant private investment to date, the municipality may report (1) the number of building and other permits requested for the properties in the proposed TIF district, or (2) historical property value growth.

- **Meeting the Statutory Definition of “Blighted,” “Conservation,” or “Vacant” Area.**

- **Background**

The TIF statute states the danger of blight due to the presence of: deterioration of structures, the overuse of housing and other facilities, the lack of physical maintenance of existing structures, obsolete and inadequate community facilities, and a lack of sound community planning, among other contributing factors. Blight also causes excessive and disproportionate expenditure of public funds, inadequate public and private investment, unmarketability of property, growth in delinquencies and crime, and housing and zoning law violations.

- **Blighted Areas TIF Districts**

In order to determine whether an area is blighted, the TIF statute outlines 13 factors. Of these 13 factors, 5 or more need to be present to a meaningful extent for an area to qualify as blighted. Blight factors may be reasonably distributed throughout the area to be redeveloped which means that not every building or property has to show signs of blight. Another consideration may be the number of building and other permits

requested for the properties with the proposed TIF district or the direction of property value growth.

- **What Are the Thirteen Blight Factors?**

1. Dilapidation: buildings have fallen into advanced states of disrepair
2. Obsolescence: buildings have fallen into disuse
3. Deterioration: buildings have defects including missing components such as doors, windows, gutters, downspouts, roadway maintenance
4. Structures below minimum code: buildings that do not meet the standards for zoning, subdivision, building, fire, and other governmental codes applying to a given property but not including housing and property maintenance codes.
5. Illegal use of individual structures: buildings that are in use in violation of applicable federal, state, or local laws
6. Excessive vacancies: buildings are unoccupied or under-utilized
7. Lack of ventilation, light, or sanitary facilities
8. Inadequate utilities
9. Excessive land coverage or overcrowding of structures & community facilities: the area may have hazardous conditions due to overcrowding such as increased threat of spread of fire
10. Deleterious land use or layout: the area has a mixture of incompatible land uses or is otherwise unsuitable for the surrounding area
11. Environmental clean-up: the area has incurred Illinois Environmental Protection Agency or U.S. Environmental Protection Agency costs
12. Lack of community planning: the area does not conform to a community plan, possibly because it was developed prior to the existence of a comprehensive or other community plan
13. Decline of the total equalized assessed value (<http://tax.illinois.gov/localgovernment/propertytax/taxbill.htm>) of the area for 3 of the 5 years previous to the year of the proposed TIF Redevelopment Plan

- **Conservation TIF Districts** - In order to qualify as a “conservation” TIF district, 50% of the buildings within the TIF district must be at least 35 years old, and only 3 of the 13 factors are required.

- **Vacant TIF Districts** - “Vacant” TIF districts require only 2 of 6 factors unless the area is an unused mine, rail yard, or flood area. The possible factors are:
 - Obsolete platting
 - Diversity of ownership
 - Tax and special assessment delinquencies
 - Environmental contamination
 - Declining equalized assessed value
(<http://tax.illinois.gov/localgovernment/propertytax/taxbill.htm>)
 - Deterioration of structures or site improvements on adjacent land

- **Availability of Data**
 - Ordinance
(<http://www.ci.freeport.il.us/Ordinances%20&%20Resolutions/west%20ave%20tif%20inducement.pdf>) approving the Eligibility Study
(<http://wauconda-il.gov/wp-content/uploads/2014/02/Approved-Eligibility-Study.pdf>) that analyzes compliance with statutory requirements
 - The Eligibility Study, or some documentation that the redevelopment project area meets the eligibility criteria in the TIF statute
 - The public may sign up to be on the mailing list of their local Planning Department or Plan Commission

- **Opportunities for Public Input**
 - Public comment before the planning and zoning committee of the municipality and/or the entire municipal board when the Ordinance is up for vote
 - Written statements are accepted by most municipalities and planning and zoning committees

- **Reform Recommendations**
 - Generally, limit the allowable discretion for creation of a TIF district to increase accountability on the parts of the municipality and the developers and businesses in the TIF district.
 - Statutorily require developers seeking TIF to prepare a market analysis to support their proposed redevelopment project.
 - Amend statutory “But For” test to include specific minimum specifications as opposed to vague terms in current statute.
 - Amend the statutory term “blight” to lessen the gap between the theory behind TIF as compared to how TIF is used.

- Amend statute to create an independent entity outside of the municipality that is the arbiter of meeting statutory qualifications to ensure non-biased assessment.
- Statutorily require municipalities to prepare an Eligibility Study as a prerequisite to TIF district creation.
- Statutorily require Eligibility Study to include analysis of expected growth in proposed area due naturally to inflation as compared to anticipated growth as a direct outcome of development that would not otherwise occur without investment.
- Statutorily require municipalities to adopt a TIF Assistance Application to require that developers seeking TIF funding document a variety of information, such as projected costs, source of fund, financial viability and more.
- Statutorily require municipalities to prepare an Alternative Finance Study (<http://www.elmhurst.org/DocumentCenter/Home/View/1586>) that explains why other finance options are not optimal.
- Statutorily require that municipalities set objective criteria for capping TIF funds.
- Statutorily limit percent of industrial and commercial districts that can be placed in a TIF district to ensure that incentives are only used for more “blighted” areas.
- Statutorily limit duration that one parcel of property can be placed in any TIF district cumulatively so to avoid parcels being shifted from one TIF to another, thereby remaining in a TIF district beyond statutory limits for a single TIF district.

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B. REDEVELOPMENT PLAN

- **Definition and Requirements** - The Redevelopment Plan (<http://www.cityofdekalb.com/documentcenter/view/918>) is the TIF district

blueprint that includes a map showing proposed boundaries, plans for redevelopment, estimated overall project design, an estimated timetable for development, the term of the TIF district, and a determination of whether the intended development is developer-specific. The municipality must adopt the Redevelopment Plan between 14 and 90 days after the Public Hearing.

The TIF district is official when the municipality adopts the Redevelopment Plan as an Ordinance. The language of the Redevelopment Plan is legally binding on the municipality once adopted.

Required elements of the Redevelopment Plan include:

- Documentation illustrating private development has not substantially occurred throughout the area to increase the tax base and that there is no reasonable anticipation that the area will be developed without the adoption of the Redevelopment Plan.
- A finding that the Redevelopment Plan conforms to the municipality's comprehensive plan (<http://elmhursthistory.org/Index.aspx?NID=97>) or long-term vision of land use development
- Estimated dates of completion of the redevelopment project and retirement of the debt resulting from financing the redevelopment project costs
- Proposed redevelopment costs by categories of expenditure
 - The municipality may alter the amount of money allocated to each category in the Redevelopment Plan without formally amending the plan, up to a 5% increase
- Potential financial impact to other taxing bodies including increased demand on their services
- Current EAV of area and estimated EAV that the municipality thinks the area will acquire post-development
- The source of funds to pay TIF redevelopment costs in addition to other financing information such as information on bonds
- Analysis of the impact on residential units
- Job creation specifics for industrial park conservation TIF districts.
- For developer-specific redevelopment plans, the financial capacity of the developer to undertake the project and the terms of agreement between the municipality and the developer
- If property is to be annexed to the municipality, the terms of the annexation agreement

The Redevelopment Plan may include an acquisition map that shows the anticipated properties the municipality will seek to acquire through eminent domain.

- **Availability of Data**
 - Redevelopment Plan. The municipality must make the Redevelopment Plan available for public review at least 10 days prior to the Public Hearing.
 - Interested Parties Registry. The municipality must create an Interested Parties Registry (http://www.berkeley.il.us/vertical/Sites/%7BB4877CC9-5533-47FA-94DE-B3C09F1665AB%7D/uploads/TIF_Registry_-_Individuals.pdf) for each TIF district and provide notice of the availability of the registry in a local newspaper of general circulation. Community members and organizations may register with the municipality through the Interested Parties Registry to receive notices of TIF district activity at any time during the duration of the TIF district. Registered parties receive notice via certified mail. Interested parties should re-register every three years.

- **Opportunities for Public Input**
 - Public comment at municipal board meetings and planning and zoning committees
 - Written statements are accepted at most municipal board meetings and planning and zoning committees

- **Reform Recommendations**
 - The Redevelopment Plan is often sufficiently vague to allow the municipality room to consider alternative development projects. However, an addendum that specifically identifies proposed “highest and best uses” for each parcel within the TIF should be included.
 - Statutorily require municipalities to adopt a comprehensive plan to ensure consistency between long term land use development and the TIF district.
 - If one purpose of the TIF is to create jobs, the Redevelopment Plan should also include relevant information such as the proposed types of businesses and expected number of employees, regardless of what type of TIF district it is, along with contractual provisions that allow municipality to recoup percentage of financing if job goals are not achieved.
 - Statutorily permit and encourage inclusion of Community Benefit Agreements (<http://www.forworkingfamilies.org/sites/pwff/files/documents/Kingsbridge%20FINAL%20Exhibit%20A%20-%20Community%20Benefits%20Program.pdf>): CBAs are land use planning tools, a contract between community members who form a private association and the private developer. A legally binding, private contract between a developer and community-based organizations under which the developer commits to providing specified community benefits through a proposed development project and participating community groups agree to support the project in the governmental approval process

(http://www.lawa.org/uploadedFiles/OurLAX/pdf/LAX_CooperationAgreement_120804.pdf). Examples of contractual provisions:

- Neighborhood noise abatement (http://www.lawa.org/uploadedFiles/OurLAX/pdf/CBA/LAX_CBA_Final.pdf), including through soundproofing of homes and schools
 - Pollution reducing procedures
 - Community studies of toxic air emissions and upper respiratory and hearing problems
 - Creation of a hiring and training program for community residents (http://www.lawa.org/uploadedFiles/smallBusinessDocs/LAX_First_Source.pdf)
 - Opportunities for small businesses to locate in modernized facilities
- Because the Redevelopment Plan is legally binding, details of the commitment to priorities identified by community members should be written into the plan.
 - Amend statute to require notices be sent to individuals on the Interested Parties Registry for duration of TIF, unless the individual opts out of receiving notices. Municipalities currently can require interested parties registrants to renew their registration every three years. Statutorily require the Redevelopment Plan to include a specific notation as to what percent of the EAV anticipated growth could be attributed to the rate of inflation.
 - If municipality intends to generate revenue through use of TIF bonds, amend statute to require voter approval or provide for the authority of the elected officials to place the referendum on the ballot (a “backdoor” referendum).

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C. IMPACT ON HOUSING AND THE HOUSING IMPACT STUDY

- **Definition and Requirements** - Municipalities are required to analyze how many residential units are impacted by the creation of a TIF district. If the total number is 10 or more occupied units or 75 unoccupied and/or occupied units, the municipality must include a Housing Impact Study (<http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=006500050HArt.+11+Div.+74.4&ActID=802&ChapterID=14&SeqStart=209800000&SeqEnd=212000000>). Additionally, if low-income housing units will be displaced due to the TIF Redevelopment Plan (<http://www.cityofdekalb.com/documentcenter/view/918>), this document also should detail the economic and racial composition of the housing in the area. The Housing Impact Study is included in the Redevelopment Plan.

The TIF statute allows municipalities to include an expenditure category in its Redevelopment Plan to use TIF funds to pay for up to 50% of the construction costs of new low-income and very low-income housing in the TIF district, or to pay for up to 75% of the financing costs. Municipalities must provide substantial relocation assistance to any low-income household displaced from the TIF district, and must make reasonable efforts to relocate displaced households.

- **Availability of Data**
 - The Housing Impact Study (<http://www.invillapark.com/DocumentCenter/Home/View/1421>) should include:
 - Number of single family and multiple family units as well as the number of inhabited and uninhabited units in the proposed TIF district
 - Racial and ethnic composition of the inhabited units from the most recent federal census (<http://www.census.gov/>)
 - Plans for relocating displaced residents which would include the type, location, and cost of the new housing and the extent of relocation assistance
 - Information about housing units to be removed, relocation assistance, and replacement housing, including cost
- **Opportunities for Public Input**

- An early public meeting is required as a measure to inform the residents, property tax owners, and taxing districts that the municipality is considering a TIF district. This is a separate public meeting that is held at least 14 business days prior to the required mailing of notice for the required Public Hearing specifically on the Redevelopment Plan <http://www.cityofdekalb.com/documentcenter/view/918>. The municipality must notify affected residents by certified mail at least 15 days prior to the public meeting.
 - Public comment by the affected residents and others is allowed at the public meeting
 - Written statements may be submitted at the public meeting
- **Reform Recommendations**
 - Statutorily require that municipalities document and include in all reporting requirements the actual relocation costs and number of successful relocation of displaced residents.
 - Statutorily require that municipalities periodically conduct a Housing Impact Study over duration of TIF district to track impact of the increased EAV on sustained availability of very low and low income housing.
 - Limit residential property that can be located in the redevelopment project area.

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D. JOINT REVIEW BOARD

- **Definition and Requirements** - During the life of a TIF district, other taxing bodies that service the proposed area are substantially impacted. Therefore, the municipality must convene a Joint Review Board to preside over the Public Hearing. The Joint Review Board is comprised of representatives from the affected taxing bodies and will provide a recommendation to the municipality. The Joint Review Board meets during the duration of the TIF, as it prepares

Annual Reports

(<http://www.ci.schaumburg.il.us/Docs/Finance/Pages/TIFAnnualReports.aspx>) see III. Tracking TIF Performance) that must include information on meeting debt obligations.

The Joint Review Board consists of a representative selected by each affected taxing district including: community college, local elementary school, high school, community unit school, park, library, township, fire protection district, and county. Participation in the Joint Review Board by taxing districts is discretionary. Additionally, the municipality must appoint a community member who represents the public. In the case where a Housing Impact Study (<http://www.invillapark.com/DocumentCenter/Home/View/1421>) is required, or if there are 75 or more inhabited residential units inside the TIF district, the community member needs be a person who resides in the TIF district.

The municipality must convene the Joint Review Board prior to holding the Public Hearing on the Redevelopment Plan (<http://www.cityofdekalb.com/documentcenter/view/918>) or Eligibility Study (<http://wauconda-il.gov/wp-content/uploads/2014/02/Approved-Eligibility-Study.pdf>). The first Joint Review Board meeting must be held at least 14 days but not more than 28 days after the mailing of notice by the municipality to the taxing districts of which taxable property is included in the Redevelopment Plan. The mailing of notice is sent at least 45 days prior to the date of the Public Hearing.

The Joint Review Board reviews the public record; planning documents; proposed ordinances; proposed amendments, if any; and it issues a recommendation to accept, reject, or propose amendments to the TIF district. The Joint Review Board is supposed to evaluate these documents based on whether the redevelopment project area on the basis of the Redevelopment Plan meets the objectives of the TIF statute and the TIF statute eligibility criteria.

The recommendation (<http://wauconda-il.gov/wp-content/uploads/2013/11/JRB-Recommendation-to-V.B.-signed.pdf>) of the Joint Review Board must be adopted by the majority of its present and voting members. If necessary, the Joint Review Board may hold additional hearings on the proposed TIF district. The recommendation of the Joint Review Board is nonbinding on the municipality, and is therefore purely advisory. If the Joint Review Board rejects that Redevelopment Plan, the municipality is required to meet with the Joint Review Board to confer and resolve issues. The municipality then issues a revised Redevelopment Plan within 30 days of the rejection. Otherwise, a negative recommendation from the Joint Review Board requires that the municipality has to approve the Redevelopment Plan by a three-fifths vote.

- **Availability of Data**
 - Ordinance creating the Joint Review Board ([http://fairviewheightscity.com/pdf%5C2015 CITY COUNCIL AGENDA%5C01-20-2015.pdf](http://fairviewheightscity.com/pdf%5C2015%20CITY%20COUNCIL%20AGENDA%5C01-20-2015.pdf))
 - The Joint Review Board may issue a written report describing why the Redevelopment Plan meets or fails to meet the criteria for establishing a TIF district. If the Joint Review Board does not issue a report, the presumption is that the taxing bodies represented by the Joint Review Board find that the objectives and criteria for creating a TIF district have been met

- **Opportunities for Public Input**
 - Each affected taxing body has its own regular meetings of their governing bodies at which public comment may be made
 - The Joint Review Board is subject to the Illinois Open Meetings Act and must notice its meetings for discussion of public business pertaining to the TIF district(s). The public may give public comment at these meetings; written statements might be allowed

- **Reform Recommendations**
 - Require the Joint Review Board to submit a written report to the municipality of its review. Currently, the TIF statute provides that the Joint Review Board may make a written report to the municipality with its review of the proposal within 30 days, but it is not required
 - Municipalities should give latitude to individuals providing testimony to preserve due process ([http://www.uhlaw.com/files/Illinois Bar Journal_Cope Zoning Article February 2004.pdf](http://www.uhlaw.com/files/Illinois%20Bar%20Journal_Cope%20Zoning%20Article%20February%202004.pdf)).in the allotted time to speak.
 - Amend the TIF statute to make Joint Review Board recommendations binding on the municipality to ensure that municipalities actively engage affected taxing fbodies with respect to creating or extending the life of a TIF district.
 - All affected taxing bodies should be required to have a representative in actual attendance at all Joint Review Board meetings.

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<http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=006500050HArt.+11+Div.+74.4&ActID=802&ChapterID=14&SeqStart=209500000&SeqEnd=211700000>

E. PUBLIC HEARINGS FOR TIF

- **Definition and Requirements** - Once a Redevelopment Plan <http://www.cityofdekalb.com/documentcenter/view/918> is available for public inspection, the municipality will hold a Public Hearing. A Public Hearing is open to the public and is conducted by the corporate authorities of the municipality. The municipality will adopt an Ordinance that determines the time and place for the Public Hearing on the Redevelopment Plan. The municipality must make the Redevelopment Plan or the Eligibility Study (<http://wauconda-il.gov/wp-content/uploads/2014/02/Approved-Eligibility-Study.pdf>) (or some other report that states the case for feasibility) available for public inspection. The Public Hearing must be held prior to adopting Ordinances for both the Redevelopment Plan and the redevelopment project area.

The TIF statute requires notice of the Public Hearing by both publication and mailing. The first publication must occur not more than 30 days nor less than 10 days before the Public Hearing. It must be published in one or more newspapers having a general circulation within the affected taxing districts.

Notice by mail to the property owners within the proposed redevelopment project area and to residential addresses within 750 feet. The notice must be given via United States certified mail, not more than 10 days before the hearing, and addressed to the person/persons whose name appears on the tax bill for the preceding year in which the taxes were paid on each lot, block, tract, or parcel of land lying within the proposed redevelopment project area.

At the Public Hearing, a detailed description of the proposed Redevelopment Plan is generally presented by the planner who prepared the Redevelopment Plan. Discussion of financing should be integral to the presentation.

The hearing can be adjourned or continued until a specific date with the motion to be entered into the minutes. At this time, they must fix the time and place of the subsequent hearing. The presiding officer should ensure that the reconvening date is clearly communicated to the public participants when a hearing is adjourned. Further notice is not required.

- **Availability of Data**
 - Ordinance establishing date and time of the Public Hearing

- The Redevelopment Plan
<http://www.cityofdekalb.com/documentcenter/view/918> or the Eligibility Study (<http://wauconda-il.gov/wp-content/uploads/2014/02/Approved-Eligibility-Study.pdf>): at least 10 days prior to the adoption of the Ordinance setting the time and place for the Public Hearing, the municipality must make the Redevelopment Plan or the Eligibility Study available for public inspection
- The municipality should have an accurate transcript of the proceedings. There should also be a written record of decisions made with regards to all written or oral objections to the Redevelopment Plan
- **Opportunities for Public Input**
 - All interested persons or their representatives are given an opportunity to be heard orally at the hearing. Interested persons or their representatives may also file with the public body written statements that pertain to the redevelopment
- **Reform Recommendations**
 - Amend the TIF statute to allow for cross examination by an interested party, defined as any property taxpayer in the municipality, to question municipal representatives or consultants regarding the Redevelopment Plan, including the Eligibility Study and Housing Impact Study.
 - Include documentation that estimates the proposed TIF district's effect on property tax bills during the life of the TIF district.
 - Amend the TIF statute to require municipalities to adopt firm projected timelines to ensure timely redevelopment, mandated reconsideration, or amendment of the Redevelopment Plan with corollary Public Hearings if the redevelopment delayed due to financing or economic conditions.

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F. PASSAGE OF THE TIF ORDINANCE

- **Definition and Requirements** - At least 14 days but not later than 90 days after the final adjournment of the Public Hearing, the municipality must introduce Ordinances that approve the Redevelopment Plan (<http://www.cityofdekalb.com/documentcenter/view/918>) and designate the redevelopment project area. The TIF Ordinance is not required to be adopted at the same time. The TIF statute does not have a specific timeline for when it must be passed. In most cases, the municipality only enacts the approval of the Redevelopment Plan and the designated redevelopment project area when approving the TIF district. When adopting a TIF district, the Ordinance generally establishes a Special Tax Allocation Fund (http://www.villageofbourbonnais.com/images/files/TIF_2014_Financial_Statements.pdf) This fund receives the incremental revenues derived from the redevelopment project area.

Before an Ordinance for a Redevelopment Plan ([http://explorecarbondale.com/sites/default/files/pdf/agenda/2013-agendas/100813/Item 6.2 TIF 126 South Illinois Avenue.pdf](http://explorecarbondale.com/sites/default/files/pdf/agenda/2013-agendas/100813/Item%206.2%20TIF%20126%20South%20Illinois%20Avenue.pdf)) is adopted, the municipality is required to make certain findings. These findings are usually included in the Ordinance that approves the Redevelopment Plan.

The findings must include:

1. That there has not been any growth or development by private investment in the proposed redevelopment project area, and it is not reasonable to anticipate development without a Redevelopment Plan;
2. That the Redevelopment Plan conforms with the comprehensive plan (<https://il-elgin3.civicplus.com/index.aspx?NID=149>) for redevelopment of the municipality as a whole; AND
3. The estimated dates of completion of the redevelopment and of retirement of all obligations incurred to finance redevelopment costs.

The TIF district must be at least 1.5 acres and must be contiguous. A written legal description of the boundaries as well as a depiction on a plat is required. The legal description must be in a form acceptable to the county clerk, so that the clerk can identify what property is within the TIF district.

The final step in creation of the TIF district is filing the Ordinances with the county clerk. The clerk then determines the EAV in the new TIF district as of the date of

creation. This EAV becomes the base property value on which all tax levies will be calculated for all affected taxing bodies for the life of the TIF district.

- **Availability of Data**
 - Ordinances for the Redevelopment Plan ([http://explorecarbondale.com/sites/default/files/pdf/agenda/2013-agendas/100813/Item 6.2 TIF 126 South Illinois Avenue.pdf](http://explorecarbondale.com/sites/default/files/pdf/agenda/2013-agendas/100813/Item%206.2%20TIF%20126%20South%20Illinois%20Avenue.pdf)), the designated redevelopment project area, and Tax Increment Financing of the redevelopment project area
 - Contracts with the developer(s) for construction of the projects to be financed with TIF funds

- **Opportunities for Public Input**
 - Public comment at the municipal board meeting when votes on the Ordinances are scheduled
 - Written statements are accepted by most municipalities

- **Reform Recommendations**
 - Statutorily require that all municipalities conduct an Eligibility Study and that the Eligibility Study is available for public inspection.
 - Statutorily require that Eligibility Studies set standards for what information must be included, and cannot be waived, by municipalities.

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Keller, Paul N.; Kelly, Julie K.; & White, Lawrence E. (2012). Tax Increment Allocation Financing. In Diamond, Stewart H. (Ed.), *Illinois Municipal Law: Financing, Tax, and Municipal Property* (pp. 5-1--5-54). Springfield, IL: IICLE.

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III. TRACKING TIF PERFORMANCE

- **Availability of Data - Annual Reports** (<http://www.ci.schaumburg.il.us/Docs/Finance/Pages/TIFAnnualReports.aspx>) must be electronically filed with the State Comptroller. These reports must be filed within 180 days of the end of the municipality's fiscal year. They must include specific information regarding each TIF redevelopment project area. This

includes a list of the redevelopment project areas administered by the municipality and the date each redevelopment project area was designated or terminated by the municipality. It must include an itemized list of all expenditures by category and future project costs. This report must also include a project-by-project listing of all public and private investment made in the TIF district to date and a list of public and private investments to be undertaken the following year.

For a Housing Impact TIF district, interested party registrants must be notified annually about the availability of the Annual Report.

An Annual Report

(<http://www.ci.schaumburg.il.us/Docs/Finance/Pages/TIFAnnualReports.aspx>) must include:

- Any amendments to the Redevelopment Plan
- A list of each TIF district in the municipality and their dates of designation or termination
- Certificates of compliance with the TIF statute
- Audited financial statements of the Special Tax Allocation Fund (http://www.villageofbourbonnais.com/images/files/TIF_2014_Financial_Statements.pdf) when balance is \$100,000 or more. An analysis of the Special Tax Allocation Fund use, including an itemized list of all expenditures by category of permissible redevelopment cost
- The balance in the Special Tax Allocation Fund and any restrictions on portions of that balance
- A description of all property purchased by the municipality within the TIF district
- A statement setting forth all activities taken in furtherance of the objectives of the Redevelopment Plan
- Descriptions of any contracts the municipality entered into to achieve the objectives of the Redevelopment Plan
- Any reports submitted by the Joint Review Board to the municipality
- A review of project-by-project estimated amounts of public and private investment
- A statement setting forth the nature and term of debt obligations incurred in pursuit of the objectives in the Redevelopment Plan, and projected debt service

The Joint Review Board is to meet annually 180 days after the close of the municipal fiscal year or as soon as the redevelopment project audit for that fiscal year becomes available to review the effectiveness and status of redevelopment is up to that date.

No later than 10 years after adoption of the Ordinance establishing the TIF district, the municipality must compile a status report

(http://www.cityofchicago.org/content/dam/city/depts/dcd/tif/T_104_RiverWest_10YR.pdf). Within 30 days after compilation, the municipality must hold at least one Public Hearing concerning the report and provide at least 20 days' public notice.

The status report must detail:

- the amount of revenue generated within the TIF district
 - any expenditures made by the municipality within the TIF district including but not limited those from the Special Tax Allocation Fund
 - the status of planned activities, goals, and objectives set forth in the Redevelopment Plan
 - the amount of private and public investment in the TIF district
 - any other evaluation or performance data
- **Availability of Data**
 - Annual Report
(<http://www.ci.schaumburg.il.us/Docs/Finance/Pages/TIFAnnualReports.aspx>) of the Joint Review Board
 - 10-Year Status Report
(http://www.cityofchicago.org/content/dam/city/depts/dcd/tif/T_104_RiverWest_10YR.pdf)
 - **Opportunities for Public Input**
 - The annual Joint Review Board meeting where the TIF district's Annual Report is reviewed. At these meetings, public comment may be made, and usually written statements may be submitted
 - Any meeting of the Joint Review Board, at which public comment may be made, and usually written statements may be submitted
 - **Reform Recommendations**
 - Statutorily require that the Annual Report compare projected redevelopment costs with the actual costs throughout the duration of a TIF district and require posting on the municipality's website.
 - Statutorily require that the Annual Report compare projected performance with actual performance of a TIF district and require posting on the municipality's website.
 - Statutorily require annual reports to include information on job creation, job retention, and a comparison of the anticipated performance with the actual performance within the TIF district.
 - Prohibit fund transfers between TIF districts. Currently two adjacent TIF districts can share money through a transfer of funds if one needs resources and the other have a surplus. Municipal TIF financing should include the costs for greater transparency of the TIF creation and implementation process. TIF finances are complex, but technological advances allow for demystifying TIF revenue and expenditures. Thus, municipalities should make available transparent and easily accessible

data to track all TIF district expenditures including consultant fees, attorney fees, and TIF fund transfers. They should also periodically disclose the EAV growth in a given TIF district.

- Statutorily require municipalities to have a convenient public registration to receive mailings from the municipality's planning department or planning commission. Mailers may alert the public about the latest news in municipal planning.
- Mandate a TIF Tax Calculator for all counties modeled after the pilot project in Cook County. This resource for property owners can calculate how much a property owner pays into each TIF district and compares it to what their tax bill would be if no TIF district(s) existed.
- Allow the public to utilize the State Comptroller's (<http://illinoiscomptroller.gov/services/local-government-division/>) TIF data through a searchable database. Currently the State Comptroller's office has a wealth of information in PDF format which does not allow data to be searched or manipulated.
- Model municipal websites and a statewide website on the TIF website provided by Cook County Clerk David Orr (<http://www.cookcountyclerk.com/tsd/tifs/Pages/default.aspx>). This tool provides an interactive map that allows the public to:
 - Search for TIF districts by municipality Zoom to Parcels by searching for PIN (<http://www.cookcountyclerk.com/tsd/tifs/Pages/tifpropertysearch.aspx>) or Address
 - Zoom to City of Chicago Wards (<http://cookviewer1.cookcountyil.gov/tifViewer/>)
 - View and export TIF district revenue information for research and analysis
 - Use drawing tools to allow users to make their own maps

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The Tax Increment Allocation Redevelopment Act. Ill. Muni. Code. § 65-5/11-74.4-3 (2015). Retrieved from

IV. AMENDMENTS TO A TIF DISTRICT

- **Definition and Requirements** - A municipality may alter a TIF district by amending the Redevelopment Plan, (<http://www.cityofdekalb.com/documentcenter/view/918>)but the Joint Review Board must be convened and a Public Hearing in accordance with the TIF statute must occur if any of these criteria, considered “substantial,” are met:
 - addition of new parcels of property,
 - substantial changes the approved Redevelopment Plan by affecting the general use of the land,
 - change to the nature of the plan,
 - increase in the total estimated project costs by more than 5 percent after an inflation adjustment,
 - addition of new types of project costs to the Redevelopment Plan, or
 - displacement of additional residential units

Some non-substantial changes may be made without further hearing as long as the municipality gives notice of any such change by mail to each affected taxing district, any registrant on its Interested Parties Registry (http://www.berkeley.il.us/vertical/Sites/%7BB4877CC9-5533-47FA-94DE-B3C09F1665AB%7D/uploads/TIF_Registry_-_Individuals.pdf), and by publication in a newspaper of general circulation within the affected taxing districts, not later than 10 days after approving such changes by ordinance.

- **Availability of Data**
 - Because amendments meeting the above criteria trigger another Public Hearing on the amended Redevelopment Plan, the data available throughout the creation and duration of the TIF project applies
- **Opportunities for Public Input**
 - Because amendments meeting the above criteria trigger another Public Hearing on the amended Redevelopment Plan, the opportunity to provide public input available throughout the creation and duration of the TIF project applies
- **Reform Recommendations**
 - For the “substantial” criteria that require convening of a Public Hearing, require a municipality to create and distribute a new Eligibility Study to evaluate the changes to the project area to see if it is considerably different from the initial Eligibility Study.

- Amend the TIF statute to require that affected taxing bodies send the same representative to all Joint Review Board meetings that discuss a given TIF district.

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V. COMMON CRITIQUES OF TIF

While TIF districts can yield tremendous benefits, the use of TIF generates controversy due to the following reasons:

- Concern that current statutory provisions are not strong enough to ensure that TIF districts are created only where development would not occur without incentive.

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http://digitalcommons.utep.edu/cgi/viewcontent.cgi?article=1020&context=iped_techrep

- The lack of documentation to determine if the rise in the tax base was actually due to the TIF district or occurred naturally.

REFERENCES:

Dye, Richard F. & Merriman, David F. (2006, January). Tax Increment Financing: A Tool For Local Economic Development. *Land Lines*, p. 5. Retrieved from

http://www.lincolinst.edu/pubs/1078_Tax-Increment-Financing

Sullivan, Gary, L; Johnson, Steve A.; & Soden, Dennis L. (2002). Tax Increment Financing (TIF) Best Practices Study. (IPED Technical Report 2002-10.) El Paso, TX: University of Texas. Retrieved from

http://digitalcommons.utep.edu/cgi/viewcontent.cgi?article=1020&context=iped_techrep

- Concern over improper use of TIF due to neighboring municipalities that may attempt to outspend each other in attracting development. This creates unnecessary competition that wastes local government resources and ultimately increases the use of the TIF statute.

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- Concern over the unjust tax burden shifting when property value growth would naturally have occurred without the TIF is siphoned off to fund the Redevelopment Plan's implementation. Tax consequences to affected taxing bodies with respect to the idea that the 23-30 year freeze yielded higher return than if the area were to develop naturally.

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Sullivan, Gary, L; Johnson, Steve A.; & Soden, Dennis L. (2002). Tax Increment Financing (TIF) Best Practices Study. (IPED Technical Report 2002-10.) El Paso, TX: University of Texas.

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- Concern over tax consequences to private property outside of the TIF district. When taxing districts set their levy, a property's share in taxes is relative to the property assessments of the other properties in the district. Upon creation of a TIF district, all of the taxable private property inside the TIF district no longer contributes their relative share of the levy because their property assessment is frozen from the date of TIF district creation.

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http://digitalcommons.utep.edu/cgi/viewcontent.cgi?article=1020&context=iped_techrep

- Concern over the potential failure of projected property value growth to pay off the debt incurred for the TIF district because the cost of the project may be ultimately be borne by the taxpayers who will pay through other municipal funds or tax increases.

REFERENCES:

Sullivan, Gary, L; Johnson, Steve A.; & Soden, Dennis L. (2002). Tax Increment Financing (TIF) Best Practices Study. (IPED Technical Report 2002-10.) El Paso, TX: University of Texas.

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- Concern that TIF urban renewal programs are blamed for displacing long-time residents and businesses in the communities they target.

REFERENCES:

Jolin, Marc & Meima, Judy. (2001). *Tax Increment Financing: An Organizer's Guide*. Statewide Housing Action Coalition. Chicago, IL: Statewide Housing Action Coalition.

- Concern over unfair allocation of state funding for public education. The state pays aid to school districts based on property's assessed value, which is kept artificially low through TIF tax breaks.

REFERENCES:

National Association of Realtors. (2002). *Tax Increment Financing (TIF)*. Boston, MA: Robinson & Cole LLP. Retrieved from <http://archive.realtor.org/sites/default/files/Tax%20Increment%20Financing.pdf>

- Concern over a municipality's budget approval process. TIF expenditures and revenues are not included in the municipality's budgeting process. Thus, TIF expenditures and revenues are not subject to the public accountability checks of the budgeting process. Because of this, the budget does not accurately portray how much tax revenue the municipality has spent or the projects funded by the tax revenue.
- Lack of transparency and accessibility with respect to TIF budgeting and tracking.

ABOUT

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