

Tax Increment Districts Under CGS § 7-339cc et seq.

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Issue

Summarize Connecticut's tax increment district law, as established by [PA 15-57](#) and codified at [CGS §§ 7-339cc through 7-339kk](#).

Summary

[CGS § 7-339cc et seq.](#) allows municipalities, through their legislative bodies, to establish a tax increment district (generally known as a tax increment financing (TIF) district) to finance economic development projects in eligible areas. It allows a municipality to finance projects in the district by (1) designating all or part of the new or incremental real property tax revenue generated in the district for repayment of costs incurred to fund the projects, (2) imposing assessments on real property in the district benefiting from certain public improvements (i.e., benefit assessments), and (3) issuing bonds backed by these revenue streams to pay project costs.

The law imposes certain criteria for designating a TIF district. A district must encompass property that is (1) substandard, deteriorating, or blighted; (2) in need of rehabilitation, redevelopment, or conservation; or (3) suitable for certain types of development, including downtown or transit-oriented development. The law generally limits the (1) taxable value of the districts a municipality may create to no more than 10% of the total value of its taxable property and (2) district's duration to a maximum of 50 fiscal years.

The law specifies a process for establishing a TIF district that, among other things, requires a municipality to (1) consider the proposed district's contribution to the municipality and its residents and (2) hold at least one public hearing on the proposal.

The law requires a municipality's legislative body to adopt a master plan for the TIF district and prescribes the plan's components, including a financial plan that defines the costs and revenue sources required to accomplish the master plan.

Prior to 2015 and the passage of [CGS § 7-339cc et seq.](#), the law granted municipalities limited authority to use TIF to finance economic development projects. Among other things, these other laws generally (1) limit the type of projects eligible for TIF, (2) restrict the use of incremental tax revenue to repaying outstanding TIF bonds, and (3) require multiple entities to approve the use of TIF (see sidebar).

Establishing and Dissolving Districts

Legislative Body's Action (§ 7-339dd)

The law allows a municipality's legislative body to establish a tax increment district within the municipality's boundaries in accordance with the law's requirements. The district is effective when the legislative body approves it and adopts a district master plan, as described below. If the municipality operates under a charter, the law specifies that the district may not conflict with the charter.

Advisory Board Encouraged (§ 7-339kk)

The law encourages the legislative body to create a board to advise it and other designated entities on (1) planning, constructing, and implementing the district master plan and (2) maintaining and operating the district after the plan's completion. The advisory board's members include people who own or occupy real property in or adjacent to the district.

Other TIF Laws

Municipalities can use TIF to repay bonds issued to finance:

1. *physical projects in areas designated for redevelopment ([CGS § 8-124 et seq.](#)),*
2. *urban renewal ([CGS § 8-140 et seq.](#)), and*
3. *municipal development ([CGS § 8-186 et seq.](#)).*

(Redevelopment and urban renewal areas must be blighted; municipal development areas must be suitable for commercial and industrial uses.)

State-designated distressed municipalities and targeted investment communities can also use bond-funded TIF to finance information technology projects; and all municipalities can use it to clean up and redevelop contaminated property anywhere in a municipality ([CGS § 32-23zz](#)).

The legislature has also authorized TIF districts (known as "infrastructure improvement districts") on a case-by-case basis by enacting special legislation (e.g., Harbor Point (Stamford); Great Pond (Windsor); and Steel Point (Bridgeport)).

Conditions for Approval

The law requires municipalities to take certain steps before establishing a district and approving a district master plan.

Planning Commission Opinion (§§ 7-339ee & -339ff)

The municipality must transmit the plan to its planning commission, or combined planning and zoning commission, if it has either. The commission must study the plan and issue a written advisory opinion, including a determination as to whether the plan is consistent with the municipality's plan of conservation and development.

Public Hearing (§ 7-339ee)

The legislative body must hold at least one public hearing on the proposed district. It must publish notice of the hearing at least 10 days in advance in a newspaper with general circulation in the municipality and include (1) the hearing's date, time, and place and (2) a legal description of the proposed district's boundaries.

Approval Criteria (CGS § 7-339ee)

The municipality must determine whether the proposed district meets certain criteria. Its legislative body (or board of selectmen if the legislative body is a town meeting) must consider whether the proposed district and district master plan will contribute to the municipality's economic growth or well-being or improve its residents' health, welfare, or safety.

In addition, the original assessed value of the proposed district (i.e., the value of all taxable real property in the district as of the prior October 1), plus the original assessed value of all of the municipality's existing TIF districts, cannot exceed 10% of the total value of taxable property in the municipality as of the October 1 immediately preceding the district's establishment. This calculation does not include any TIF districts established after October 1, 2015, consisting entirely of "contiguous property" owned by a single taxpayer. (Contiguous property includes parcels divided by a road, power line, railroad line, or right-of-way.) The municipality may not establish a district if this criterion is not met.

Lastly, the municipality's legislative body must determine whether a portion of the district's property is (1) substandard, insanitary, deteriorated, deteriorating, or blighted; (2) in need of rehabilitation,

Transit-Oriented Development (§ 7-339cc)

"Transit-oriented development" means the development of residential, commercial, and employment centers within one-half mile or walking distance of a transit facility, including rail and bus rapid transit and services that meet transit supportive standards for land uses, built environment densities, and walkable environments in order to facilitate and encourage the use of these services.

A ***"transit facility"*** is a place providing access to transit services, including bus stops and stations, highway interchanges used by transit providers, ferry landings, train stations, shuttle terminals, and bus rapid transit stops.

redevelopment, or conservation; or (3) suitable for industrial, commercial, residential, mixed-use, retail, downtown, or transit-oriented development.

Dissolving the District or Changing Its Boundaries (§ 7-339dd)

A municipality's legislative body may vote to dissolve a district or change its boundaries at any time, as long as the district does not have any outstanding bonds or obligations, other than municipal GO bonds.

District Powers, Generally (§ 7-339dd)

The law authorizes a municipality, within a district and consistent with its district master plan, to:

1. acquire, construct, reconstruct, improve, preserve, alter, extend, operate, and maintain property or promote development to meet the district master plan's objectives (in doing so, it may acquire property, land, and easements through negotiation or by other legal means);
2. execute and deliver contracts, agreements, and other documents related to the district's operation and maintenance;
3. issue bonds and other obligations (see below);
4. enter into fixed assessment agreements for real property in the district, subject to the restrictions described below;
5. accept grants, advances, loans, or other financial assistance from public or private sources and do anything necessary or desirable to secure this aid; and
6. according to terms it establishes, (a) provide services, facilities, or property; (b) lend, grant, or contribute funds; and (c) take any other action it is authorized to perform for other municipal purposes.

These powers are in addition to those the municipality has under the Constitution, other statutes, and special acts.

Fixing Assessments in the District (§ 7-339dd(b)(4))

The law allows a municipality, through its board of selectmen, town council, or other governing body, to enter into written agreements with a taxpayer to fix the assessment of real property in the district for up to 15 years. The property's fixed assessment, plus the value of any future improvements, cannot be less than its assessment as of the last regular assessment date without the future improvements.

District Master Plan (§ 7-339ff)

Requirement

The law requires a municipality's legislative body to adopt a (1) "district master plan" for the district and (2) statement of the percentage or amount of "increased assessed value" that will be designated as "captured assessed value" under the plan, as described below. It must adopt the plan after it receives the advisory opinion from the planning commission or combined planning and zoning commission, or 90 days after it requests the opinion. (A TIF district is only effective when the legislative body both approves the district and adopts a district master plan.)

Purpose

The "district master plan" is a statement of means and objectives relating to a district designed to (1) provide new employment opportunities, (2) retain existing employment, (3) provide housing opportunities, (4) improve or broaden the tax base, or (5) construct or improve physical facilities and structures. It achieves these means and objectives through industrial, commercial, residential, retail, or mixed-use development; transit-oriented development; downtown development; or any combination of these.

Components

The district master plan must include:

1. a legal description of the district's boundaries;
2. the tax identification numbers for its lots or parcels;
3. the present condition and uses of its land and buildings;
4. the public facilities, improvements, or programs anticipated to be financed in whole or part;
5. the (a) industrial, commercial, residential, mixed-use, or retail improvements and (b) downtown or transit-oriented development anticipated to be financed in whole or part;
6. a plan for maintaining and operating the district after its planned capital improvements are completed;
7. the district's maximum duration, which cannot exceed 50 fiscal years, beginning with the year in which the district is established; and
8. a financial plan, as described below.

Generally, the municipality's legislative body may amend the plan and must review it at least once every 10 years after its initial approval.

Financial Plan Component

The district master plan must include a financial plan that identifies the project costs and revenue sources required to accomplish the district master plan. The plan must contain:

1. cost estimates for the anticipated public improvements and developments;
2. the maximum amount of indebtedness to be incurred to implement the plan;
3. the anticipated revenue sources;
4. a description of the terms and conditions of any agreements, including any anticipated assessment agreements, contracts, or other obligations related to the plan;
5. estimates of the district's increased assessed values; and
6. for each year, the (a) portion of the increased assessed values that will be applied to the plan as captured assessed values and (b) resulting tax increments.

Benefit Assessments (§ 7-339ii)

Funding Mechanism

If a municipality constructs, improves, extends, equips, rehabilitates, repairs, acquires, or provides a grant for or finances public improvements within the district, it may assess a proportion of the improvement costs as a benefit assessment on that real property. It may, by ordinance, apportion the value of these improvements according to a formula that reflects the actual benefits accruing to the various properties because of the development and maintenance.

The municipality may (1) require property owners to pay the benefit assessments in annual installments for up to 30 years and (2) forgive the benefit assessments in any given year without affecting future installments. The municipality may assess buildings or structures constructed or expanded in the district after the initial benefit assessment is imposed as if they had existed at the time of the original benefit assessment.

Adopting, Collecting, and Enforcing Assessments

The municipality must revise and adopt the assessments at least once a year within 60 days before the start of the fiscal year. Before estimating and imposing a benefit assessment, the municipality must hold at least one public hearing on the payment schedule or any revisions to it. It must

publish a notice of the hearing at least 10 days in advance in a newspaper with general circulation in the municipality.

The law applies the same statutory public hearing and appeal procedures to district benefit assessments as apply under existing law to municipal sewer system benefit assessments levied by water pollution control authorities ([CGS § 7-250](#)).

The municipality has the same powers to collect and enforce the benefit assessments as it does for municipal taxes. Assessment revenues must be paid into the appropriate district master plan fund account, as described below.

Bonds (§ 7-339jj)

To carry out or administer a district master plan or other related functions, municipalities may issue bonds and other obligations (e.g., refunding bonds, notes, interim certificates, and debentures) backed by:

1. their full faith and credit (i.e., GO bonds);
2. the income, proceeds, revenues, and property within the district, including grants, loans, advances, or contributions from state, federal, or other sources;
3. tax increment revenues and benefit assessments; or
4. any combination of these sources.

(Only the municipality's GO bonds count towards its bond cap.)

Tax Increment Revenues (§ 7-339gg(a)&(b))

In addition to issuing bonds or imposing benefit assessments to finance projects, the law allows a municipality to finance them using the new or incremental real property tax revenue generated in the district. It also allows the municipality to use these revenue streams to repay the bonds issued to finance the projects.

Captured Assessed Value

By law, a municipality may designate all or part of the district's new or incremental real property tax revenue ("tax increment") to finance all or part of the district's master plan. The amount of tax increment revenue designated by the municipality is determined by the district's "captured assessed value," that is, the percentage or amount of the incremental increase in property values

("increased assessed value") that is used from year to year to finance the plan's project costs. The incremental increase in property values is the amount by which the value of the district's property as of October 1 of each year ("current assessed value") exceeds its original assessed value. The captured assessed value is subject to any fixed assessment agreements.

Upon the municipality establishing the district and adopting its master plan, its assessor must certify the original assessed value of the taxable real property within the district's boundaries. The assessor must also annually certify the:

1. current assessed value of the district's taxable real property,
2. amount by which the current assessed value has increased or decreased from the original assessed value, and
3. amount of the captured assessed value.

District Master Plan Fund (§ 7-339gg(c))

Municipalities that have designated a percentage or amount of captured assessed value in their district master plans must establish a fund for depositing the resulting incremental tax revenues and paying project costs. They must also deposit in the fund any benefit assessments imposed on real property in the district, as described below.

The fund must consist of a (1) project cost account (for costs outlined in the financial plan, including reimbursing project cost expenditures incurred by a public body) and (2) development sinking fund account (for any bonds issued to carry out or administer the district master plan).

Depositing Tax Increment Revenues

The municipality must annually set aside all tax increment revenues on captured assessed values and deposit the revenues in a specific order. The revenues must first go to the development sinking fund account, in an amount necessary to pay the annual debt service on the bonds issued (taking into account estimated future revenues that will be deposited to the account and earnings on this amount), excluding any GO bonds issued by the municipality that are backed solely by its full faith and credit. Any remaining revenues must go to the project cost account.

At any time during the district's term, the municipality's legislative body may vote to return to the municipality's general fund any tax increment revenues remaining in either account that exceed the amount necessary to pay the account's obligations.

Eligible Uses of District Master Plan Fund (§ 7-339hh)

The law limits the use of a district master plan fund to paying for certain categories of expenses: (1) improvements made within the district; (2) improvements made outside the district that are directly related to or necessary for the district's establishment or operation; and (3) economic development, environmental improvements, and employment training associated with the district.

Improvements Made in the District

The law allows the fund to pay the costs for improvements made within the district, including:

1. capital costs, as described below;
2. financing costs, including closing and issuance costs, reserve funds, and capitalized interest;
3. real property assembly costs;
4. technical and marketing assistance program costs;
5. professional service costs, including licensing, architectural, planning, engineering, development, and legal expenses;
6. maintenance and operation costs;
7. administrative costs, including reasonable charges for the time municipal employees, other agencies, or third-party entities spend implementing a district master plan; and
8. organizational costs related to the district's planning and establishment, including the cost of conducting environmental impact studies, informing the public about the district, and implementing the district master plan.

Capital costs include the cost of:

1. acquiring or constructing land, improvements, infrastructure, public ways, parks, buildings, structures, railings, street furniture, signs, landscaping, plantings, benches, trash receptacles, curbs, sidewalks, turnouts, recreational facilities, structured parking, transportation improvements, pedestrian improvements, and other related improvements, fixtures, and equipment for public use;
2. acquiring or constructing land, improvements, infrastructure, buildings, and structures, such as facades, signage, fixtures, and equipment for industrial, commercial, residential, mixed-use, retail, or transit-oriented development;
3. demolishing, altering, remodeling, repairing, or reconstructing existing buildings, structures, and fixtures;

4. remediating environmental contamination;
5. preparing a site and finishing work; and
6. incurring associated fees and expenses, such as licensing, permitting, planning, engineering, architectural, testing, legal, and accounting expenses.

Improvements Made Outside the District

For improvements made outside the district that are directly related to or necessary for establishing or operating the district, the fund may pay the:

1. portion of the costs reasonably related to constructing, altering, or expanding facilities required due to improvements or activities within the district, including roadways, traffic signals, easements, sewage or water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, electrical lines, fire station improvement, and street signs;
2. costs of public safety and public school improvements made necessary by the district's establishment; and
3. costs of mitigating any of the district's adverse impacts on the municipality and its constituents.

Other Development-Related Costs

The law also allows the fund to pay costs related to economic development, environmental improvements, or employment training associated with the district. This includes (1) economic development programs or events; (2) environmental improvement projects; (3) permanent economic development revolving loan funds, investment funds, and grants; and (4) services and equipment necessary for employment skills development and training, including scholarships to in-state educational institutions for jobs created or retained in the district.

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