SENATE BILL No. 566

DIGEST OF SB 566 (Updated February 19, 2019 2:22 pm - DI 120)

Citations Affected: IC 36-7.

Synopsis: Residential tax increment financing. Permits redevelopment commissions in counties having a population of not more than 100,000 to establish a program for residential housing development and a tax increment funding allocation area for that program. Defines "residential housing" as housing that consists of single family dwelling units.

Effective: July 1, 2019.

Raatz

January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy. February 21, 2019, amended, reported favorably — Do Pass.
SENATE BILL No. 566

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

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

SECTION 1. IC 36-7-14-0.5, AS ADDED BY P.L.149-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 0.5. (a) The definitions in this section apply throughout this chapter.

(b) "Obligation" means any bond, note, warrant, lease, or other instrument under which money is borrowed.

(c) "Public funds" means all fees, payments, tax receipts, and funds of whatever kind or character coming into the possession of a:

(1) redevelopment commission; or

(2) department of redevelopment.

(d) "Residential housing" means housing that consists of single family dwelling units.

(e) "Residential housing development program" means a residential housing development program for the:

(1) construction of new residential housing; or

(2) renovation of existing residential housing;

established by a commission under section 53 of this chapter.
SECTION 2. IC 36-7-14-53 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 53. (a) This section applies only to counties having a population of not more than one hundred thousand (100,000).

(b) The commission may establish a residential housing development program by resolution for the construction of new residential housing or the renovation of existing residential housing. The program, which may include any relevant elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 56 of this chapter for the accomplishment of the program. The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.

(c) The notice and hearing provisions of sections 17 and 17.5 of this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (b). Judicial review of the resolution may be made under section 18 of this chapter.

(d) Before formal submission of any residential housing development program to the commission, the department of redevelopment shall:

(1) consult with persons interested in or affected by the proposed program;
(2) provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program; and
(3) hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

(e) A residential housing development program established under this section must terminate not later than twenty (20) years after the date the program is established under subsection (b).

SECTION 3. IC 36-7-14-54 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 54. (a) This section applies only to counties having a population of not more than one hundred thousand (100,000).

(b) Except as provided in subsections (c) and (d), all the rights, powers, privileges, and immunities that may be exercised by the commission in blighted, deteriorated, or deteriorating areas may be exercised by the commission in implementing its program for a

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residential housing development, including the following:

(1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the purposes of the residential housing development program.

(2) Bonds may be issued under this chapter to accomplish the residential housing development program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a residential housing development program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the residential housing development program.

(4) The tax exemptions set forth in section 37 of this chapter are applicable.

(5) Property taxes may be allocated under section 39 of this chapter.

(c) A commission may not exercise the power of eminent domain in implementing its residential housing development program.

(d) A commission may not enter into lease financing or bond financing unless the commission first obtains approval of the municipal legislative body.

SECTION 4. IC 36-7-14-55 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Sec. 55. (a) This section applies only to counties having a population of not more than one hundred thousand (100,000).

(b) The commission must make the following findings in the resolution adopting a residential housing development program under section 53 of this chapter:

(1) The public health and welfare will be benefitted by accomplishment of the program.

(2) The accomplishment of the program will be of public utility and benefit as measured by:

(A) the provision of adequate residential housing;

(B) an increase in the property tax base; or

(C) other similar public benefits.

SECTION 5. IC 36-7-14-56 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Sec. 56. (a) This section applies only to counties having a population of not more than one hundred thousand (100,000).

(b) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the
accomplishment of the purposes of a residential housing development program adopted under section 53 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(c) The allocation fund established under section 39(b) of this chapter for the allocation area for a residential housing development program adopted under section 53 of this chapter may be used only for purposes related to the accomplishment of the purposes of the program, including, but not limited to, the following:

1. The construction of any infrastructure (including streets, roads, and sidewalks) or local public improvements in, serving, or benefitting a residential housing development project.
2. The acquisition of real property and interests in real property within the allocation area.
3. The preparation of real property in anticipation of development of the real property within the allocation area.
4. To do any of the following:
   A. Pay the principal of and interest on bonds or any other obligations payable from allocated tax proceeds in the allocation area that are incurred by the redevelopment district for the purpose of financing or refinancing the residential housing development program established under section 53 of this chapter for the allocation area.
   B. Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in the allocation area.
   C. Pay the principal of and interest on bonds payable from allocated tax proceeds in the allocation area and from the special tax levied under section 27 of this chapter.
   D. Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to the allocation area.
   E. Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in the allocation area.
   F. Make payments on leases payable from allocated tax
proceeds in the allocation area under section 25.2 of this chapter.

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

(d) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a residential development housing program adopted under section 53 of this chapter, do the following before June 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:
   (A) make the distribution required under section 39(b)(2) of this chapter;
   (B) make, when due, principal and interest payments on bonds described in section 39(b)(3) of this chapter;
   (C) pay the amount necessary for other purposes described in section 39(b)(3) of this chapter; and
   (D) reimburse the county or municipality for anticipated expenditures described in subsection (c)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that are wholly or partly located within the allocation area, and (in an electronic format) the department of local government finance. The notice must:
   (A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or
   (B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the
amount, if any, of excess assessed value determined by the
commission.

(e) If the amount of excess assessed value determined by the
commission is expected to generate more than two hundred percent
(200%) of the amount of allocated tax proceeds:
(1) necessary to make, when due, principal and interest
payments on bonds described in 39(b)(3) of this chapter; plus
(2) the amount necessary for other purposes described in
39(b)(3) of this chapter;
the commission shall submit to the municipal legislative body its
determination of the excess assessed value that the commission
proposes to allocate to the respective taxing units in the manner
prescribed in subsection (d)(2). The municipal legislative body may
approve the commission's determination or modify the amount of
the excess assessed value that will be allocated to the respective
taxing units in the manner prescribed in subsection (d)(2).

(f) An allocation area must terminate on the date the residential
development housing program is terminated as set forth in section
53(e) of this chapter.
COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 566, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 39, delete "subsection (c)," and insert "subsections (c) and (d),".

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"(d) A commission may not enter into lease financing or bond financing unless the commission first obtains approval of the municipal legislative body."

Page 5, between lines 41 and 42, begin a new paragraph and insert:

"(e) If the amount of excess assessed value determined by the commission is expected to generate more than two hundred percent (200%) of the amount of allocated tax proceeds:

(1) necessary to make, when due, principal and interest payments on bonds described in 39(b)(3) of this chapter; plus

(2) the amount necessary for other purposes described in 39(b)(3) of this chapter;

the commission shall submit to the municipal legislative body its determination of the excess assessed value that the commission proposes to allocate to the respective taxing units in the manner prescribed in subsection (d)(2). The municipal legislative body may approve the commission's determination or modify the amount of the excess assessed value that will be allocated to the respective taxing units in the manner prescribed in subsection (d)(2)."

Page 5, line 42, delete ",(e)" and insert ",(f)".

and when so amended that said bill do pass.

(Reference is to SB 566 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 1.