

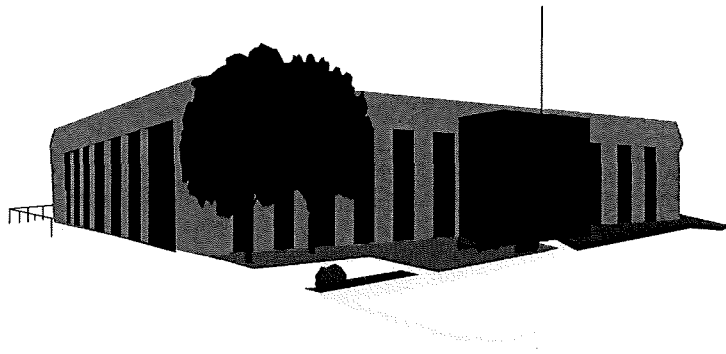
# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# MUNICIPAL TAX INCREMENT FINANCING



MAINE DEPARTMENT OF  
ECONOMIC AND COMMUNITY  
DEVELOPMENT  
59 STATE HOUSE STATION  
AUGUSTA, MAINE 04333  
(207) 624-9800

MUNICIPAL  
TAX INCREMENT FINANCING  
(TIF)

MAINE DEPARTMENT OF  
ECONOMIC AND COMMUNITY DEVELOPMENT  
59 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0059  
(207) 624-9800

*PUBLICATION CURRENT AS OF OCTOBER 1, 2003*

**Department of Economic and Community Development**  
**Municipal Tax Increment Financing**

**TABLE OF CONTENTS**

<b>Section</b>	<b><u>Page</u></b>
<b>Part I. Program Description</b>	
TIF Overview .....	4
<b>Part II. Application Requirements</b>	
Application Requirements .....	12
Cover Sheet .....	13
Employment Goals .....	14
<b>Part III. Program Statute and Draft Rule</b>	
TIF Statute .....	16
TIF Draft Rule .....	29
Property Tax Statute .....	46
<b>Part IV. Reporting</b>	
Annual Report Statute .....	48
Incentive Report Form.....	TBA

## **MUNICIPAL TAX INCREMENT FINANCING (TIF)**

### **Municipal Economic Development**

A municipality may choose to support local economic development projects – from infrastructure improvements to business expansions - by providing financial assistance through the use of the new property taxes resulting from the commercial investment and corresponding increase in property value, i.e. the tax “increment.”

### **Program Summary**

TIF is a tool that permits a municipality to participate in project financing by using some or all of the new property taxes from a capital investment within a designated district. The municipality has the option of using the “captured” taxes to: retire bonds it has issued for the project, make payments directly to the developer to help pay project costs, or fund eligible economic development activities. TIF districts may be designated for a period up to 30 years. Bonds may be issued under this program for up to 20 years. The designation of a TIF district requires a public hearing and the majority vote of the municipal legislative body.

### **Program Example**

A business expects to invest \$500,000 in buildings and site improvements on vacant land presently valued at \$100,000, and install \$400,000 in manufacturing machinery and equipment. The municipality’s property tax mil rate is \$20 per \$1,000 of valuation, so the business will have a tax obligation of \$20,000 per year once the investments are recorded on the tax rolls. Of this tax obligation, \$18,000 is new, or “incremental,” and therefore available for the TIF district’s development program.

Scenario 1: Municipal Bond Financing. The community needs a road and utilities installed for \$150,000 to benefit the project. The municipality agrees to pay this cost, issuing a 20-year general obligation bond in the amount of \$150,000. Annual debt service on the bond will be about \$12,338, which the municipality may pay for with incremental taxes.

Scenario 2: Credit Enhancement Agreement. The municipality agrees to “capture” 75% of the incremental tax revenues for a period of fifteen years and return them to the developer to assist in financing the new building. The developer would receive \$13,500 in the first year of TIF, though subsequent payments might be adjusted for equipment depreciation, real estate appreciation, and future capital investments. All things being equal, however, the developer would receive approximately \$202,500 over the life of the TIF district.

### **More Information**

The remaining pages of this section provide a more thorough discussion of the TIF program.

### **How to Apply**

Proposals must fully address each part of the attached application which includes a cover sheet and “application requirements.” Complete applications must be submitted to the Department of Economic and Community Development (DECD), 59 State House Station, Augusta, ME 04333-0059. All proposals will be reviewed by the Department in a timely manner, and in the order they are received. Applicants will be notified of their acceptance or rejection in writing. Questions may be addressed to Jim Nimon at 624-9800.

### **Municipal Tax Increment Financing**

- A **local** economic development financing program that uses some or all of the tax revenues generated, i.e. tax "increment," from new investments in real and personal property, to reduce bond debt issued for the project, pay the investing company directly for project costs incurred, or fund eligible economic development activities;
- A "shelter" against adverse adjustments to state education and revenue sharing subsidies, and county taxes, based on total valuation; and
- A powerful, flexible economic development tool for municipalities to support job creation and retention, capital investment and a broadening of the local tax base.

### **TIF Revenue Uses**

#### **1. Costs Within the District**

- *Capital costs*, including:
  - acquisition or construction of land, improvements, buildings, structures, fixtures and equipment;
  - demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;
  - site preparation and finishing work; and
  - fees and expenses that are eligible to be included in the capital cost of such improvements.
- *Financing costs*, including:
  - all interest paid to holders of evidences of indebtedness (notes, bonds, etc.) issued to pay for project costs (either municipal or corporate); and
  - any premiums paid for early redemption of obligations before maturity.
- *Real property assembly costs*.
- *Professional services*, such as licensing, architectural, planning, engineering and legal expenses.
- *Reasonable administrative expenses*, including those incurred by municipal employees in connection with implementation of a development program.
- *Relocation costs*, including relocation payments made following condemnation.
- *Organizational costs relating to the establishment of the district*, such as environmental impact and other studies, and costs to inform the public about the district.

#### **2. Costs Outside the District, but directly related to, or are made necessary by, the establishment or operation of the district**

- *Certain infrastructure improvements* associated with the project, including:
  - sewage treatment plants, water treatment plants or other environmental protection devices;
  - storm or sanitary sewer lines and water lines;
  - electrical lines;
  - improvements to fire stations; and
  - amenities on streets.
- *Other improvements*, including:
  - public safety improvements made necessary by the establishment of the district; and
  - costs incurred to mitigate any adverse impact of the district upon the municipality.

### **3. Costs for Economic Development, Environmental Improvements or Employment Training within the municipality**

- *Economic development programs*, or events developed by the municipality, or marketing of the municipality as a business location;
- *Environmental improvement projects* developed by the municipality for commercial use or related to commercial activities;
- *Establishing permanent* economic development revolving loan funds or investment funds to support commercial and industrial activities;
- *Employment training* to provide skills development for residents of the municipality. These costs may not exceed 20% of the total project costs and must be designated as training funds in the development program; and
- *Quality child care costs*, including finance costs and construction, staffing, training, certification and accreditation costs related to child care.

### **4. Downtown Waiver for Private Facilities Occupied by Maine State Government: Eligible costs include constructing or improving facilities or buildings used by State Government that are located in downtown tax increment financing districts**

#### **TIF Revenue Prohibitions**

Ineligible project costs include those for facilities, buildings or portions of buildings used predominantly for the general conduct of government, or for public recreational purposes. Examples include city halls and other headquarters of government where the governing body meets regularly, courthouses, jails, police stations and other state and local government office buildings, recreation centers, athletic fields and swimming pools.

### **How Municipal Development Works Without TIF**

- A municipality's total Equalized Assessed Value (as of April 1) is used to compute:
  - General Purpose Aid to Education (subsidy)
  - State Revenue Sharing (subsidy)
  - County Taxes (expense)
- State subsidies change inversely to value; County taxes change directly.
- As total value increases (through inflationary growth and increased investment), the municipality will realize a *decrease* in Education and Revenue Sharing subsidies, and an *increase* in County tax obligations.
- Therefore new tax revenues resulting from a development project are reduced through loss of subsidies and increased county taxes.

### **How TIF Helps Municipal Development**

- TIF allows the municipality to "shelter" new value resulting from certain development projects from the computation of its State subsidies and County taxes.
- The sheltering allows the municipality to retain all or a portion of those new tax revenues otherwise passed on to the County and State. The municipality achieves the sheltering effect by designating a specific geographic area as a Municipal Development Tax Increment Financing District.
- The designation "freezes" the value of taxable property within the district with respect to the State and County.

### **Criteria for District Designation**

- At least 25% of the District area must be:
  - Blighted; or
  - In need of rehabilitation, redevelopment, or conservation; or
  - Suitable for industrial and commercial sites.
- Municipal legislative body designates the district following a public process and majority vote, and must consider the effect of this action on other "interested parties."
- DECD's Commissioner reviews and approves proposals based upon statutory compliance.

### **TIF Limitations**

- *Geographic*: no single district may exceed 2% of the total acreage of the municipality; the total of all districts may not exceed 5% of the total acreage of the municipality. The boundaries (area) of a designated district may be altered only through an amendment process.



- *Value*: the total value (as of the March 31<sup>st</sup> preceding designation) of all taxable property within a district to be designated, plus the value of all existing TIF districts (at the time of their designation) cannot exceed 5% of the municipality's total equalized value as of the current property tax year.
- *Municipal Indebtedness*: the total amount of municipal debt financed through TIF districts within any county may not exceed \$50 million.
- *Term*: bonds may be issued for a maximum of 20 years (anticipation notes for three years). TIF districts may be designated for a maximum of 30 years.

### **Funding Mechanisms**

Initially only one approach, i.e. *bonding*, was used to fund TIF projects. A second mechanism, called a *credit enhancement agreement*, is now widely utilized by municipalities. The two methods, and the particular payment account that each must have, is highlighted below:

- The issuance by the municipality of General or Limited Obligation Bonds require TIF revenues to be placed in a *Development Sinking Fund* established to repay the debt created by the bond, and/or
- The payment by the municipality directly to the company, through a Credit Enhancement Agreement, require TIF revenues, either fixed dollar amounts, or a percentage of revenues, to be placed in a *Project Cost Account* to pay authorized project costs.

### **Credit Enhancement Agreement**

A mechanism to assist the development project by using all, or a percentage, of the tax revenues generated by the new investment to pay certain authorized project costs, via payments made directly to the company.

### **Advantages of the Credit Enhancement Agreement**

- \* Municipality automatically indemnified against risk of insufficient tax increment revenues to meet debt service requirements.
- \* \$50 million county debt cap for TIF districts does not apply.
- \* Public approval often easier to obtain.
- \* Easily accounts for re-valuations.
- \* Allows municipality to provide a direct incentive to businesses within the district for up to 30 years.
- \* Flexibility
  - Percentage of tax revenues retained may vary over life of district.
  - Can finance multiple project costs.
  - Possible to "share" unanticipated additional tax revenues.
  - Business may pursue best available financing in private sector.

### **Disadvantages of Credit Enhancement Agreement**

- \* Tax-exempt municipal bond interest rate not available.
- \* Unless an explicit dollar amount ceiling is established, the municipality's TIF reimbursement is tied directly to the level of investment and new value created in the district.

### **Municipal Debt (Bonds)**

A mechanism to fund development projects through the issuance of municipal general obligation bonds or limited obligation bonds.

### **Advantages of Municipal Debt**

- \* The municipal bond tax-exempt interest rate may significantly increase the total amount of financing available.
- \* The municipality's support for the project is fixed with respect to amount and term...a "clean and simple" package.

### **Disadvantages of Municipal Debt**

- \* Risk exposure: Municipality remains liable for debt service on general obligation bonds if tax increment revenues are insufficient (shortfalls may be guaranteed by the developer).
- \* Voters are generally debt averse, so approval is often more difficult to obtain.
- \* Re-valuations can negatively affect tax increment revenues available for debt service, requiring an amendment to the original approval.

### **CHECKLIST: Preparing a Tax Increment Financing Application and Plan**

Development Program ... *a statement of means and objectives...*

### **Designation Process**

- ☐ Notification of public hearing in newspaper of general circulation ten days before the public hearing.
- ☐ Public hearing.
- ☐ Majority vote of municipal legislative body designates TIF district.
- ☐ Application to DECD.
- ☐ DECD Commissioner approves local designation.

### **Application Components**

- ☐ Cover Sheet and Job Goals Page.
- ☐ Development Program.
- ☐ Calculation of tax shifts.
- ☐ Evidence of public hearing notice.
- ☐ Record of district designation by municipal legislative body.
- ☐ District area and value certifications.
- ☐ Map and description of district.
- ☐ Overview of the Development Project to be financed.
- ☐ Financial Plan...*a statement of costs and sources of revenue required to accomplish the development program*, including:
  - ☐ Cost estimates for the program.
  - ☐ Indebtedness to be incurred.
  - ☐ Sources of anticipated revenues.
  - ☐ Estimates of Captured Assessed Value (CAV).
  - ☐ CAV and resulting tax increment revenues to be applied to the program each year.
  - ☐ Estimated impact of district on all taxing jurisdictions in which district is located.
  - ☐ List of public facilities to be constructed (if any).
  - ☐ Uses of private property within district.
  - ☐ Plans for relocation of persons displaced by development activities.
  - ☐ Proposed traffic improvements.
  - ☐ Environmental controls to be applied.
  - ☐ Proposed operation of the district after capital improvements are complete.
  - ☐ Duration of district (not to exceed 30 years).

## **Program Policy Notes**

*Municipal TIF Policies.* TIF projects often catch municipalities by surprise. It is important to learn how this program works, and begin developing a *local policy* for its use, both as a proactive development tool, and in response to proposals from existing businesses. Creation of a clear policy document requires TIF “education” and public deliberation. The eventual document articulates the will and values of the community. It acts as a benchmark for the evaluation of projects requesting local financing support, and when done well, can serve as a negotiating tool for the municipality. A growing number of municipalities have prepared local TIF policies.

*Project Costs.* DECD will look to legislative findings, like “creation and retention of jobs” and “broadening of the tax base,” in considering project costs that are not clearly addressed in statute. Project costs should, wherever possible, be contained within the TIF district, even if this means extending the district, e.g. to include surrounding roads. Any project costs not actually within the district must be clearly related to it (physically or operationally), or constitute a bona fide economic development purpose.

*Reporting Requirements.* A 1998 statute requires employers who are applicants for TIF to disclose the public purpose and project uses supported by the incentive, along with goals for the number, type and wage levels of jobs that will be created or retained. Additionally, employers who receive more than \$10,000 per year must file an annual report containing detailed information about the funds received and jobs created or retained.

*Waiver on Certain Limitations for Downtown TIF Districts and Pine Tree Development Zones.* In order to encourage redevelopment in downtowns and development in pine tree zones, the statutory limits on TIF district size and value have been waived. In addition, local bonds issued to support these type of TIF districts do not count against the county limit.

*Early Contact with DECD.* TIF is one of the most powerful and flexible programs supporting economic development in the State of Maine. It is a local initiative. DECD’s oversight role is intended to ensure statutory compliance. DECD staff welcomes early project involvement in order to provide timely assistance, so that once submitted, a TIF proposal can move more efficiently through the Commissioner’s formal approval process.

## **APPLICATION REQUIREMENTS**

### **A. GENERAL**

Municipalities wishing to use municipal tax increment financing to fund development programs must submit to the Department the completed Cover Sheet form and Employment Goals page (see Section B below), an application conforming in all material respects to the requirements of Part II of the draft the program rules (see beginning at p. 33 below), and any additional information the Department may request.

In accordance with 30A MRSA §5261, a county may act as a municipality for the unorganized territory within that county for purposes of municipal tax increment financing only.

### **B. APPLICATION FORMS**

The Application Cover Sheet, including the Employment Goals page, must be submitted as part of the complete application necessary for state approval. The forms are included below.

**M U N I C I P A L T A X I N C R E M E N T F I N A N C I N G**

**APPLICATION COVER SHEET**

**A. General Information**

1. *Municipality Name:*

2. Address:

3. Telephone:

Fax:

Email:

4. Project Contact Person:

Date:

5. *Business Name:*

6. Address:

7. Telephone:

Fax:

Email:

8. Principal Place of Business:

9. Company Structure (e.g. corporation, sub-chapter S, etc.):

10. Place of Incorporation:

11. Names of Officers:

12. Principal Owner(s) Name and Address:

13. Project Contact Person:

**B. Disclosure** (attach separate sheets if necessary)

14. Check the public purpose (any that apply) that will be served by the business through the use of the TIF incentive:

☐ job creation   ☐ job retention   ☐ capital investment   ☐ training investment   ☐ tax base improvement   ☐ public facilities improvement   ☐ other:

15. Check the specific use (any that apply) to which the TIF revenues will be put:

☐ real estate purchase   ☐ machinery & equipment purchase   ☐ training costs   ☐ debt reduction  
☐ other:

16. List the company's goals for the number, type and wage levels of jobs to be created or retained as a result of the TIF revenues received (*please use next page*).

17. Does the business anticipate receiving more than \$10,000 in TIF revenues in any calendar year during the term of the TIF development program? Yes ☐ No ☐ (If so, please review example of annual report at back of manual).

**EMPLOYMENT GOALS** (from #16 on previous page)

<b>A. Job Creation Goals (Attributable to Approval of TIF District)</b>			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
1. Executive, Administrative & Managerial			\$
2. Professional Specialty			\$
3. Technicians & Related Support			\$
4. Marketing & Sales			\$
5. Administrative Support, including Clerical			\$
6. Service			\$
7. Agriculture, Forestry & Fishing			\$
8. Mechanics, Installers & Repairers			\$
9. Construction Trades & Extractive			\$
10. Production			\$
11. Transportation & Material Moving			\$
12. Handlers, Equip. Cleaners, Helpers & Lab'rs			\$
<b>B. Job Retention Goals (Attributable to Approval of TIF District)</b>			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
1. Executive, Administrative & Managerial			\$
2. Professional Specialty			\$
3. Technicians & Related Support			\$
4. Marketing & Sales			\$
5. Administrative Support, including Clerical			\$
6. Service			\$
7. Agriculture, Forestry & Fishing			\$
8. Mechanics, Installers & Repairers			\$
9. Construction Trades & Extractive			\$
10. Production			\$
11. Transportation & Material Moving			\$
12. Handlers, Equip. Cleaners, Helpers & Lab'rs			\$
<i>*Please use the Occupational Cluster descriptions on the next page to complete this form.</i>			

**INSTRUCTIONS**

**Job Creation and Retention Goals.** Please list the number, type and wage level of jobs created and retained as a result of the economic development incentive. NOTE: For this form, "full-time" employment means 30 hours or more; "part-time" employment means less than 30 hours. "Wage level" means the average annual wage paid for jobs created within an occupational cluster, e.g. either their annual salary, or their hourly wage times their annual hours. Also, "type" means "occupational cluster" which refers to the 12 categories defined below. Please include the number of your employees (both full-time and part-time) working within the category that most closely reflects their job duties.

## **OCCUPATIONAL CLUSTERS**

*(for use in completing Parts A & B above)*

1. **Executive, administrative and managerial.** Workers in executive, administrative and managerial occupations establish policies, make plans, determine staffing requirements, and direct the activities of businesses and other organizations. Workers in management support occupations, such as accountant and auditor or underwriter, provide technical assistance to managers.
2. **Professional specialty.** This group includes engineers; architects and surveyors; computer, mathematical, and operations research occupations; life, physical, and social scientists; lawyers and judges; social, recreational, and religious workers; teachers, librarians, and counselors; health diagnosing, assessment, and treating occupations; and communications, visual arts, and performing arts occupations.
3. **Technicians and related support.** This group includes health technologists and technicians, engineering and science technicians, computer programmers, tool programmers, aircraft pilots, air traffic controllers, paralegals, broadcast technicians, and library technicians.
4. **Marketing and sales.** Workers in this group sell goods and services, purchase commodities and property for resale, and stimulate consumer interest.
5. **Administrative support, including clerical.** Workers in this group prepare and record memos, letters, and reports; collect accounts; gather and distribute information; operate office machines; and handle other administrative tasks.
6. **Service.** This group includes a wide range of workers in protective, food and beverage preparation, health, personal, private household, and cleaning and building services.
7. **Agriculture, forestry and fishing.** Workers in these occupations cultivate plants, breed and raise animals, and catch fish.
8. **Mechanics, installers, and repairers.** Workers in this group adjust, maintain, and repair automobiles, industrial equipment, computers, and many other types of machinery.
9. **Construction trades and extractive.** Workers in this group construct, alter, and maintain buildings and other structures or operate drilling and mining equipment.
10. **Production.** These workers set up, adjust, operate, and tend machinery and/or use hand tools and hand-held power tools to make goods and assemble products.
11. **Transportation and material moving.** Workers in this group operate the equipment used to move people and materials.
12. **Handlers, equipment cleaners, helpers, and laborers.** Workers in these occupations assist skilled workers and perform routine tasks.



## **30-A MRSA c. 206: DEVELOPMENT DISTRICTS**

### **SUBCHAPTER 1: MUNICIPAL DEVELOPMENT DISTRICTS**

#### **§5221. Findings and declaration of necessity**

**1. Legislative finding.** The Legislature finds that there is a need for new development in areas of municipalities to:

- A. Provide new employment opportunities;
- B. Improve and broaden the tax base; and
- C. Improve the general economy of the State.

**2. Authorization.** For the reasons set out in subsection 1, municipalities may develop a program for improving a district of the municipality:

- A. To provide impetus for industrial or commercial development, or both;
- B. To increase employment; and
- C. To provide the facilities outlined in the development program adopted by the legislative body of the municipality.

**3. Declaration of public purpose.** It is declared that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose.

#### **§5222. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Amenities.** "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

**2. Captured assessed value.** "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.

**3. Commissioner.** "Commissioner" means the Commissioner of Economic and Community Development.

**4. Department.** "Department" means the Department of Economic and Community Development.

**5. Development district.** "Development district" means a specified area within the corporate limits of a municipality that has been designated as provided under section 5226 and that is to be developed by the municipality under a development program.

**6. Development program.** "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base and improve the physical facilities and structures or the quality of pedestrian and vehicular transportation, as described in section 5224, subsection 2.

**7. Downtown.** "Downtown" means the traditional central business district of a community that has served as the center of socioeconomic interaction in the community, characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, that are typically arranged along a main street and intersecting side streets and served by public infrastructure.

**8. Downtown tax increment financing district.** "Downtown tax increment financing district" means a tax increment financing district described in a downtown redevelopment plan that is consistent with the downtown criteria established pursuant to rules of the department.

**9. Financial plan.** "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.

**10. Increased assessed value.** "Increased assessed value" means the valuation amount by which the current assessed value of a tax increment financing district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.

**11. Maintenance and operation.** "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities, including, but not limited to, informational, promotional and educational programs and safety and surveillance activities.

**12. Original assessed value.** "Original assessed value" means the assessed value of a development district as of March 31st of the preceding tax year.

**13. Project costs.** "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.

**14. Tax increment.** "Tax increment" means real and personal property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the development district.

**15. Tax increment financing district.** "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.

**16. Tax shifts.** "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of a tax increment financing district and the capture of increased assessed value.

## **§5223. Development districts**

**1. Creation.** A municipal legislative body may designate a development district within the boundaries of the municipality in accordance with the requirements of this chapter. If the municipality has a charter, the designation of a development district may not be in conflict with the provisions of the municipal charter.

**2. Considerations for approval.** Before designating a development district within the boundaries of a municipality, or before establishing a development program for a designated development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the economic growth or well-being of the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5226, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing business in the municipality and produces substantial evidence to that effect, the legislative body must consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing business in the municipality is outweighed by the contribution made by the district or program to the economic growth or well-being of the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.

**3. Conditions for approval.** Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

(1) Must be a blighted area;

(2) Must be in need of rehabilitation, redevelopment or conservation work; or

(3) Must be suitable for commercial uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. All development districts may not exceed 5% of the total acreage of the municipality.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the commissioner's designation of the proposed tax increment financing district.

D. The aggregate value of municipal general obligation indebtedness financed by the proceeds from tax increment financing districts within any

county may not exceed \$50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 1996 to the date of calculation.

(1) The commissioner may adopt rules necessary to allocate or apportion the designation of captured assessed value of property within proposed tax increment financing districts to permit compliance with the condition in this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

(2) The acquisition, construction and installment of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's designation of the tax increment financing district.

Excluded from the calculation in paragraph C is any district whose development program contains project costs in excess of \$10,000,000 that are incurred exclusively within the district, the geographic area of which consists entirely of contiguous property owned by a single taxpayer and the assessed value of which exceeds 10% of the total value of taxable property within the municipality. For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts or tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3.

**4. Powers of municipality.** Within development districts and consistent with the development program, the municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the development district. The municipality may install public improvements.

#### **§5224. Development programs**

**1. Adoption.** The legislative body of a municipality shall adopt a development program for each development district. The program must be adopted at the same time as is the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice, hearing and consultation requirements of section 5226. Before adopting a development program, the municipal legislative body shall consider the factors and evidence specified in section 5223, subsection 2.

**2. Requirements.** The development program must include:

- A. A financial plan in accordance with subsections 3 and 4;
- B. A description of public facilities, improvements or programs to be financed in whole or in part by the development program;
- C. A description of commercial facilities, improvements or projects to be financed in whole or in part by the development program;
- D. Plans for the relocation of persons displaced by the development activities;
- E. The proposed regulations and facilities to improve transportation;
- F. The environmental controls to be applied;
- G. The proposed operation of the development district after the planned capital improvements are completed; and
- H. The duration of the program, which may not exceed 30 years from the date of designation of the district.

**3. Financial plan for development program.** The financial plan for a development program must include:

- A. Cost estimates for the development program;
- B. The amount of indebtedness to be incurred;
- C. Sources of anticipated revenues; and
- D. A description of the terms and conditions of any agreements, contracts or other obligations related to the development program.

**4. Financial plan for tax increment financing districts.** In addition to the items required by subsection 3, the financial plan for a development program for a tax increment financing district must include the following for each year of the program:

- A. Estimates of increased assessed values of the district;
- B. The portion of the increased assessed values to be applied to the development program as captured assessed values and resulting tax increments in each year of the program; and
- C. A calculation of the tax shifts resulting from designation of the tax increment financing district.

**5. Limitation.** For tax increment financing districts, the municipality may expend the tax increments received for any development program only in accordance with the financial plan.

## **§5225. Project costs**

**1. Authorized project costs.** The commissioner shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, buildings, structures, fixtures and equipment for public or commercial use;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation; and

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans;

B. Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district; and

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for public facilities and improvements if:

(a) The public facilities or improvements are located in a downtown tax increment financing district; and

(b) The entire tax increment from the downtown tax increment financing district is committed to the development program of the tax increment financing district;

C. Costs related to economic development, environmental improvements or employment training within the municipality, including, but not limited to:

(1) Costs of funding economic development programs or events developed by the municipality or funding the marketing of the municipality as a business location;

(2) Costs of funding environmental improvement projects developed by the municipality for commercial use or related to commercial activities;

(3) Funding to establish permanent economic development revolving loan funds or investment funds;

(4) Costs of services to provide skills development and training for residents of the municipality. These costs may not exceed 20% of the total project costs and must be designated as training funds in the development program; and

(5) Child care costs, including finance costs and construction, staffing, training, certification and accreditation costs related to child care; and

D. Costs of constructing or improving facilities or buildings used by State Government that are located in approved downtown tax increment financing districts.

**2. Unauthorized project costs.** Except as provided in subsection 1, paragraph D, the commissioner may not approve as a project cost the cost of facilities, buildings or portions of buildings used predominantly for the general conduct of government or for public recreational purposes, including, but not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails, police stations and other state and local government office buildings, recreation centers, athletic fields and swimming pools.

**3. Limitation.** Tax increments received from any development program may not be used to circumvent other tax laws.

#### **§5226. Procedure**

**1. Notice and hearing.** Before designating a development district or adopting a development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

**2. Review by commissioner.** Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements. In the case of a downtown tax increment financing district, the State Planning Office and the Department of Transportation shall review the proposal and provide advice to assist the commissioner in making a decision under this subsection.

**3. Effective date.** A designation of a tax increment financing district is effective upon approval by the commissioner. A designation of a development district other than a tax increment financing district is effective upon approval by the municipal legislative body.

**4. Administration of district.** The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter.

**5. Amendments.** A municipality may amend a designated development district or an adopted development program only after meeting the requirements of this section for designation of a development district or adoption of a development program. A municipality may not amend the designation of a development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5223, subsection 3.

#### **§5227. Tax increment financing**

**1. Designation of captured assessed value.** A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of a tax increment financing district for the purpose of financing the



development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When a development program for a tax increment financing district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

**2. Certification of assessed value.** On or after formation of a tax increment financing district, the assessor of the municipality in which it is located shall certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year after the designation of a tax increment financing district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the tax increment financing district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

**3. Development program fund; tax increment revenues.** If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish a development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund;

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and

- (2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time during the term of the district, by vote of the municipal officers, may return to the municipal general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality.

## **§5228. Assessments**

**1. Assessments.** A municipality may estimate and make the following assessments:

A. A development assessment upon lots or property within the development district. The assessment must be made upon lots or property that have been benefited by improvements constructed or created under the development program and may not exceed a just and equitable proportionate share of the cost of the improvement. All revenues from assessments under this paragraph are paid into the appropriate development fund program account established under section 5227, subsection 3;

B. A maintenance assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program and the continued operation of the public facilities. The total maintenance assessments may not exceed the cost of maintenance and operation of the public facilities within the district. The cost of maintenance and operation must be in addition to the cost of maintenance and operation already being performed by the municipality within the district when the development district was adopted; and

C. An implementation assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program. The implementation assessments may be used to fund activities that, in the opinion of the municipal legislative body, are reasonably

necessary to achieve the purposes of the development program. The activities funded by implementation assessments must be in addition to those already conducted within the district by the municipality when the development district was adopted.

**2. Notice and hearing.** Before estimating and making an assessment under subsection 1, the municipality must give notice and hold a hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality. The notice must include:

- A. The date, time and place of hearing;
- B. The boundaries of the development district by legal description;
- C. A statement that all interested persons owning real estate or taxable property located within the district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment;
- D. The maximum rate of assessments to be extended in any one year; and
- E. A statement indicating that a proposed list of properties to be assessed and the estimated assessments against those properties is available at the city or town office or at the office of the assessor.

The notice may include a maximum number of years the assessments will be levied.

**3. Apportionment formula.** A municipality may adopt ordinances apportioning the value of improvements within a development district according to a formula that reflects actual benefits that accrue to the various properties because of the development and maintenance.

**4. Increase of assessments and extension of time limits.** A municipality may increase assessments or extend the specified period after notice and hearing as required under subsection 2.

**5. Collection.** Assessments made under this section must be collected in the same manner as municipal taxes. The constable or municipal tax collector has all the authority and powers by law to collect the assessments. If any property owner fails to pay any assessment or part of an assessment on or before the dates required, the municipality has all the authority and powers to collect the delinquent assessments vested in the municipality by law to collect delinquent municipal taxes.

## **§5229. Rules**

The commissioner may adopt rules necessary to carry out the duties imposed by section 5226, subsection 2 and to ensure municipal compliance with this subchapter following designation of a tax increment financing district. Rules

adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

#### **§5230. Grants**

A municipality may receive grants or gifts for any of the purposes of this chapter. The tax increment revenues within a development district may be used as the local match for certain grant programs.

#### **§5231. Bond financing**

The legislative body of a municipality may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 20 years from the date of issue to finance all project costs needed to carry out the development program within the development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5227 or under section 5228, subsection 1 received by the municipality are pledged for the payment of the activities described in the development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law.

#### **§5232. Tax exemption**

All publicly owned parking structures and pedestrian skyway systems are exempt from taxation by the municipality, county and State. This section does not exempt any lessee or person in possession from taxes or assessments payable under Title 36, section 551.

#### **§5233. Advisory board**

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed.

#### **§5234. Special provisions**

Notwithstanding the provisions of section 5223, subsection 1 and any other provision of law, in the case of investments exceeding \$100,000,000 in shipyard facilities in districts authorized prior to June 30, 1999, revenues must be set aside and deposited by the municipality to the appropriate development program fund account established under section 5227, subsection 3 and expended to satisfy the obligations of the accounts without the need for further action by the municipality by appropriation or otherwise. Unless otherwise provided by the municipality in connection with its approval of the district, tax increment revenues on all captured assessed value may not be taken into account for

purposes of calculating any limitation on the municipality's annual expenditures or appropriations, and the payment of tax increment revenues on captured assessed value is not subject to any limitation or restriction on the municipality's authority or power to enter into contracts with respect to making payments for a term equal to the term of the district.

**§5235. Unorganized territory**

For the purposes of this chapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. For purposes of section 5228, the State acts as the municipal assessing authority.

*DRAFT (10/1/03)*

*DEPARTMENT OF ECONOMIC AND  
COMMUNITY DEVELOPMENT*

RULES GOVERNING  
MUNICIPAL  
TAX INCREMENT FINANCING DISTRICTS

**Department of Economic and Community Development**

**DRAFT Rules Governing  
Municipal Tax Increment Financing Districts**

**Table of Contents**

<b><u>Section</u></b>		<b><u>Page</u></b>
	<b>Part I. General</b>	
1	Purpose.....	31
2	Definitions.....	32
	<b>Part II. Applications</b>	
11	Applications for Approval of Designation of Tax Increment Financing Districts.....	33
12	Applications for Approval of Designation of Downtown Tax Increment Financing Districts.....	35
13	Applications for Approval of Amendments of Tax Increment Financing Districts.....	37
	<b>Part III. Department Review and Approval</b>	
21	Department Review of Applications.....	40
22	Department Approval of Designation or Amendment of Tax Increment Financing Districts.....	41
	<b>Part IV. Reporting</b>	
31	Annual Reporting Requirements.....	44

**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 1 – Purpose**

Summary: This section states the purpose of the Department's rules governing municipal tax increment financing districts.

The municipal tax increment financing program, established under 30-A M.R.S.A., Chapter 206, is designed to assist municipalities in encouraging industrial or commercial development, increasing or retaining employment, and broadening the tax base. The rules governing municipal tax increment financing districts, adopted pursuant to the Department's rulemaking authority under 30-A M.R.S.A. § 5229, specify the procedures by which a municipality may utilize this program. The rules prescribe requirements for applications, procedures for designation of districts, and annual reporting requirements.

It is the intent of the Department of Economic and Community Development to ensure that municipalities have the greatest possible access to municipal tax increment financing.

Authority: 30-A M.R.S.A. §§ 5221, 5229

Effective Date:



**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 2 – Definitions**

Summary: Definitions of many of the terms used in these rules are contained in 30-A M.R.S.A. § 5222. This section defines certain terms that are used in the rules but that are not defined by Title 30-A, Chapter 206.

As used in these rules, unless the context otherwise indicates, the following terms have the following meanings:

1. Development Program Fund. "Development program fund" means a project cost account and/or a sinking fund account established by a municipality into which tax increment revenues are deposited.
2. Downtown Redevelopment Plan. "Downtown redevelopment plan" means a document adopted by a municipal legislative body that describes the municipality's comprehensive plan for the physical and economic redevelopment of its downtown.
3. Project Cost Account. "Project cost account" means an account established by a municipality that is pledged to and charged with the payment of the project costs that are outlined in an approved financial plan and that are paid in a manner other than that described in subsection 5.
4. Sinking Fund Account. "Sinking fund account" means an account established by a municipality that is pledged to and charged with the payment of the interest and principal for municipal indebtedness as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds, or other evidences of indebtedness that were issued to fund or refund the cost of an approved development program.
5. TIF Credit Enhancement Agreement. "TIF credit enhancement agreement" means a contract between a municipality and a business that specifies (a) the project costs to which TIF funds will be applied, and (b) the obligations of the municipality and the business regarding the creation of a tax increment financing district and the implementation of the development program.

Authority: 30-A M.R.S.A. § 5229

Effective Date:

**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 11 – Applications for Approval of Designation of Tax Increment Financing Districts**

Summary: This section establishes the requirements for an application for the Commissioner's approval of a municipality's designation of a tax increment financing district.

**1. Application Required**

A municipality wishing to use municipal tax increment financing to fund a development program shall submit to the Department for review by the Commissioner an original and two copies of an application that satisfies the requirements of this section. The municipality shall provide with the application any additional information the Department may require.

**2. Contents of Application**

An application for approval of designation of a municipal tax increment financing district must contain the following:

- A. A letter of transmittal from an authorized municipal official, on a form provided by the Department, certifying that all information contained in the application is true and correct to the best of his or her knowledge.
- B. An Application Data Sheet on a form provided by the Department;
- C. A completed Employment Goals form provided by the Department;
- D. A statement indicating the first tax year in which increased assessed value is expected to be retained as captured assessed value;
- E. A narrative summary of the proposed project, including the name, location, purposes, cost, term, total planned investment, and economic benefit of the district;
- F. The specific provisions of the development program, including financial plan, providing all information required by 30-A M.R.S.A. § 5224(2-4);
- G. The project costs for the development program, as authorized by 30-A M.R.S.A. § 5225(1);
- H. A physical description of the district, including:
  - (1) A municipal map clearly showing the site location of the proposed district relative to the municipal boundaries; and
  - (2) Tax maps clearly delineating the boundaries of the proposed district; and

- I. The following documentation of required municipal action:
- (1) A certified copy of the notice of public hearing required by 30-A M.R.S.A. § 5226(1), showing the date as it appeared on the original document;
  - (2) A certified copy of the record of the public meeting at which the proposed district was discussed;
  - (3) A certified copy of the municipal legislative body's resolution or order designating the district; and
  - (4) A statement of original assessed value, consistent with the requirements of subsection 3, certified by the municipal tax assessor.

### **3. Establishing Original Assessed Value**

Completed applications must contain current information regarding the assessed value of the district as of March 31 immediately preceding the date of application to the Department.

### **4. Timing of Submission**

In order to establish the original assessed value specified in the municipality's development program, a municipality must submit its application to the Department by March 1 of the property tax year in which the municipality designates the tax increment financing district, unless the Commissioner, if requested by the municipality before March 1, authorizes submission after March 1 but before March 31.

**NOTE:** Potential applicants for approval of the designation of tax increment financing districts are encouraged to contact the Department at the earliest possible time before March 31, especially when the development program includes project costs authorized by 30-A M.R.S.A. § 5225(C). If the Commissioner approves the designation of a district *after* March 31, the original assessed value may be higher than that specified in the development program and could invalidate the program's financial plan.

Authority: 30-A M.R.S.A. §§ 5226, 5229

Effective Date:

**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 12 – Applications for Approval of Designation of Downtown Tax Increment Financing Districts**

Summary: This section establishes the requirements for an application for approval by the Commissioner of a downtown tax increment financing district.

**1. Application Required**

A municipality wishing to use municipal tax increment financing to fund a development program for a downtown tax increment financing district shall submit to the Department an original and four copies of an application that satisfies the requirements of this section. The municipality shall include with the application any additional information the Department may require.

**2. Contents of Application**

An application for approval of designation of a downtown tax increment financing district must contain the following:

- A. All items specified in section 11, subsection 2; and
- B. A comprehensive downtown redevelopment plan approved by the legislative body of the municipality.

**3. Establishing Original Assessed Value**

Completed applications must contain current information regarding the assessed value of the downtown tax increment financing district as of March 31 immediately preceding the date of application to the Department.

**4. Timing of Submission**

In order to establish the original assessed value specified in the municipality's development program, a municipality must submit its application to the Department by March 1 of the property tax year in which the municipality designates the tax increment financing district, unless the Commissioner, if requested by the municipality before March 1, authorizes submission after March 1 but before March 31.

**NOTE:** Potential applicants for approval of the designation of downtown tax increment financing districts are encouraged to contact the Department at the earliest possible time before March 31, especially when the development program includes project costs authorized by 30-A M.R.S.A. § 5225(C). Early submission is especially important as to downtown tax increment financing districts because of the requirement that the Department consult with the State Planning Office and Department of Transportation. If the Commissioner approves the designation of a downtown district *after* March 31, the original assessed value may be higher than that specified in the development program and could invalidate the program's financial plan.

Authority: 30-A M.R.S.A. §§ 5222(9), 5226, 5229  
Effective Date:

**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 13 – Applications for Approval of Amendments of Tax Increment Financing Districts**

Summary: This section establishes the requirements for an application for approval by the Commissioner of a municipality's amendment to an approved tax increment financing district and/or tax increment financing development program. Examples of such amendments are: alteration of the district boundaries; addition or deletion of project costs to be financed from tax increment revenues; increase or decrease in the amount of indebtedness to be repaid from tax increment revenues, and municipal revaluation.

**1. Application Required**

A municipality wishing to amend an approved tax increment financing district and/or development program shall submit to the Department for an application that satisfies the requirements of this section. The municipality shall submit an original and four copies of the application in the case of downtown tax increment financing districts and an original and two copies in the case of all other tax increment financing districts. The municipality shall include with the application any additional information the Department may require.

**2. Contents of Application**

An application for approval of a municipality's amendment of a tax increment financing district and/or development program must contain the following:

- A. A letter of transmittal on a form provided by the Department and executed by an authorized municipal official certifying that all information contained in the application is true and correct to the best of his or her knowledge;
- B. An updated Application Data Sheet;
- C. An updated Employment Goals form;
- D. A narrative summary of the changes included in the proposed amendment;
- E. Citations to the specific provisions of the development program that are being amended and an explanation of how they are being amended;
- F. Citations to the specific project costs that are being amended and an explanation of how they are being amended;
- G. A detailed description of any changes to the geography of the district, including:
  - (1) A municipal map showing the site location of the proposed amended district relative to municipal boundaries; and

- (2) Tax maps clearly delineating the boundaries of the proposed amended district in comparison to the boundaries of the original district; and
- H. The following documentation of required municipal action relating to the amendment:
  - (1) A certified copy of the notice of public hearing required by 30-A M.R.S.A. § 5226(1), showing the date as it appeared on the original document;
  - (2) The record of the public meeting at which the proposed amendment was discussed; and
  - (3) A copy of the municipal legislative body's resolution or order approving the amendment.

### **3. Form of Application**

A municipality seeking to amend a tax increment financing district shall submit:

- A. An application containing only the changes to the original application, consistent with subsection 2; or
- B. A new version of the complete original application containing the proposed changes consistent with subsection 2.

If the municipality elects the format authorized by paragraph B, the municipality shall also submit with the application a separate list of all the changes to the original application and the citations to the pages of the new application on which the changes appear.

### **4. Original Assessed Value**

If the amendment changes the boundaries of the tax increment financing district, the application for the amendment must contain a statement of the new original assessed value of the district certified by the municipal tax assessor. The changes in boundaries and original assessed value are effective the date the amendment is approved by the Commissioner.

### **5. Timing of Submission**

In order to establish the original assessed value specified in an amendment, a municipality must submit its application to the Department by March 1 of the property tax year in which the municipality approves the amendment, unless the Commissioner, if requested by the municipality before March 1, authorizes submission after March 1 but before March 31.

**NOTE:** Potential applicants for approval of amendments of tax increment financing districts and/or development programs are encouraged to contact the Department at the earliest possible time before March 31, especially if the amendment relates to project costs authorized by 30-A M.R.S.A. § 5225(C). If the Commissioner approves the amendment of a district and/or development program *after* March 31, the

original assessed value may be higher than that specified in the development program and could invalidate amendment of the program's financial plan.

Authority: 30-A M.R.S.A. §§ 5223, 5226, 5229  
Effective Date:



**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 21 – Department Review of Applications**

Summary: This section prescribes procedures for the Department's review of applications for the designation or amendment of a tax increment financing district.

**1. Review by Commissioner**

Upon receipt of an application for approval of the designation or amendment of a tax increment financing district, the Commissioner shall review the application to ensure that it is complete and satisfies the requirements of both 30-A M.R.S.A., Chapter 206, and this Chapter of the Department's rules.

**2. Action on Application**

After reviewing an application, the Commissioner shall issue a Certificate of Approval; deny the application, stating in writing the reason or reasons for the denial; or issue a conditional approval in accordance with section 22, subsection 6.

Authority: 30-A M.R.S.A. §§ 5226, 5229

Effective Date:

**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 22 – Department Approval of Designation or Amendment of Tax Increment Financing Districts**

Summary: This section prescribes procedures for the Department's approval of a municipality's designation or amendment of a tax increment financing district.

**1. Issuance of Certificate of Approval**

If, after review of an application for designation or amendment of a tax increment financing district, the Commissioner determines that the application is complete and satisfies the requirements of both 30-A M.R.S.A., Chapter 206, and this Chapter of the Department's rules, the Commissioner shall issue a Certificate of Approval.

**2. Contents of Certificate of Approval of Original Designation**

The Certificate of Approval for the original designation of a tax increment financing district or development program must include:

- A. The name of the tax increment financing district;
- B. The term of the tax increment financing district, not to exceed 30 years from the date of designation of the district;
- C. The requirements for capturing value;
- D. The requirement that tax increment financing revenues be deposited and held in a project cost account and/or sinking fund account and be used only for approved project costs;
- E. The requirement that the municipality notify the Department promptly if the tax increment financing district is terminated;
- F. The requirement that, if tax increment revenues derived from the district are deposited into the municipality's general fund, the incremental property values generating the revenues deposited in the general fund be included with the municipality's equalized assessed value and not be captured;
- G. The requirement that, if any business in the district receives payments under a TIF credit enhancement agreement that exceed \$10,000 in a calendar year, the business must submit an annual written report in accordance with 5 M.R.S.A. § 13070-J(3);
- H. The requirement that any amendment of the district comply with (1) the statutes governing approval of the original designation of the district and (2) this Chapter of the Department's rules; and
- I. Any other information the Department determines necessary.

**3. Contents of Certificate of Approval of Amendment**

The Certificate of Approval for an amendment of a tax increment financing district or development program must include:

- A. The name of the tax increment financing district;
- B. The term of the tax increment financing district, not to exceed 30 years from the date of original designation of the district;
- C. The effective date of the approval;
- D. If applicable, the Department's authorization to increase or reduce the original assessed value of the district and by what amounts;
- E. The requirement that tax increment financing revenues be deposited and held in a project cost account and/or sinking fund account and be used only for approved project costs;
- F. The requirement that the municipality notify the Department promptly if the tax increment financing district is terminated;
- G. The requirement that, if tax increment revenues derived from the district are deposited into the municipality's general fund, the incremental property values generating the revenues deposited in the general fund be included with the municipality's equalized assessed value and not be captured;
- H. The requirement that, if any business in the district receives payments under a TIF credit enhancement agreement that exceed \$10,000 in a calendar year, the business must submit an annual written report in accordance with 5 M.R.S.A. § 13070-J(3);
- I. The requirement that any additional amendment of the district comply with (1) the statutes governing approval of the original designation of the district and (2) this Chapter of the Department's rules; and
- J. Any other information the Department determines necessary.

#### **4. Commencement of Development Program or Amendment to Development Program**

The development program for a tax increment financing district begins on the date the Commissioner issues a Certificate giving final approval to the program, and on that date a municipality may begin expending funds and incurring obligations with respect to approved project costs. An amendment of a development program begins on the date the Commissioner issues a Certificate giving final approval to the amendment, and on that date a municipality may begin expending funds and incurring obligations with respect to any new project costs contained in the amendment. A municipality may not expend funds or incur obligations with respect to a project cost in an original or amended development program until the date the Commissioner gives final approval to the original development program or the amendment.

## **5. Termination of District and Development Program**

A development district and its development program end on the date specified in the Certificate giving final approval to the original designation or the amendment of the district and/or the program. After that date, a municipality may not use tax increment revenues to fund project costs in the development program.

## **6. Conditional Approval**

To ensure compliance with 30-A M.R.S.A., Chapter 206, while at the same time furthering the intent and goals of Chapter 206, the Commissioner may approve the designation or amendment of a tax increment financing district and conditionally approve a portion of the district's proposed original or amended development program. The Commissioner may require the municipality to submit additional information regarding those portions of the development program that were not conditionally approved.

If the Commissioner approves the designation or amendment of a tax increment financing district and approves only part of the development program, the municipality may expend funds only on the approved part of the development program. A municipality may not expend funds on any part of the development program that has not been approved in writing by the Commissioner.

**NOTE:** The need to resort to a *conditional* approval often can be avoided by a municipality's early communications with the Department regarding the proposed project costs for a district, particularly if the project costs include those authorized by 30-A M.R.S.A. § 5225(C).

Authority: 30-A M.R.S.A. §§ 5223, 5226, 5229

Effective Date:

**19 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**  
**100 ECONOMIC / COMMUNITY DEVELOPMENT**  
**Chapter 001 - Municipal Tax Increment Financing Rule (DRAFT 10/1/03)**

**§ 31 – Annual Reporting Requirements**

Summary: This section establishes reporting requirements relating to approved tax increment financing districts. The reports enable the Department to comply with its statutory duty to ensure municipal compliance with 30-A M.R.S.A., Chapter 206, and 5 M.R.S.A. § 13070-J(3).

**1. Information Required**

On or before March 31 each year, a municipality in which a state-approved municipal tax increment financing district is located shall report, on a form provided by the Department, the following information for the previous calendar year to the Department as to each tax increment financing district that was active at any time during that calendar year:

- A. The name of the district;
- B. The total assessed value and captured assessed value of the district, as certified by the municipal assessor;
- C. The amounts by which the current assessed value of the taxable real and personal property within the district has increased or decreased from the original assessed value, as certified by the municipal assessor;
- D. Whether any business received TIF credit enhancement payments during the calendar year, and, if so, as to each business that received tax increment revenues from the district:
  - 1. The name of the business;
  - 2. The mailing address of the business;
  - 3. The name, title, and address of the contact person at the business; and
  - 4. The amount of TIF credit enhancement agreement payments made to the business during the calendar year;

**NOTE:** Whether a business received tax increment revenues in a particular calendar year depends on when the business actually received payment, not when the municipality issued payment.

- F. The extent to which each improvement or activity was completed during the calendar year, and the amount of tax increment revenues the municipality spent on each of those improvements or activities;
- G. The amount of debt incurred in implementing the development program and the extent to which the debt has been retired; and
- H. Any other information requested by the Department.

## **2. Site Visits**

The Department and/or the State Tax Assessor may make site visits to approved tax increment financing districts as part of their duties to ensure compliance with statutory requirements.

Authority: 30-A M.R.S.A. § 5227, 5229

Effective Date:

## **TIF-RELATED PROPERTY TAX STATUTES**

### **36 MRSA §208. Equalization**

The State Tax Assessor has the duty of equalizing the state and county taxes among the several towns and unorganized territory. The State Tax Assessor shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its just value as of April 1st. Notice of the proposed valuations of municipalities within each county must be sent annually by certified mail to the chair of the board of assessors, and chair of the board of selectmen in municipalities having selectmen, of each municipality within that county on or before the first day of October. The valuation so determined is subject to review by the State Board of Property Tax Review pursuant to subchapter II-A, but the valuation finally certified to the Secretary of State pursuant to section 381 must be used for all computations required by law to be based upon the state valuation with respect to municipalities.

### **36 §305. Additional duties**

In addition to any other duties of the Bureau of Revenue Services provided in this chapter, it shall:

**1. Just value.** Certify to the Secretary of State before the first day of February the equalized just value of all real and personal property in each municipality and unorganized place that is subject to taxation under the laws of this State, except that percentage of captured assessed value located within a tax increment financing district that is used to finance that district's development plan and the valuation amount by which the current assessed value of commercial and industrial property within a municipal incentive development zone, as determined in Title 30A, section 5284, exceeds the assessed value of commercial and industrial property within the zone as of the date the zone is approved by the Commissioner of Economic and Community Development, known in this subsection as the "sheltered value," up to the amount invested by a municipality in infrastructure improvements under an infrastructure improvement plan adopted pursuant to Title 30A, section 5283. The equalized just value must be uniformly assessed in each municipality and unorganized place and be based on 100% of the current market value. It must separately show for each municipality and unorganized place the actual or estimated value of all real estate that is exempt from property taxation by law or is the captured value within a tax increment financing district that is used to finance that district's development plan, as reported on the municipal valuation return filed pursuant to section 383, or that is the sheltered value of a municipal incentive development zone. The valuation as filed remains in effect until the next valuation is filed and is the basis for the computation and apportionment of the state and county taxes;

**2. Services.** Assist the primary assessing areas by providing appropriate technical services which may include, but not be limited to, the following,

- A. Preparation of information or manuals, or both, concerning construction values, prices, appraised guides, statistical tables and other appropriate materials;
- B. Specialized assessing assistance in industrial, commercial and other difficult property assessments as determined by the State Tax Assessor;
- C. Establishment of a coordinate grid system in connection with the State Planning Office for the purpose of uniform identification of property parcels;

- D. Assistance in the preparation of tax maps and methods of updating such maps;
- E. Devising necessary forms and procedures; and
- F. Advice concerning data processing application to assessing.

**3. Report.** Provide a biennial statistical compilation and analysis of property tax assessment practices and pertinent property tax data on a state-wide basis;

**4. Research.** Provide a continuing program of property tax research to improve present laws and practices;

**5. Rules and regulations.** Promulgate, after appropriate notice and hearing, all rules and regulations necessary to carry into effect any of its duties and responsibilities.



## **TIF-RELATED STATUTE ON REPORTING REQUIREMENTS**

### **5 MRSA §13070-J. Business reporting associated with eligibility for public subsidies and incentives**

**1. Definitions.** As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. [(repealed)]

B. "Commissioner" means the Commissioner of Economic and Community Development.

C. "Department" means the Department of Economic and Community Development.

D. "Economic development incentive" means:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;
- (3) Municipal tax increment financing under Title 30-A, chapter 206;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919; or
- (9) The credit for seed capital investment under Title 36, section 5216-B.

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

- (1) Is intended to encourage significant business expansion or retention in the State; and
- (2) Contains a tax expenditure, as defined in section 1664, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year.

**2. Disclosure.** Each applicant for an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (4) and (7) shall at a minimum identify in writing:

A. The public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and

B. The goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

Applications filed under this subsection are public records for purposes of Title 1, chapter 13.

**3. Report.** Annually, a business receiving an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (8), the value of which exceeds \$10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:

A. The amount of assistance received by the business in the preceding year from each

economic development incentive and the uses to which that assistance has been put;

B. The total amount of assistance received from all economic assistance programs;

C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;

D. Current employment levels for the business for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;

E. Any changes in employment levels that have occurred over the preceding year; and

F. An assessment of how the business has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.

The department shall mail report forms by May 15th of each year to every business required to file a report under this subsection. Reports filed under this subsection are public records for purposes of Title 1, chapter 13.

**4. Agency reports.** The following agencies shall submit the following reports.

A. The State Tax Assessor shall submit a report by October 1st annually to the Legislature identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives. The report must identify the amount of the economic development incentives under the jurisdiction of the Bureau of Revenue Services received by each business to the extent permitted under Title 36, section 191 and other provisions of law concerning the confidentiality of information.

B. The Commissioner of Labor shall report by October 1st annually to the Legislature on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each business and the public benefit resulting from those economic development incentives.

C. The Maine Technical College System shall report by October 1st annually to the Legislature on the amount of public funds spent on job training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the system received by each business and the public benefit resulting from those economic development incentives.

D. The department shall report by October 1st annually to the Legislature the following:

(1) The amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax increment financing and the Governor's training initiative. The report must identify the amount of economic development incentives under the jurisdiction of the department received by each employer and the public benefit resulting from those economic development incentives; and

(2) The activities in the State, in the aggregate, of businesses receiving funds through the Maine Seed Capital Tax Credit program, including the following:

(a) The total amount of tax credit certificates issued by the Finance Authority of Maine;

(b) The total amount of private investment;

(c) Total employment;

(d) The total number of jobs created;

(e) The total number of jobs retained;

- (f) Total payroll; and
- (g) Total annual sales.

The Finance Authority of Maine shall provide the department with the information collected in accordance with Title 10, section 1100-T, subsection 6 and assist in the preparation of this report.

E. The department shall report by October 1st annually to the State Tax Assessor a listing of businesses that have failed to submit reports required under subsection 3. The report must document that each business included in the report was provided with reasonable official notification of its noncompliance and that its failure to submit the required report within 30 days would result in the withholding and potential forfeiture of reimbursements for which the business may be eligible under Title 36, chapter 915. The notification must be in the form of a letter posted by certified mail before August 15th of the reporting year. If the department subsequently receives a report from the business, the department shall so notify the State Tax Assessor.

F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the report required by subsection 3 either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.

**5. Rules.** Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter II-A.