

FIRST REGULAR SESSION

# HOUSE BILL NO. 91

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES JOHNSON (47) (Sponsor) AND DEMPSEY (Co-sponsor).

Pre-filed December 15, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0587L.011

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### AN ACT

To repeal sections 99.805 and 99.810, RSMo, and to enact in lieu thereof three new sections relating to tax increment financing.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 99.805 and 99.810, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 99.805, 99.810, and 99.866, to read as follows:

99.805. As used in sections 99.800 to 99.865, unless the context clearly requires  
2 otherwise, the following terms shall mean:

3 (1) "Blighted area", an area which, by reason of the predominance of defective or  
4 inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,  
5 improper subdivision or obsolete platting, or the existence of conditions which endanger life or  
6 property by fire and other causes, or any combination of such factors, retards the provision of  
7 housing accommodations or constitutes an economic or social liability or a menace to the public  
8 health, safety, morals, or welfare in its present condition and use;

9 (2) "Collecting officer", the officer of the municipality responsible for receiving and  
10 processing payments in lieu of taxes or economic activity taxes from taxpayers or the department  
11 of revenue;

12 (3) "Conservation area", any improved area within the boundaries of a redevelopment  
13 area located within the territorial limits of a municipality in which fifty percent or more of the  
14 structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted  
15 area but is detrimental to the public health, safety, morals, or welfare and may become a blighted  
16 area because of any one or more of the following factors: dilapidation; obsolescence;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 deterioration; illegal use of individual structures; presence of structures below minimum code  
18 standards; abandonment; excessive vacancies; overcrowding of structures and community  
19 facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land  
20 coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of  
21 community planning. A conservation area shall meet at least three of the factors provided in this  
22 subdivision for projects approved on or after December 23, 1997;

23 (4) "Economic activity taxes", the total additional revenue from taxes which are imposed  
24 by a municipality and other taxing districts, and which are generated by economic activities  
25 within a redevelopment area over the amount of such taxes generated by economic activities  
26 within such redevelopment area in the calendar year prior to the adoption of the ordinance  
27 designating such a redevelopment area, while tax increment financing remains in effect, but  
28 excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by  
29 transient guests of hotels and motels, licenses, fees or special assessments. For redevelopment  
30 projects or redevelopment plans approved after December 23, 1997, if a retail establishment  
31 relocates within one year from one facility to another facility within the same county and the  
32 governing body of the municipality finds that the relocation is a direct beneficiary of tax  
33 increment financing, then for purposes of this definition, the economic activity taxes generated  
34 by the retail establishment shall equal the total additional revenues from economic activity taxes  
35 which are imposed by a municipality or other taxing district over the amount of economic  
36 activity taxes generated by the retail establishment in the calendar year prior to its relocation to  
37 the redevelopment area;

38 (5) "Economic development area", any area or portion of an area located within the  
39 territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and  
40 (3) of this section, and in which the governing body of the municipality finds that redevelopment  
41 will not be solely used for development of commercial businesses which unfairly compete in the  
42 local economy and is in the public interest because it will:

43 (a) Discourage commerce, industry or manufacturing from moving their operations to  
44 another state; or

45 (b) Result in increased employment in the municipality; or

46 (c) Result in preservation or enhancement of the tax base of the municipality;

47 (6) "Gambling establishment", an excursion gambling boat as defined in section 313.800,  
48 RSMo, and any related business facility including any real property improvements which are  
49 directly and solely related to such business facility, whose sole purpose is to provide goods or  
50 services to an excursion gambling boat and whose majority ownership interest is held by a person  
51 licensed to conduct gambling games on an excursion gambling boat or licensed to operate an  
52 excursion gambling boat as provided in sections 313.800 to 313.850, RSMo. This subdivision

53 shall be applicable only to a redevelopment area designated by ordinance adopted after December  
54 23, 1997;

55 (7) "Municipality", a city, village, or incorporated town or any county of this state. For  
56 redevelopment areas or projects approved on or after December 23, 1997, "municipality" applies  
57 only to cities, villages, incorporated towns or counties established for at least one year prior to  
58 such date;

59 (8) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences  
60 of indebtedness issued by a municipality to carry out a redevelopment project or to refund  
61 outstanding obligations;

62 (9) "Ordinance", an ordinance enacted by the governing body of a city, town, or village  
63 or a county or an order of the governing body of a county whose governing body is not  
64 authorized to enact ordinances;

65 (10) "Payment in lieu of taxes", those estimated revenues from real property in the area  
66 selected for a redevelopment project, which revenues according to the redevelopment project or  
67 plan are to be used for a private use, which taxing districts would have received had a  
68 municipality not adopted tax increment allocation financing, and which would result from levies  
69 made after the time of the adoption of tax increment allocation financing during the time the  
70 current equalized value of real property in the area selected for the redevelopment project  
71 exceeds the total initial equalized value of real property in such area until the designation is  
72 terminated pursuant to subsection 2 of section 99.850;

73 (11) "Redevelopment area", an area designated by a municipality, in respect to which the  
74 municipality has made a finding that there exist conditions which cause the area to be classified  
75 as a blighted area, a conservation area, an economic development area, an enterprise zone  
76 pursuant to sections 135.200 to 135.256, RSMo, or a combination thereof, which area includes  
77 only those parcels of real property directly and substantially benefited by the proposed  
78 redevelopment project;

79 (12) "Redevelopment plan", the comprehensive program of a municipality for  
80 redevelopment intended by the payment of redevelopment costs to reduce or eliminate those  
81 conditions, the existence of which qualified the redevelopment area as a blighted area,  
82 conservation area, economic development area, or combination thereof, and to thereby enhance  
83 the tax bases of the taxing districts which extend into the redevelopment area. Each  
84 redevelopment plan shall conform to the requirements of section 99.810;

85 (13) "Redevelopment project", any development project within a redevelopment area in  
86 furtherance of the objectives of the redevelopment plan; any such redevelopment project shall  
87 include a legal description of the area selected for the redevelopment project;

88 (14) "Redevelopment project costs" include the sum total of all reasonable or necessary

89 costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan  
90 or redevelopment project, as applicable. Such costs include, but are not limited to, the following:

91 (a) Costs of studies, surveys, plans, and specifications;

92 (b) Professional service costs, including, but not limited to, architectural, engineering,  
93 legal, marketing, financial, planning or special services. Except the reasonable costs incurred  
94 by the commission established in section 99.820 for the administration of sections 99.800 to  
95 99.865, such costs shall be allowed only as an initial expense which, to be recoverable, shall be  
96 included in the costs of a redevelopment plan or project;

97 (c) Property assembly costs, including, but not limited to, acquisition of land and other  
98 property, real or personal, or rights or interests therein, demolition of buildings, and the clearing  
99 and grading of land;

100 (d) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings  
101 and fixtures;

102 (e) Initial costs for an economic development area;

103 (f) Costs of construction of public works or improvements;

104 (g) Financing costs, including, but not limited to, all necessary and incidental expenses  
105 related to the issuance of obligations, and which may include payment of interest on any  
106 obligations issued pursuant to sections 99.800 to 99.865 accruing during the estimated period  
107 of construction of any redevelopment project for which such obligations are issued and for not  
108 more than eighteen months thereafter, and including reasonable reserves related thereto;

109 (h) All or a portion of a taxing district's capital costs resulting from the redevelopment  
110 project necessarily incurred or to be incurred in furtherance of the objectives of the  
111 redevelopment plan and project, to the extent the municipality by written agreement accepts and  
112 approves such costs;

113 (i) Relocation costs to the extent that a municipality determines that relocation costs shall  
114 be paid or are required to be paid by federal or state law;

115 (j) Payments in lieu of taxes;

116 (15) **"Retail project", any development project where more than fifty percent of the**  
117 **total estimated redevelopment project costs are devoted to the construction, reconstruction,**  
118 **or expansion of retail establishments or infrastructure or facilities ancillary to sales at**  
119 **retail;**

120 (16) **"Special allocation fund", the fund of a municipality or its commission which**  
121 **contains at least two separate segregated accounts for each redevelopment plan, maintained by**  
122 **the treasurer of the municipality or the treasurer of the commission into which payments in lieu**  
123 **of taxes are deposited in one account, and economic activity taxes and other revenues are**  
124 **deposited in the other account;**

125           [(16)] (17) "Taxing districts", any political subdivision of this state having the power to  
126 levy taxes;

127           [(17)] (18) "Taxing districts' capital costs", those costs of taxing districts for capital  
128 improvements that are found by the municipal governing bodies to be necessary and to directly  
129 result from the redevelopment project; and

130           [(18)] (19) "Vacant land", any parcel or combination of parcels of real property not used  
131 for industrial, commercial, or residential buildings.

          99.810. 1. Each redevelopment plan shall set forth in writing a general description of  
2 the program to be undertaken to accomplish the objectives and shall include, but need not be  
3 limited to, the estimated redevelopment project costs, the anticipated sources of funds to pay the  
4 costs, evidence of the commitments to finance the project costs, the anticipated type and term  
5 of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued,  
6 the most recent equalized assessed valuation of the property within the redevelopment area  
7 which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to  
8 section 99.845, an estimate as to the equalized assessed valuation after redevelopment, and the  
9 general land uses to apply in the redevelopment area. No redevelopment plan shall be adopted  
10 by a municipality without findings that:

11           (1) The redevelopment area on the whole is a blighted area, a conservation area, or an  
12 economic development area, and has not been subject to growth and development through  
13 investment by private enterprise and would not reasonably be anticipated to be developed  
14 without the adoption of tax increment financing. Such a finding shall include, but not be limited  
15 to, a detailed description of the factors that qualify the redevelopment area or project pursuant  
16 to this subdivision and an affidavit, signed by the developer or developers and submitted with  
17 the redevelopment plan, attesting that the provisions of this subdivision have been met;

18           (2) The redevelopment plan conforms to the comprehensive plan for the development  
19 of the municipality as a whole;

20           (3) The estimated dates, which shall not be more than twenty-three years from the  
21 adoption of the ordinance approving a redevelopment project within a redevelopment area, of  
22 completion of any redevelopment project and retirement of obligations incurred to finance  
23 redevelopment project costs have been stated, provided that no ordinance approving a  
24 redevelopment project shall be adopted later than ten years from the adoption of the ordinance  
25 approving the redevelopment plan under which such project is authorized and provided that no  
26 property for a redevelopment project shall be acquired by eminent domain later than five years  
27 from the adoption of the ordinance approving such redevelopment project;

28           (4) A plan has been developed for relocation assistance for businesses and residences;

29           (5) A cost-benefit analysis showing the economic impact of the plan on each taxing

30 district which is at least partially within the boundaries of the redevelopment area. The analysis  
31 shall show the impact on the economy if the project is not built, and is built pursuant to the  
32 redevelopment plan under consideration. The cost-benefit analysis shall include a fiscal impact  
33 study on every affected political subdivision, and sufficient information from the developer for  
34 the commission established in section 99.820 to evaluate whether the project as proposed is  
35 financially feasible;

36 (6) A finding that the plan does not include the initial development or redevelopment of  
37 any gambling establishment, provided however, that this subdivision shall be applicable only to  
38 a redevelopment plan adopted for a redevelopment area designated by ordinance after December  
39 23, 1997.

40 **2. Implementation of a plan shall be postponed pending the outcome of the vote on**  
41 **the matter upon the filing with the county clerk of a petition signed by registered voters of**  
42 **the municipality or county in the case of an unincorporated area, totaling at least five**  
43 **percent of the number of total votes cast in such subdivision in the most recent**  
44 **gubernatorial election and requesting that the plan be disapproved. Upon filing of such**  
45 **petition, the county clerk shall place the issue on the ballot at the next municipal, primary,**  
46 **or general election, whichever occurs first, and no such plan shall become effective unless**  
47 **and until a majority of those voting on the question vote to approve the plan.**

48 **3.** By the last day of February each year, each commission shall report to the director of  
49 economic development the name, address, phone number and primary line of business of any  
50 business which relocates to the district. The director of the department of economic development  
51 shall compile and report the same to the governor, the speaker of the house and the president pro  
52 tempore of the senate on the last day of April each year.

**99.866. 1. For all redevelopment areas, redevelopment plans, and redevelopment**  
2 **projects designated and approved after December 31, 2005, tax increment financing shall**  
3 **not be used for more than fifteen percent of the total estimated redevelopment costs of a**  
4 **project that is primarily retail. Tax increment financing shall not be used to develop sites**  
5 **in which twenty-five percent or more of the area is vacant and has not previously been**  
6 **developed or qualifies as "open space" pursuant to section 67.900, RSMo, or is presently**  
7 **being used for agricultural or horticultural purposes, except where the redevelopment**  
8 **project is contained in the municipality's comprehensive plan which was adopted prior to**  
9 **January 1, 2002.**

10 **2. Commencing with the first fiscal year in which any municipality receives any**  
11 **payments in lieu of taxes from a redevelopment project and continuing through the last**  
12 **fiscal year in which the municipality receives such payments, the municipality shall pay to**  
13 **any other taxing entities entitled to receive revenue from levies on real property in such**

14 municipality, an amount equal to twenty-five percent of the payments in lieu of taxes  
15 received by the municipality. This amount shall be divided among the other affected  
16 taxing entities on a basis that is proportional to the collections of revenue from real  
17 property in the development area to which each such taxing district is entitled during that  
18 tax year. When a tax increment financing project includes residential uses, absent a  
19 recommendation to the contrary from commission members representing the affected  
20 school board or boards, real property tax levies attributable to the residential portion of  
21 the development shall pass through to the school district or districts.