

APPENDIX E

FLORIDA STATUTE

163.387

The Florida Senate

2016 Florida Statutes

<u>Title XI</u> COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	<u>Chapter 163</u> INTERGOVERNMENTAL PROGRAMS <u>Entire Chapter</u>	SECTION 387 Redevelopment trust fund.
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163.387 Redevelopment trust fund.—

(1)(a) After approval of a community redevelopment plan, there may be established for each community redevelopment agency created under s. [163.356](#) a redevelopment trust fund. Funds allocated to and deposited into this fund shall be used by the agency to finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan. No community redevelopment agency may receive or spend any increment revenues pursuant to this section unless and until the governing body has, by ordinance, created the trust fund and provided for the funding of the redevelopment trust fund until the time certain set forth in the community redevelopment plan as required by s. [163.362](#)(10). Such ordinance may be adopted only after the governing body has approved a community redevelopment plan. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and
2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

However, the governing body of any county as defined in s. [125.011](#)(1) may, in the ordinance providing for the funding of a trust fund established with respect to any community redevelopment area created on or after July 1, 1994, determine that the amount to be funded by each taxing authority annually shall be less than 95 percent of the difference between subparagraphs 1. and 2., but in no event shall such amount be less than 50 percent of such difference.

(b)1. For any governing body that has not authorized by June 5, 2006, a study to consider whether a finding of necessity resolution pursuant to s. [163.355](#) should be adopted, has not adopted a finding of necessity resolution pursuant to s. [163.355](#) by March 31, 2007, has not adopted a community redevelopment plan by June 7, 2007, and was not authorized to exercise community redevelopment powers pursuant to a delegation of authority under s. [163.410](#) by a county that has adopted a home rule charter, the amount of tax increment to be contributed by any taxing authority shall be limited as follows:

- a. If a taxing authority imposes a millage rate that exceeds the millage rate imposed by the governing body that created the trust fund, the amount of tax increment to be contributed by the taxing authority imposing the higher millage rate shall be calculated using the millage rate imposed by the governing body that created the trust fund. Nothing shall prohibit any taxing authority from voluntarily contributing a tax increment at a higher rate for a period of time as specified by interlocal agreement between the taxing authority and the community redevelopment agency.

b. At any time more than 24 years after the fiscal year in which a taxing authority made its first contribution to a redevelopment trust fund, by resolution effective no sooner than the next fiscal year and adopted by majority vote of the taxing authority's governing body at a public hearing held not less than 30 or more than 45 days after written notice by registered mail to the community redevelopment agency and published in a newspaper of general circulation in the redevelopment area, the taxing authority may limit the amount of increment contributed by the taxing authority to the redevelopment trust fund to the amount of increment the taxing authority was obligated to contribute to the redevelopment trust fund in the fiscal year immediately preceding the adoption of such resolution, plus any increase in the increment after the adoption of the resolution computed using the taxable values of any area which is subject to an area reinvestment agreement. As used in this subparagraph, the term "area reinvestment agreement" means an agreement between the community redevelopment agency and a private party, with or without additional parties, which provides that the increment computed for a specific area shall be reinvested in services or public or private projects, or both, including debt service, supporting one or more projects consistent with the community redevelopment plan that is identified in the agreement to be constructed within that area. Any such reinvestment agreement must specify the estimated total amount of public investment necessary to provide the projects or services, or both, including any applicable debt service. The contribution to the redevelopment trust fund of the increase in the increment of any area that is subject to an area reinvestment agreement following the passage of a resolution as provided in this sub-subparagraph shall cease when the amount specified in the area reinvestment agreement as necessary to provide the projects or services, or both, including any applicable debt service, has been invested.

2. For any community redevelopment agency that was not created pursuant to a delegation of authority under s. [163.410](#) by a county that has adopted a home rule charter and that modifies its adopted community redevelopment plan after October 1, 2006, in a manner that expands the boundaries of the redevelopment area, the amount of increment to be contributed by any taxing authority with respect to the expanded area shall be limited as set forth in sub-subparagraphs 1.a. and b.

(2)(a) Except for the purpose of funding the trust fund pursuant to subsection (3), upon the adoption of an ordinance providing for funding of the redevelopment trust fund as provided in this section, each taxing authority shall, by January 1 of each year, appropriate to the trust fund for so long as any indebtedness pledging increment revenues to the payment thereof is outstanding (but not to exceed 30 years) a sum that is no less than the increment as defined and determined in subsection (1) or paragraph (3)(b) accruing to such taxing authority. If the community redevelopment plan is amended or modified pursuant to s. [163.361](#)(1), each such taxing authority shall make the annual appropriation for a period not to exceed 30 years after the date the governing body amends the plan but no later than 60 years after the fiscal year in which the plan was initially approved or adopted. However, for any agency created on or after July 1, 2002, each taxing authority shall make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the initial community redevelopment plan is approved or adopted.

(b) Any taxing authority that does not pay the increment revenues to the trust fund by January 1 shall pay to the trust fund an amount equal to 5 percent of the amount of the increment revenues and shall pay interest on the amount of the unpaid increment revenues equal to 1 percent for each month the increment is outstanding, provided the agency may waive such penalty payments in whole or in part.

(c) The following public bodies or taxing authorities are exempt from paragraph (a):

1. A special district that levies ad valorem taxes on taxable real property in more than one county.
2. A special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time an ordinance is adopted under this section. However, revenues or aid that may be dispensed or appropriated to a district as defined in s. [388.011](#) at the discretion of an entity other than such district shall not be deemed available.
3. A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
4. A neighborhood improvement district created under the Safe Neighborhoods Act.

5. A metropolitan transportation authority.
6. A water management district created under s. [373.069](#).
7. For a community redevelopment agency created on or after July 1, 2016, a hospital district that is a special district as defined in s. [189.012](#).

(d)1. A local governing body that creates a community redevelopment agency under s. [163.356](#) may exempt from paragraph (a) a special district that levies ad valorem taxes within that community redevelopment area. The local governing body may grant the exemption either in its sole discretion or in response to the request of the special district. The local governing body must establish procedures by which a special district may submit a written request to be exempted from paragraph (a).

2. In deciding whether to deny or grant a special district's request for exemption from paragraph (a), the local governing body must consider:

- a. Any additional revenue sources of the community redevelopment agency which could be used in lieu of the special district's tax increment.
- b. The fiscal and operational impact on the community redevelopment agency.
- c. The fiscal and operational impact on the special district.
- d. The benefit to the specific purpose for which the special district was created. The benefit to the special district must be based on specific projects contained in the approved community redevelopment plan for the designated community redevelopment area.
- e. The impact of the exemption on incurred debt and whether such exemption will impair any outstanding bonds that have pledged tax increment revenues to the repayment of the bonds.
- f. The benefit of the activities of the special district to the approved community redevelopment plan.
- g. The benefit of the activities of the special district to the area of operation of the local governing body that created the community redevelopment agency.

3. The local governing body must hold a public hearing on a special district's request for exemption after public notice of the hearing is published in a newspaper having a general circulation in the county or municipality that created the community redevelopment area. The notice must describe the time, date, place, and purpose of the hearing and must identify generally the community redevelopment area covered by the plan and the impact of the plan on the special district that requested the exemption.

4. If a local governing body grants an exemption to a special district under this paragraph, the local governing body and the special district must enter into an interlocal agreement that establishes the conditions of the exemption, including, but not limited to, the period of time for which the exemption is granted.

5. If a local governing body denies a request for exemption by a special district, the local governing body shall provide the special district with a written analysis specifying the rationale for such denial. This written analysis must include, but is not limited to, the following information:

- a. A separate, detailed examination of each consideration listed in subparagraph 2.
- b. Specific examples of how the approved community redevelopment plan will benefit, and has already benefited, the purpose for which the special district was created.

6. The decision to either deny or grant an exemption must be made by the local governing body within 120 days after the date the written request was submitted to the local governing body pursuant to the procedures established by such local governing body.

(3)(a) Notwithstanding the provisions of subsection (2), the obligation of the governing body which established the community redevelopment agency to fund the redevelopment trust fund annually shall continue until all loans, advances, and indebtedness, if any, and interest thereon, of a community redevelopment agency incurred as a result of redevelopment in a community redevelopment area have been paid.

(b) Alternate provisions contained in an interlocal agreement between a taxing authority and the governing body that created the community redevelopment agency may supersede the provisions of this section with respect to that taxing authority. The community redevelopment agency may be an additional party to any such agreement.

(4) The revenue bonds and notes of every issue under this part are payable solely out of revenues pledged to and received by a community redevelopment agency and deposited to its redevelopment trust fund. The lien created by such bonds or notes shall not attach until the increment revenues referred to herein are deposited in the redevelopment trust fund at the times, and to the extent that, such increment revenues accrue. The holders of such bonds or notes have no right to require the imposition of any tax or the establishment of any rate of taxation in order to obtain the amounts necessary to pay and retire such bonds or notes.

(5) Revenue bonds issued under the provisions of this part shall not be deemed to constitute a debt, liability, or obligation of the public body or the state or any political subdivision thereof, or a pledge of the faith and credit of the public body or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such revenue bonds shall contain on the face thereof a statement to the effect that the agency shall not be obligated to pay the same or the interest thereon except from the revenues of the community redevelopment agency held for that purpose and that neither the faith and credit nor the taxing power of the governing body or of the state or of any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bonds.

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

(a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.

(b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

(c) The acquisition of real property in the redevelopment area.

(d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. [163.370](#).

(e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

(f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

(g) The development of affordable housing within the community redevelopment area.

(h) The development of community policing innovations.

(7) On the last day of the fiscal year of the community redevelopment agency, any money which remains in the trust fund after the payment of expenses pursuant to subsection (6) for such year shall be:

(a) Returned to each taxing authority which paid the increment in the proportion that the amount of the payment of such taxing authority bears to the total amount paid into the trust fund by all taxing authorities for that year;

(b) Used to reduce the amount of any indebtedness to which increment revenues are pledged;

(c) Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or

(d) Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan which project will be completed within 3 years from the date of such appropriation.

(8) Each community redevelopment agency shall provide for an audit of the trust fund each fiscal year and a report of such audit to be prepared by an independent certified public accountant or firm. Such report shall describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness. The agency shall provide by registered mail a copy of the report to each taxing authority.

History.—s. 11, ch. 77-391; s. 78, ch. 79-400; s. 9, ch. 83-231; s. 15, ch. 84-356; s. 27, ch. 87-224; s. 35, ch. 91-45; s. 4, ch. 93-286; s. 10, ch. 94-236; s. 1, ch. 94-344; s. 10, ch. 98-314; s. 8, ch. 2002-18; s. 8, ch. 2002-294; s. 7, ch. 2006-307; s. 1, ch. 2016-155.

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