

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/25/05 H3/30/05

A Bill

HOUSE BILL 2735

5 By: Representative McDaniel
6 By: Senator J. Bookout
7
8

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAWS PERTAINING TO
10 COMMUNITY REDEVELOPMENT; TO CLARIFY THE
11 DEFINITION OF "TAXING UNIT"; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 TO AMEND ARKANSAS LAWS PERTAINING TO
16 COMMUNITY REDEVELOPMENT AND TO CLARIFY
17 THE DEFINITION OF "TAXING UNIT".
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 14-168-301 is amended to read as follows:
24 14-168-301. Definitions.

25 As used in this act subchapter, ~~unless the context otherwise requires:~~

26 (1) "Applicable ad valorem rate" means the total ad valorem rate
27 less the debt service ad valorem rate;

28 (2) "Base value" means the assessed value of all real property
29 within a redevelopment district subject to ad valorem taxation, as of the
30 most recent assessment preceding the ~~formation~~ effective date of the
31 ordinance approving the project plan of the redevelopment district;

32 (3)(A) "Blighted area" means an area in which the structures,
33 buildings, or improvements, by reason of dilapidation, deterioration, age or
34 obsolescence, inadequate provision for access, ventilation, light, air,
35 sanitation, or open spaces, high density of population and overcrowding or
36 the existence of conditions which endanger life or property, are detrimental



1 to the public health, safety, morals, or welfare.

2 (B) "Blighted area" includes any area which, by reason of
3 the presence of a substantial number of substandard, slum, deteriorated or
4 deteriorating structures, predominance of defective or inadequate street
5 layout, faulty lot layout in relation to size, adequacy, accessibility, or
6 usefulness, unsanitary or unsafe conditions, deterioration of site or other
7 improvements, diversity of ownership, tax on special assessment delinquency
8 exceeding the fair value of the land, defective or unusual conditions of
9 title, or the existence of conditions which endanger life or property by fire
10 and other causes, or any combination of such factors, substantially impairs
11 or arrests the sound growth of a city, retards the provision of housing
12 accommodations, or constitutes an economic or social liability and is a
13 menace to the public health, safety, morals, or welfare in its present
14 condition and use, or any area which is predominantly open and which because
15 of lack of accessibility, obsolete platting, diversity of ownership,
16 deterioration of structures or of site improvements, or otherwise,
17 substantially impairs or arrests the sound growth of the community;

18 (4) "Current value" means the assessed value of all real
19 property within a redevelopment district subject to ad valorem taxation, as
20 of the most recent assessment after the formation of the redevelopment
21 district;

22 (5) "Debt service ad valorem rate" means that portion of the
23 total ad valorem rate that ~~has been, at January 1, 2001,~~ as of the effective
24 date of the creation of the redevelopment district, is pledged to the payment
25 of debt service on bonds issued by any taxing unit in which all or any part
26 of the redevelopment district is located;

27 (6)(A) "Incremental value", for any redevelopment district,
28 means the difference between the base value and the current value.

29 (B) The incremental value will be positive if the current
30 value exceeds the base value, and the incremental value will be negative if
31 the current value is less than the base value;

32 (7) "Local governing body" means the city council, city board of
33 directors, county quorum court, or any other legislative body governing a
34 local government in the State of Arkansas;

35 (8) "Local government" means any city or county in the State of
36 Arkansas;

1 (9)(A) "Project costs" means expenditures made in preparation of
2 the project plan and made, or estimated to be made, or monetary obligations
3 incurred, or estimated to be incurred, by the local government, which are
4 listed in the project plan as costs of public works or improvements ~~within~~
5 benefiting a redevelopment project district, plus any costs incidental
6 thereto.

7 (B) Project costs include, but are not limited to:

8 (i) Capital costs, including, but not limited to,
9 the actual costs of the construction of public works or improvements, new
10 buildings, structures, and fixtures, the demolition, alteration, remodeling,
11 repair, or reconstruction of existing buildings, structures, and fixtures,
12 environmental remediation, parking and landscaping, the acquisition of
13 equipment, and site clearing, grading, and preparation;

14 (ii) Financing costs, including, but not limited to,
15 all interest paid to holders of evidences of indebtedness issued to pay for
16 project costs, all costs of issuance, and any redemption premiums, credit
17 enhancement, or other related costs;

18 (iii) Real property assembly costs, meaning any
19 deficit incurred resulting from the sale or lease as lessor by the local
20 government of real or personal property within a redevelopment district for
21 consideration which is less than its cost to the local government;

22 (iv) Professional service costs, including, but not
23 limited to, those costs incurred for architectural, planning, engineering,
24 and legal advice and services;

25 (v) Imputed administrative costs, including, but not
26 limited to, reasonable charges for the time spent by local government
27 employees in connection with the implementation of a project plan;

28 (vi) Relocation costs, including, but not limited
29 to, those relocation payments made following condemnation and job training
30 and retraining;

31 (vii) Organizational costs, including, but not
32 limited to, the costs of conducting environmental impact and other studies,
33 and the costs of informing the public with respect to the creation of
34 redevelopment project areas and the implementation of project plans;

35 (viii) The amount of any contributions made in
36 connection with the implementation of the project plan;

1 (ix) Payments made, in the discretion of the local
2 governing body, which are found to be necessary or convenient to the creation
3 of redevelopment areas or the implementation of project plans; and

4 (x) That portion of costs related to the
5 construction of environmental protection devices, storm or sanitary sewer
6 lines, water lines, ~~or~~ amenities, ~~or~~ federal or state highways, or city or
7 county streets or the rebuilding or expansion of highways or streets, the
8 construction, alteration, rebuilding, or expansion of which is necessitated
9 by the project plan for a district, whether or not the construction,
10 alteration, rebuilding, or expansion is within the area;

11 (10) "Project plan" means the plan which shall be adopted by a
12 local governing body for a redevelopment project as described in § 14-168-
13 308;

14 (11) "Real property" means all lands, including improvements and
15 fixtures on them and property of any nature appurtenant to them or used in
16 connection with them and every estate, interest, and right, legal or
17 equitable, in them, including terms for years and liens by way of judgment,
18 mortgage, or otherwise, and the indebtedness secured by the liens;

19 (12) "Redevelopment district" means a *contiguous* geographic area
20 within a city or county in which a redevelopment project will be undertaken,
21 as defined and created by ordinance of the local governing body;

22 (13)(A) "Redevelopment project" means an undertaking for
23 eliminating or preventing the development or spread of slums or deteriorated,
24 deteriorating, or blighted areas, for discouraging the loss of commerce,
25 industry, or employment, or for increasing employment, or any combination
26 thereof.

27 (B) A redevelopment project may include one (1) or more of
28 the following:

29 (i) The acquisition of land and improvements, if
30 any, within the redevelopment district and clearance of the land so acquired;
31 or

32 (ii) The development, redevelopment, revitalization,
33 or conservation of the project area whenever necessary to provide land for
34 needed public facilities, public housing, or industrial or commercial
35 development or revitalization, to eliminate unhealthful, unsanitary, or
36 unsafe conditions, to lessen density, mitigate or eliminate traffic

1 congestion, reduce traffic hazards, eliminate obsolete or other uses
 2 detrimental to the public welfare, or otherwise remove or prevent the spread
 3 of blight or deterioration; ~~or~~

4 (C) The financial or other assistance in the relocation of
 5 persons and organizations displaced as a result of carrying out the
 6 redevelopment project and other improvements necessary for carrying out the
 7 project plan, together with such site improvements as are necessary for the
 8 preparation of any sites and making any land or improvements acquired in the
 9 project area available, by sale or by lease, for public housing or for
 10 development, redevelopment, or rehabilitation by private enterprise for
 11 commercial or industrial uses in accordance with the plan;

12 (D) The construction of capital improvements within a
 13 redevelopment district designed to alleviate deteriorating conditions or a
 14 blighted area or designed to increase or enhance the development of commerce,
 15 industry, or housing within the redevelopment district; or

16 (E) Any other projects the local governing body deems
 17 appropriate to carry out the purposes of this subchapter;

18 (14) "Special fund" means a separate fund for a redevelopment
 19 district established by the local government into which all tax increment
 20 revenues and other pledged revenues are deposited and from which all project
 21 costs are paid;

22 (15) "Tax increment" means the incremental value of a
 23 redevelopment district multiplied by the applicable ad valorem rate;

24 (16) "Taxing unit" means the State of Arkansas, and any city,
 25 county, or school district, ~~or community college district;~~ and

26 (17)(A) "Total ad valorem rate" means the total millage rate of all
 27 state, county, city, school, or other ~~local general~~ property taxes levied on
 28 all taxable property within a redevelopment district in a year.

29 (B) The total ad valorem rate shall not include any:

30
 31 (i) Increases in the total millage rate occurring
 32 after the effective date of the creation of the redevelopment district if the
 33 additional millage is pledged for repayment of a specific bond or note issue;
 34 or

35 (ii) Property taxes levied for libraries under
 36 Arkansas Constitution, Amendment 30, or Arkansas Constitution, Amendment 38.

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SECTION 2. Arkansas Code §§ 14-168-304 – 14-168-308 are amended to read as follows:

14-168-304. Powers generally.

In addition to any other powers conferred by law, a local government may exercise any powers necessary and convenient to carry out the purpose of this subchapter, including the power to:

(1) Create redevelopment districts and to define the boundaries of redevelopment districts;

(2) Cause project plans to be prepared, to approve the project plans, and to implement the provisions and effectuate the purposes of the project plans;

(3) Issue redevelopment bonds, ~~and~~ notes or other evidences of indebtedness, in one or more series, and to pledge tax increments and other redevelopment revenues for repayment of them;

(4) Deposit moneys into the special fund for any redevelopment project district;

(5) Enter into any contracts or agreements, including agreements with bondholders, determined by the local governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;

(6) Receive from the federal government or the state loans and grants for, or in aid of, a redevelopment project and to receive contributions from any other source to defray project costs;

(7)(A) Exercise the right of eminent domain to condemn property for the purposes of implementing the project plan.

(B) The rules and procedures set forth in §§ 18-15-301 - 18-15-307 shall govern all condemnation proceedings authorized in this subchapter;

(8) Make relocation payments to such persons, businesses, or organizations as may be displaced as a result of carrying out the redevelopment project;

(9) Clear and improve property acquired by it pursuant to the project plan and construct public facilities on it or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration, or repair of the property;

1 (10) Cause parks, playgrounds, or water, sewer, or drainage
2 facilities, or any other public improvements, including, but not limited to,
3 fire stations, community centers, and other public buildings, which it is
4 otherwise authorized to undertake, to be laid out, constructed, or furnished
5 in connection with the redevelopment project;

6 (11) Lay out and construct, alter, relocate, change the grade
7 of, make specific repairs upon, or discontinue public ways and construct
8 sidewalks in, or adjacent to, the redevelopment project;

9 (12) Cause private ways, sidewalks, ways for vehicular travel,
10 playgrounds, or water, sewer, or drainage facilities and similar improvements
11 to be constructed ~~within the redevelopment project~~ for the ~~particular use~~
12 benefit of the redevelopment district or those dwelling or working in it;

13 (13) Construct any capital improvements of a public nature, as
14 such term is defined in § 14-164-303(a)(2), as now or hereafter amended;

15 (14) Construct capital improvements to be leased or sold to
16 private entities in connection with the goals of the redevelopment project;

17 (15) Designate one (1) or more official or employee of the local
18 government to make decisions and handle the affairs of redevelopment
19 districts created pursuant to this subchapter;

20 (16) Adopt ordinances or bylaws or repeal or modify such
21 ordinances or bylaws or establish exceptions to existing ordinances and
22 bylaws regulating the design, construction, and use of buildings within the
23 redevelopment district;

24 (17) Sell, mortgage, lease, transfer, or dispose of any
25 property, or interest therein, acquired by it pursuant to the project plan
26 for development, redevelopment, or rehabilitation in accordance with the
27 project plan;

28 (18) Invest project revenues as provided in this subchapter; and

29 (19) Do all things necessary or convenient to carry out the
30 powers granted in this subchapter.

31
32 14-168-305. Creation of district.

33 (a) The local governing body, upon its own initiative or upon request
34 of affected property owners or upon request of the city or county planning
35 commission, may designate the boundaries of a proposed redevelopment
36 district.

1 (b)(1) The local governing body shall hold a public hearing at which
2 interested parties are afforded a reasonable opportunity to express their
3 views on the proposed creation of a redevelopment district and its proposed
4 boundaries.

5 (2)(A) Notice of the hearing shall be published in a newspaper
6 of general circulation in the city or county at least fifteen (15) days prior
7 to the hearing.

8 (B) Prior to this publication, a copy of the notice shall
9 be sent by first-class mail to the chief executive officer of all local
10 governmental and taxing units ~~entities~~ having the power to levy taxes on
11 property located within the proposed redevelopment district and to the school
12 board of any school district which includes property located within the
13 proposed redevelopment district.

14 (c) The local governing body shall adopt an ordinance which:

15 (1) Describes the boundaries of a redevelopment district
16 sufficiently definite to identify with ordinary and reasonable certainty the
17 territory included in, which boundaries may create a contiguous or
18 noncontiguous district;

19 (2) Creates the redevelopment district as of a date provided in
20 it;

21 (3)(A) Assigns a name to the redevelopment district for
22 identification purposes.

23 (B) The name may include a geographic or other
24 designation, shall identify the city or county authorizing the district, and
25 shall be assigned a number, beginning with the number one (1).

26 (C) Each subsequently created district shall be assigned
27 the next consecutive number; and

28 (4) Contains findings that the real property within the
29 redevelopment district will be benefitted by eliminating or preventing the
30 development or spread of slums or blighted, deteriorated, or deteriorating
31 areas, or discouraging the loss of commerce, industry, or employment, or
32 increasing employment, or any combination thereof.

33 (d)(1) No county shall establish a redevelopment district, any portion
34 of which is within the boundaries of a city.

35 (2) Provided, however, that one (1) or more local governments
36 through interlocal agreement may join in the creation of a district, the

1 boundaries of which lie in one (1) or more local governments.

2 (e)(1) The ordinance shall establish a special fund as a separate fund
3 into which all tax increment revenues and any other revenues generated under
4 the Arkansas Constitution or Arkansas law designated by the local government
5 for the benefit of the redevelopment district shall be deposited, and from
6 which all project costs shall be paid.

7 (2) Such special fund may be assigned to and held by a trustee
8 for the benefit of bondholders if tax increment financing is used.

9 (f)(1) The boundaries of the redevelopment district may be modified
10 from time to time by ordinance of the local government.

11 (2) Provided, however, that in the event any bonds, notes or
12 other obligations are outstanding with respect to the redevelopment district,
13 any change in the boundaries shall not reduce the amount of tax increment
14 available to secure such tax increment financing.

15
16 14-168-306. Project plan – Approval.

17 (a)(1) Upon the creation of the redevelopment district, the local
18 governing body shall cause the preparation of a project plan for each
19 redevelopment district, and such project plan shall be adopted by ordinance
20 of the local governing body.

21 (2) This process shall conform to the procedures set forth in
22 this section.

23 (b) Each project plan shall include:

24 (1) A statement listing the kind, number, and location of all
25 proposed public works or improvements benefiting within the district or, to
26 the extent provided, outside the district;

27 (2) An economic feasibility study;

28 (3) A ~~detailed~~ list of estimated project costs;

29 (4) A description of the methods of financing all estimated
30 project costs, including the issuance of tax increment bonds, ~~and the time~~
31 ~~when the costs or monetary obligations related thereto are to be incurred;~~

32 (5) A certification by the county tax assessor of the base
33 value, total ad valorem rate, debt service ad valorem rate, and applicable ad
34 valorem rate for the redevelopment district as of the date of certification;

35 (6) The type and amount of any other revenues that are expected
36 to be deposited to the special fund of the redevelopment district;

1 (7) A map showing existing uses and conditions of real property
2 in the district;

3 (8) A map of proposed improvements and uses in the district;

4 (9) Proposed changes of zoning ordinances;

5 (10) Appropriate cross-references to any master plan, map,
6 building codes, and city ordinances affected by the project plan;

7 (11) A list of estimated nonproject costs; and

8 (12) A statement of the proposed method for the relocation of
9 any persons to be displaced.

10 (c) If the project plan is to include tax increment financing, the tax
11 increment financing portion of the plan shall set forth:

12 (1) ~~The~~ An estimate of the amount of indebtedness to be incurred
13 pursuant to this subchapter;

14 (2) An estimate of the tax increment to be generated as a result
15 of the project;

16 (3) The method for calculating the tax increment, which shall be
17 in conformance with the provisions of this subchapter, together with any
18 provision for adjustment of the method of calculation;

19 (4) Any other revenues, such as payment-in-lieu-of-taxes
20 revenues, to be used to secure the tax increment financing; and

21 (5) Any other provisions as may be deemed necessary in order to
22 carry out any tax increment financing to be used for the redevelopment
23 project.

24 (d) If less than all of the tax increment is to be used to fund a
25 redevelopment project or to pay project costs or retire tax increment
26 financing, the project plan shall set forth the portion of the tax increment
27 to be deposited in the special fund of the redevelopment district, and
28 provide for the distribution of the remaining portion of the tax increment to
29 the taxing units in which the district lies.

30 (e)(1) The local governing body shall hold a public hearing at which
31 interested parties are afforded a reasonable opportunity to express their
32 views on the proposed project plan.

33 (2)(A) Notice of the hearing shall be published in a newspaper
34 of general circulation in the city or county at least fifteen (15) days prior
35 to the hearing.

36 (B) Prior to this publication, a copy of the notice shall

1 be sent by first-class mail to the chief executive officer of all local
2 governmental and taxing entities having the power to levy taxes on property
3 located within the proposed redevelopment district and to the ~~school board~~
4 superintendent of any school district which includes property located within
5 the proposed redevelopment district.

6 (3) The hearing may be held in conjunction with the hearing set
7 forth in § 14-168-305(b)(1).

8 ~~(4) Prior to publication, a copy of the notice shall be sent by~~
9 ~~first class mail to the chief executive officer of all local governments or~~
10 ~~entities having the power to levy taxes on property within the district and~~
11 ~~to the school board of any school district which includes property located~~
12 ~~within the proposed redevelopment district.~~

13 (f)(1) Approval by the local governing body of a project plan must be
14 within one (1) year after the date of the county assessor's certification
15 required by subdivision (b)(5) of this section.

16 (2) The approval shall be by ordinance which contains a finding
17 that the plan is economically feasible.

18
19 14-168-307. Project plan – Amendment.

20 (a) The local governing body may adopt by ordinance an amendment to a
21 project plan.

22 (b)(1) Adoption of an amendment to a project plan shall be preceded by
23 a public hearing held by the local governing body as provided in § 14-168-
24 306(e)(1), at which interested parties shall be afforded a reasonable
25 opportunity to express their views on the amendment.

26 (2)(A) Notice of the hearing shall be published in a newspaper
27 of general circulation in the city or county ~~once a week for two (2)~~
28 ~~consecutive weeks. The first such publication shall be~~ at least fifteen (15)
29 days prior to the hearing.

30 (B) Prior to publication, a copy of the notice shall be
31 sent by first-class mail to the chief executive officer of all local
32 governments or entities having the power to levy taxes on property within the
33 district and to the ~~school board~~ superintendent of any school district which
34 includes property located within the proposed district.

35 (c)(1) One (1) or more existing redevelopment districts may be
36 combined pursuant to lawfully adopted amendments to the original plans for

1 each district.

2 (2) Provided that the local governing body finds that the
3 combination of the districts will not impair the security for any bonds
4 previously issued pursuant to this subchapter.

5
6 14-168-308. Termination of districts.

7 (a) No redevelopment district may be in existence for a period longer
8 than twenty-five (25) years, ~~unless, pursuant to amendment of the~~
9 ~~redevelopment plan, additional bonds have been issued and would not be fully~~
10 ~~paid until after the date which is twenty five (25) years from the date of~~
11 ~~creation of the district.~~

12 (b) The local governing body may set a shorter period for the
13 existence of the district, and may also provide that no bonds shall have a
14 final maturity on a date later than the termination date of the district.

15 (c) Upon termination of the district, no further ad valorem tax
16 revenues shall be distributed to the special fund of the district.

17 (d)(1) The local governing body shall adopt, upon the expiration of
18 the time periods set forth in this section, an ordinance terminating the
19 redevelopment district.

20 (2) Provided, however, that no district shall be terminated so
21 long as bonds with respect to the district remain outstanding.

22

23 SECTION 3. Arkansas Code § 14-168-313 is amended to read as follows:
24 14-168-313. Payments in lieu of taxes and other revenues.

25 (a) The local governing body may elect to deposit in the special fund
26 of the redevelopment district all or any portion ~~of the local government's~~
27 ~~share~~ of payments in lieu of taxes on property within the redevelopment
28 district, including that portion of the payments in lieu of taxes that would
29 have been distributed to other local political subdivisions under § 14-164-
30 703.

31 (b) Other revenues to be derived from the redevelopment project may
32 also be deposited in the special fund at the direction of the local governing
33 body.

34

35 SECTION 4. Arkansas Code § 14-168-315 is amended to read as follows:
36 14-168-315. Redevelopment bonds or notes – Authority to issue.

1 For the purpose of paying project costs or of refunding bonds, notes,
2 or other evidences of indebtedness under notes issued under this subchapter
3 for the purpose of paying project costs, the local governing body may issue
4 bonds, notes, or other evidences of indebtedness in one or more series with
5 the redevelopment bonds or notes payable out of positive tax increments and
6 other revenues deposited to the special fund of the redevelopment district.
7

8 SECTION 5. Arkansas Code § 14-168-317(b), concerning the terms of
9 redevelopment bonds or note, is amended to read as follows:

10 (b)(1) The bonds or notes shall mature over a period not exceeding
11 ~~twenty five (25) years from their date of issuance or a period terminating~~
12 ~~with~~ the date of termination of the redevelopment district as determined
13 under § 14-168-308, whichever period terminates earlier.

14 (2) The bonds or notes may contain a provision authorizing their
15 redemption, in whole or in part, at stipulated prices, at the option of the
16 local government on any interest payment date and, if so, shall provide the
17 method of selecting the bonds or notes to be redeemed.

18 (3) The principal and interest on the bonds and notes may be
19 payable at any place set forth in the resolution, trust indenture, or other
20 document governing the bonds.

21 (4) The bonds or notes shall be issued in registered form.

22 (5) The bonds or notes may be in any denominations.

23 (6) Each such bond or note is declared to be a negotiable
24 instrument.
25

26 SECTION 6. Arkansas Code § 14-168-321 is amended to read as follows:

27 14-168-321. Excess funds.

28 (a) Moneys received in the special fund of the district in excess of
29 amounts needed to pay project costs may only be used by the local governing
30 body for ~~other purposes of the district or for any other lawful purpose of~~
31 ~~the local governing body~~ the redemption of outstanding bonds, notes, or other
32 evidences of indebtedness issued by the redevelopment district, or for
33 distribution authorized under the project plan to any taxing unit.

34 (b) Upon termination of the district, all amounts in the special fund
35 of the district may be used by the local governing body for any lawful
36 purpose.

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SECTION 7. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that clarification of existing community redevelopment district law is necessary to carry out the intent of the redevelopment district laws; and that this act will accomplish that purpose. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ McDaniel