

2018 -- H 7556

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Representatives Barros, Ruggiero, Tobon, Messier, and Johnston

Date Introduced: February 09, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-32-1 of the General Laws in Chapter 45-32 entitled
2 "Redevelopment Projects" is hereby amended to read as follows:

3 **45-32-1. Compliance prerequisite to further proceedings.**

4 A community must comply with the requirements of §§ 45-32-2 -- 45-32-3 before
5 proceeding further under chapters 31 -- 33 of this title.

6 SECTION 2. The title of Chapter 45-33.2 of the General Laws entitled "Tax Increment
7 Financing" is hereby amended to read as follows:

8 ~~CHAPTER 45-33.2~~

9 ~~Tax Increment Financing~~

10 CHAPTER 45-33.2

11 MUNICIPAL TAX INCREMENT FINANCING ACT

12 SECTION 3. Sections 45-33.2-1, 45-33.2-3, 45-33.2-5, 45-33.2-6, 45-33.2-12 and 45-
13 33.2-21 of the General Laws in Chapter 45-33.2 entitled "Tax Increment Financing" are hereby
14 amended to read as follows:

15 **45-33.2-1. Short title.**

16 This chapter may be referred to and cited as the ~~"Tax Increment Financing Act".~~

17 "Municipal Tax Increment Financing Act."

18 **45-33.2-3. Definitions.**

19 As used §§45-33.2-3 through 45-33.2-21 in this chapter, excepting §45-33.2-3.1, or as

1 [otherwise specified with respect to other sections](#), unless a different meaning clearly appears from
2 the context, the following words have the following meanings:

3 (1) "Base date" means the last assessment date next preceding the adoption of the project
4 plan.

5 (2) "Project" means the undertaking of one or more of the following activities in
6 accordance with a project plan:

7 (i) The acquisition of land and improvements on it, if any, within the project area, and the
8 assembly and clearance of the land so acquired,

9 (ii) The development, redevelopment, revitalization, or conservation of the project area
10 through the construction or rehabilitation of buildings or other improvements or through
11 acquisition by gift, purchase, or eminent domain of land and any improvements of the area, and
12 demolition, removal, or rehabilitation of those improvements, whenever these activities are
13 necessary to provide land for and the development of needed municipal and other public facilities
14 or industrial or commercial development or revitalization, or to eliminate unhealthful, unsanitary,
15 or unsafe conditions or lessen density, mitigate or eliminate traffic congestion, reduce traffic
16 hazards, eliminate obsolete or other uses detrimental to the public welfare or otherwise remove or
17 prevent the spread of blight or deterioration,

18 (iii) The provision of grants, loans, security or other assistance from project revenues [or](#)
19 [other revenues](#) and other funds in connection with: (A) home and neighborhood improvement
20 programs; (B) programs to acquire, renovate or transfer abandoned or fully or partially vacated
21 houses; and (C) programs to acquire land, demolish buildings and other structures and clear and
22 rehabilitate sites for the purpose of reducing building density or promoting new housing
23 construction, or

24 (iv) The provision of grants, loans, security or other assistance from project revenues [or](#)
25 [other revenues](#) and other funds to combat poverty, improve municipal and neighborhood living
26 conditions and enhance educational and employment opportunities, including, without limiting
27 the generality of the foregoing, by means of job training and retraining programs, literacy
28 programs, apprenticeship programs, programs to provide post-secondary school educational
29 grants or other assistance to students meeting eligibility criteria established in the project plan,
30 programs to improve the performance of public schools, pilot projects to provide special or
31 enhanced municipal services and commercial and industrial revitalization and development.

32 (v) A project may involve a combination of the previously mentioned activities. A project
33 may include the provision of financial and other assistance in the relocation of persons and
34 organizations displaced thereby, and the planning and construction, reconstruction, or

1 rehabilitation of public facilities.

2 (3) "Project area" except as set forth in this subdivision, means all or any portion of a
3 "redevelopment area," as that term is defined in § 45-31-8(15), in which the project is to be
4 carried out; provided, that the following projects are not required to be in a "redevelopment area":
5 (i) the acquisition and clearance of land and the construction on it of a municipal or other public
6 facility under the definition of "project," paragraphs (2)(i) or (2)(ii); or (ii) a project described in
7 paragraphs (2)(iii) or (2)(iv) of the definition of "project.". The project area may consist of one or
8 more parcels or lots of land, whether or not contiguous, or one or more buildings or structures,
9 whether or not adjacent, on one or more parcels of land. The project area may, but need not, be
10 within the tax increment area. All or any portion of a project area may be amended as provided in
11 § 45-33.2-4. A project for which a designated beneficiary class or classes is established on the
12 basis of income and/or some other generally applicable criteria in the project plan may have, but
13 is not required to have, a project area.

14 (4) (i) "Project plan" means a plan, which, except as set forth in this subdivision, is part
15 of a "redevelopment plan," as that term is defined in § 45-31-8(16), adopted by a city or town in
16 the manner provided in § 45-33.2-4, for a project, provided, that a project plan for the following
17 projects is not required to be a part of a "redevelopment plan": (A) the acquisition and clearance
18 of land and the construction on it of a municipal or other public facility under paragraphs (2)(i) or
19 (2)(ii) of the definition of "project"; or (B) a project under subdivision (2). The project plan shall
20 present an estimate of project costs and the amounts and sources of funds to be used to defray
21 those costs and shall include provisions for tax increment funding and/or financing of project
22 costs in whole or in part. The tax increment financing provisions of the project plan shall state the
23 estimated amount of indebtedness to be incurred pursuant to this chapter, an estimate of the tax
24 increment to be generated as a result of the project, the method of calculating the tax increment,
25 together with any provisions for adjustment of the method of calculation, and shall designate the
26 board or officer of the city or town responsible for calculating the tax increment. Funds may be
27 provided to carry out the plan from any lawful source, including the direct use of all or any
28 portion of the tax increment therefore or the issuance of bonds under this chapter, but may not be
29 provided by the issuance of general obligation bonds for any purpose for which general obligation
30 bonds could not be issued in the absence of this chapter. The plan may include any other
31 provisions that may be deemed necessary in order to carry out the tax increment funding and/or
32 financing of the project. The project plan shall not be inconsistent with the comprehensive plan
33 for the city or town as is then applicable, shall be sufficiently complete to indicate the nature of
34 any designated beneficiary class, as described in this subdivision, the location and boundaries of

1 any project area and of the tax increment area, and land acquisition, demolition, removal and
2 rehabilitation of structures and development, redevelopment, and general public improvements
3 that are proposed to be carried out within the project area, and to the extent applicable the plan
4 shall indicate the proposed method for relocation of persons or organizations that may be
5 displaced as a result of carrying out the project.

6 (ii) Once adopted by the legislative body of a city or town, a project plan may be
7 amended to add additional projects, to increase the estimated amount of indebtedness to be
8 incurred pursuant to this chapter or to amend all or any portion of a project area or the designation
9 of a beneficiary class relating to any project contained in the project plan, in the manner provided
10 in § 45-33.2-4. Each project contained in a project plan shall either have a project area designated
11 in the project plan or there shall be established in the project plan a designated beneficiary class
12 or classes (from whose members the actual beneficiaries shall be chosen) on the basis of income
13 (with provision for revision of income limits due to inflation and other external economic factors)
14 or some other generally applicable criteria; provided, that a project may have both a project area
15 and a designated beneficiary class or classes.

16 (5) "Project revenues" means any receipts of a city or town with respect to a project or the
17 tax increment area or tax increment district, as defined in § 45-33.2-3.1(9), relating to it
18 including, without limiting the generality of the foregoing, tax increments, repayments of loans
19 including loans made under § 45-33.2-5(13), investment earnings, proceeds of insurance, or
20 disposition of property, and proceeds of borrowing under this chapter.

21 (6) "Tax increment", for the purposes of §§ 45-33.2-3 through 45-33.2-21, means the tax
22 levied on the real and personal property situated in or otherwise assignable for the purposes of
23 property taxation to a tax increment area, to the extent that the tax is attributable to an excess of
24 the aggregate taxable valuation of the property over its aggregate taxable valuation as of the base
25 date. The portion of the tax levy attributable to the increased valuation after the base date shall be
26 calculated using the same classification factors as were used as of the base date, or without
27 classification factors if property was not classified for tax purposes as of the base date. ~~In~~
28 ~~calculating the tax increment there shall be excluded from the tax the portion levied for the~~
29 ~~purpose of paying the principal of or interest on bonds, notes, and other evidences of~~
30 ~~indebtedness which are general obligations of the city or town.~~ Prior to the actual use of any
31 portion of a tax increment to support or secure a project or portion of one, unused tax increment
32 may be deposited upon receipt into the general fund of the city or town, to be used in accordance
33 with generally applicable law. Once the city or town has used any portion of the tax increment to
34 support or secure one or more projects or portions of them, only the excess of tax increment may

1 be deposited into the general fund of the city or town, to be used in accordance with generally
2 applicable law, after satisfaction of: (i) the payment of the principal of or interest on any special
3 obligation bonds issued under the provisions of § 45-33.2-6, as principal and interest shall then be
4 due and owing; (ii) any requirement to fund any reserve or other account or satisfy any other
5 financial requirement which must be satisfied in connection with the issuance of bonds or any
6 other indebtedness or obligation incurred in connection with any project or portion of one; and
7 (iii) any payments made to directly fund any project or portion of one as provided in the project
8 plan therefor.

9 (7) "Tax increment area" means a tax increment area designated in a project plan adopted
10 pursuant to § 45-33.2-4. The tax increment area may consist of one or more parcels or lots of
11 land, whether or not contiguous, on one or more buildings or structures, whether or not adjacent,
12 or on one or more parcels of land; provided, that upon adoption of the project plan the aggregate
13 taxable valuation of the property within all tax increment areas within the city or town does not
14 exceed twenty-five percent (25%) of the taxable valuation of all property subject to taxation
15 within the city or town.

16 **45-33.2-5. Authorization to undertake projects -- Powers.**

17 Cities and towns are authorized to undertake projects pursuant to duly adopted project
18 plans [and tax increment district master plans, as defined in § 45-33.2-3.1\(11\)](#). In addition to
19 powers granted under this section or by any other law, for the purposes of carrying out a project
20 as authorized by this chapter, a city or town has the following powers:

21 (1) To incur indebtedness, and pledge tax increments, ~~and other~~ project revenues [and](#)
22 [other revenues](#) for repayment of indebtedness;

23 (2) To designate a board or officer of the city or town to be responsible for administering
24 the project plan [or tax increment district master plan](#);

25 (3) To make and enter into all contracts and agreements necessary in order to carry out
26 the project;

27 (4) To receive from the federal government or the state, loans or grants for or in aid of a
28 project, and to receive contributions from any other source to defray project costs;

29 (5) To purchase or otherwise acquire property or interests in property therein within or
30 without a project area [or tax increment district](#) as the city or town may deem necessary in order to
31 carry out the project;

32 (6) To make relocation payments to persons, businesses, or organizations that may be
33 displaced as a result of carrying out the project;

34 (7) To clear and improve property acquired by it pursuant to the project plan [or tax](#)

1 [increment district master plan](#), and construct public facilities on it, or contract for the
2 construction, development, redevelopment, rehabilitation, remodeling, alteration, or repair of the
3 property;

4 (8) To cause parks, playgrounds, or schools or water, sewer, or drainage facilities, or any
5 other public improvements which it otherwise is authorized to undertake, to be laid out,
6 constructed, or furnished in connection with the project;

7 (9) To lay out and construct, alter, relocate, change the grade of, make specific repairs
8 upon or discontinue public ways, and construct sidewalks in or adjacent to the project area [or tax](#)
9 [increment district](#);

10 (10) To cause private ways, sidewalks, ways for vehicular travel, playgrounds, or water,
11 sewer, or drainage facilities and similar improvements to be constructed within the project area [or](#)
12 [tax increment district](#) for the particular use of the project area [or tax increment district](#) of those
13 dwelling or working in it;

14 (11) To adopt ordinances, or repeal or modify ordinances, or establish exceptions to
15 existing ordinances regulating the design, construction, and use of buildings;

16 (12) To sell, mortgage, lease as lessor, transfer, or dispose of any property or interest in
17 property acquired by it pursuant to the project plan [or tax increment district master plan](#) for
18 development, redevelopment, or rehabilitation in accordance with the plan;

19 (13) To grant or loan any project revenues [or other revenues](#), including the proceeds of
20 any issue of bonds or notes issued pursuant to this chapter to an individual or any private
21 enterprise, nonprofit organization or governmental or quasi-governmental entity in order to
22 finance the cost of any portion of a project authorized under this chapter, including, without
23 limiting the generality of the preceding, the cost of acquiring land for, and constructing or
24 rehabilitating and equipping ~~industrial or commercial development facilities~~ [industrial,](#)
25 [commercial, residential, retail and mixed use, transit-oriented development, downtown](#)
26 [development or any combination thereof](#), within the project area in accordance with the plan [or](#)
27 [within a tax increment district in accordance with a tax increment district master plan](#), or to loan
28 bond or note proceeds in order to refinance any loans;

29 (14) To invest project revenues [or other revenues](#) as provided in § 45-33.2-12; and

30 (15) To do all things reasonably necessary or convenient to carry out the powers granted
31 in this chapter.

32 **45-33.2-6. Issuance of special obligation bonds.**

33 (a) A city or town may, in compliance with any applicable provisions of the general laws
34 (except as provided in this section) borrow money by the issue of special obligation bonds for the

1 purpose of carrying out a project pursuant to a duly adopted project plan or tax increment district
2 master plan, as defined in § 45-33.2-3.1(11). Without limiting the generality of the preceding, the
3 bonds may be issued for project costs which may include interest prior to and during the carrying
4 out of a project and for a reasonable time thereafter, reserves that may be required by any
5 agreement securing the bonds, and all other expenses including reimbursements of expenses
6 previously paid from any other source, incidental to planning, carrying out, and financing the
7 project. Bonds issued under this section shall be payable solely from:

8 (1) Project ~~project~~ revenues;

9 (2) A pledge of and lien upon any or all of the income, proceeds, revenues and property
10 of the project within the tax increment area, project area or tax increment district, including the
11 proceeds of grants, loans, advances or contributions from the federal government, the state or
12 other source; and

13 (3) Any combination of the sources in subsections (a)(1) and (a)(2) of this section, and
14 shall not be deemed to be a pledge of faith and credit of the city or town. Every bond issued under
15 this section shall recite on its face that it is a special obligation bond payable solely from project
16 revenues or other revenues pledged for its repayment.

17 (b) The bonds of each issue shall be dated and may be made redeemable before maturity
18 with or without premium. Subject to the authorizing vote, the officers authorized to sell the bonds
19 shall determine the date or dates of the bonds, their denomination or denominations, the place or
20 places of payment of the principal and interest, which may be at any bank or trust company
21 within or without the state, their interest rate or rates, including variable rates, prices, maturity or
22 maturities not to exceed thirty (30) years, redemption privileges, if any, and the form and other
23 details of the bonds, including interest coupons to be attached to them. The bonds shall be signed
24 by the city or town treasurer, countersigned by the mayor of a city or by the president of the town
25 council of a town, either manually or by facsimile, and shall bear the seal of the city or town or a
26 facsimile of the seal. Any coupons attached thereto shall bear the facsimile signature of the city or
27 town treasurer.

28 (c) In case any officer whose signature or a facsimile of whose signature appears on any
29 bonds, coupons, or notes issued under this chapter ceases to be an officer before their delivery,
30 the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same
31 as if the officer had remained in office until the delivery.

32 (d) The bonds may be issued in coupon or registered form, or both, and provision may be
33 made for the registration of any coupon bonds as to principal alone and also as to principal and
34 interest, for the reconversion into coupon bonds or bonds registered as to both principal and

1 interest, and for the interchange of registered and coupon bonds. Subject to the authorizing vote,
2 the officers authorized to sell the bonds may sell the bonds in a manner, either at public or private
3 sale, and for a price, as they may determine will best effect the purposes of this chapter.

4 (e) Prior to the preparation of definitive bonds, the city or town may issue interim receipts
5 or temporary bonds, with or without coupons, exchangeable for definitive bonds when those
6 bonds have been executed and are available for delivery. Provision may be made for the
7 replacement of any bonds which have become mutilated or have been destroyed or lost.

8 (f) Notwithstanding any provisions of any municipal charter or general or special law to
9 the contrary, bonds issued under this section may provide for annual or more frequent
10 installments of principal in equal, diminishing, or increasing amounts, with the first installment of
11 principal to be due at any time within five (5) years from the date of the issuance of the bonds.

12 (g) While any bonds issued hereunder remain outstanding, the existence of the tax
13 increment district and the powers and duties of a city or town with respect to such tax increment
14 district shall not be diminished or impaired in any way that will affect adversely the interests and
15 rights of the holders of the bonds. Any bonds issued by a city or town pursuant to this section
16 shall contain on their face a statement to the effect that neither the state nor the city or town shall
17 be obliged to pay the principal of or the interest thereon, and that neither the full faith and credit
18 or taxing power of the state or the city or town is pledged to the payment of the bonds. All bonds
19 issued under this section are deemed to be negotiable instruments under the laws of this state.

20 (h) As used in this section, "bonds" means any bonds, including refunding bonds, notes,
21 interim certificates, debentures or other obligations.

22 **45-33.2-12. Investment of funds.**

23 Subject to any agreement securing bonds or notes issued under this chapter, the proceeds
24 of the bonds or notes, pledged tax increments, and other project revenues may be deposited or
25 invested in:

- 26 (1) Obligations of the state or the United States,
- 27 (2) Obligations of the principal and interest of which are guaranteed by the state or the
28 United States,
- 29 (3) Obligations of agencies and instrumentalities of the state or the United States; ~~or~~
- 30 (4) Certificates of deposits of, and repurchase agreements, so called, issued with respect
31 to obligations of the United States by, banks and trust companies organized under the laws of the
32 state or doing business in the state; ~~or~~ or

33 (5) As may be provided in any other applicable law of the state or resolution of a city or
34 town council or pursuant to an investment policy of the city or town.

1 **45-33.2-21. Tax limitations.**

2 (a) Except as provided below, a tax increment shall be included in the calculation of the
3 maximum tax a city or town may levy pursuant to the provisions of § 44-5-2 of the general laws.

4 (b) To the extent that inclusion of a tax increment in a tax levy causes a municipality to
5 exceed the maximum tax a city or town may levy pursuant to the provisions of § 44-5-2 of the
6 general laws, such excess shall be excluded from such calculation for a period not to exceed
7 twenty-five (25) years if:

8 ~~(1) Such such~~ excess tax increment is allocable to: (i) the payment of the principal of or
9 interest on any special obligation bonds issued under the provisions of § 45-33.2-6, to fund a
10 project as described in subdivisions 45-33.2-3(2)(i), (ii) or (iii) under this chapter; (ii) any
11 requirement to fund any reserve or other account or satisfy any other financial requirement which
12 must be satisfied in connection with the issuance of such bonds or any other indebtedness or
13 obligation incurred in connection with any such project or portion of one; or (iii) any payments
14 made to directly fund any project ~~described in subdivisions 45-33.2-3(2)(i), (ii) or (iii); and.~~

15 ~~(2) The project is determined by the division of property valuation in the department of~~
16 ~~revenue to be: (i) within or contiguous to the tax increment area; or (ii) substantially related to the~~
17 ~~improvements giving rise to the tax increment; or (iii) reasonably necessary to assure the private~~
18 ~~investment required to generate the tax increment.~~

19 (c) The tax assessor in each city and town shall include calculations reflecting any tax
20 increment excluded from the tax cap provisions of § 44-5-2 of the general laws when submitting
21 the municipality's adopted tax levy and rate to the division of property valuation in accordance
22 with § 44-5-2 of the general laws.

23 ~~(d) The division of property valuation in the department of revenue may issue such~~
24 ~~regulations as may be required to implement and enforce the provisions of this section.~~

25 SECTION 4. Chapter 45-33.2 of the General Laws entitled "Tax Increment Financing" is
26 hereby amended by adding thereto the following sections:

27 **45-33.2-3.1. Additional definitions.**

28 As used in §§ 45-33.2-22 through 45-33.2-29, or as otherwise specified, unless the
29 context otherwise requires:

30 (1) "Captured assessed value" means the amount, as a percentage or stated sum, of
31 increased assessed value that is utilized from year to year to finance project costs pursuant to a
32 tax increment district master plan.

33 (2) "Current assessed value" means the assessed value of all taxable real property within
34 a tax increment district as of December 31 of each year that the tax increment district remains in

1 effect.

2 (3) "Downtown" means a central business district or other commercial neighborhood area
3 of a community that serves as a center of socioeconomic interaction in the community,
4 characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with
5 civic, religious and residential buildings and public spaces, that are typically arranged along a
6 main street and intersecting side streets and served by public infrastructure.

7 (4) "Increased assessed value" means the valuation amount by which the current assessed
8 value of a tax increment district exceeds the original assessed value of the tax increment district.
9 If the current assessed value is equal to or less than the original assessed value, there is no
10 increased assessed value.

11 (5) "Maintenance and operation" means all activities necessary to maintain facilities after
12 they have been developed and all activities necessary to operate such facilities, including, but not
13 limited to, informational, promotional and educational programs and safety and surveillance
14 activities.

15 (6) "Original assessed value" means the assessed value of all taxable real property within
16 a tax increment district as of December 31 of the tax year preceding the year in which the tax
17 increment district was established by a city or town council.

18 (7) "Project costs" means any expenditures or monetary obligations incurred or expected
19 to be incurred that are authorized by § 45-33.2-28 and included in a tax increment district master
20 plan.

21 (8) "Tax increment" means real property taxes assessed by a city or town upon the
22 increased assessed value of property in the tax increment district.

23 (9) "Tax increment district" means that area wholly within the corporate limits of a
24 municipality that has been established and designated as such pursuant to § 45-33.2-23 and that is
25 to be developed under a tax increment district master plan.

26 (10) "Tax increment district financial plan" means a statement of the project costs and
27 sources of revenue required to accomplish the tax increment district master plan.

28 (11) "Tax increment district master plan" means a statement of means and objectives
29 prepared by a city or town relating to a tax increment district designed to provide new
30 employment opportunities, retain existing employment, provide housing opportunities, improve
31 or broaden the tax base or construct or improve the physical facilities and structures through the
32 development of industrial, commercial, residential, retail and mixed use, transit-oriented
33 development, downtown development or any combination thereof, as described in § 45-33.2-26.

34 (12) "Tax year" means the period of time beginning on July 1 and ending on the

1 succeeding June 30 or such other twelve (12) month period adopted as the tax year of a city or
2 town.

3 (13) "Transit" means transportation systems in which people are conveyed by means
4 other than their own vehicles, including, but not limited to, bus systems, street cars, ferries, light
5 rail and other rail systems.

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

9 (15) "Transit-oriented development" means the development of residential, commercial
10 and employment centers within one-half (1/2) mile or walking distance of a transit facility,
11 including rail and bus rapid transit and services that meet transit supportive standards for land
12 uses, built environment densities and walkable environments, in order to facilitate and encourage
13 the use of those services. Transit-oriented development includes, but is not limited to, transit
14 vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and
15 other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane
16 construction and other bicycle-related improvements; pedestrian improvements such as
17 crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the
18 industrial, commercial, residential, retail and mixed-use portions of transit-oriented development
19 projects.

20 **45-33.2-22. Alternate tax increment provisions.**

21 Section 45-33.2-3.1 and §§ 45-33.2-22 through 45-33.2-29 are intended to modernize the
22 laws of the state governing tax increment financing to facilitate economic development in the
23 state. Section 45-33.2-3.1 and §§ 45-33.2-22 through 45-33.2-29 shall be construed to provide a
24 complete, additional, and alternative method for performing the things authorized by this chapter,
25 and shall be regarded as supplemental and in addition to the powers conferred by other laws,
26 including §§ 45-33.2-2 through 45-33.2-21. Cities and towns which have created tax increments
27 in accordance with §§ 45-33.2-2 through 45-33.2-21 may elect to use the provisions of § 45-33.2-
28 3.1 and §§ 45-33.2-22 through 45-33.2-29 by adopting an ordinance of the city or town council:

29 (1) Declaring the intention to be bound by § 45-33.2-3.1 and §§ 45-33.2-22 through 45-
30 33.2-29; and

31 (2) Approving such amendments to the city or town redevelopment plan and project plan
32 as may be required to proceed in accordance with § 45-33.2-3.1 and §§ 45-33.2-22 through 45-
33 33.2-29. Effective July 1, 2018, a tax increment may be established which is not in a project area,
34 as defined in § 45-33.2-3 or adopted pursuant to a project plan, as defined in § 45-33.2-3.

1 **45-33.2-23. Establishment of tax increment district -- Powers within tax increment**
2 **district.**

3 (a) A city or town council may establish a tax increment district located wholly within the
4 boundaries of such city or town in accordance with the requirements of § 45-33.2-3.1 and §§ 45-
5 33.2-22 through 45-33.2-29. Establishment of a tax increment district is effective upon approval
6 by a city or town council and upon adoption of a tax increment district master plan pursuant to §
7 45-33.2-26.

8 (b) Within tax increment districts and consistent with the tax increment district master
9 plan, a city or town, in addition to powers granted to it under the constitution, the general laws,
10 any special act, § 45-33.2-5 and §§ 45-33.2-22 through 45-33.2-29 shall have the following
11 powers with respect to tax increment districts:

12 (1) To acquire, construct, reconstruct, improve, preserve, alter, extend, operate or
13 maintain property or promote development intended to meet the objectives of the tax increment
14 district master plan. A city or town may acquire property, land or easements through negotiation
15 or by other means authorized for municipalities under the general laws. The provisions of any
16 charter, other laws or ordinances, general, special, or local, or of any rule or regulation of the state
17 or any city or town, restricting or regulating in any manner the power of any city or town to lease
18 (as lessee or lessor) or sell property, real, personal, or mixed, shall not apply to leases and sales
19 made pursuant to this chapter. Any city or town, notwithstanding any contrary provision of any
20 charter, other laws or ordinances, general, special or local, or of any rule or regulations of the
21 state or the city or town, is authorized and empowered to lease, lend, pledge, grant, or convey
22 terms and conditions that the chief executive officer, if any, or where no chief executive officer
23 exists, the city or town council, may deem reasonable and fair and without the necessity for any
24 advertisement, order of court, or other action or formality, any real property or personal property
25 which may be necessary or convenient to effectuation of a project, including public roads and
26 other real property already devoted to public use;

27 (2) To execute and deliver contracts, agreements and other documents relating to the
28 development, operation and maintenance of the tax increment district, including, but not limited
29 to, contracts providing for liquidity facilities such as letters of credit, or providing for credit
30 enhancement, which contracts, agreements and other documents may have a term not to exceed
31 twenty-five (25) years;

32 (3) To issue bonds and other obligations of the city or town in accordance with the
33 provisions set forth in § 45-33.2-6;

34 (4) Acting through its city or town council, to enter into written agreements with a

1 taxpayer stabilizing or otherwise fixing the assessment of real estate within a tax increment
2 district, provided:

3 (i) The term of such agreement shall not exceed twenty-five (25) years from the date of
4 the agreement; and

5 (ii) The assessment agreed on for the real estate plus future improvements shall not be
6 less than the assessment of the real estate as of the last regular assessment date without such
7 future improvements. Any such agreement shall be recorded in the land records in the city or
8 town. Recording of the agreement constitutes notice of the agreement to a subsequent purchaser
9 or encumbrancer of the property or any part of it, whether voluntary or involuntary, and is
10 binding upon a subsequent purchaser or encumbrancer. If a city or town claims that the taxpayer
11 is not complying with the terms of such agreement, the city or town may bring an action in the
12 superior court for the county in which the city or town is located to force compliance with such
13 agreement;

14 (5) Accept grants, advances, loans or other financial assistance from the federal
15 government, the state, private entities or any other source, and do any and all things necessary or
16 desirable to secure such financial aid;

17 (6) Upon such terms as a city or town determines, furnish service or facilities, provide
18 property, lend, grant or contribute funds, including tax increment, and take any other action of a
19 character that it is authorized to perform for other purposes.

20 (c) The tax increment district may be dissolved at any time, and the boundaries of such
21 district may be changed at any time, by a vote of a city or town council, except that the tax
22 increment district may not be dissolved nor may the boundaries of the tax increment district be
23 changed so long as any bonds or other indebtedness authorized and issued under §§ 45-33.2-22
24 through 45-33.2-29, inclusive, or any other obligations authorized and incurred under §§45-33.2-
25 22 through 45-33.2-29, inclusive, remain outstanding. The tax increment district shall terminate
26 without further action of a city or town council forty (40) years after the date it is established, if
27 no such bonds or other indebtedness remain outstanding.

28 **45-33.2-24. Reserved.**

29 **45-33.2-25. Planning commission advisory opinion -- Conditions for tax increment**
30 **district.**

31 Prior to the establishment of a tax increment district and approval of a tax increment
32 district master plan for such tax increment district, a city or town council shall:

33 (1) Consider whether the proposed tax increment district and tax increment district master
34 plan will contribute to the economic growth or well-being of the city or town or to the betterment

1 of the health, welfare or safety of the inhabitants of the city or town:

2 (2) Transmit the tax increment district master plan to the planning commission of the city
3 or town, if any, requesting a study of the tax increment district master plan and a written advisory
4 opinion. The planning commission shall, within ninety (90) days, or such additional period
5 approved by the city or town council, provide a written advisory opinion to the city or town
6 council. Such written advisory opinion shall include a determination on whether the plan is
7 consistent with the comprehensive plan of the city or town adopted under § 45-22.2-8;

8 (3) Hold at least one public hearing on the proposal to establish a tax increment district.
9 Notice of the hearing shall be published at least ten (10) days prior to the hearing in a newspaper
10 having general circulation within the city or town and shall include:

11 (i) The date, time and place of such hearing; and

12 (ii) The boundaries of the proposed tax increment district by legal description; and

13 (4) Determine whether the proposed tax increment district meets the following
14 conditions:

15 (i) A portion of the real property within a tax increment district shall meet at least one of
16 the following criteria:

17 (A) Be a substandard, insanitary, deteriorated, deteriorating or blighted area;

18 (B) Be in need of rehabilitation, redevelopment or conservation work; or

19 (C) Be suitable for industrial, commercial, residential, mixed-use or retail uses,
20 downtown development or transit-oriented development; and

21 (ii) The original assessed value of a proposed tax increment district plus the original
22 assessed value of all existing tax increment districts within a city or town may not exceed twenty-
23 five percent (25%) of the total value of taxable property within the city or town as of December
24 31 of the year immediately preceding the establishment of the tax increment district. Excluded
25 from the calculation in this subdivision is any tax increment district established on or after the
26 effective date of § 45-33.2-3.1 and §§ 45-33.2-22 through 45-33.2-29 that consists entirely of
27 contiguous property owned by a single taxpayer. For the purpose of this subsection, "contiguous
28 property" includes a parcel or parcels of land divided by a road, power line, railroad line or right-
29 of-way. A city or town may not establish a tax increment district if the conditions in this
30 subsection are not met.

31 **45-33.2-26. Adoption of tax increment district master plan.**

32 (a) In connection with the establishment of a tax increment district, a city or town council
33 shall adopt a tax increment district master plan for each tax increment district and a statement of
34 the percentage or stated sum of increased assessed value to be designated as captured assessed

1 value in accordance with such plan. The tax increment district master plan shall be adopted at the
2 same time that the tax increment district is established, as part of the tax increment district
3 adoption proceedings set forth in §§ 45-33.2-22 through 45-33.2-29.

4 (b) The tax increment district master plan shall include:

5 (1) The boundaries of the tax increment district by legal description;

6 (2) A list of the tax identification numbers for all lots or parcels within the tax increment
7 district;

8 (3) A description of the present condition and uses of all land and buildings within the tax
9 increment district;

10 (4) A description of the public facilities, improvements or programs within the tax
11 increment district anticipated to be added and financed in whole or in part;

12 (5) A description of the industrial, commercial, residential, mixed-use or retail
13 improvements, downtown development or transit-oriented development within the tax increment
14 district anticipated to be financed in whole or in part;

15 (6) A tax increment district financial plan in accordance with subsection (c) of this
16 section;

17 (7) A plan for the proposed maintenance and operation of the tax increment district after
18 the planned capital improvements are completed; and

19 (8) The maximum duration of the tax increment district, which may not exceed a total of
20 forty (40) tax years beginning with the tax year in which the tax increment district is established.

21 (c) The tax increment district financial plan for a tax increment district master plan shall
22 include:

23 (1) Cost estimates for the public improvements and developments anticipated in the tax
24 increment district master plan;

25 (2) The maximum amount of indebtedness to be incurred to implement the tax increment
26 district master plan;

27 (3) Sources of anticipated revenues;

28 (4) A description of the terms and conditions of any agreements, including any
29 anticipated assessment agreements, contracts or other obligations related to the tax increment
30 district master plan;

31 (5) Estimates of increased assessed values of the tax increment district; and

32 (6) The portion of the increased assessed values to be applied to the tax increment district
33 master plan as captured assessed values and resulting tax increments in each year of the plan.

34 (d) The tax increment district master plan may be amended from time to time by a city or

1 town council. The city or town council shall review the tax increment district master plan at least
2 once every ten (10) years after the initial approval of the tax increment district and the tax
3 increment district master plan in order for the tax increment district and the tax increment district
4 master plan to remain in effect; provided, however, that so long as any bonds or other
5 indebtedness or obligations authorized and incurred under §§ 45-33.2-22 through 45-33.2-29
6 remain outstanding, the tax increment master plan shall remain in effect. With respect to any tax
7 increment district master plan that includes development that is funded in whole or in part by
8 federal funds, the provisions of this subsection shall not apply to the extent that such provisions
9 are prohibited by federal law.

10 **45-33.2-27. Designation of tax increment revenues.**

11 (a) In the tax increment district master plan, a city or town may designate all or part of
12 the tax increment revenues generated from the increased assessed value of a tax increment district
13 for the purpose of financing all or part of the tax increment district master plan. The amount of
14 tax increment revenues to be designated is determined by designating the captured assessed value,
15 subject to any assessment agreements.

16 (b) On or after the establishment of a tax increment district and the adoption of a tax
17 increment district master plan, the assessor of a city or town in which it is located shall certify the
18 original assessed value of the taxable real property within the boundaries of the tax increment
19 district. Each year after the establishment of a tax increment district, the municipal assessor shall
20 certify the amount of:

21 (1) The current assessed value;

22 (2) The amount by which the current assessed value has increased or decreased from the
23 original assessed value, subject to any assessment agreements; and

24 (3) The amount of the captured assessed value. Nothing in this subsection allows for
25 unequal apportionment or assessment of the taxes to be paid on real property in a city or town.
26 Subject to any assessment agreements, an owner of real property within the tax increment district
27 shall pay real property taxes apportioned equally with property taxes paid elsewhere in the city or
28 town.

29 (c) If a city or town has designated captured assessed value under § 45-33.2-26(a):

30 (1) The city or town shall establish a tax increment district master plan fund that consists
31 of:

32 (i) A project cost account that is pledged to and charged with the payment of project costs
33 that are outlined in the tax increment district financial plan, including the reimbursement of
34 project cost expenditures incurred by a public body, including the city or town, a developer, any

1 property owner or any other third-party entity, and are paid in a manner other than as described in
2 subsection (c)(1)(ii) of this section; and

3 (i) In instances of indebtedness issued by a city or town in accordance with § 44-33.2-6
4 to finance or refinance project costs, a development sinking fund account that is pledged to and
5 charged with the:

6 (A) Payment of the interest and principal as the interest and principal fall due, including
7 any redemption premium;

8 (B) Payment of the costs of providing or reimbursing any provider of any guarantee,
9 letter of credit, policy of bond insurance or other credit enhancement device used to secure
10 payment of debt service on any such indebtedness; and

11 (C) Funding any required reserve fund;

12 (2) The city or town shall annually set aside all tax increment revenues on captured
13 assessed values and deposit all such revenues to the appropriate tax increment district master plan
14 fund account established under subsection (c)(1) of this section in the following order of priority:

15 (i) To the development sinking fund account, an amount sufficient, together with
16 estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all
17 annual debt service on the indebtedness issued in accordance with § 45-33.2-6 and the tax
18 increment district financial plan; and

19 (ii) To the project cost account, all such remaining tax increment revenues on captured
20 assessed values;

21 (3) The city or town shall make transfers between tax increment district master plan fund
22 accounts established under subsection (c)(1) of this section, provided the transfers do not result in
23 a balance in either account that is insufficient to cover the annual obligations of that account;

24 (4) A city or town may, at any time during the term of the tax increment district, by vote
25 of the city or town council, return to the municipal general fund any tax increment revenues
26 remaining in either account established under subsection (c)(1) of this section in excess of those
27 estimated to be required to satisfy the obligations of the account after taking into account any
28 transfer made under subsection (c)(3) of this section; and

29 (5) Any account or fund established pursuant to subsection (c)(1) of this section shall be
30 audited annually by an independent auditor who is a public accountant licensed to practice in this
31 state and who meets the independence standards included in generally accepted government
32 auditing standards. A report of such audit shall be open to public inspection.

33 **45-33.2-28. Project costs.**

34 Costs authorized for payment from a tax increment district master plan fund established

1 pursuant to § 45-33.2-27 are limited to:

2 (1) Costs of improvements made within the tax increment district, including, but not

3 limited to:

4 (i) Capital costs, including, but not limited to:

5 (A) The acquisition or construction of land, improvements, infrastructure, public ways,

6 parks, buildings, structures, railings, street furniture, signs, landscaping, plantings, benches, trash

7 receptacles, curbs, sidewalks, turnouts, recreational facilities, structured parking, transportation

8 improvements, pedestrian improvements and other related improvements, fixtures and equipment

9 for public use;

10 (B) The acquisition or construction of land, improvements, infrastructure, buildings,

11 structures, including facades and signage, fixtures and equipment for industrial, commercial,

12 residential, mixed-use or retail use or transit-oriented development;

13 (C) The demolition, alteration, remodeling, repair or reconstruction of existing buildings,

14 structures and fixtures;

15 (D) Environmental remediation;

16 (E) Site preparation and finishing work; and

17 (F) All fees and expenses associated with the capital cost of such improvements,

18 including, but not limited to, licensing and permitting expenses and planning, engineering,

19 architectural, testing, legal and accounting expenses;

20 (ii) Financing costs, including, but not limited to, closing costs, issuance costs, reserve

21 funds and capitalized interest;

22 (iii) Real property assembly costs;

23 (iv) Costs of technical and marketing assistance programs;

24 (v) Professional service costs, including, but not limited to, licensing, architectural,

25 planning, engineering, development and legal expenses;

26 (vi) Maintenance and operation costs;

27 (vii) Administrative costs, including, but not limited to, reasonable charges for the time

28 spent by municipal employees, other agencies or third-party entities in connection with the

29 implementation of a tax increment district master plan; and

30 (viii) Organizational costs relating to the planning and the establishment of the tax

31 increment district, including, but not limited to, the costs of conducting environmental impact and

32 other studies and the costs of informing the public about the creation of tax increment districts

33 and the implementation of the tax increment district master plan;

34 (2) Costs of improvements that are made outside the tax increment district but are directly

1 related to or are made necessary by the establishment or operation of the tax increment district,
2 including, but not limited to:

3 (i) That portion of the costs reasonably related to the construction, alteration or expansion
4 of any facilities not located within the tax increment district that are required due to
5 improvements or activities within the tax increment district, including, but not limited to,
6 roadways, traffic signalization, easements, sewage treatment plants, water treatment plants or
7 other environmental protection devices, storm or sanitary sewer lines, water lines, electrical lines,
8 improvements to fire stations, and street signs;

9 (ii) Costs of public safety and public school improvements made necessary by the
10 establishment of the tax increment district; and

11 (iii) Costs of funding to mitigate any adverse impact of the tax increment district upon the
12 city or town and its constituents; and

13 (3) Costs related to economic development, environmental improvements or employment
14 training associated with the tax increment district, including, but not limited to:

15 (i) Economic development programs or events related to the tax increment district;

16 (ii) Environmental improvement projects developed by the city or town related to the tax
17 increment district;

18 (iii) The establishment of permanent economic development revolving loan funds,
19 investment funds and grants; and

20 (iv) Services and equipment necessary for employment skills development and training,
21 including scholarships to in-state educational institutions for jobs created or retained in the tax
22 increment district.

23 **45-33.2-29. Benefit assessments.**

24 (a)(1) Notwithstanding any provision of the general laws, whenever a city or town
25 constructs, improves, extends, equips, rehabilitates, repairs, acquires or provides a grant for any
26 public improvements within a tax increment district or finances the cost of such public
27 improvements, the proportion of such cost or estimated cost of such public improvements and
28 financing thereof as determined by the city or town may be assessed by the city or town, as a
29 benefit assessment, in the manner prescribed by such city or town, upon the real property within
30 the tax increment district that is benefited by such public improvements. A city or town may
31 provide for the payment of such benefit assessments in annual installments, not exceeding thirty
32 (30) years, and may forgive such benefit assessments in any given year without causing the
33 remainder of installments of benefit assessments to be forgiven. Benefit assessments on real
34 property where buildings or structures are constructed or expanded after the initial benefit

1 assessment may be assessed as if the new or expanded buildings or structures on such real
2 property had existed at the time of the original benefit assessment.

3 (2) The benefit assessments shall be adopted and revised by the city or town at least
4 annually not more than sixty (60) days before the beginning of the fiscal year. If the benefit
5 assessments are assessed and levied prior to the acquisition or construction of the public
6 improvements, the amount of the benefit assessments may be adjusted to reflect the actual cost of
7 such public improvements, including all financing costs, once such public improvements are
8 complete, if the actual cost is greater than or less than the estimated costs.

9 (b) Before estimating and making a benefit assessment under subsection (a) of this
10 section, a city or town shall hold at least one public hearing on its schedule of benefit assessments
11 or any revision thereof. Notice of such hearing shall be published at least ten (10) days before
12 such hearing in a newspaper having general circulation within the city or town. The notice shall
13 include:

14 (1) The date, time and place of hearing;

15 (2) The boundaries of the tax increment district by legal description;

16 (3) A statement that all interested persons owning real estate or taxable property located
17 within the tax increment district will be given an opportunity to be heard at the hearing and an
18 opportunity to file objections to the amount of the assessment;

19 (4) The maximum rate of assessments to be extended in any one year; and

20 (5) A statement indicating that the proposed list of properties to be assessed and the
21 estimated assessments against those properties are available at the office of the city or town tax
22 assessor. The notice may include a maximum number of years the assessments will be levied. Not
23 later than the date of the publication, the city or town shall make available to any member of the
24 public, upon request, the proposed schedule of benefit assessments. A city or town may adopt
25 ordinances apportioning the value of improvements within a tax increment district according to a
26 formula that reflects actual benefits that accrue to the various properties because of the
27 development and maintenance.

28 (c) A city or town may increase assessments or extend the maximum number of years the
29 assessments will be levied after notice and public hearing is held pursuant to subsection (b) of this
30 section.

31 (d)(1) Benefit assessments made under this section shall be collected in the same manner
32 as municipal taxes. Municipalities are granted all the powers and privileges with respect thereto
33 as provided to municipalities in the general laws for the enforcement and collection of
34 assessments and tax liens, or as otherwise provided in §§ 45-33.2-22 through 45-33.2-29 of this

1 chapter. Benefit assessments shall be due and payable at such times as are fixed by the city or
2 town, provided the city or town shall give notice of such due date not less than thirty (30) days
3 prior to such due date by publication in a newspaper of general circulation in the city or town and
4 by mailing such notice to the owners of the real property assessed at their last-known address. All
5 revenues from assessments under this section shall be paid into the appropriate tax increment
6 district master plan fund account established under § 45-33.2-27(c).

7 (2) If any property owner fails to pay any assessment or part of an assessment on or
8 before the date on which such assessment or part of such assessment is due, a city or town has all
9 the authority and powers to collect the delinquent assessments vested in the city or town by law to
10 collect delinquent municipal taxes. Benefit assessments, if not paid when due, shall constitute a
11 lien upon the real property served and a charge against the owners thereof, which lien and charge
12 shall bear interest at the same rate as delinquent property taxes. Each such lien may be continued,
13 recorded and released in the manner provided for property tax liens and shall take precedence
14 over all other liens or encumbrances except a lien for property taxes of the city or town.

15 **45-33.2-30. Limitation of powers.**

16 The state pledges to and agrees with any person, firm, or corporation, or federal agency
17 subscribing to or acquiring the bonds to be issued under this chapter, that the state will not limit
18 or alter the rights vested in the authority until all bonds at any time issued, together with their
19 interest, are fully met and discharged. The state does further pledge to and agree with the United
20 States, and any other federal agency, that in the event that any federal agency constructs or
21 contributes any funds for the construction, extension, improvement, equipping, furnishing, or
22 enlargement of any project, or any portion of it, the state will not alter or limit this chapter in any
23 manner which would be inconsistent with the due performance of any agreements with the federal
24 agency; and cities and towns continue to have and may exercise all powers granted by this
25 chapter, so long as the powers are necessary or desirable for the carrying out of the purposes of
26 this chapter.

27 SECTION 5. This act shall take effect on July 1, 2018.

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LC004408
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES

1 This act would amend provisions of the tax increment financing act in order to encourage
2 municipalities to use tax increment financing to facilitate economic development.

3 This act would take effect on July 1, 2018.

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LC004408
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