

**ARKANSAS SENATE**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of House Bill No. 2735**

"TO AMEND ARKANSAS LAWS PERTAINING TO COMMUNITY REDEVELOPMENT  
AND TO CLARIFY THE DEFINITION OF "TAXING UNIT"."

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**Amendment No. 1 to House Bill No. 2735.**

Amend House Bill No. 2735 as engrossed, H3/30/05 (version: 03-30-2005 08:51):

Delete everything after the Enacting Clause and substitute the following:

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

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

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

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

(3)(A) "Blighted area" means an area in which the structures, buildings, or improvements, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals, or welfare.

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



(4) "Capital improvements of a public nature" has the same meaning as in § 14-164-303(a)(2);

~~(4)~~(5) "Current value" means the assessed value of all real property within a redevelopment district subject to ad valorem taxation, as of the most recent assessment after the formation of the redevelopment district;

~~(5)~~(6) "Debt service ad valorem rate" means that portion of the total ad valorem rate that ~~has been, at January 1, 2001,~~ as of the effective date of the creation of the redevelopment district, is pledged to the payment of debt service on bonds issued by any taxing unit in which all or any part of the redevelopment district is located;

~~(6)~~(7)(A) "Incremental value", for any redevelopment district, means the difference between the base value and the current value.

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

~~(7)~~(8) "Local governing body" means the city council, city board of directors, county quorum court, or any other legislative body governing a local government in the State of Arkansas;

~~(8)~~(9) "Local government" means any city or county in the State of Arkansas;

~~(9)~~(10)(A) "Project costs" means expenditures made in preparation of the project plan and made, or estimated to be made, or monetary obligations incurred, or estimated to be incurred, by the local government, which are listed in the project plan as costs of public works or improvements benefiting within a redevelopment project district, plus any costs incidental thereto.

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

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

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

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

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

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

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

(vii) Organizational costs, including, but not

limited to, the costs of conducting environmental impact and other studies, and the costs of informing the public with respect to the creation of redevelopment project areas and the implementation of project plans;

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

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

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

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

~~(11)~~(12) "Real property" means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest, and right, legal or equitable, in them, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens;

~~(12)~~(13) "Redevelopment district" means a contiguous geographic area within a city or county in which a redevelopment project will be undertaken, as defined and created by ordinance of the local governing body;

~~(13)~~(14)(A) "Redevelopment project" means an undertaking for eliminating or preventing the development or spread of slums or deteriorated, deteriorating, or blighted areas, for discouraging the loss of commerce, industry, or employment, or for increasing employment, or any combination thereof.

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

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

(ii) The development, redevelopment, revitalization, or conservation of the project area whenever necessary to provide land for needed public facilities, public housing, or industrial or commercial development or revitalization, to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration; or

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

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

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

~~(14)~~(15) "Special fund" means a separate fund for a redevelopment district established by the local government into which all tax increment revenues and other pledged revenues are deposited and from which all project costs are paid;

~~(15)~~(16) "Tax increment" means the incremental value of a redevelopment district multiplied by the applicable ad valorem rate;

~~(16)~~(17) "Taxing unit" means the State of Arkansas and any city, county, or school district; and

~~(17)~~(18)(A) "Total ad valorem rate" means the total millage rate of all state, county, city, school, or other local general property taxes levied on all taxable property within a redevelopment district in a year, ~~other than property taxes for libraries under Arkansas Constitution, Amendment 30, or Arkansas Constitution, Amendment 38.~~

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

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

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

(iii) Property taxes levied for a fireman's relief and pension fund or policeman's relief and pension fund of any municipality or county; or

(iv) Property taxes levied for any hospital owned and operated by a county.

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;

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

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

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

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

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

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

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

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

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

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

14-168-305. Creation of district.

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

(b)(1) The local governing body shall hold a public hearing at which interested parties are afforded a reasonable opportunity to express their

views on the proposed creation of a redevelopment district and its proposed boundaries.

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

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

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

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

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

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

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

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

(4) Contains findings that the real property within the redevelopment district will be benefited by eliminating or preventing the development or spread of slums or blighted, deteriorated, or deteriorating areas, or discouraging the loss of commerce, industry, or employment, or increasing employment, or any combination thereof; and

(5) Contains findings whether the property located in the proposed redevelopment district is in a wholly unimproved condition or whether the property located in the proposed redevelopment district contains existing improvements.

(d) The local governing body shall not approve an ordinance creating a redevelopment district unless the local governing body determines that the boundaries of the proposed redevelopment district are in a blighted area that includes the presence of at least one (1) of the following factors:

(1) Property located in the proposed redevelopment district is in an advanced state of dilapidation or neglect or is so structurally deficient that improvements or major repairs are necessary to make the property functional;

(2) Property located in the proposed redevelopment district has structures that have been vacant for more than three (3) years;

(3) Property located in the proposed redevelopment district has structures that are functionally obsolete and cause the structures to be ill-suited for their original use; or

(4) Vacant or unimproved parcels of property located in the redevelopment district are in an area that is predominantly developed and are substantially impairing or arresting the growth of the city or county due to obsolete platting, deterioration of structures, absence of structures, infrastructure, site improvements, or other factors hindering growth.

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

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

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

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

(3) If the local governing body determines that the property located in the proposed redevelopment district is in a wholly unimproved condition, the ordinance shall state that the revenues deposited into the special fund shall only be used for project costs incurred in connection with capital improvements of a public nature.

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

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

#### 14-168-306. Project plan – Approval.

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

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

(b) Each project plan shall include:

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

(2)(A) An economic feasibility study analysis prepared by a third party independent of the local governing body that shall include the projected aggregate tax impact, if any, to taxing units as a result of the creation of a redevelopment district.

(B) The economic analysis shall include a comparison of the projected ad valorem tax revenue diverted from taxing units to the redevelopment district special fund against all projected sales, income, and ad valorem taxes received by taxing units or recaptured by taxing units from neighboring states as a result of the creation of the redevelopment district.

(C)(i) The local governing body shall submit the economic analysis to the Department of Economic Development for review.

(ii) The department shall review the economic analysis and provide written comments as to its economic feasibility to the local governing body no later than thirty (30) days after submission by the local governing body;

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

(4) A description of the methods of financing all estimated

project costs, including the issuance of tax increment bonds, ~~and the time when the costs or monetary obligations related thereto are to be incurred;~~

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

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

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

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

(9) Proposed changes of zoning ordinances;

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

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

(12) A statement of the proposed method for the relocation of any persons to be displaced; and

(13) An estimate of the timing, number, and types of jobs to be created by the redevelopment project.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

14-168-307. Project plan - Amendment.

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

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

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

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

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

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

14-168-308. Termination of districts.

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

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

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

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

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

SECTION 3. Arkansas Code § 14-168-313 is amended to read as follows:

14-168-313. Payments in lieu of taxes and other revenues.

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

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

SECTION 4. Arkansas Code § 14-168-315 is amended to read as follows:

14-168-315. Redevelopment bonds or notes – Authority to issue.

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

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

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

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

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

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

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

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

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

14-168-321. Excess funds.

(a) Moneys received in the special fund of the district in excess of amounts needed to pay project costs may only be used by the local governing body for ~~other purposes of the district or for any other lawful purpose of the local governing body~~ the redemption of outstanding bonds, notes, or other evidences of indebtedness issued by the redevelopment district or for distribution to any taxing unit in such amounts as may be determined by the local governing body.

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

SECTION 7. Arkansas Code § 14-168-322 is amended to read as follows:  
14-168-322. Impact reports.

(a) The local governing body shall report annually to the Assessment Coordination Department the current value and incremental value of a redevelopment district and the properties adjacent to the redevelopment district.

(b) The Assessment Coordination Department, in cooperation with other state agencies and local governments, shall make a comprehensive impact report to the Governor and to the General Assembly at the beginning of each biennium as to the economic, social, and financial effect and impact of community redevelopment financing projects.

SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that clarification of existing community redevelopment law is necessary to carry out the intent of this subchapter. Therefore, an emergency is declared to exist and this bill 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."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Wooldridge

KWH/BBC - 04-04-2005 10:13

KWH348

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Secretary