

# Tax Increment Financing in Florida

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Tax Increment Financing (often referred to as “TIF”) is a method to pay for redevelopment of a slum or blighted area through the increased ad valorem tax revenue resulting from that redevelopment. It has been used in many states since the late 1940s and early 1950s to pay for redevelopment projects. California has been the most prolific user of TIF as that state grew after World War II.

## Florida Background

Florida initially used special acts to create downtown development authorities (“DDAs”) to redevelop urban core areas. These DDAs were special districts that had modest ad valorem taxing authority to pay for their activities.

In the late 1960s, the City of Miami Beach wanted to redevelop South Beach. But it could not use the DDA approach because special acts for only Dade County are barred by the Metro Charter. So, a general law, the Community Redevelopment Act, was enacted in 1969 that is still being used today throughout the state for redevelopment. (Codified as Part III, Chapter 163, Florida Statutes).

The original version of the Redevelopment Act did not include tax increment financing. It was primarily used to assemble redevelopment sites and to enter into agreements with developers.

But a dedicated source of funding to finance major redevelopment projects was needed. In 1976 a constitutional amendment authorizing TIF was defeated by the voters. That amendment was based on the California law that diverted ad valorem tax revenues from the local government to a redevelopment trust fund. The next year the Legislature adopted an amendment to the Redevelopment Act (Section 163.387, Florida Statutes) to allow community redevelopment agencies (“CRAs”) to use TIF. This statutory approach differed from the constitutional amendment because the property tax revenue goes to the local government and is then appropriated to the trust fund of the CRA.

The TIF statute was found to be constitutional by the Florida Supreme Court in the case *State v. Miami Beach Redevelopment Agency*, 392 So.2d 875 (Fla.1980).

## Calculation of TIF

Once the governing body of the county or municipality enacts an ordinance that provides for the funding of the redevelopment trust fund for the duration of the redevelopment plan, the “increment revenues” are deposited in the Redevelopment Trust Fund.

The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

- (a) The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and
- (b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

Section 163.387(1), Florida Statutes.

The governing body of any county as defined in Section 125.011(1), Florida Statutes, i.e., Miami-Dade County, may, in the ordinance providing for the funding of a trust fund established with respect to any community redevelopment area created on or after July 1, 1994, determine that the amount to be funded by each taxing authority annually shall be less than 95 percent of the difference between paragraphs (a) and (b), but in no event shall such amount be less than 50 percent of such difference.

There has been much confusion throughout the state as to which property tax roll should be used to calculate the amount of “increment revenues” to be deposited by each taxing authority in the redevelopment trust fund. The TIF statute was amended in 1985 to add the 95% provision and the time period during which the annual payments are to be made. That was intended to make it clear that the preliminary tax roll is the one to be used to calculate the amount of increment. But in 1996 the Attorney General issued an opinion concluding the final roll is the one to use. AGO 96-39 (May 23, 1996). The issue has not been resolved as many CRAs continue to calculate the amount of increment based on the preliminary roll and others use the final roll.

### Exemption for Obligation to Make Deposits

Some taxing authorities are exempt from the requirement of having to forward that portion of the tax increment revenue to the community redevelopment agency. As provided in Section 163.387(2)(c), certain taxing authorities, including, but not limited to certain special districts that levy ad valorem taxes in more than one county, library districts, a metropolitan transportation authority, and a water management district. The governing body that created the agency may exempt special districts for the obligation to make tax increment deposits.

### TIF Expenditures

The funds deposited in the redevelopment trust fund may be expended only in the redevelopment area pursuant to the approved redevelopment plan in conformance with the requirements of Section 163.387(6), Fla. Stat., which includes but is not limited to the following:

- (a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.
- (b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- (c) The acquisition of real property in the redevelopment area.
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants as provided in s. 163.370.
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- (f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of agency bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.
- (g) The development of affordable housing within the area.
- (h) The development of community policing innovations.

Section 163.387, Fla. Stat. provides for a limitation of the pledge of tax increment financing for a term of 30 years after the community redevelopment plan is adopted or amended up to a maximum of 60 years. Section 163.385, Florida Statutes. Community redevelopment agencies created after July 1, 2002, are limited to 40 years.

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