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Southeastern Symposium for Public Finance

What You Need to Know About
Tax Increment Financing (TIFs)

April 20, 2017

TIF 101

Tax Increment Financing



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- Tax increment financing is allowed by the South Carolina Constitution (1977 Amendments). Article X, Section 14 authorizes a city to borrow money for redevelopment within its incorporated boundaries, with debt service to be provided from the incremental property tax revenues resulting from the value added by the redevelopment project.
- Law for cities is codified at Chapter 6 of Title 31, Code of Laws of South Carolina (originally enacted in 1984, and amended many, many times).
- Law for counties is codified at Chapter 7 of Title 31, Code of Laws of South Carolina (enacted in 1999, amended once).
- TIF Law upheld in *Wolper v. City Council of City of Charleston* (1985).

Statutory Process | TIF Process



- Starting point is the adoption of a Redevelopment Plan (defining a Redevelopment Project Area). The Redevelopment Project Area must contain blighted areas, conservation areas or more recently agricultural areas (sprawl areas for the County TIF – unincorporated territory).
- Differences between blighted areas and conservation areas; and improved areas and vacant areas.
- Factors for improved structures: age, dilapidation, deterioration, illegal use of structures, code violations, vacancies, lack of planning, lack of adequate infrastructure, etc....
- Factors for vacant areas (if not blighted or conservation) include: poor platting, tax delinquencies, deterioration of neighboring structures, etc....
- Redevelopment Project Area must be greater than 1.5 acres (limited to 5% of total acreage of County in County TIF)

Statutory Process | TIF Goes Active



- The TIF Law (both municipal and county) does not authorize any revenues from the TIF to be used for the Redevelopment Projects until the issuance of TIF Bonds, secured by and payable from tax increments.
- Once the assessed value in the Redevelopment Area exceeds the initial assessed value at the time the Redevelopment Area is created and TIF Bonds are issued, a special tax allocation fund is created and the funds therein are used to pay project costs (including the payment of the debt obligations).
- Initial issue of TIF Bonds must be issued within 10 years of the adoption of the Redevelopment Plan (5 years for County TIF) and other affected taxing districts must consent to inclusion within the District in order for their increment to be pulled off.
- Other revenues may be made available to retire the obligations.
- Debt is not chargeable against debt limit.

Statutory Process | Necessary Actions

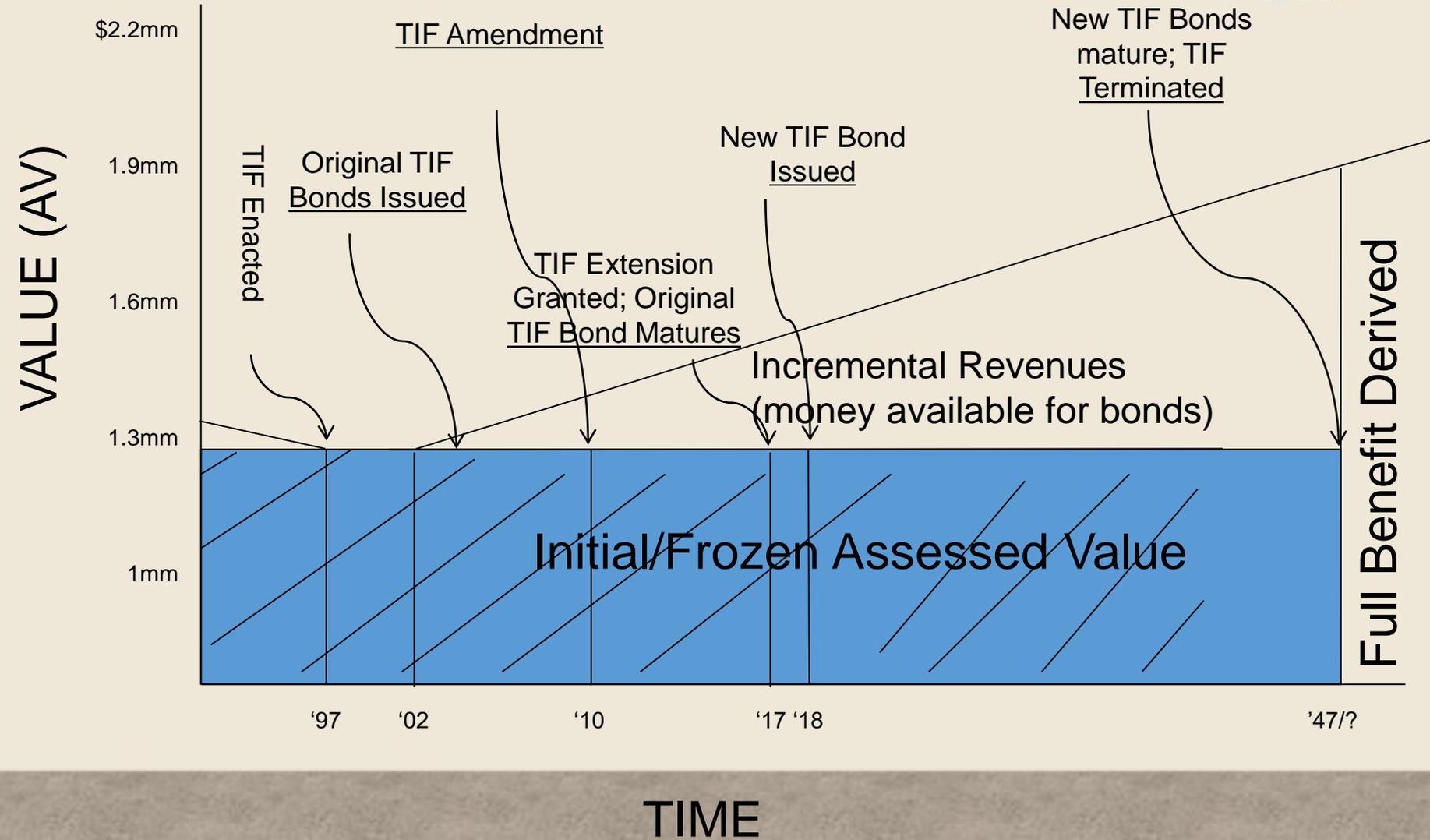


- Sections 31-6-80/31-7-80 require the issuer to give forty-five days public notice to all taxing districts (i.e. School District, Special Purpose Districts, etc.) if there is taxable property included in redevelopment project area.
- Notice must direct taxing district to give comments to the municipality concerning the subject matter of the hearing prior to date of the public hearing.
- If taxing district does not file an objection to the redevelopment plan at or prior to date of public hearing, **the taxing district is deemed to consent.**
- City can then make changes to respond to taxing district's objections.

TIF | Graphic Depiction



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A request is made...



You receive notice from a municipality/county that it is considering a development plan that includes Tax Increment Financing . . .

- What should you do?
- What are your considerations?
- What options do you have?

Your Response | What are your choices?



- Consent without comment (no action required)
- Consent in part (can object to obligations above a certain amount)
- Object to the project entirely (object to any obligations)
- As of 2012, enter into an intergovernmental agreement (IGA)

99 Problems | But a TIF ain't one



- TIF causes increase in required services to the area
- Redevelopment will overburden services
- Subsidy for business that is not needed
- Its not fair to the taxpayers
- Inefficient use of money
- It's unnecessary – businesses will invest if there's an opportunity
- Limitations of Act 388 (Section 6-1-320)

Your Response | Intergovernmental Agreements



- Defined by S.C. Code Ann. § 31-6-85; Counties do not have specific authorization, but likely may do so under Home Rule. However Counties and Cities may jointly create TIFs under § 31-7-110.
- Enacted in 2012, effective June 20, 2012
- Can consent to participate in a redevelopment project on partial or modified basis
- Agreement is effective upon ratification by Affected Taxing District and Municipality

Your Response | Intergovernmental Agreements



- What is the term?
- What is the split of revenue?
- When will the IGA be effective?
 - At signature?
 - When bonds are issued?
 - When identified infrastructure goes on tax bill?
 - Will there be triggering events?
- Will you limit your participation?
- Can the TIF be amended?

Who is this guy?



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Source: @rhinomolehunter

North Augusta Case | Challenge to Amendments



Facts:

- City expanded original TIF district to extend term and amount of bonds authorized. City makes new substantive findings and follows procedural requirements of the TIF Act. Enters IGAs with county and school district. Citizen challenges propriety of findings.

Holding:

- SC Supreme Court says § 31-6-80(F)(2) requires the municipality to comply with only the procedural requirements of § 31-6-80(B)–(D), not the substantive findings such as additional findings of blight and declining property values.

End Result:

- Plan amendments stand. Project may proceed.

Donohue v. City of North Augusta, 2015 WL 3757108 (S.C. Jun. 17, 2015).

Clemson Case | Challenge to Plan Expenditures



Facts:

- City adopts redevelopment plan in 1988. Total TIF Bonds authorized were \$8m and forecast costs of projects was \$9.4m. City issues \$8m of bonds with cost to retire bonds as \$11m. As of 2014, TIF revenues totaled \$15.3m. City never distributed surplus and instead continued to fund projects.
- County and school district file suit against city alleging expenditure of TIF funds outside the scope of the redevelopment plan and failed to return surplus funds to county and school district.

Holding:

- Trial court order finds for county and school district - while TIF was established correctly, the city had exceeded the scope of the redevelopment plan in terms of projects and amounts and owed surplus to county and school district.



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Questions?

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