

CHAPTER [11-9](#)  
TAX INCREMENT FINANCING DISTRICTS

- [11-9-1](#) Definition of terms.
- [11-9-2](#) Municipal powers related to districts.
- [11-9-3](#) Planning commission hearing on creation of district--Notice.
- [11-9-4](#) Recommendation by planning commission for creation of district--Designation of boundaries.
- [11-9-5](#) Governing body resolution creating district--Boundaries--Name.
- [11-9-6](#) Districts with overlapping boundaries permitted.
- [11-9-7](#) Maximum percentage of taxable property in municipality permitted in district.
- [11-9-8](#) Required findings in resolution creating district.
- [11-9-9](#) Areas conducive to disease or crime defined as blighted.
- [11-9-10](#) Developed areas impairing growth defined as blighted.
- [11-9-11](#) Open areas impairing growth defined as blighted.
- [11-9-12](#) Determination of tax increment base on creation of district or amendment of plan.
- [11-9-13](#) Project plan for each district--Contents.
- [11-9-14](#) Project costs defined.
- [11-9-15](#) Items included in project costs.
- [11-9-16](#) Additional contents of project plan.
- [11-9-17](#) Governing body resolution approving project plan--Findings.
- [11-9-18](#) Amendment to project plan--Procedure.
- [11-9-19](#) Tax increment base defined.
- [11-9-20](#) Determination of tax increment base of district.
- [11-9-20.1](#) Aggregate assessed value for district not in compliance with § [10-6-33.8](#).
- [11-9-21](#) Indication on assessment rolls of parcels within district.
- [11-9-22](#) Presumption as to property recently acquired or leased by municipality.
- [11-9-23](#) Redetermination of tax increment base when project costs increased by amendment of plan.
- [11-9-24](#) Annual notice by department of assessed value of real property and tax increment base--Change in laws not to result in lower assessed values--Conditions.
- [11-9-25](#) Allocation to municipality of tax increments--Duration of allocation.
- [11-9-26](#) Tax increment defined.
- [11-9-27](#) Taxation of property in district.
- [11-9-28](#) Payment to municipality of allocable tax increment.
- [11-9-29](#) [11-9-29](#). Repealed by SL 1983, ch 37, § 9
- [11-9-30](#) Methods of paying project costs.
- [11-9-31](#) Tax increments deposited in special fund--Municipal appropriations to fund--Investment of moneys in fund.
- [11-9-32](#) Permissible uses of special fund.
- [11-9-33](#) Bonds authorized for payment of project costs.
- [11-9-34](#) Bonds or contracts authorized by resolution.
- [11-9-35](#) Maximum amount of bonds--Maturity--Redemption--Bearer or registered--Denominations.
- [11-9-36](#) Bonds payable only from special fund.

- [11-9-37](#) Pledge of special fund to bonds--Restrictions on use of fund--Lien.
- [11-9-38](#) Bonds to be negotiable and payable only from tax increment.
- [11-9-39](#) Other security and marketability provisions.
- [11-9-39.1](#) State pledge not to alter rights vested in bondholders until bonds fully discharged.
- [11-9-40](#) Sale of bonds.
- [11-9-41](#) Procedure for condemnation under power of eminent domain.
- [11-9-42](#) Tax increments not to be used for residential structures.
- [11-9-43](#) Performance bond required of purchaser or lessee of property.
- [11-9-44](#) Notice to purchaser or lessee and surety of noncompliance with contract--  
Taking possession of work site.
- [11-9-45](#) Disposition of funds remaining after payment of project costs and bonds.
- [11-9-46](#) Termination of district.
- [11-9-47](#) [11-9-47](#). Repealed by SL 1982, ch 16, § 14
- [11-9-48](#) Reports of tax increment financing districts published on department website.
- 

### **11-9-1. Definition of terms.**

Terms used in this chapter mean:

- (1) "Department," the Department of Revenue;
- (2) "District," a tax increment financing district;
- (3) "Governing body," the board of trustees, the board of commissioners, the board of county commissioners, or the common council of a municipality;
- (4) "Grant," the transfer of money or property to a transferee for a governmental purpose that is not a related party to or an agent of the municipality;
- (5) "Municipality," any incorporated city or town in this state and, for purposes of this chapter only, any county in this state;
- (6) "Planning commission," a planning commission created under chapter [11-6](#) or a municipal planning committee of a governing body of a municipality that has no planning commission or, if the municipality is a county having no planning commission or planning committee, the board of county commissioners;
- (7) "Project plan," the properly approved plan for the development or redevelopment of a tax increment financing district including all properly approved amendments to the plan;
- (8) "Tax increment financing district," a contiguous geographic area within a municipality defined and created by resolution of the governing body;
- (9) "Taxable property," all real and personal taxable property located in a tax increment financing district;
- (10) "Tax increment valuation," is the total value of the tax increment financing district minus the tax increment base as determined pursuant to § [11-9-19](#).

**Source:** SL 1978, ch 91, § 1; SL 1991, ch 114, § 1; SL 1992, ch 60, § 2; SL 1996, ch 69, § 16; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. [11-1](#)), § 161, eff. Apr. 12, 2011; SL 2011, ch 73, § 1; SL 2018, ch 70, § 7.

---

### **11-9-2. Municipal powers related to districts.**

A municipality may exercise those powers necessary and convenient to carry out the purposes of this chapter, including the power to:

- (1) Create districts and define the boundaries;
- (2) Prepare project plans, approve the plans, and implement the provisions and purposes of the plans, including the acquisition by purchase or condemnation of real and personal property within the district and the sale, lease, or other disposition of property to private individuals, partnerships, corporations, or other entities at a price less than the cost of the acquisition and of any site improvements undertaken by the municipality pursuant to a project plan;
- (3) Issue tax increment financing bonds;
- (4) Deposit moneys into the special fund of any district; and
- (5) Enter into any contract or agreement, including an agreement with bondholders, determined by the governing body to be necessary or convenient to implement the provisions and effectuate the purposes of a project plan. A contract or agreement may include conditions, restrictions, or covenants that run with the land or otherwise regulate the use of land or that establish a minimum market value for the land and completed improvements to be constructed by a specific date, which date may not be later than the date of termination of the district pursuant to § [11-9-46](#). Any contract or agreement that provides for the payment of a specific sum of money at a specific future date shall be made pursuant to the provisions of chapter [6-8B](#).

**Source:** SL 1978, ch 91, § 6; SL 1983, ch 37, § 6; SL 2011, ch 73, § 2; SL 2018, ch 70, § 8.

---

### **[11-9-3](#). Planning commission hearing on creation of district--Notice.**

The planning commission shall hold a hearing at which interested parties are afforded a reasonable opportunity to express views on the proposed creation of a district and the district's proposed boundaries. Notice of the hearing shall be published once, not less than ten nor more than thirty days before the date of the hearing in a legal newspaper having a general circulation in the redevelopment area of the municipality. Before publication, a copy of the notice shall be sent by first class mail to the chief executive officer of each local governmental entity having the power to levy taxes on property located within the proposed district and to the school board of any school district that has property located within the proposed district.

**Source:** SL 1978, ch 91, § 7 (1); SL 1982, ch 60, § 13; SL 2018, ch 70, § 9.

---

### **[11-9-4](#). Recommendation by planning commission for creation of district--Designation of boundaries.**

The planning commission shall designate the boundaries of a district that the planning commission recommends be created. The planning commission shall submit the recommendation to the governing body.

**Source:** SL 1978, ch 91, § 7 (2); SL 2018, ch 70, § 10.

---

### **11-9-5. Governing body resolution creating district--Boundaries--Name.**

The governing body shall adopt a resolution that:

- (1) Describes the boundaries, which may be the same as those recommended by the planning commission, of a district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included. The boundaries may not split a whole unit of property that is being used for a single purpose;
- (2) Creates the district on a given date;
- (3) Assigns a name to the district for identification purposes. The first district created in each municipality shall be known as "Tax Increment Financing District Number One, City (or Town, or County) of \_\_\_\_\_." Each subsequently created district shall be assigned the next consecutive number.

**Source:** SL 1978, ch 91, § 7 (3); SL 2018, ch 70, § 11.

---

### **11-9-6. Districts with overlapping boundaries permitted.**

Subject to any agreement with bondholders, a district may overlap with one or more existing districts if the boundaries of the districts are not identical.

**Source:** SL 1978, ch 91, § 26; SL 2018, ch 70, § 12.

---

### **11-9-7. Maximum percentage of taxable property in municipality permitted in district.**

The resolution required by § [11-9-5](#) shall contain a finding that the aggregate assessed value of the taxable property in the district plus the tax increment base of all other existing districts does not exceed ten percent of the total assessed value of all taxable property in the municipality.

**Source:** SL 1978, ch 91, § 7 (4) (c); SL 1991, ch 115, § 1; SL 2018, ch 70, § 13.

---

### **11-9-8. Required findings in resolution creating district.**

The resolution required by § [11-9-5](#) shall contain the following findings:

- (1) Not less than twenty-five percent, by area, of the real property within the district is a blighted area or not less than fifty percent, by area, of the real property within the district will stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources development; and
- (2) The improvement of the area is likely to significantly enhance the value of substantially all other real property in the district.

It is not necessary to identify the specific parcels meeting the criteria. No county may create a district located, in whole or in part, within a municipality, unless the governing body of the municipality has consented to creation of a district by resolution.

**Source:** SL 1978, ch 91, § 7 (4) (a), (b); SL 1991, ch 114, § 2; SL 1992, ch 60, § 2; SL 2004, ch 126, § 2; SL 2011, ch 73, § 3; SL 2018, ch 70, § 14.

---

### **11-9-9. Areas conducive to disease or crime defined as blighted.**

Any area, including slum area, in which the structures, buildings, or improvements, by reason of:

- (1) Dilapidation, age, or obsolescence;
- (2) Inadequate provisions for ventilation, light, air, sanitation, or open spaces;
- (3) High density of population and overcrowding;
- (4) The existence of conditions which endanger life or property by fire and other causes; or
- (5) Any combination of such factors;

are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and which is detrimental to the public health, safety, morals, or welfare, is a blighted area.

**Source:** SL 1978, ch 91, § 2 (1).

---

### **11-9-10. Developed areas impairing growth defined as blighted.**

Any area which by reason of:

- (1) The presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures;
- (2) Predominance of defective or inadequate street layouts;
- (3) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (4) Insanitary or unsafe conditions;
- (5) Deterioration of site or other improvements;
- (6) Diversity of ownership, tax, or special assessment delinquency exceeding the fair value of the land;
- (7) Defective or unusual conditions of title;
- (8) The existence of conditions which endanger life or property by fire and other causes; or
- (9) Any combination of such factors;

substantially impairs or arrests the sound growth of a municipality, 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, is a blighted area.

**Source:** SL 1978, ch 91, § 2 (2).

---

### **11-9-11. Open areas impairing growth defined as blighted.**

Any area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of a municipality, is a blighted area.

**Source:** SL 1978, ch 91, § 2 (3).

---

### **11-9-12. Determination of tax increment base on creation of district or amendment of plan.**

On the creation of a district or adoption of any amendment subject to § [11-9-23](#), the tax increment base of the district shall be determined as provided in §§ [11-9-20](#) to [11-9-](#)

[25](#), inclusive.

**Source:** SL 1978, ch 91, § 10; SL 2018, ch 70, § 15.

---

**[11-9-13](#). Project plan for each district--Contents.**

The planning commission shall adopt a project plan for each district and submit the plan to the governing body. The plan shall include:

- (1) The kind, number, and location of all proposed public works or improvements within the district;
- (2) An economic feasibility study;
- (3) A detailed list of estimated project costs;
- (4) A fiscal impact statement that shows the impact of the district, both until and after the bonds are repaid, on all entities levying taxes on property in the district; and
- (5) A description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred.

No expenditure may be provided for in the plan more than five years after a district is created unless an amendment is adopted by the governing body pursuant to § [11-9-23](#).

**Source:** SL 1978, ch 91, § 7 (5); SL 2011, ch 73, § 4; SL 2018, ch 70, § 16.

---

**[11-9-14](#). Project costs defined.**

For the purposes of this chapter, the term, project costs, are any expenditures made or estimated to be made, or monetary obligations incurred or estimated to be incurred, by a municipality that are listed in a project plan as grants or costs of public works or improvements within a district, plus any incidental costs diminished by any income, special assessments, or other revenues, other than tax increments, received, or reasonably expected to be received, by the municipality in connection with the implementation of the plan.

**Source:** SL 1978, ch 91, § 3; SL 2011, ch 73, § 5; SL 2018, ch 70, § 17.

---

**[11-9-15](#). Items included in project costs.**

Project costs include:

- (1) Capital costs, including the actual costs of the construction of public works or improvements, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; the clearing and grading of land; and the amount of interest payable on tax increment bonds issued pursuant to this chapter until such time as positive tax increments to be received from the district, as estimated by the project plan, are sufficient to pay the principal of and interest on the tax increment bonds when due;
- (2) Financing costs, including all interest paid to holders of evidences of indebtedness issued to pay for project costs, any premium paid over the principal amount thereof because of the redemption of obligations prior to maturity and a reserve for the payment of principal and interest on obligations in an amount

determined by the governing body to be reasonably required for the marketability of obligations;

- (3) Real property assembly costs, including the actual cost of the acquisition by a municipality of real or personal property within a district less any proceeds to be received by the municipality from the sale, lease, or other disposition of property pursuant to a project plan;
- (4) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;
- (5) Imputed administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;
- (6) Relocation costs;
- (7) Organizational costs, including the costs of conducting environmental impact and other studies and the costs of informing the public of the creation of a district and the implementation of project plans; and
- (8) Payments and grants made, at the discretion of the governing body, which are found to be necessary or convenient to the creation of a district, the implementation of project plans, or to stimulate and develop the general economic welfare and prosperity of the state. No payment or grant may be used for any residential structure pursuant to § [11-9-42](#).

**Source:** SL 1978, ch 91, § 3; SL 1983, ch 37, § 7; SL 2011, ch 73, § 6; SL 2018, ch 70, § 18.

---

#### **11-9-16. Additional contents of project plan.**

The project plan for each district shall include:

- (1) A map showing the existing uses and conditions of real property in the district;
- (2) A map showing the proposed improvements and uses;
- (3) A map showing the proposed changes of zoning ordinances;
- (4) A statement listing changes needed in the master plan, map, building codes, and municipal ordinances;
- (5) A list of estimated nonproject costs; and
- (6) A statement of a proposed method for the relocation of persons to be displaced.

**Source:** SL 1978, ch 91, § 7 (5); SL 2018, ch 70, § 19.

---

#### **11-9-17. Governing body resolution approving project plan--Findings.**

The governing body shall approve a project plan for each district. The approval by resolution shall contain findings that the plan is feasible and in conformity with the master plan, if any, of the municipality.

**Source:** SL 1978, ch 91, § 7 (6); SL 2018, ch 70, § 20.

---

#### **11-9-18. Amendment to project plan--Procedure.**

The planning commission may at any time adopt an amendment to a project plan which shall be subject to approval by the governing body in the same manner as an initial project plan.

**Source:** SL 1978, ch 91, § 8.

---

**11-9-19. Tax increment base defined.**

For purposes of this chapter, the term, tax increment base, is the aggregate assessed value of all taxable property located within a district on the date the district is created, as determined by § [11-9-20](#).

**Source:** SL 1978, ch 91, § 5; SL 2018, ch 70, § 21.

---

**11-9-20. Determination of tax increment base of district.**

On application in writing by the municipal finance officer, on a form prescribed by the department, the department shall determine the aggregate assessed value of the taxable property in the district, which aggregate assessed value, on certification to the finance officer, shall constitute the tax increment base of the district. The application shall be accompanied by a detailed parcel list of the included legal descriptions, property ownership, and valuation as provided by the director of equalization office of the affected corresponding county. Except as provided for in § [11-9-20.1](#), the department shall use the values as last previously certified by the department adjusted for the value to the date the district was created for any buildings or additions completed or removed and without regard to any reduction pursuant to §§ [1-19A-20](#), [10-6-35.2](#), and [10-6-67](#).

**Source:** SL 1978, ch 91, § 11; SL 1991, ch 115, § 2; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. 11-1), § 161, eff. Apr. 12, 2011; SL 2018, ch 70, § 22; SL 2020, ch 39, § 14; SL 2020, ch 43, § 1.

---

**11-9-20.1. Aggregate assessed value for district not in compliance with § [10-6-33.8](#).**

For the purpose of aggregate assessed value in § [11-9-20](#), the department shall, for any district located within a county not in compliance with § [10-6-33.8](#), determine the aggregate assessed value in order to reflect an aggregate assessed value as if there had been compliance with the requirements in § [10-6-33.8](#).

**Source:** SL 1991, ch 115, § 3.

---

**11-9-21. Indication on assessment rolls of parcels within district.**

The director of equalization shall indicate on the assessment roll required by §§ [10-3-28](#) and [10-6-44](#) each parcel of real property located within a district, including the name of the district the parcel is located in.

**Source:** SL 1978, ch 91, § 14; SL 2018, ch 70, § 23.

---

**11-9-22. Presumption as to property recently acquired or leased by municipality.**

There is a rebuttable presumption that any property within a district acquired or leased as lessee by a municipality, or any agency or instrumentality of the municipality, within one year immediately preceding the date of the creation of the district was acquired or leased in contemplation of the creation of the district. The presumption may be rebutted



by the municipality with proof that the real property was leased or acquired primarily for a purpose other than to reduce the tax increment base. If the presumption is not rebutted, for purposes of determining the tax increment base of the district, the taxable status of the real property is determined as though the lease or acquisition had not occurred.

**Source:** SL 1978, ch 91, § 13; SL 2018, ch 70, § 24.

---

**11-9-23. Redetermination of tax increment base when project costs increased by amendment of plan.**

If the municipality adopts an amendment to the original project plan for any district that includes additional project costs for which tax increments may be received by the municipality, the tax increment base for the district shall be redetermined pursuant to § [11-9-20](#). The tax increment base as redetermined under this section is effective for the purposes of this chapter only if it exceeds the original tax increment base determined pursuant to § [11-9-20](#). The provisions of this section do not apply if the additional project costs are thirty-five percent or less than the amount approved in the original project plan and the additional project costs will be incurred before the expiration of the period specified in § [11-9-13](#).

**Source:** SL 1978, ch 91, § 12; SL 2016, ch 74, § 1; SL 2018, ch 70, § 25.

---

**11-9-24. Annual notice by department of assessed value of real property and tax increment base--Change in laws not to result in lower assessed values--Conditions.**

The department shall annually give notice to the auditor or finance officer of all governmental entities having the power to levy taxes on real property within a district of both the assessed value of the real property and the assessed value of the tax increment base. The notice shall also explain that the taxes collected in excess of the base will be paid to the municipality as provided in § [11-9-28](#). No change in the laws of this state affecting taxation of real property may result in a lower assessed value of the real property and the assessed value of the tax increment base if the district is in force and until bonds issued pursuant to this chapter are retired.

**Source:** SL 1978, ch 91, § 15; SL 1989, ch 125, § 1; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. [11-1](#)), § 161, eff. Apr. 12, 2011; SL 2018, ch 70, § 26.

---

**11-9-25. Allocation to municipality of tax increments--Duration of allocation.**

Positive tax increments of a district shall be allocated to the municipality that created the district for each year from the date when the district is created until the municipality has been reimbursed for expenditures previously made, has paid all monetary obligations, and has retired all outstanding tax increment bonds. However, in no event may the positive tax increments be allocated longer than twenty years after the calendar year of creation.

**Source:** SL 1978, ch 91, § 16; SL 1989, ch 125, § 2; SL 2011, ch 73, § 7; SL 2018, ch 70, § 27.

---

### **11-9-26. Tax increment defined.**

For purposes of this chapter, the term, tax increment, is that amount obtained by multiplying the total county, municipal, school, and other local real property taxes levied on all taxable real property within a district in any year by a fraction having a numerator equal to that year's assessed value of all taxable real property in the district minus the tax increment base and a denominator equal to that year's assessed value of all taxable real property in the district. In any year, a tax increment is deemed positive if the tax increment base is less than the aggregate assessed value of taxable real property. A tax increment is deemed negative if the base exceeds the aggregate assessed value.

**Source:** SL 1978, ch 91, § 4; SL 2018, ch 70, § 28.

---

### **11-9-27. Taxation of property in district.**

With respect to the municipality, the county, school districts and any other local governmental body having the power to levy taxes on real property located within a district, the calculation of the assessed value of taxable real property in a district, for purposes of computing the dollar and cents rates of such taxing units, may not exceed the tax increment base of the district until the district is terminated. The dollar and cents rates of all taxing units shall be assessed and extended against all taxable real property in the district at its current assessed value. However, no change in the laws of this state affecting taxation of real property may result in a lesser rate for the tax increment base until the district is terminated pursuant to this chapter.

**Source:** SL 1978, ch 91, § 27; SL 1983, ch 37, § 8; SL 1989, ch 125, § 3; SL 2018, ch 70, § 29.

---

### **11-9-28. Payment to municipality of allocable tax increment.**

Notwithstanding any other provision of law, each officer charged by law to collect and pay over or retain local real property taxes shall first, on the next settlement date provided by law, pay over to the municipal treasurer or finance officer out of all taxes collected that portion that represents a tax increment allocable to the municipality.

**Source:** SL 1978, ch. 91, § 17; SL 2018, ch 70, § 30.

---

11-9-29. Repealed by SL 1983, ch 37, § 9

---

### **11-9-30. Methods of paying project costs.**

Payment of project costs may be made by any of the following methods or by any combination of methods:

- (1) Payment by the municipality from the special fund of the district;
- (2) Payment out of the municipality's funds;
- (3) Payment out of the proceeds of the sale of municipal bonds issued by the municipality under chapter [10-52](#) or [10-52A](#), or both;
- (4) Payment out of the proceeds of revenue bonds issued by the municipality under chapter [9-54](#); or

- (5) Payment out of the proceeds of the sale of tax increment bonds issued by the municipality under this chapter.

**Source:** SL 1978, ch 91, § 20; SL 2011, ch 73, § 8; SL 2018, ch 70, § 31.

---

**11-9-31. Tax increments deposited in special fund--Municipal appropriations to fund--Investment of moneys in fund.**

All tax increments received in a district shall, upon receipt by the municipal treasurer or finance officer, be deposited into a special fund for the district. The municipal treasurer or finance officer may deposit additional moneys into the fund pursuant to an appropriation by the governing body. Subject to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other municipal funds.

**Source:** SL 1978, ch 91, § 18; SL 2018, ch 70, § 32.

---

**11-9-32. Permissible uses of special fund.**

Moneys shall be paid out of the special fund created under § [11-9-31](#) only to pay project costs or grants of the district, to reimburse the municipality for the payments, or to satisfy claims of holders of tax increment bonds issued for the district.

**Source:** SL 1978, ch 91, § 18; SL 2011, ch 73, § 9; SL 2018, ch 70, § 33.

---

**11-9-33. Bonds authorized for payment of project costs.**

For the purpose of paying project costs, the governing body may issue tax increment bonds payable out of positive tax increments.

**Source:** SL 1978, ch 91, § 21; SL 2011, ch 73, § 10; SL 2018, ch 70, § 34.

---

**11-9-34. Bonds or contracts authorized by resolution.**

Tax increment bonds, contracts, or agreements shall be authorized by resolution of the governing body without a requirement of voter approval.

**Source:** SL 1978, ch 91, § 22; SL 2011, ch 73, § 11; SL 2018, ch 70, § 35.

---

**11-9-35. Maximum amount of bonds--Maturity--Redemption--Bearer or registered--Denominations.**

Tax increment bonds may not be issued in an amount exceeding the aggregate project costs. The bonds may not mature later than twenty years from the date the district was created. The bonds may contain a provision authorizing the redemption of the bonds, in whole or in part, at stipulated prices, at the option of the municipality, on any interest payment date and shall provide the method of selecting the bonds to be redeemed. The principal and interest on the bonds may be payable at any time and at any place. The bonds may be payable to the bearer or may be registered as to the principal or principal and interest. The bonds may be in any denominations.

**Source:** SL 1978, ch 91, § 23; SL 2011, ch 73, § 12; SL 2018, ch 70, § 36.

---

### **11-9-36. Bonds payable only from special fund.**

Tax increment bonds are payable only out of the special fund created under § [11-9-31](#). Each bond shall state that the bond is only payable out of the special fund and that the bond does not constitute a general indebtedness of the municipality or a charge against the municipality's general taxing power.

**Source:** SL 1978, ch 91, §§ 21, 24; SL 1983, ch 37, § 10; SL 2011, ch 73, § 13; SL 2018, ch 70, § 37.

---

### **11-9-37. Pledge of special fund to bonds--Restrictions on use of fund--Lien.**

The governing body shall irrevocably pledge all or a stated percentage of the special fund created under § [11-9-31](#) to the payment of the bonds. The special fund or designated part may be used only for the payment of the bonds and interest until the bonds have been fully paid, and any holder of the bonds or of any coupons related thereto shall have a lien against the special fund for payment of the bonds and interest and may either at law or in equity protect and enforce the lien.

**Source:** SL 1978, ch 91, § 24; SL 2011, ch 73, § 14; SL 2018, ch 70, § 38.

---

### **11-9-38. Bonds to be negotiable and payable only from tax increment.**

Each bond issued pursuant to this chapter and all interest coupons related to the bonds are negotiable instruments. Bonds issued are not general obligation bonds and are payable only from the tax increment of the project as provided in this chapter.

**Source:** SL 1978, ch 91, § 21; SL 2011, ch 73, § 15; SL 2018, ch 70, § 39.

---

### **11-9-39. Other security and marketability provisions.**

To increase the security and marketability of its tax increment bonds, a municipality may do either or both of the following:

- (1) Create a lien for the benefit of the bondholders upon any public improvements or public works financed by the bonds or the revenues from the bonds; or
- (2) Make covenants and do any and all acts, not inconsistent with the South Dakota Constitution, necessary, convenient, or desirable in order to additionally secure bonds or to make the bonds more marketable according to the best judgment of the governing body, including the establishment of a reserve for the payment of principal and interest on the bonds funded from the proceeds of the bonds or other revenues, including tax increments, of the municipality.

**Source:** SL 1978, ch 91, § 25; SL 1983, ch 37, § 11; SL 2011, ch 73, § 16; SL 2018, ch 70, § 40.

---

### **11-9-39.1. State pledge not to alter rights vested in bondholders until bonds fully discharged.**

The State of South Dakota does hereby pledge to and agree with the holders of any bonds issued under this chapter that the state will not alter the rights vested in the

bondholders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

**Source:** SL 1989, ch 125, § 4; SL 2011, ch 73, § 17.

---

**11-9-40. Sale of bonds.**

Tax increment bonds may be sold at public or private sale at a price that the governing body deems in the best interests of the municipality.

**Source:** SL 1978, ch 91, § 23; SL 1983, ch 37, § 12; SL 2011, ch 73, § 18; SL 2018, ch 70, § 41.

---

**11-9-41. Procedure for condemnation under power of eminent domain.**

The exercise of the power of eminent domain in connection with a district shall proceed in the same manner as a condemnation proceeding is conducted by the Department of Transportation pursuant to the provisions of chapter [31-19](#).

**Source:** SL 1978, ch 91, § 29; SL 2018, ch 70, § 42.

---

**11-9-42. Tax increments not to be used for residential structures.**

No tax increments shall be used for the construction of residential structures.

**Source:** SL 1978, ch 91, § 29A; SL 1985, ch 102.

---

**11-9-43. Performance bond required of purchaser or lessee of property.**

As security for its fulfillment of the agreement with the governing body, a purchaser or lessee of redevelopment property shall furnish a performance bond, with such surety and in such form and amount as the governing body may approve or make such other guaranty as the governing body may deem necessary in the public interest.

**Source:** SL 1978, ch 91, § 9.

---

**11-9-44. Notice to purchaser or lessee and surety of noncompliance with contract--  
Taking possession of work site.**

If the governing body finds that the redevelopment is not being carried out or maintained in accordance with the contract terms and conditions, or there is a failure to perform the work with diligence, or to assume the work's completion on time, the governing body shall notify the purchaser or lessee and the surety in writing of the noncompliance. Unless the purchaser or lessee complies with the terms of the agreement within twenty days from the date of the notice, the governing body may take over the work and may cause the work to be done, and the cost of the work shall be paid by the surety. The governing body may take possession of the site of the work and utilize in completion of the work the materials, appliances, and plant on the site of the work and necessary to complete the work.

**Source:** SL 1978, ch 91, § 9; SL 2018, ch 70, § 43.

---

**11-9-45. Disposition of funds remaining after payment of project costs and bonds.**

After all project costs and all tax increment bonds of the district have been paid or provided for subject to any agreement with bondholders, any moneys remaining in the fund shall be paid to each taxing district in the amount belonging to each respectively, with due regard for what portion of the moneys, if any, represent tax increments not allocated to the municipality and what portion, if any, represents voluntary deposits of the municipality into the fund.

**Source:** SL 1978, ch 91, § 18; SL 2011, ch 73, § 20; SL 2018, ch 70, § 44.

---

**11-9-46. Termination of district.**

The existence of a district shall terminate when:

- (1) Positive tax increments are no longer allocable to a district under § [11-9-25](#); or
- (2) The governing body, by resolution, dissolves the district, after payment or provision for payment of all project costs, grants, and all tax increment bonds of the district.

**Source:** SL 1978, ch 91, § 19; SL 1983, ch 37, § 13; SL 2011, ch 73, § 19; SL 2018, ch 70, § 45.

---

11-9-47. Repealed by SL 1982, ch 16, § 14

---

**11-9-48. Reports of tax increment financing districts published on department website.**

The department may publish annually on its website a report of each tax increment financing district in the state. Any municipality that has created a tax increment financing district shall provide the department with any information requested to compile the report.

**Source:** SL 2018, ch 70, § 5.

---