
A BILL FOR AN ACT

RELATING TO TAX INCREMENT FINANCING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to address the issue
2 of tax increment financing by:

3 (1) Authorizing the counties to use general funds raised
4 from the assessment base in a tax increment district
5 to pay the debt service on tax increment bonds if the
6 tax increment derived from the district is
7 insufficient; and

8 (2) Providing for the excess revenues from a tax increment
9 district to be deposited into the county general fund
10 instead of the tax increment fund.

11 SECTION 2. Section 46-102, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending the definition of "project costs" to read:
14 ""Project costs" means expenditures made or estimated to be
15 made or monetary obligations incurred or estimated to be
16 incurred by the agency that are listed in a tax increment
17 financing plan as costs of public works or public improvements



1 in a tax increment district, plus other costs incidental to the
2 expenditures or obligations. Project costs include:

3 (1) Capital costs, including the actual costs of the
4 construction of public works or public improvements,
5 new buildings, structures, and fixtures; the actual
6 costs of the demolition, alteration, remodeling,
7 repair, or reconstruction of existing buildings,
8 structures, and fixtures; and the actual costs of the
9 acquisition, clearing, and grading of land;

10 (2) Financing costs, including, but not limited to, all
11 necessary and incidental expenses related to the
12 issuance of tax increment bonds and all interest paid
13 to holders of evidences of indebtedness or other
14 obligations issued to pay for project costs, any
15 capitalized interest, and any premium paid over the
16 principal amount of the obligations because of the
17 redemption of the obligations prior to maturity;

18 (3) Professional service costs, including architectural,
19 planning, engineering, marketing, appraisal, financial
20 consultant, and special services and legal advice;

21 (4) Imputed administrative costs, including reasonable
22 charges for the time spent by employees of the agency



- 1 in connection with the implementation of a tax
2 increment financing plan;
- 3 (5) Relocation costs to the extent required by federal or
4 state law;
- 5 (6) Organizational costs, including the costs of
6 conducting environmental impact studies or other
7 studies, the costs of publicizing the creation of a
8 tax increment district, and the cost of implementing
9 the tax increment financing plan for the tax increment
10 district;
- 11 (7) Payments determined by the county council to be
12 necessary or convenient to the creation of a tax
13 increment district or to the implementation of the tax
14 increment financing plan for the tax increment
15 district[-]; and
- 16 (8) Reserves or sinking accounts for any of the
17 foregoing."

18 2. By repealing the definition of "adjustment rate".

19 [~~"Adjustment rate" means a percentage rate or rates of~~
20 ~~adjustment of the assessment base determined by the director of~~
21 ~~finance at the time the tax increment district is established,~~
22 ~~based on the historical and projected increases to the assessed~~



1 ~~values of taxable real property within the boundary of the tax~~
2 ~~increment district and the projected cost increases to the~~
3 ~~county for servicing the new developments within the tax~~
4 ~~increment district."]~~

5 SECTION 3. Section 46-105, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) If a county exercises the power allowed under this
8 part, then commencing with the first payment of real property
9 taxes levied by the county subsequent to the time a tax
10 increment district takes effect, receipts from real property
11 taxes shall be annually allocated and paid over as follows:

- 12 (1) The amount of real property tax produced from the
13 assessment base shall be paid to the county general
14 fund; provided that, if the tax increment produced
15 from the assessment increment is insufficient to pay
16 the principal and interest due on the tax increment
17 bonds issued for the district, the county may deposit
18 into the applicable tax increment fund a portion of
19 the real property taxes paid under this section to
20 enable full payment of the principal and interest; and
- 21 (2) The tax [~~increments~~] increment produced from the
22 assessment increment in the tax increment district



1 shall be applied from first to last as follows[+]
2 until exhausted:

3 (A) First, an amount equal to [~~the~~]:

4 (i) The installment of [~~(+)~~] principal and
5 interest [~~falling~~] due [~~of~~] on any tax
6 increment bonds[~~, or~~] issued for the
7 district; and

8 (ii) [~~any~~] Any other project cost approved by the
9 county[~~]~~ to be funded by the tax increment
10 under the applicable tax increment financing
11 plan,

12 shall be deposited into the tax increment fund
13 established for the tax increment district[~~]~~;
14 and

15 (B) Second, [~~an amount equal to the adjustment rate~~
16 ~~times the amount of real property tax produced~~
17 ~~from the assessment base shall be computed and~~
18 ~~paid to the county general fund.~~

19 ~~(C)~~ Third,~~]~~ the remaining amount of tax increments,
20 if any, shall be deposited into the [~~tax~~
21 ~~increment]~~ county general fund [~~established for~~
22 ~~the tax increment district]~~."



1 SECTION 4. Section 46-106, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) A county may issue tax increment bonds, the proceeds
5 of which may be used to pay project costs for a tax increment
6 district or to satisfy claims of bondholders. The county may
7 issue refunding bonds previously issued by the county for the
8 purpose of paying or retiring or in exchange for tax increment
9 bonds previously issued by the county. Principal and interest
10 on tax increment bonds shall be made payable, as to both
11 principal and interest, solely from the tax increment fund
12 established for the tax increment district~~[-]~~; provided that
13 this condition shall be deemed met, whether the payment is made
14 from:

- 15 (1) Only the tax increment deposited into the fund for the
16 district pursuant to section 46-105(b)(2)(A); or
17 (2) Both that tax increment and a portion of the real
18 property taxes deposited into the fund as authorized
19 under section 46-105(b)(1).

20 A county may provide in its contract with the owners or
21 holders of the tax increment bonds that the county will pay into
22 the tax increment fund all or any part of the revenue or money



1 produced or received as a result of the operation or sale of a
2 facility acquired, improved, or constructed pursuant to a
3 redevelopment plan or community development plan, as the case
4 may be, to be used to pay principal and interest on the tax
5 increment bonds and, if a county so agrees, the owners or
6 holders of the tax increment bonds may have a lien or mortgage
7 on any facility acquired, improved, or constructed with the
8 proceeds of the tax increment bonds."

9 2. By amending subsections (h) and (i) to read:

10 "(h) Tax increment bonds shall be payable only out of the
11 tax increment fund. The county council [~~may~~] shall pledge
12 irrevocably all or a part of the fund for payment of the bonds.
13 The part of the fund pledged in payment thereafter shall be used
14 only for the payment of the bonds or interest or redemption
15 premium, if any, on the bonds until the bonds have been fully
16 paid. A holder of the bonds shall have a lien against the fund
17 for payment of the bonds and interest thereon and [~~may~~], either
18 at law or in equity, may protect and enforce [~~such~~] the lien.

19 (i) No officer of the county including any officer
20 executing tax increment bonds shall be liable for the tax
21 increment bonds by reason of the issuance thereof. Tax
22 increment bonds issued under this part shall not be general



1 obligations of the State or county~~[, nor]~~; provided that, when
2 necessary to fully pay the principal and interest due on the
3 bonds, a county may pledge to deposit a portion of the real
4 property tax produced from the assessment base of the tax
5 increment district into the applicable tax increment fund in
6 accordance with section 46-105(b)(1). Nor in any event shall
7 ~~[they]~~ the tax increment bonds give rise to a charge against the
8 general credit or taxing powers of the State or county or be
9 payable other than as provided by this part. No holder of bonds
10 issued under this part shall have the right to compel any
11 exercise of the taxing power of the State or county to pay
12 ~~[such]~~ the bonds or the interest thereon, and no moneys other
13 than the moneys in the tax increment fund pledged to the bonds
14 shall be applied to the payment thereof. Tax increment bonds
15 issued under this part shall state these restrictions on their
16 face."

17 SECTION 5. Section 46-109, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§46-109 Termination of a tax increment district.** (a) A
20 tax increment district shall terminate at the time designated in
21 the ordinance creating the district or at an earlier or later
22 time designated by a subsequent ordinance, but in no event shall



1 the district terminate until such time as all project costs and
2 tax increment bonds issued for the district and the interest
3 thereon[7] have been paid in full[7] or sufficient funds have
4 been irrevocably deposited in a special fund or other escrow
5 account held in trust for all outstanding tax increment bonds
6 issued for [~~such~~] the district to provide for the payment of
7 [~~such~~] the bonds at maturity or date of redemption and interest
8 and premium, if any, thereon.

9 (b) If a county has previously deposited a portion of the
10 real property tax produced from the assessment base of a tax
11 increment district into the applicable tax increment fund to
12 fully pay the principal and interest due on tax increment bonds,
13 as authorized under section 46-105(b)(1), the county may extend
14 the tax increment district until the county general fund has
15 been reimbursed for the amount of real property tax revenues
16 deposited."

17 SECTION 6. Section 46-110, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) In any year in which the tax increment exceeds the
20 amount necessary to pay all project costs and all installments
21 of principal and interest of tax increment bonds issued for a
22 tax increment district falling due and the amount paid to the



1 county general fund pursuant to section 46-105(b) (2) (B), and
2 subject to any agreement with bondholders, any excess money in
3 the fund, at the option of the county council, shall be ~~used~~:

4 (1) Used to redeem or purchase any outstanding tax
5 increment bonds issued for the district~~[7]~~ to
6 discharge the pledge of tax increment ~~[therefor, be~~
7 ~~paid]~~ for those bonds;

8 (2) Paid into an escrow account dedicated to the payment
9 of ~~[such]~~ outstanding tax increment bonds~~[7, be paid];~~

10 (3) Deposited into the county general fund as repayment
11 for any real property tax produced from the assessment
12 base that was used to pay the principal and interest
13 due on tax increment bonds as authorized under section
14 46-105(b) (1);

15 (4) Paid over to the county general fund~~[7]~~ to be used for
16 any purpose; or

17 (5) Used for any combination ~~[thereof.]~~ under paragraphs
18 (1) to (4)."

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



H.B. NO. 3021

1 SECTION 8. This Act shall take effect on July 1, 2008.

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Report Title:

Tax Increment Financing Dist.; Debt Svc.; Excess Tax Increment Revenues

Description:

Authorizes a county that has established a tax increment financing district to use county general funds to pay the debt service on tax increment bonds if the tax increment is insufficient and provides for the deposit of excess tax increment revenues into a county general fund.

