

Municipal Tax Increment Financing

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Department of Economic and Community Development

Municipal Tax Increment Financing

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PART I: PROGRAM DESCRIPTION

TIF OVERVIEW:

Municipal Economic Development

A municipality may elect to provide financial assistance to local economic development projects - from infrastructure improvements to business expansions - by using new property taxes that result from the commercial investment and corresponding increase in property value. The state program that guides and encourages this local economic development activity is called municipal tax increment financing (TIF). TIF is predominantly a “real estate based” tax incentive program.

Unorganized Territory

The Unorganized Territory of Maine (UT) is that area of Maine having no local, incorporated municipal government. In accordance with 30-A MRSA §5261, for purposes of municipal tax increment financing, a county may act as a municipality and submit a TIF application for an unorganized territory within its jurisdiction. Therefore, for purposes of this manual, from this point forward, the term “Municipality” within this document will include “Unorganized Territories”.

Program Summary

TIF is a tool that permits a municipality to participate in local project financing by using some or all of the new property taxes from a capital investment within a designated geographic district. The municipality has the option of using the “incremental” taxes to retire bonds it has issued for the project, compensate a developer or business for development project costs, or fund eligible municipal economic development activities. TIF districts may be designated for up to 30 years and bonds may be issued for up to 20 years. The designation of a TIF district requires proper notice, a local public hearing, the majority vote of the municipal legislative body, and state approval.

Program Example

A business invests \$1,000,000 in buildings and site improvements on vacant land presently valued at \$200,000, and installs machinery and equipment worth \$800,000. The municipality has a property tax rate of 20 mils, so the business will have a total tax obligation of \$40,000 per year once the new valuation is added to the tax rolls. \$36,000 of the tax bill is incremental, and therefore available to support the TIF district’s development program and financial plan.

Scenario 1: Municipal Bond Financing. The municipality issues a 20-year general obligation bond of \$300,000 for road and utility improvements that support the development project and pays the annual debt service using TIF revenues.

Scenario 2: Credit Enhancement Agreement (CEA). The municipality agrees to a fifteen year CEA and, after the developer invests \$1,800,000 in property and pays taxes, returns a portion of TIF revenues to the developer to assist in financing the new building.

Scenario 3: Municipal Economic Development. The municipality decides to fund a staff person to manage its downtown economic development program and budgets TIF revenues for ten years.

HOW TO APPLY

Proposals must fully address each part of the attached application which includes a cover sheet, employment goals sheet, and “application requirements.” Complete applications must be submitted in a timely manner to:

Department of Economic and Community Development (DECD)
59 State House Station
Augusta, ME 04333-0059

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 1, 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.

All proposals will be reviewed by DECD and applicants will be notified of their acceptance or rejection in writing. Questions may be addressed to:

Laura Santini-Smith
Director, Tax Incentives Program
(207) 624-7487
laura.santini-smith@maine.gov

This TIF Manual may be accessed on-line at www.businessinmaine.com .

A. Key Features of Municipal Tax Increment Financing

- A local economic development financing program that uses some or all of the tax revenues generated (the 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 municipal 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.

B. Eligible Uses for TIF Revenues, including but not limited to:

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 Government: Eligible costs include constructing or improving privately-owned facilities or buildings that are located in downtown tax increment financing districts and leased by municipal or state government.

C. Ineligible Uses for TIF Revenues

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.

D. How Municipal Economic Development Works *Without* TIF

- A municipality's total Equalized Assessed Value (as of April 1st) is used to compute:
 - General Purpose Aid to Education (subsidy),
 - State Revenue Sharing (subsidy), and
 - 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.

E. How TIF *Helps* Municipal Economic 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 for the term of the district.

F. Criteria for TIF 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.

- The municipal legislative body oversees the preparation of a TIF application and designates the district following a public process and approval by majority vote, and must consider the effect of this action on “interested parties.”
- DECD’s Commissioner reviews proposed applications and approves municipal designations that comply with the program statute and rule.

G. TIF Program Limitations

- *Acreage Caps*: no single district may exceed 2% of the total acreage of the municipality; and 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 Cap*: the value (as of March 31st of the preceding tax year) of all taxable property within the proposed district, plus the value of all existing TIF districts (at the time of their designations) may not exceed 5% of the municipality’s total value of taxable property as of April 1st preceding the date of DECD’s approval.
- *Municipal Indebtedness Ceiling*: the total amount of municipal debt issued to support TIF district development programs within any county may not exceed \$50 million.
- *Term Limits*: 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.

H. Funding for Infrastructure Improvements and Project Costs

The financial plan section of a TIF development program contains a description of how district infrastructure improvements and project activities will be funded. Typically, there are two methods used: *bonds* and/or *credit enhancement agreements*. The two techniques, and their respective statutory payment accounts, are highlighted below:

- The issuance by the municipality of general or limited obligation bonds requires the establishment of a *Development Sinking Fund* for TIF revenues dedicated to repaying the bond, and/or
- The negotiation and approval by the municipality of a credit enhancement agreement (contract) with a developer or company, using either fixed dollar amounts, or a percentage of revenues, requires the establishment of a *Project Cost Account* to reimburse TIF revenues to the developer or company for authorized development project costs.

1. Credit Enhancement Agreement (CEA)

The CEA or contract between the municipality and company is 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 with payments made directly to the company.

A. Advantages of the CEA

- Municipality is 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, and
 - Business may pursue best available financing in private sector.

B. Disadvantages of Credit Enhancement Agreement

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

2. Municipal Debt (Bonds)

Issuance of municipal general obligation bonds or limited obligation bonds is a mechanism that may be used to fund a TIF district development program.

A. 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.

B. Disadvantages of Municipal Debt

- Risk exposure: the municipality remains liable for debt service on general obligation bonds if tax increment revenues are insufficient (though 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.

I. Preparing a Tax Increment Financing Application and Development Program

Checklist

1. Application Components

- Cover Sheet and Job Goals Page
- Development Program
- Program Narrative
- Calculation of tax shifts
- Evidence of public hearing notice
- The signature of the municipal officer attesting that all information is true and correct to the best of his or her knowledge
- Minutes of the public meeting at which the proposed municipal tax increment financing district was discussed
- 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, 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)

2. Designation Process

- ❑ Notice of public hearing in newspaper of general circulation 10 days before the public hearing
- ❑ Public hearing held and duly recorded
- ❑ Majority vote of municipal legislative body necessary to designate a TIF district
- ❑ Approved application forwarded to DECD
- ❑ DECD Commissioner reviews for statutory compliance and approves local designation
- ❑ Municipality and Maine Revenue Services notified of DECD approval

J. Program Policy Notes

1. 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 business proposals. 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.

2. 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.

3. 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.

4. Waiver on Certain Limitations for Downtown TIF Districts

In order to encourage redevelopment in downtowns, the statutory limits on TIF district size and value have been waived for participating municipalities. In addition, local bonds issued to support these types of TIF districts do not count against the county limit.

5. 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 and regulatory 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.

BENEFITS OF TAX INCREMENT FINANCING

Tax Increment Financing (TIF) allows the municipality to “shelter” new value resulting from certain development projects from the computation of its State subsidies and County taxes. “Sheltering” allows the municipality to retain all or a portion of those new tax revenues which would otherwise be 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”. This designation “freezes” the value of taxable property within the district with respect to the State and County for the term of the district. TIF uses some or all of the tax revenues generated (the tax “increment”) from new investments in real and personal property. Specific benefits include:

- Reducing bond debt issued for the project
- Paying the investing company directly for project costs incurred, and
- Funding eligible economic development activities.

TIF creates a “shelter” against adverse adjustments to state education and revenue sharing subsidies, and county taxes, based on total municipal valuation as a powerful, flexible economic development tool for municipalities to support job creation and retention, capital investment and a broadening of the local tax base.

PART II: APPLICATION REQUIREMENTS

A. GENERAL

Municipalities wishing to use municipal tax increment financing to fund development programs must submit to DECD the completed Cover Sheet form and Employment Goals page (see pp. 16-17), an application conforming in all material respects to the requirements of Part III of the program rules (see p. 38), and any additional information DECD may request.

In accordance with 30-A MRSA §5261, for purposes of municipal tax increment financing, a county may act as a municipality and submit a TIF application for an unorganized territory within its jurisdiction.

B. APPLICATION FORMS

The following Application Cover Sheet, Employment Goals sheet, Statutory Thresholds worksheet, and Tax Shift Calculations page must be submitted as part of the complete application required for state approval.

APPLICATION COVER SHEET

MUNICIPAL TAX INCREMENT FINANCING
--

A. General Information

1. Municipality Name:		
2. Address:		
3. Telephone:	4. Fax:	5. Email:
6. Municipal Contact Person:		
7. Business Name:		
8. Address:		
9. Telephone:	10. Fax:	11. Email:
12. Business Contact Person:		
13. Principal Place of Business:		
14. Company Structure (e.g. corporation, sub-chapter S, etc.):		
15. Place of Incorporation:		
16. Names of Officers:		
17. Principal Owner(s) Name:		
18. Address:		

B. Disclosure

1. Check the public purpose that will be met by the business using this incentive (any that apply):		
<input type="checkbox"/> job creation	<input type="checkbox"/> job retention	<input type="checkbox"/> capital investment
<input type="checkbox"/> training investment	<input type="checkbox"/> tax base improvement	<input type="checkbox"/> public facilities improvement
<input type="checkbox"/> other (list):		
2. Check the specific items for which TIF revenues will be used (any that apply):		
<input type="checkbox"/> real estate purchase	<input type="checkbox"/> machinery & equipment purchase	<input type="checkbox"/> training costs
<input type="checkbox"/> debt reduction	<input type="checkbox"/> other (list):	

C. Employment Data

List the company's goals for the number, type and wage levels of jobs to be created or retained as part of this TIF development project (<i>please use next page</i>).
--

EMPLOYMENT GOALS

Company Goals for Job Creation and Job Retention

<i>A. Job Creation Goals</i>			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
1. Executive, Professional & Technical			\$
2. Administrative Support, inc. Clerical			\$
3. Sales & Service			\$
4. Agriculture, Forestry & Fishing			\$
5. Maintenance, Construction, Production, & Transportation			\$
<i>B. Job Retention Goals</i>			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
1. Executive, Professional & Technical			\$
2. Administrative Support, inc. Clerical			\$
3. Sales & Service			\$
4. Agriculture, Forestry & Fishing			\$
5. Maintenance, Construction, Production, & Transportation			\$
<i>*Please use the Occupational Cluster descriptions on the next page to complete this form.</i>			

INSTRUCTIONS

A. Job Creation Goals. Please list the number, type and wage level of jobs created 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.

B. Job Retention Goals. Please list the number, type and wage level of jobs retained as a result of the economic development incentive. Part B should be completed using same definitions in Part A.

OCCUPATIONAL CLUSTERS

1. EXECUTIVE, PROFESSIONAL & TECHNICAL

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.

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.

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.

2. ADMINISTRATIVE SUPPORT, INCLUDING CLERICAL

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.

3. SALES AND SERVICE

Marketing and sales. Workers in this group sell goods and services, purchase commodities and property for resale, and stimulate consumer interest.

Service. This group includes a wide range of workers in protective, food and beverage preparation, health, personal, private household, and cleaning and building services.

4. AGRICULTURE, FORESTRY AND FISHING

Agriculture, forestry and fishing. Workers in these occupations cultivate plants, breed and raise animals, and catch fish.

5. MAINTENANCE, CONSTRUCTION, PRODUCTION AND TRANSPORTATION

Mechanics, installers, and repairers. Workers in this group adjust, maintain, and repair automobiles, industrial equipment, computers, and many other types of machinery.

Construction trades and extractive. Workers in this group construct, alter, and maintain buildings and other structures or operate drilling and mining equipment.

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.

Transportation and material moving. Workers in this group operate the equipment used to move people and materials. This group also includes handlers, equipment cleaners, helpers, and laborers who assist skilled workers and perform routine tasks.

STATUTORY REQUIREMENTS & THRESHOLDS

A. ACRE LIMITATION		
1. Total Acreage of Municipality		
2. Total Acreage of Proposed Municipal TIF District		
3. Total Downtown acres contained in the Proposed Municipal TIF District		
4. Total Transit acres contained in the Proposed Municipal TIF District		
5. Total acreage of Proposed Municipal TIF District counted towards 2% cap (A2-A3-A4)		
6. Percentage of total acreage in proposed municipal TIF District (cannot exceed 2%) <i>Divide A5 by A1</i>		
7. Total acreage of all existing and proposed municipal TIF districts in the municipality. <i>Add A2 to sum of all existing TIF district acreage.</i>		
8. Total acreage of an existing or Proposed Downtown TIF District in the municipality.		
9. Total acreage of all <u>existing</u> Pine Tree Zone TIF Districts in the municipality.		
10. Total acreage of all existing or Proposed Transit TIF Districts in the municipality.		
11. Total acreage of all existing and Proposed Municipal TIF Districts in the municipality counted toward 5% cap. <i>Subtract A8+A9+A10 from A7.</i>		
12. Percentage of total acreage in all existing and proposed Municipal TIF Districts (cannot exceed 5%) <i>Divide A11 by A1.</i>		
13. Total Acreage of all real property in the Proposed Municipal TIF District that is:		
(Note: a, b, or c must be at least 25%)	Acres	%
a. Blighted (Divide acres by A2)		
b. In need of rehabilitation/conservation (Divide acres by A2)		
c. Suitable for industrial/commercial site (Divide acres by A2)		
TOTAL		
B. VALUATION LIMITATION		
1. Total Aggregate Value (TAV) of Municipality - <i>Use most recent April 1st</i>		
2. Original Assessed Value (OAV) of Proposed Municipal TIF District. <i>Use March 31st of tax year preceding date of municipal designation</i>		
3. Total OAV of all existing and Proposed Municipal TIF Districts in the municipality. <i>Add b2 to sum of all existing TIF district OAVs</i>		
4. OAV of an existing or proposed Downtown TIF District in the municipality.		
5. OAV of all <u>existing</u> Pine Tree Development Zone TIF Districts in the municipality.		
6. OAV of all existing or Proposed Transit TIF Districts in the municipality.		
7. Total OAV of all existing and Proposed Municipal TIF Districts in the municipality counted toward 5% cap <i>Subtract B4+B5+B6 from B3</i>		
8. Percentage of total OAV to TAV in all existing and Proposed Municipal TIF Districts (cannot exceed 5%) <i>Divide B7 by B1</i>		

TAX SHIFT FORMULAS

It is required during any application for designation as a tax increment financing district to calculate tax shifts that result from the creation of the District. These tax shifts are noted in the following basic formulae that use local property tax valuation as a basis for calculations. These formulae provided by DECD are:

- Municipal Share of County Taxes
- Revenue Sharing
- Education Costs

The following is the process used to derive these tax shifts.

County Tax Shift

In order to produce this result, information must be obtained from the Maine Revenue Services and the County government of which the District will reside in. First, the most recent County State Valuation should be obtained. The averaged Captured Assessed Value for the District for the life of the project will then be determined. The averaged Captured Assessed Value is then divided by the Current County State Valuation. To find the estimated average county tax over the life of the District, you must obtain the County Tax for the Town for the last five years. The average change is then determined and projected to the middle of the districts life. This projected tax was multiplied by the factor developed above to arrive at the County Tax Shift.

$$\frac{\text{(Captured Assessed Value)}}{\text{(Captured Assessed Value + Current County State Valuation)}} \times \text{Estimated Average Annual County Tax}$$

Revenue Sharing Shift

The total Municipal Revenue Sharing amount was obtained fro the State Treasurer in order to complete the following formula:

Step 1:

$$\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation}} = \text{Current Factor}$$

Step 2:

$$\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation} + \text{Captured Assessed Value}} = \text{Adjusted Factor}$$

Step 3:

$$\frac{\text{Current Factor}}{\text{Adjusted Factor}} = 1.X$$

Step 4:

$$1.X - 1.0 = .X$$

Step 5:

$$.X (\text{Total Municipal Revenue Sharing Amount}) = \text{Revenue Sharing Shift}$$

Education Tax Shift

State law requires that an estimate be made of how much of a loss in State aid to education a community would experience had the TIF District not been created. The premise for this requirement is that if the TIF did not exist and the development still occurred, other taxing jurisdictions would benefit by the (TIF) Town paying more *and receiving less*.

Historically, the methodology used to determine the fiscal impact from the establishment of a TIF District was to multiply the Captured Assessed Value by the constant .009. The result would be an annual and cumulative “Education Tax Shift” for the proposed district. Changes in the distribution of State funding for education have required TIF applicants to develop other methodologies that more accurately reflect the “Education Shift”.

**MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT**

**STATUTES GOVERNING MUNICIPAL
TAX INCREMENT FINANCING**

PART III: PROGRAM STATUTES AND RULES

STATUTES:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular Session of the 123rd Legislature, and is current through December 31, 2007, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

Title 30-A MUNICIPALITIES AND COUNTIES
Chapter 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, commercial, transit-oriented or arts district development, or any combination;
- 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.

1-A. Arts district. "Arts district" means a specified area within the corporate limits of a municipality that has been designated by the municipality for the purpose of providing employment and cultural opportunities through the development of arts opportunities, including, but not limited to, museums, galleries, arts education, art studios, performing arts venues and associated businesses.

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. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the development district remains in effect.

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

6. Development district. "Development district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5223 and 5226 and that is to be developed under a development program.

7. 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, construct or improve the physical facilities and structures or improve the quality of pedestrian and vehicular transportation, as described in section 5224, subsection 2.

8. 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.

9. 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.

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

11. 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.

12. 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.

13. Original assessed value. "Original assessed value" means the assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated.

14. 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.

15. 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.

16. 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.

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

18. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.

19. Transit. "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, light rail and other rail systems.

20. Transit facility. "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.

21. Transit-oriented development. "Transit-oriented development" means a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors. Transit-oriented development is intended through location and design to rely on transit as one of the means of meeting the transportation needs of residents, customers and occupants as demonstrated through such factors as transit facility proximity, mixed uses, off-street parking space ratio less than industry standards, architectural accommodation for transit and marketing that highlights transit.

22. Transit-oriented development area. "Transit-oriented development area" means an area of any shape such that no part of the perimeter is more than 1/4 mile from an existing or planned transit facility.

23. Transit-oriented development corridor. "Transit-oriented development corridor" means a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route.

24. Transit-oriented development district. "Transit-oriented development district" means a tax increment financing district consisting of a transit-oriented development area or a transit-oriented development corridor.

§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 or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. The total area of 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 approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

- (1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed \$10,000,000;
- (2) The geographic area consists entirely of contiguous property owned by a single taxpayer;
- (3) The assessed value exceeds 10% of the total value of taxable property within the municipality; and
- (4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

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

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 approval of the designation of the tax increment financing district.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts, tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35- A, section 3403, subsection 3 or transit-oriented development districts.

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 development 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 and hearing 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, arts districts, transit expansion 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;
- H. The duration of the program, which may not exceed 30 years from the date of designation of the district; and
- I. All documentation submitted to or prepared by the municipality under section 5223, subsection 2.

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 public 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, arts district or commercial or transit-oriented development district use;

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects;

(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;

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

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 improvement 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; electrical 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 or arts location;

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

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

(6) Costs relating to planning, design, construction, maintenance, grooming and improvements to new or existing recreational trails determined by the department to have significant potential to promote economic development, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses;

- (7) Costs associated with a new or expanded transit service, limited to:
- (a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and
 - (b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements; and

D. Costs of constructing or improving facilities or buildings leased by State Government or a municipal 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 this chapter 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.

PUBLIC LAW
Chapter 627
123RD LEGISLATURE

SECTION 34.36

MRSA §1603, sub-§1,

As amended by PL 2005, c. 686, Pt. A, §65, is further amended to read:

1. Definition

For the purposes of this chapter, "municipal cost component" means the cost of funding services in the Unorganized Territory Tax District that would not be borne by the State if the Unorganized Territory Tax District were a municipality, but does not include a state cost allocation charge, including, without limitation, reimbursement to the General Fund for departmental functions such as accounting, personnel administration and supervision. "Municipal cost component" also includes the cost of funding obligations of the unorganized territory under the terms of a tax increment financing district approved by the Commissioner of Economic and Community Development prior to July 1, 2008 pursuant to Title 30-A, chapter 206. The "municipal cost component" includes, but is not limited to:

A. The cost of education, as would be determined by the Essential Programs and Services Funding Act if the unorganized territory were a municipality;

B. The cost of services the state funds in the unorganized territory that are funded locally by a municipality; the cost of forest fire protection to be included in the cost component must be determined in accordance with Title 12, section 9205-A and collected in the same manner as other portions of the municipal cost component; ~~and~~

C. The cost of reimbursement by the State for services a county provides to the unorganized territory in accordance with Title 30-A, chapter 305. A county may not be reimbursed for services provided on or after January 1, 1979, unless a legislative allocation is obtained pursuant to this chapter. If a county receives, in addition to its budget, funds that are designated by the Legislature for a specific purpose and the county does not spend those funds for that specific purpose in that fiscal year, then the reimbursement under this chapter to that county for the next fiscal year must be reduced by an amount equal to the amount of funds so designated that were not expended for that specific purpose - ; and

D. The cost for payments that the unorganized territory is required to make pursuant to the terms of a tax increment financing district approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206 prior to July 1, 2008 with respect to taxable property in the Unorganized Territory Tax District.

SECTION 35. 36

MRSA §1606, sub-§1-4

As amended by PL 1989, c. 373, §1, is repealed and the following enacted in its place:

Property taxes credited on assessments; quarterly payments for unorganized territory services and annually for county taxes

1. Credit and appropriation of special funds or taxes for political subdivisions.

Notwithstanding any other statute to the contrary, the gross amount of property taxes assessed upon real and personal property in the unorganized territory through the State Tax Assessor for the benefit of any special fund or political subdivision of the State may be credited on the books of the State to the special fund or to the proper fiscal officer of the political subdivision. The Treasurer of State shall pay to that fiscal officer the amount of the tax so assessed, in equal quarterly amounts for unorganized territory services, on or before the last day of July, October, January and April and an annual installment for county taxes on or before October 15th following the date of the assessment. The amount of the assessment is appropriated for the purposes of this subsection.

2. Tax increment financing payments.

With respect to a tax increment financing district located in the unorganized territory and approved by the Commissioner of Economic and Community Development pursuant to Title 30-A, chapter 206 prior to July 1, 2008, the Treasurer of State must deposit into the development program fund established by a county for the tax increment financing district pursuant to Title 30-A, section 5227, subsection 3 the tax increment revenues on the captured assessed value, as that term is defined in Title 30-A, section 5222. The payment must be made on or before October 15th following the date of assessment or within 30 days after the taxes constituting the tax increment are paid, whichever is later. The amount of the assessment is appropriated for the purposes of this subsection.

3. Deposits, abatements, interest payments and supplemental assessments. Upon collection by the State Tax Assessor, taxes collected under subsection 1 must be deposited in the Unorganized Territory Education and Services Fund. All abatements of such taxes must be charged against the Unorganized Territory Education and Services Fund and all interest and supplemental assessments must be paid into the Unorganized Territory Education and Services Fund and neither may be charged against or credited to the special fund or political subdivision on account of which the tax was levied. Any excess of supplemental assessments over abatements accruing to the Unorganized Territory Education and Services Fund must be considered as reimbursement to the Unorganized Territory Education and Services Fund for administrative expenses connected with the assessment of those taxes.

4. Intent.

The intent of the Legislature is to permit the administration of all real and personal property taxes in the unorganized territory through the Unorganized Territory Education and Services Fund as a matter of convenience and economy.

DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT

RULES GOVERNING
MUNICIPAL
TAX INCREMENT FINANCING DISTRICTS

PART III: PROGRAM STATUTES AND RULES (continued)

RULES:

19-100 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Chapter 1: MUNICIPAL TAX INCREMENT FINANCING RULE

Summary: This chapter outlines the purpose, definitions, application requirements, review procedures, designation procedures, and reporting requirements governing municipal tax increment financing districts, 30-A M.R.S.A. §§ 5221 - 5235

SECTION 1. PURPOSE AND DEFINITIONS.

A. PURPOSE

The municipal tax increment financing program, established under 30-A M.R.S.A., Chapter 206, is designed to assist municipalities in encouraging industrial, commercial, transit-oriented, or arts district development, increasing or retaining employment opportunities, and broadening tax bases. This chapter sets forth the provisions by which a municipality may utilize these programs, and describes application requirements, review procedures, designation procedures, and reporting requirements. It is the intent of the Department of Economic and Community Development to ensure, to the greatest extent possible, municipal control and responsibility for tax increment financing districts. 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.

B. DEFINITIONS

All terms used but not defined in this Chapter shall have the meanings ascribed to those terms in Chapter 207 of Title 30-A of the Maine Revised Statutes, as amended. The following terms shall have the definitions hereinafter set forth:

"Captured assessed value" means the valuation amount by which the current assessed value of the development district exceeds the original assessed value of the district and is sheltered for otherwise authorized tax increment financing purposes

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

"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.

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

"Development program" means a statement of means and objectives designed to improve the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation within the development district.

"Development program amendment" means any change to a state approved development program, including but not limited to the following:

- (a) Alteration of the district boundaries;
- (b) The addition or deletion of project costs to be financed through Tax Increment revenue;
- (c) An increase or decrease in the amount of indebtedness or other project costs to be financed through Tax Increment revenue, and
- (d) Municipal revaluation.

"Development program fund" means the account or accounts into which municipal tax increment revenues are deposited.

"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.

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

"Fiscal year" means the period of time from April 1 through March 31 of each year.

"Governing body of the municipality" means the legislative body of a municipality at any regular, special or other duly constituted meeting. In accordance with 30-A M.R.S.A. §5235, for tax increment financing in an unorganized territory, the county commissioners shall act as the municipal legislative body.

"Municipal Tax increment" means that portion of all real and personal property taxes assessed by a municipality, apart from any state, county or special district tax, upon the captured assessed value of property in a development district.

"Physical description" means a description of the tax increment financing district, including:

- (a) Tax maps delineating the property in the proposed tax increment financing district;
- (b) A municipal map showing the site location of the proposed tax increment financing district relative to the municipal boundaries;

“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.

"Record of municipal approval" means the record of the series of local actions required pursuant to 30-A M.R.S.A. §5223 and 5226 to designate a development district.

"Retail Business operation" means a business engaged primarily in making retail sales of consumer goods for household use to consumers who personally visit the location to purchase the goods, or a business providing consumer services for which sales tax is applicable.

“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.

SECTION 2. APPLICATION REQUIREMENTS - ORIGINAL

A. GENERAL

Municipalities wishing to use municipal tax increment financing to fund development programs must submit an application to the Department conforming in all material respects to the requirements of Section (B) below and providing any additional information the Department may request.

In accordance with 30-A M.R.S.A., § 5235, a county may act as a municipality for the unorganized territory within that county for purposes of municipal tax increment financing.

B. MUNICIPAL TAX INCREMENT FINANCING APPLICATION

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 one copy of an application that satisfies the

requirements of this section. The municipality shall provide with the application any additional information the Department may require.

An application for designation of a municipal tax increment financing district must contain the following, in the order listed:

1. A cover letter from an authorized municipal official certifying that all information contained in the application is true and correct to the best of his or her knowledge.
2. An Application Cover Sheet on a form provided by the Department;
3. A completed Employment Goals form provided by the Department;
4. A completed Statutory Requirements & Thresholds form provided by the Department;
5. A Development program which includes
 - a) Description of public facilities, improvements, or programs to be financed in whole or in part by the development program
 - b) Description of commercial facilities, arts districts, improvements or projects to be financed in whole or in part by the development program
 - c) Duration of the program (may not exceed 30 years)
 - d) Certification of original assessed value of the taxable property in the TIF district by the municipal tax assessor, using valuation from the prior March 31st
 - e) A physical description of the district including
 - i. A municipal map clearly showing the site location of the proposed district relative to the municipal boundaries; and
 - ii. Tax maps clearly delineating the boundaries of the proposed district
 - f) Financial plan
 - i. Cost estimates for the development program
 - ii. Amount of public indebtedness to be incurred
 - iii. Sources of anticipated revenues
 - iv. Description of the terms and conditions of any agreements, contracts or other obligations related to the development program (e.g. credit enhancement agreements CEAs)
 - v. Estimates of increased assessed values of the district for each year of the program
 - vi. 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
 - vii. Tax shift calculations for each year of the program
 - g) Plans for the relocation of persons displaced by the development activities
 - h) Proposed regulations and facilities to improve transportation

- i) Environmental controls to be applied
- j) Proposed operation of the development district after the planned capital improvements are completed
- 6) Evidence of public hearing
 - a) 10 day notice of public hearing, including proof of date of publication
 - b) Minutes of public hearing, attested to and signed
 - c) Record of district designation by municipal legislative body

C. 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 completed application to the Department.

D. 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.

SECTION 3. APPLICATION REQUIREMENTS – DOWNTOWN TIF DISTRICT

A. GENERAL

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 three 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.

B. CONTENTS

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

1. All items specified in sections 2B, 3, 4 and
2. A comprehensive downtown redevelopment plan approved by the legislative body of the municipality.

SECTION 4. APPLICATION REQUIREMENTS – AMENDMENTS

A. GENERAL

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.

Examples of such amendments include but are not limited to: 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.

B. CONTENTS

An application for amendment of a municipal tax increment financing district and/or development program must contain:

1. A cover letter from an authorized municipal official certifying that all information contained in the amendment is true and correct to the best of his or her knowledge.
2. A narrative summary of the changes included in the proposed amendment;
3. Evidence of public hearing for the proposed amendment
 - a) 10 day notice of public hearing, including proof of date of publication
 - b) Minutes of public hearing, attested to and signed
 - c) Record of amended district designation by municipal legislative body

Further, the application must contain any of the following items which have changed from the original application, in the order listed:

4. A completed Employment Goals form provided by the Department;
5. A completed Statutory Requirements & Thresholds form provided by the Department;
6. A Development program which includes
 - a) Description of public facilities, improvements, or programs to be financed in whole or in part by the development program
 - b) Description of commercial facilities, arts districts, improvements or projects to be financed in whole or in part by the development program
 - c) Duration of the program (may not exceed 30 years)
 - d) Certification of original assessed value of the taxable property in the TIF district by the municipal tax assessor, using valuation from the prior March 31st
 - e) A physical description of the amended district including

- i. A municipal map clearly showing the site location of the proposed district relative to the municipal boundaries and original district; and
 - ii. Tax maps clearly delineating the boundaries of the proposed amended district
- f) Financial plan
- iii. Cost estimates for the development program
 - iv. Amount of public indebtedness to be incurred
 - v. Sources of anticipated revenues
 - vi. Description of the terms and conditions of any agreements, contracts or other obligations related to the development program (e.g. credit enhancement agreements CEAs)
 - vii. Estimates of increased assessed values of the district for each year of the program
 - viii. 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
 - ix. Tax shift calculations for each year of the program
- g) Plans for the relocation of persons displaced by the development activities
- h) Proposed regulations and facilities to improve transportation
- i) Environmental controls to be applied
- j) Proposed operation of the development district after the planned capital improvements are completed

C. AMENDING 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.

D. 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.

SECTION 5. DEPARTMENT REVIEW AND CERTIFICATION

A. 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.

B. 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 5, subsection F.

C. CERTIFICATE OF APPROVAL

1. Contents – Original or Downtown designation

- a. The name of the tax increment financing district;
- b. The effective date of the approval
- c. The term of the tax increment financing district, not to exceed 30 years from the date of designation of the district;
- d. The requirements for capturing value;
- 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 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.

2. Contents – Amended designation

- 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 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
- i. Any other information the Department determines necessary.

D. COMMENCEMENT 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.

E. 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.

F. 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.

SECTION 7. ANNUAL REPORTING REQUIREMENTS.

A. MUNICIPALITIES

Annually, a municipality in which a state approved municipal tax increment financing district is located must report the following information, using forms provided by the Department:

1. To the extent to which public improvements and project plans outlined in the development program have been completed.
2. The extent to which debt incurred in implementing the development program has been retired.
3. Any other information specifically requested by the Department.

B. 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.

STATUTORY AUTHORITY: 5 M.R.S.A. § 13058(3)
30-A M.R.S.A., §5254-A(I-B) (C) and (6)

EFFECTIVE DATE:
June 13, 1994

EFFECTIVE DATE (ELECTRONIC CONVERSION):
May 15, 1996

CONVERTED TO MS WORD:
July 9, 2003

Title 36: TAXATION

Chapter 101: GENERAL PROVISIONS

Subchapter 1: POWERS AND DUTIES OF STATE TAX ASSESSOR

§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.

Chapter 102: PROPERTY TAX ADMINISTRATION

Subchapter 1: BUREAU OF REVENUE SERVICES

§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, the captured assessed value located within a municipal affordable housing development district 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 30-A, 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 30-A, 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.

PART IV: CONTACT INFORMATION

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To view this manual electronically, or for more information regarding Tax Increment Financing and other Tax Incentives Programs, please visit our website at www.businessinmaine.com