

September 2010

Introduced by

1 A BILL for an Act to create and enact section 40-58-20.2 of the North Dakota Century Code,
2 relating to establishment of a joint review board for approval of tax increment financing districts;
3 to amend and reenact subsection 2 of section 40-58-01.1, subsection 1 of section 40-58-20,
4 and section 40-58-20.1 of the North Dakota Century Code, relating to tax increment financing
5 by cities; and to provide an effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 40-58-01.1 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 2. "Blighted area" means an area other than a slum area which by reason of the
10 presence of a substantial number of slums, deteriorated or deteriorating structures,
11 predominance of defective or inadequate street layout, faulty lot layout in relation to
12 size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions,
13 deterioration of site or other improvements, diversity of ownership, tax or special
14 assessment delinquency exceeding the fair value of the land, defective or unusual
15 conditions of title, improper subdivision or obsolete platting, or the existence of
16 conditions which endanger life or property by fire and other causes, or any
17 combination of these factors, substantially impairs or arrests the sound growth of a
18 municipality, retards the provision of housing accommodations or constitutes an
19 economic or social liability and is a menace to the public health, safety, morals, or
20 welfare in its present condition and use. "Blighted area" does not include
21 predominantly open land area that has been developed only for agricultural
22 purposes.

23 **SECTION 2. AMENDMENT.** Subsection 1 of section 40-58-20 of the North Dakota
24 Century Code is amended and reenacted as follows:

1 1. At any time after the governing body of a municipality has approved a development
2 or renewal plan and has obtained approval of that plan from a joint review board
3 under section 40-58-20.2 for any development or renewal area, it may request the
4 county auditor and treasurer to compute, certify, and remit tax increments resulting
5 from the development or renewal of the area in accordance with the plan and any
6 modifications thereof, and the county auditor and treasurer shall do so in
7 accordance with this section. Tax increment financing for a development or
8 renewal area under this section or section 40-58-20.1 may not be used for more
9 than twenty taxable years.

10 **SECTION 3. AMENDMENT.** Section 40-58-20.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **40-58-20.1. Use of tax increment financing for the development of certain**
13 **industrial or commercial property - Public hearing - Eligible costs of development.**

- 14 1. The governing body of a municipality may use the tax increment financing method
15 authorized by section 40-58-20 to assist a project developer in the development of
16 industrial or commercial property, as limited by this section, pursuant to an
17 agreement between the municipality and the project developer.
- 18 2. Prior to entering into an agreement with a project developer under subsection 1,
19 the governing body of the municipality shall consider the agreement at a public
20 hearing, which may be held in conjunction with the public hearing required by
21 subsection 3 of section 40-58-06, after providing written notice of the hearing at
22 least fifteen days prior to the hearing to potential competitors of the prospective
23 industrial or commercial enterprise, and may enter into the agreement only if it
24 determines that the agreement will not result in unfair competition and that the
25 agreement is in the best interests of the municipality as a whole.
- 26 3. Before entering an agreement with a project developer under subsection 1, the
27 governing body of the municipality must obtain approval of that agreement from a
28 joint review board under section 40-58-20.2.
- 29 4. For the purpose of determining costs of development of industrial or commercial
30 property to be reimbursed by tax increments under section 40-58-20, only the
31 following public costs necessarily incurred, by either the municipality or the project

1 developer, for the purpose of preparing the property for private development by the
2 project developer may be included in the agreement as reimbursable public costs
3 of development:

- 4 a. The cost of acquiring, or the market value, of all or a part of the industrial or
5 commercial property;
- 6 b. Costs of demolition, removal, or alteration of buildings and improvements on
7 the industrial or commercial property, including the cost of clearing and
8 grading land;
- 9 c. Costs of installation, construction, or reconstruction of streets, utilities, parks,
10 and other public works or improvements necessary for carrying out the
11 development or renewal plan; and
- 12 d. All interest and redemption premiums paid on bonds, notes, or other
13 obligations issued by the municipality to provide funds for the payment of
14 eligible public costs of development.

15 **SECTION 4.** Section 40-58-20.2 of the North Dakota Century Code is created and
16 enacted as follows:

17 **40-58-20.2. Joint review board.**

- 18 1. A city that seeks to create a development or renewal area under section 40-58-20
19 or 40-58-20.1 or to amend an existing plan or agreement adopted under either of
20 those sections shall convene a joint review board to review the proposal.
- 21 2. The joint review board must consist of one representative appointed by the
22 governing body of each city, county, school district, and each other political
23 subdivision that has power to levy taxes on property within the development or
24 renewal area and one member chosen to represent the public.
- 25 3. The public member and the chairman of the board must be selected by a majority
26 of the other board members before the public hearing on the proposed creation
27 and designation of the boundaries of the development or renewal area.
- 28 4. All board members must be appointed and the first board meeting must be held
29 within not fewer than fourteen days and not more than thirty days after publication
30 of notice under subsection 5.

- 1 5. The city shall publish notice of a public hearing held by the joint review board in the
2 official newspaper of the city. Before publication, the city shall send a copy of the
3 notice by first-class mail to the chief executive officer or administrator of each
4 political subdivision having the power to levy taxes on property located within the
5 proposed development or renewal area.
- 6 6. The public hearing may be adjourned and reconvened upon approval by a majority
7 of the members of the board.
- 8 7. The city that seeks to create the proposed development or renewal area shall
9 provide administrative support for the joint review board.
- 10 8. A development or renewal area under section 40-58-20 or 40-58-20.1 may not be
11 created and an existing plan or agreement may not be amended unless the joint
12 review board approves the action by a majority vote not more than thirty days after
13 receiving the proposal from the governing body of the city.

14 **SECTION 5. EFFECTIVE DATE.** This Act is effective for any action by a city governing
15 body occurring after July 31, 2011.