

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2014**



**ENROLLED**

**Senate Bill No. 375**

**(BY SENATORS CANN AND SNYDER)**

[PASSED MARCH 8, 2014; IN EFFECT NINETY DAYS FROM PASSAGE.]

E N R O L L E D

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AN ACT to amend and reenact §7-11B-3 of the Code of West Virginia, 1931, as amended, relating to tax increment financing; and adding items to those which are excluded from base assessed value and current assessed value of real and personal property.

*Be it enacted by the Legislature of West Virginia:*

That §7-11B-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### **ARTICLE 11B. WEST VIRGINIA TAX INCREMENT FINANCING ACT.**

#### **§7-11B-3. Definitions.**

1       (a) *General.* – When used in this article, words and  
2 phrases defined in this section have the meanings ascribed to  
3 them in this section unless a different meaning is clearly  
4 required either by the context in which the word or phrase is  
5 used or by specific definition in this article.

6       (b) *Words and phrases defined.* –

7       (1) “Agency” includes a municipality, a county or  
8       municipal development agency established pursuant to  
9       authority granted in section one, article twelve of this chapter,  
10      a port authority, an airport authority or any other entity  
11      created by this state or an agency or instrumentality of this  
12      state that engages in economic development activity.

13      (2) “Base assessed value” means the taxable assessed  
14      value of all real and tangible personal property, excluding  
15      personal motor vehicles, having a tax situs within a  
16      development or redevelopment district as shown upon the  
17      landbooks and personal property books of the assessor on  
18      July 1 of the calendar year preceding the effective date of the  
19      order or ordinance creating and establishing the development  
20      or redevelopment district: *Provided*, That for any  
21      development or redevelopment district approved after the  
22      effective date of the amendments to this section enacted  
23      during the regular session of the Legislature in 2014, personal  
24      trailers, personal boats, personal campers, personal motor  
25      homes, personal ATVs and personal motorcycles having a tax  
26      situs within a development or redevelopment district are  
27      excluded from the base assessed value.

28      (3) “Blighted area” means an area within the boundaries  
29      of a development or redevelopment district located within the  
30      territorial limits of a municipality or county in which the  
31      structures, buildings or improvements, by reason of  
32      dilapidation, deterioration, age or obsolescence, inadequate  
33      provision for access, ventilation, light, air, sanitation, open  
34      spaces, high density of population and overcrowding or the  
35      existence of conditions which endanger life or property, are  
36      detrimental to the public health, safety, morals or welfare.  
37      “Blighted area” includes any area which, by reason of the  
38      presence of a substantial number of substandard, slum,  
39      deteriorated or deteriorating structures, predominance of  
40      defective or inadequate street layout, faulty lot layout in

41 relation to size, adequacy, accessibility or usefulness,  
42 unsanitary or unsafe conditions, deterioration of site or other  
43 improvements, diversity of ownership, defective or unusual  
44 conditions of title or the existence of conditions which  
45 endanger life or property by fire and other causes, or any  
46 combination of such factors, substantially impairs or arrests  
47 the sound growth of a municipality, retards the provision of  
48 housing accommodations or constitutes an economic or social  
49 liability and is a menace to the public health, safety, morals  
50 or welfare in its present condition and use, or any area which  
51 is predominantly open and which because of lack of  
52 accessibility, obsolete platting, diversity of ownership,  
53 deterioration of structures or of site improvements, or  
54 otherwise, substantially impairs or arrests the sound growth  
55 of the community.

56 (4) “Conservation area” means any improved area within  
57 the boundaries of a development or redevelopment district  
58 located within the territorial limits of a municipality or  
59 county in which fifty percent or more of the structures in the  
60 area have an age of thirty-five years or more. A conservation  
61 area is not yet a blighted area but is detrimental to the public  
62 health, safety, morals or welfare and may become a blighted  
63 area because of any one or more of the following factors:  
64 Dilapidation; obsolescence; deterioration; illegal use of  
65 individual structures; presence of structures below minimum  
66 code standards; abandonment; excessive vacancies;  
67 overcrowding of structures and community facilities; lack of  
68 ventilation, light or sanitary facilities; inadequate utilities;  
69 excessive land coverage; deleterious land use or layout;  
70 depreciation of physical maintenance; and lack of community  
71 planning. A conservation area shall meet at least three of the  
72 factors provided in this subdivision.

73 (5) “County commission” means the governing body of  
74 a county of this state and, for purposes of this article only,

75 includes the governing body of a Class I or II municipality in  
76 this state.

77 (6) “Current assessed value” means the annual taxable  
78 assessed value of all real and tangible personal property,  
79 excluding personal motor vehicles, having a tax situs within  
80 a development or redevelopment district as shown upon the  
81 landbook and personal property records of the assessor:  
82 *Provided*, That for any development or redevelopment district  
83 approved after the effective date of the amendments to this  
84 section enacted during the regular session of the Legislature  
85 in 2014, personal trailers, personal boats, personal campers,  
86 personal motor homes, personal ATVs and personal  
87 motorcycles having a tax situs within a development or  
88 redevelopment district are excluded from the current assessed  
89 value.

90 (7) “Development office” means the West Virginia  
91 Development Office created in section one, article two,  
92 chapter five-b of this code.

93 (8) “Development project” or “redevelopment project”  
94 means a project undertaken in a development or  
95 redevelopment district for eliminating or preventing the  
96 development or spread of slums or deteriorated, deteriorating  
97 or blighted areas, for discouraging the loss of commerce,  
98 industry or employment, for increasing employment or for  
99 any combination thereof in accordance with a tax increment  
100 financing plan. A development or redevelopment project  
101 may include one or more of the following:

102 (A) The acquisition of land and improvements, if any,  
103 within the development or redevelopment district and  
104 clearance of the land so acquired; or

105 (B) The development, redevelopment, revitalization or  
106 conservation of the project area whenever necessary to  
107 provide land for needed public facilities, public housing or  
108 industrial or commercial development or revitalization, to  
109 eliminate unhealthful, unsanitary or unsafe conditions, to  
110 lessen density, mitigate or eliminate traffic congestion, reduce  
111 traffic hazards, eliminate obsolete or other uses detrimental  
112 to public welfare or otherwise remove or prevent the spread  
113 of blight or deterioration;

114 (C) The financial or other assistance in the relocation of  
115 persons and organizations displaced as a result of carrying  
116 out the development or redevelopment project and other  
117 improvements necessary for carrying out the project plan,  
118 together with those site improvements that are necessary for  
119 the preparation of any sites and making any land or  
120 improvements acquired in the project area available, by sale  
121 or lease, for public housing or for development,  
122 redevelopment or rehabilitation by private enterprise for  
123 commercial or industrial uses in accordance with the plan;

124 (D) The construction of capital improvements within a  
125 development or redevelopment district designed to increase  
126 or enhance the development of commerce, industry or  
127 housing within the development project area; or

128 (E) Any other projects the county commission or the  
129 agency deems appropriate to carry out the purposes of this  
130 article.

131 (9) "Development or redevelopment district" means an  
132 area proposed by one or more agencies as a development or  
133 redevelopment district which may include one or more  
134 counties, one or more municipalities or any combination  
135 thereof, that has been approved by the county commission of  
136 each county in which the project area is located if the project

137 is located outside the corporate limits of a municipality, or by  
138 the governing body of a municipality if the project area is  
139 located within a municipality, or by both the county  
140 commission and the governing body of the municipality when  
141 the development or redevelopment district is located both  
142 within and without a municipality.

143 (10) “Economic development area” means any area or  
144 portion of an area within the boundaries of a development or  
145 redevelopment district located within the territorial limits of  
146 a municipality or county that does not meet the requirements  
147 of subdivisions (3) and (4) of this subsection and for which  
148 the county commission finds that development or  
149 redevelopment will not be solely used for development of  
150 commercial businesses that will unfairly compete in the local  
151 economy and that development or redevelopment is in the  
152 public interest because it will:

153 (A) Discourage commerce, industry or manufacturing  
154 from moving their operations to another state;

155 (B) Result in increased employment in the municipality  
156 or county, whichever is applicable; or

157 (C) Result in preservation or enhancement of the tax base  
158 of the county or municipality.

159 (11) “Governing body of a municipality” means the city  
160 council of a Class I or Class II municipality in this state.

161 (12) “Incremental value”, for any development or  
162 redevelopment district, means the difference between the  
163 base assessed value and the current assessed value. The  
164 incremental value will be positive if the current value exceeds  
165 the base value and the incremental value will be negative if  
166 the current value is less than the base assessed value.

167 (13) “Includes” and “including”, when used in a  
168 definition contained in this article, shall not exclude other  
169 things otherwise within the meaning of the term being  
170 defined.

171 (14) “Local levying body” means the county board of  
172 education and the county commission and includes the  
173 governing body of a municipality when the development or  
174 redevelopment district is located, in whole or in part, within  
175 the boundaries of the municipality.

176 (15) “Obligations” or “tax increment financing  
177 obligations” means bonds, loans, debentures, notes, special  
178 certificates or other evidences of indebtedness issued by a  
179 county commission or municipality pursuant to this article to  
180 carry out a development or redevelopment project or to  
181 refund outstanding obligations under this article.

182 (16) “Order” means an order of the county commission  
183 adopted in conformity with the provisions of this article and  
184 as provided in this chapter.

185 (17) “Ordinance” means a law adopted by the governing  
186 body of a municipality in conformity with the provisions of  
187 this article and as provided in chapter eight of this code.

188 (18) “Payment in lieu of taxes” means those estimated  
189 revenues from real property and tangible personal property  
190 having a tax situs in the area selected for a development or  
191 redevelopment project which revenues, according to the  
192 development or redevelopment project or plan, are to be used  
193 for a private use, which levying bodies would have received  
194 had a county or municipality not adopted one or more tax  
195 increment financing plans and which would result from levies  
196 made after the date of adoption of a tax increment financing  
197 plan during the time the current assessed value of all taxable



198 real and tangible personal property in the area selected for the  
199 development or redevelopment project exceeds the total base  
200 assessed value of all taxable real and tangible personal  
201 property in the development or redevelopment district until  
202 the designation is terminated as provided in this article.

203 (19) "Person" means any natural person, and any  
204 corporation, association, partnership, limited partnership,  
205 limited liability company or other entity, regardless of its  
206 form, structure or nature, other than a government agency or  
207 instrumentality.

208 (20) "Private project" means any project that is subject to  
209 ad valorem property taxation in this state or to a payment in  
210 lieu of tax agreement that is undertaken by a project  
211 developer in accordance with a tax increment financing plan  
212 in a development or redevelopment district.

213 (21) "Project" means any capital improvement, facility or  
214 both, as specifically set forth and defined in the project plan,  
215 requiring an investment of capital including, but not limited  
216 to, extensions, additions or improvements to existing  
217 facilities, including water or wastewater facilities, and the  
218 remediation of contaminated property as provided for in  
219 article twenty-two, chapter twenty-two of this code, but does  
220 not include performance of any governmental service by a  
221 county or municipal government.

222 (22) "Project area" means an area within the boundaries  
223 of a development or redevelopment district in which a  
224 development or redevelopment project is undertaken as  
225 specifically set forth and defined in the project plan.

226 (23) "Project costs" means expenditures made in  
227 preparation of the development or redevelopment project plan  
228 and made, or estimated to be made, or monetary obligations

229 incurred, or estimated to be incurred, by the county  
230 commission which are listed in the project plan as capital  
231 improvements within a development or redevelopment  
232 district, plus any costs incidental thereto. "Project costs"  
233 include, but are not limited to:

234 (A) Capital costs, including, but not limited to, the actual  
235 costs of the construction of public works or improvements,  
236 capital improvements and facilities, new buildings, structures  
237 and fixtures, the demolition, alteration, remodeling, repair or  
238 reconstruction of existing buildings, structures and fixtures,  
239 environmental remediation, parking and landscaping, the  
240 acquisition of equipment and site clearing, grading and  
241 preparation;

242 (B) Financing costs, including, but not limited to, an  
243 interest paid to holders of evidences of indebtedness issued  
244 to pay for project costs, all costs of issuance and any  
245 redemption premiums, credit enhancement or other related  
246 costs;

247 (C) Real property assembly costs, meaning any deficit  
248 incurred resulting from the sale or lease as lessor by the  
249 county commission of real or personal property having a tax  
250 situs within a development or redevelopment district for  
251 consideration that is less than its cost to the county  
252 commission;

253 (D) Professional service costs including, but not limited  
254 to, those costs incurred for architectural planning,  
255 engineering and legal advice and services;

256 (E) Imputed administrative costs including, but not  
257 limited to, reasonable charges for time spent by county  
258 employees or municipal employees in connection with the  
259 implementation of a project plan;

260 (F) Relocation costs including, but not limited to, those  
261 relocation payments made following condemnation and job  
262 training and retraining;

263 (G) Organizational costs including, but not limited to, the  
264 costs of conducting environmental impact and other studies  
265 and the costs of informing the public with respect to the  
266 creation of a development or redevelopment district and the  
267 implementation of project plans;

268 (H) Payments made, in the discretion of the county  
269 commission or the governing body of a municipality, which  
270 are found to be necessary or convenient to creation of  
271 development or redevelopment districts or the  
272 implementation of project plans; and

273 (I) That portion of costs related to the construction of  
274 environmental protection devices, storm or sanitary sewer  
275 lines, water lines, amenities or streets or the rebuilding or  
276 expansion of streets, or the construction, alteration,  
277 rebuilding or expansion of which is necessitated by the  
278 project plan for a development or redevelopment district,  
279 whether or not the construction, alteration, rebuilding or  
280 expansion is within the area or on land contiguous thereto.

281 (24) “Project developer” means any person who engages  
282 in the development of projects in the state.

283 (25) “Project plan” means the plan for a development or  
284 redevelopment project that is adopted by a county  
285 commission or governing body of a municipality in  
286 conformity with the requirements of this article and this  
287 chapter or chapter eight of this code.

288 (26) “Real property” means all lands, including  
289 improvements and fixtures on them and property of any

290 nature appurtenant to them or used in connection with them  
291 and every estate, interest and right, legal or equitable, in  
292 them, including terms of years and liens by way of judgment,  
293 mortgage or otherwise, and indebtedness secured by the liens.

294 (27) “Redevelopment area” means an area designated by  
295 a county commission or the governing body of a municipality  
296 in respect to which the commission or governing body has  
297 made a finding that there exist conditions which cause the  
298 area to be classified as a blighted area, a conservation area, an  
299 economic development area or a combination thereof, which  
300 area includes only those parcels of real property directly and  
301 substantially benefitted by the proposed redevelopment  
302 project located within the development or redevelopment  
303 district or land contiguous thereto.

304 (28) “Redevelopment plan” means the comprehensive  
305 program under this article of a county or municipality for  
306 redevelopment intended by the payment of redevelopment  
307 costs to reduce or eliminate those conditions, the existence of  
308 which qualified the redevelopment area as a blighted area,  
309 conservation area, economic development area or  
310 combination thereof, and to thereby enhance the tax bases of  
311 the levying bodies which extend into the redevelopment area.  
312 Each redevelopment plan shall conform to the requirements  
313 of this article.

314 (29) “Tax increment” means the amount of regular levy  
315 property taxes attributable to the amount by which the current  
316 assessed value of real and tangible personal property having  
317 a tax situs in a development or redevelopment district  
318 exceeds the base assessed value of the property.

319 (30) “Tax increment financing fund” means a separate  
320 fund for a development or redevelopment district established  
321 by the county commission or governing body of the

322 municipality into which all tax increment revenues and other  
323 pledged revenues are deposited and from which projected  
324 project costs, debt service and other expenditures authorized  
325 by this article are paid.

326 (31) “This code” means the Code of West Virginia, 1931,  
327 as amended by the Legislature.

328 (32) “Total ad valorem property tax regular levy rate”  
329 means the aggregate levy rate of all levying bodies on all  
330 taxable property having a tax situs within a development or  
331 redevelopment district in a tax year but does not include  
332 excess levies, levies for general obligation bonded  
333 indebtedness or any other levies that are not regular levies.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman Senate Committee*

.....  
*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker of the House of Delegates*

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The within ..... this  
the ..... Day of ....., 2014.

.....  
*Governor*