

SENATE BILL No. 360

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-14-39.

Synopsis: Tax increment financing. Specifies that in the case of certain tax increment financing (TIF) allocation areas, the expiration date of any allocation provisions for the allocation area may not be more than 30 years after the date on which the allocation area was last expanded.

Effective: July 1, 2013.

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January 8, 2013, read first time and referred to Committee on Commerce, Economic Development & Technology.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 360



A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-14-39, AS AMENDED BY P.L.112-2012,
 2 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 39. (a) As used in this section:
 4 "Allocation area" means that part of a redevelopment project area
 5 to which an allocation provision of a declaratory resolution adopted
 6 under section 15 of this chapter refers for purposes of distribution and
 7 allocation of property taxes.
 8 "Base assessed value" means the following:
 9 (1) If an allocation provision is adopted after June 30, 1995, in a
 10 declaratory resolution or an amendment to a declaratory
 11 resolution establishing an economic development area:
 12 (A) the net assessed value of all the property as finally
 13 determined for the assessment date immediately preceding the
 14 effective date of the allocation provision of the declaratory
 15 resolution, as adjusted under subsection (h); plus
 16 (B) to the extent that it is not included in clause (A), the net
 17 assessed value of property that is assessed as residential



- 1 property under the rules of the department of local government
 2 finance, as finally determined for any assessment date after the
 3 effective date of the allocation provision.
- 4 (2) If an allocation provision is adopted after June 30, 1997, in a
 5 declaratory resolution or an amendment to a declaratory
 6 resolution establishing a redevelopment project area:
- 7 (A) the net assessed value of all the property as finally
 8 determined for the assessment date immediately preceding the
 9 effective date of the allocation provision of the declaratory
 10 resolution, as adjusted under subsection (h); plus
 11 (B) to the extent that it is not included in clause (A), the net
 12 assessed value of property that is assessed as residential
 13 property under the rules of the department of local government
 14 finance, as finally determined for any assessment date after the
 15 effective date of the allocation provision.
- 16 (3) If:
- 17 (A) an allocation provision adopted before June 30, 1995, in
 18 a declaratory resolution or an amendment to a declaratory
 19 resolution establishing a redevelopment project area expires
 20 after June 30, 1997; and
 21 (B) after June 30, 1997, a new allocation provision is included
 22 in an amendment to the declaratory resolution;
 23 the net assessed value of all the property as finally determined for
 24 the assessment date immediately preceding the effective date of
 25 the allocation provision adopted after June 30, 1997, as adjusted
 26 under subsection (h).
- 27 (4) Except as provided in subdivision (5), for all other allocation
 28 areas, the net assessed value of all the property as finally
 29 determined for the assessment date immediately preceding the
 30 effective date of the allocation provision of the declaratory
 31 resolution, as adjusted under subsection (h).
- 32 (5) If an allocation area established in an economic development
 33 area before July 1, 1995, is expanded after June 30, 1995, the
 34 definition in subdivision (1) applies to the expanded part of the
 35 area added after June 30, 1995.
- 36 (6) If an allocation area established in a redevelopment project
 37 area before July 1, 1997, is expanded after June 30, 1997, the
 38 definition in subdivision (2) applies to the expanded part of the
 39 area added after June 30, 1997.
- 40 Except as provided in section 39.3 of this chapter, "property taxes"
 41 means taxes imposed under IC 6-1.1 on real property. However, upon
 42 approval by a resolution of the redevelopment commission adopted

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1 before June 1, 1987, "property taxes" also includes taxes imposed
 2 under IC 6-1.1 on depreciable personal property. If a redevelopment
 3 commission adopted before June 1, 1987, a resolution to include within
 4 the definition of property taxes taxes imposed under IC 6-1.1 on
 5 depreciable personal property that has a useful life in excess of eight
 6 (8) years, the commission may by resolution determine the percentage
 7 of taxes imposed under IC 6-1.1 on all depreciable personal property
 8 that will be included within the definition of property taxes. However,
 9 the percentage included must not exceed twenty-five percent (25%) of
 10 the taxes imposed under IC 6-1.1 on all depreciable personal property.

11 (b) A declaratory resolution adopted under section 15 of this chapter
 12 on or before the allocation deadline determined under subsection (i)
 13 may include a provision with respect to the allocation and distribution
 14 of property taxes for the purposes and in the manner provided in this
 15 section. A declaratory resolution previously adopted may include an
 16 allocation provision by the amendment of that declaratory resolution on
 17 or before the allocation deadline determined under subsection (i) in
 18 accordance with the procedures required for its original adoption. A
 19 declaratory resolution or an amendment that establishes an allocation
 20 provision after June 30, 1995, must specify an expiration date for the
 21 allocation provision. For an allocation area established before July 1,
 22 2008, the expiration date may not be more than thirty (30) years after
 23 the date on which the allocation provision is established. **However, in**
 24 **the case of an allocation area that contains a technology or**
 25 **research center that was established before 2012 and is operated**
 26 **by or affiliated with a state educational institution, and in the case**
 27 **of an allocation area that was initially established in 1990 and that**
 28 **was expanded in 2008, the expiration date of any allocation**
 29 **provisions for the allocation area may not be more than thirty (30)**
 30 **years after the date on which the allocation area was last expanded.**
 31 For an allocation area established after June 30, 2008, the expiration
 32 date may not be more than twenty-five (25) years after the date on
 33 which the first obligation was incurred to pay principal and interest on
 34 bonds or lease rentals on leases payable from tax increment revenues.
 35 However, with respect to bonds or other obligations that were issued
 36 before July 1, 2008, if any of the bonds or other obligations that were
 37 scheduled when issued to mature before the specified expiration date
 38 and that are payable only from allocated tax proceeds with respect to
 39 the allocation area remain outstanding as of the expiration date, the
 40 allocation provision does not expire until all of the bonds or other
 41 obligations are no longer outstanding. The allocation provision may
 42 apply to all or part of the redevelopment project area. The allocation

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1 provision must require that any property taxes subsequently levied by
 2 or for the benefit of any public body entitled to a distribution of
 3 property taxes on taxable property in the allocation area be allocated
 4 and distributed as follows:

5 (1) Except as otherwise provided in this section, the proceeds of
 6 the taxes attributable to the lesser of:

7 (A) the assessed value of the property for the assessment date
 8 with respect to which the allocation and distribution is made;

9 or

10 (B) the base assessed value;

11 shall be allocated to and, when collected, paid into the funds of
 12 the respective taxing units.

13 (2) The excess of the proceeds of the property taxes imposed for
 14 the assessment date with respect to which the allocation and
 15 distribution is made that are attributable to taxes imposed after
 16 being approved by the voters in a referendum or local public
 17 question conducted after April 30, 2010, not otherwise included
 18 in subdivision (1) shall be allocated to and, when collected, paid
 19 into the funds of the taxing unit for which the referendum or local
 20 public question was conducted.

21 (3) Except as otherwise provided in this section, property tax
 22 proceeds in excess of those described in subdivisions (1) and (2)
 23 shall be allocated to the redevelopment district and, when
 24 collected, paid into an allocation fund for that allocation area that
 25 may be used by the redevelopment district only to do one (1) or
 26 more of the following:

27 (A) Pay the principal of and interest on any obligations
 28 payable solely from allocated tax proceeds which are incurred
 29 by the redevelopment district for the purpose of financing or
 30 refinancing the redevelopment of that allocation area.

31 (B) Establish, augment, or restore the debt service reserve for
 32 bonds payable solely or in part from allocated tax proceeds in
 33 that allocation area.

34 (C) Pay the principal of and interest on bonds payable from
 35 allocated tax proceeds in that allocation area and from the
 36 special tax levied under section 27 of this chapter.

37 (D) Pay the principal of and interest on bonds issued by the
 38 unit to pay for local public improvements that are physically
 39 located in or physically connected to that allocation area.

40 (E) Pay premiums on the redemption before maturity of bonds
 41 payable solely or in part from allocated tax proceeds in that
 42 allocation area.

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(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

- (i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by
- (ii) the STEP ONE sum.

STEP THREE: Multiply:

- (i) the STEP TWO quotient; times
- (ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

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1 (J) Pay expenses incurred by the redevelopment commission
 2 for local public improvements that are in the allocation area or
 3 serving the allocation area. Public improvements include
 4 buildings, parking facilities, and other items described in
 5 section 25.1(a) of this chapter.

6 (K) Reimburse public and private entities for expenses
 7 incurred in training employees of industrial facilities that are
 8 located:

9 (i) in the allocation area; and

10 (ii) on a parcel of real property that has been classified as
 11 industrial property under the rules of the department of local
 12 government finance.

13 However, the total amount of money spent for this purpose in
 14 any year may not exceed the total amount of money in the
 15 allocation fund that is attributable to property taxes paid by the
 16 industrial facilities described in this clause. The
 17 reimbursements under this clause must be made within three
 18 (3) years after the date on which the investments that are the
 19 basis for the increment financing are made.

20 (L) Pay the costs of carrying out an eligible efficiency project
 21 (as defined in IC 36-9-41-1.5) within the unit that established
 22 the redevelopment commission. However, property tax
 23 proceeds may be used under this clause to pay the costs of
 24 carrying out an eligible efficiency project only if those
 25 property tax proceeds exceed the amount necessary to do the
 26 following:

27 (i) Make, when due, any payments required under clauses
 28 (A) through (K), including any payments of principal and
 29 interest on bonds and other obligations payable under this
 30 subdivision, any payments of premiums under this
 31 subdivision on the redemption before maturity of bonds, and
 32 any payments on leases payable under this subdivision.

33 (ii) Make any reimbursements required under this
 34 subdivision.

35 (iii) Pay any expenses required under this subdivision.

36 (iv) Establish, augment, or restore any debt service reserve
 37 under this subdivision.

38 The allocation fund may not be used for operating expenses of the
 39 commission.

40 (4) Except as provided in subsection (g), before July 15 of each
 41 year, the commission shall do the following:

42 (A) Determine the amount, if any, by which the assessed value

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1 of the taxable property in the allocation area for the most
 2 recent assessment date minus the base assessed value, when
 3 multiplied by the estimated tax rate of the allocation area, will
 4 exceed the amount of assessed value needed to produce the
 5 property taxes necessary to make, when due, principal and
 6 interest payments on bonds described in subdivision (3), plus
 7 the amount necessary for other purposes described in
 8 subdivision (3).

9 (B) Provide a written notice to the county auditor, the fiscal
 10 body of the county or municipality that established the
 11 department of redevelopment, and the officers who are
 12 authorized to fix budgets, tax rates, and tax levies under
 13 IC 6-1.1-17-5 for each of the other taxing units that is wholly
 14 or partly located within the allocation area. The notice must:

15 (i) state the amount, if any, of excess assessed value that the
 16 commission has determined may be allocated to the
 17 respective taxing units in the manner prescribed in
 18 subdivision (1); or

19 (ii) state that the commission has determined that there is no
 20 excess assessed value that may be allocated to the respective
 21 taxing units in the manner prescribed in subdivision (1).

22 The county auditor shall allocate to the respective taxing units
 23 the amount, if any, of excess assessed value determined by the
 24 commission. The commission may not authorize an allocation
 25 of assessed value to the respective taxing units under this
 26 subdivision if to do so would endanger the interests of the
 27 holders of bonds described in subdivision (3) or lessors under
 28 section 25.3 of this chapter.

29 (c) For the purpose of allocating taxes levied by or for any taxing
 30 unit or units, the assessed value of taxable property in a territory in the
 31 allocation area that is annexed by any taxing unit after the effective
 32 date of the allocation provision of the declaratory resolution is the
 33 lesser of:

34 (1) the assessed value of the property for the assessment date with
 35 respect to which the allocation and distribution is made; or

36 (2) the base assessed value.

37 (d) Property tax proceeds allocable to the redevelopment district
 38 under subsection (b)(3) may, subject to subsection (b)(4), be
 39 irrevocably pledged by the redevelopment district for payment as set
 40 forth in subsection (b)(3).

41 (e) Notwithstanding any other law, each assessor shall, upon
 42 petition of the redevelopment commission, reassess the taxable

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1 property situated upon or in, or added to, the allocation area, effective
 2 on the next assessment date after the petition.

3 (f) Notwithstanding any other law, the assessed value of all taxable
 4 property in the allocation area, for purposes of tax limitation, property
 5 tax replacement, and formulation of the budget, tax rate, and tax levy
 6 for each political subdivision in which the property is located is the
 7 lesser of:

8 (1) the assessed value of the property as valued without regard to
 9 this section; or

10 (2) the base assessed value.

11 (g) If any part of the allocation area is located in an enterprise zone
 12 created under IC 5-28-15, the unit that designated the allocation area
 13 shall create funds as specified in this subsection. A unit that has
 14 obligations, bonds, or leases payable from allocated tax proceeds under
 15 subsection (b)(3) shall establish an allocation fund for the purposes
 16 specified in subsection (b)(3) and a special zone fund. Such a unit
 17 shall, until the end of the enterprise zone phase out period, deposit each
 18 year in the special zone fund any amount in the allocation fund derived
 19 from property tax proceeds in excess of those described in subsection
 20 (b)(1) and (b)(2) from property located in the enterprise zone that
 21 exceeds the amount sufficient for the purposes specified in subsection
 22 (b)(3) for the year. The amount sufficient for purposes specified in
 23 subsection (b)(3) for the year shall be determined based on the pro rata
 24 portion of such current property tax proceeds from the part of the
 25 enterprise zone that is within the allocation area as compared to all
 26 such current property tax proceeds derived from the allocation area. A
 27 unit that has no obligations, bonds, or leases payable from allocated tax
 28 proceeds under subsection (b)(3) shall establish a special zone fund
 29 and deposit all the property tax proceeds in excess of those described
 30 in subsection (b)(1) and (b)(2) in the fund derived from property tax
 31 proceeds in excess of those described in subsection (b)(1) and (b)(2)
 32 from property located in the enterprise zone. The unit that creates the
 33 special zone fund shall use the fund (based on the recommendations of
 34 the urban enterprise association) for programs in job training, job
 35 enrichment, and basic skill development that are designed to benefit
 36 residents and employers in the enterprise zone or other purposes
 37 specified in subsection (b)(3), except that where reference is made in
 38 subsection (b)(3) to allocation area it shall refer for purposes of
 39 payments from the special zone fund only to that part of the allocation
 40 area that is also located in the enterprise zone. Those programs shall
 41 reserve at least one-half (1/2) of their enrollment in any session for
 42 residents of the enterprise zone.

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1 (h) The state board of accounts and department of local government
 2 finance shall make the rules and prescribe the forms and procedures
 3 that they consider expedient for the implementation of this chapter.
 4 After each general reassessment of real property in an area under
 5 IC 6-1.1-4-4 and after each reassessment in an area under a
 6 reassessment plan prepared under IC 6-1.1-4-4.2, the department of
 7 local government finance shall adjust the base assessed value one (1)
 8 time to neutralize any effect of the reassessment of the real property in
 9 the area on the property tax proceeds allocated to the redevelopment
 10 district under this section. After each annual adjustment under
 11 IC 6-1.1-4-4.5, the department of local government finance shall adjust
 12 the base assessed value one (1) time to neutralize any effect of the
 13 annual adjustment on the property tax proceeds allocated to the
 14 redevelopment district under this section. However, the adjustments
 15 under this subsection may not include the effect of property tax
 16 abatements under IC 6-1.1-12.1, and these adjustments may not
 17 produce less property tax proceeds allocable to the redevelopment
 18 district under subsection (b)(3) than would otherwise have been
 19 received if the general reassessment, the reassessment under the
 20 reassessment plan, or the annual adjustment had not occurred. The
 21 department of local government finance may prescribe procedures for
 22 county and township officials to follow to assist the department in
 23 making the adjustments.

24 (i) The allocation deadline referred to in subsection (b) is
 25 determined in the following manner:

26 (1) The initial allocation deadline is December 31, 2011.

27 (2) Subject to subdivision (3), the initial allocation deadline and
 28 subsequent allocation deadlines are automatically extended in
 29 increments of five (5) years, so that allocation deadlines
 30 subsequent to the initial allocation deadline fall on December 31,
 31 2016, and December 31 of each fifth year thereafter.

32 (3) At least one (1) year before the date of an allocation deadline
 33 determined under subdivision (2), the general assembly may enact
 34 a law that:

35 (A) terminates the automatic extension of allocation deadlines
 36 under subdivision (2); and

37 (B) specifically designates a particular date as the final
 38 allocation deadline.

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